



## Telecom Decision CRTC 2010-747

PDF version

Ottawa, 7 October 2010

### **MTS Allstream Inc. – Application to review and vary part of Telecom Regulatory Policy 2010-50 regarding the high-speed intra-exchange digital network access services forbearance application process**

File number: 8662-M59-201005629

*In this decision, the Commission denies MTS Allstream's request to review and vary one of the reporting requirements set out in Telecom Regulatory Policy 2010-50 for parties to a high-speed intra-exchange digital network access services forbearance application.*

#### **Introduction**

1. The Commission received an application by MTS Allstream Inc. (MTS Allstream), dated 5 April 2010, requesting that it review and vary a portion of Telecom Regulatory Policy 2010-50. Specifically, MTS Allstream requested that the Commission review and vary the portion of Telecom Regulatory Policy 2010-50 that clarified that parties to a high-speed intra-exchange digital network access (DNA) services forbearance application must include buildings connected to their networks via both lit (commissioned) and dark-fibre facilities when submitting building connectivity reports to the Commission.<sup>1</sup>
2. The Commission received comments from Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies). The public record of this proceeding, which closed on 10 June 2010, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file number provided above.

#### **Should the Commission vary its determination that parties to a high-speed DNA services forbearance application are to include dark-fibre connections when submitting building connectivity reports?**

3. MTS Allstream submitted that parties to a high-speed DNA services forbearance application should not include dark-fibre connections in their building connectivity reports to the Commission and, as such, the above-noted clarification set out in Telecom Regulatory Policy 2010-50 should be modified to remove any references to dark fibre. In support of this view, the company generally submitted that dark-fibre

---

<sup>1</sup> See paragraph 22 of Telecom Regulatory Policy 2010-50.

facilities and high-speed DNA services are in different product markets, that they are not substitutes for each other, and that they have different types of customers.

4. In MTS Allstream's view, it is incorrect to base the forbearance of one product (in this case, high-speed DNA services) on the presence of another product in a separate product market (in this case, dark-fibre facilities).
5. MTS Allstream further argued that dark fibre on its own is inert and that significant investment is required at both ends of a dark-fibre connection in order to convert it into a lit telecommunications service. In MTS Allstream's view, the cost to light dark fibre is a significant barrier to entry in the high-speed DNA services market.
6. The Bell companies argued that the presence of underlying fibre facilities, as opposed to a product market analysis, is the relevant consideration when evaluating forbearance applications for fibre-based services because it demonstrates that building access has been achieved.
7. In the Bell companies' view, building access is the main barrier to entry in the provision of high-speed DNA services, and "lighting" dark fibre once it has been installed is relatively simple.

#### **Commission's analysis and determinations**

8. In Telecom Decision 2007-35, the Commission found that building access is a barrier to competitive entry and expansion of fibre-optic facilities. As such, the forbearance framework for high-speed intra-exchange DNA services was based on the number of buildings connected to high-speed capable networks in a given wire centre area, as opposed to other competitive indicators such as market share.
9. The Commission notes that dark fibre, by its very nature, can be used to deliver many types of high-speed services, simply by the type of optical equipment installed at the ends. As a result, the Commission considers that dark fibre provides high-speed capability to a building.
10. The Commission notes that carriers face many challenges in achieving building access, such as gaining municipal approvals, negotiating with building owners, and digging up roads and sidewalks to install facilities, and considers that these activities are costly and time-consuming. The Commission further considers that although investment in optical equipment to light dark fibre may be costly in certain cases, it is not an impediment to competition to the same degree as acquiring building access.
11. The Commission is therefore of the view that the presence of underlying fibre facilities, whether those facilities are lit or dark, is the critical factor to consider in evaluating high-speed intra-exchange DNA services forbearance applications. Given this, the Commission considers that buildings connected to carriers' networks via dark-fibre facilities should count towards meeting the forbearance thresholds established in Telecom Decision 2007-35.

12. In light of the above, the Commission **denies** MTS Allstream's request to review and vary Telecom Regulatory Policy 2010-50.

Secretary General

**Related documents**

- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to modify the high-speed intra-exchange digital network access services forbearance application process, Telecom Regulatory Policy CRTC 2010-50, 1 February 2010*
- *Framework for forbearance from regulation of high-speed intra-exchange digital network access services, Telecom Decision CRTC 2007-35, 25 May 2007*