

**Telecom Notice of Consultation CRTC 2013-551,
*Review of wholesale services and associated policies***

Reply Statement

of

Bell Aliant and Bell Canada

3 December 2014

JONATHAN DANIELS

1. Thank you and good afternoon. I'm Jonathan Daniels, Vice-President, Regulatory Law at Bell. With me again on our panel today are, starting from my far left, your right: James Gilmore, Vice-President, Wireline Technology and Network Planning for Bell Canada; Michelle Bourque, Vice-President, Product and Marketing, Bell Wholesale; and Mirko Bibic, Executive Vice-President and Chief Legal and Regulatory Officer. Starting from my far right, your left: Peter Dilworth, Vice-President, Finance and Procurement for Bell Aliant; Dan McKeen, Vice-Chair and Senior Vice-President, Residential Services, Bell Aliant; and Denis Henry, Vice-President, Regulatory, Government Affairs, and Public Law for Bell Aliant.

2. In this proceeding, the focus should be on outcomes our industry should achieve for Canadian consumers and Canada's digital economy. Already, we have achieved world-leading FTTN and DOCSIS 3.0 networks and vigorous facilities-based competition in the retail market. To continue driving forward, we ask for a regulatory framework that encourages the deployment of FTTP networks to residential and business consumers in as many communities as possible, as quickly as possible.

3. Each of our proposals is designed with this objective in mind and in order to bring the greatest benefits to consumers.

I. FTTP SHOULD NOT BE MANDATED

DAN MCKEEN

4. Focusing on the needs of consumers, rather than the demands of ISPs, leads to the conclusion that mandating wholesale access to FTTP is unwarranted, at least at this time. No harm will be caused to competition if the Commission does not intervene today. To the contrary, users will benefit from the deployment of new networks.

5. Refraining from mandating access at least until you reassess this issue in five years will not undermine the competitive dynamic in any market, as there has been no widespread adoption by consumers of speeds above 25 Mbps. Bell Canada's experience in Ontario and Quebec supports this view:

– Of wholesale subscribers in FTTN areas, fully 99% are on speeds of 25 Mbps or below;

- So far in 2014, of retail and wholesale gross adds, 39% are on speeds less than 10 Mbps, 55% on speeds between 10 and 25 Mbps, and just 6% on speeds of 50 Mbps or above.
- This is consistent with the figures you have heard from ISPs like Distributel. And we now know that 17% of end-users on our network and 15% on Rogers' network are from wholesale. ISPs, operating almost entirely in Ontario and Quebec, are succeeding.

6. Both our construction of FTTH networks, and their uptake by consumers, are in their infancy. And where we have existing copper and FTTN networks, we will continue to operate them even if we overbuild FTTH. Clearly ISPs can continue to compete without mandated access to FTTP now, or in the foreseeable future. Stability in the regulatory framework is best achieved by only regulating if clear market evidence supports it.

7. We must also weigh the significant impact that mandated access would have on our investment. Virtually everyone who is actually building fibre networks has confirmed that mandating access would reduce their investment. It only makes sense to talk about whether "two is enough" if you have that second network. In our case, we have provided real evidence, not mere assertions, that FTTP networks would be built in fewer communities if mandated access is imposed.

8. This evidence includes the results of the actual model that Bell Aliant used to evaluate the business case for investing in FTTP in 21 communities this year. That business case relies on receiving revenues from the sale of three retail services – that is, the entire broadband home. When selling only a single wholesale service, there is no practical tariffed price that would offset the impact of losing those revenues.

9. This evidence is supported by real-world experience. In the two years following the Commission's decision to mandate access to FTTN networks in 2010, Bell built fibre-to-the-node and fibre-to-the-home combined to 400,000 fewer homes than planned. Clearly regulatory decisions matter when we consider investments. We urge the Commission not to base its policy on a false expectation that we will still invest in FTTP in areas where the business case is no longer viable.

II. FORBEARANCE FOR CDN AND ETHERNET IS WORKING

MICHELLE BOURQUE

10. While some interveners have asked for re-regulation of CDN and Ethernet, there is a striking lack of evidence to support that proposal. Proponents have only advanced unsupported, out-of-context claims that fall well short of meeting the Commission's test for re-regulation.

11. Let's review what really happened when we proposed price changes for these services to correct the unreasonably low mandated rates. In a competitive market, our wholesale customers did three things:

- a) First, they negotiated lower rates for our services. More than 90% of our contracted rates are below the initial proposals we made. 50% did not increase at all from the pre-forbearance rates and all were below prevailing retail rates. Just last week we struck a conditional multi-service agreement with MTS Allstream which we are confident will be concluded in early 2015. We heard this week that Telus has done the same.
- b) Second, they found alternative sources of supply. We know these exist. For example, Rogers indicated they purchase facilities from 37 different service providers other than incumbents. And cable carriers have expanded aggressively in the wholesale business market.
- c) Third, they constructed their own facilities. For example, MTS Allstream increased the number of buildings to which it built fibre by 50%. In fact, even the example they gave indicates that they now serve 80% of locations on their own network.

12. The unchallenged expert evidence from Margaret Sanderson clearly describes the results of this successful operation of market forces: our revenues did not increase, our market share did not increase, and retail prices did not increase. The market remained competitive.

13. Nobody has put on the record evidence of a competition problem in any particular geographic area. Even if there were one isolated area, competitors could buy EAS at the tariffed retail rate, assuming the facilities exist. And if the facilities don't exist, our retail team faces the same issue.

III. BAS CANNOT PASS A COST/BENEFIT ANALYSIS

JONATHAN DANIELS

14. Turning now to BAS, let's be clear: no one is asking for BAS to replace GAS. Instead, a small number of ISPs are asking for yet more mandated wholesale support for their businesses in a market where they have already grown significantly in recent years and where it is not necessary to address any substantial lessening of competition.

15. BAS would be used only in a small number of central offices and only in Ontario and Quebec, and any savings would accrue to a small number of ISPs. Meanwhile, the cost and disruption to implement the service across our network would be considerable.

16. Some ISPs defend BAS as a way to reduce CBB. First, unless all ISPs fully disaggregate at every CO, CBB will remain. Second, our CBB charges per end-user today are already *lower* than they were in 2012 and were established by the Commission at cost-based rates. Third, and mostly importantly, the evidence is that ISPs do not pass on mandated wholesale cost reductions to their end-users.

17. A few ISPs have also said they want BAS so they can provide a BDU service. Not only are we the new entrant in the BDU market, but ISPs can provide video without BAS, as VMedia and Distributel have demonstrated. Given the small footprint they could achieve with BAS, ISPs will always want to offer some portion of their video service over GAS in any event.

IV. CONCLUSION

18. In this proceeding, we have respected the well-established government and Commission policy to encourage facilities-based competition. And we have balanced a reliance on market forces and ensuring robust competition, while always weighing the costs and benefits of regulatory intervention. With all that in mind, we have put forward a proposal firmly anchored in the evidence on the record. We believe the Commission should:

- 1) Maintain the existing essential facilities definition;
- 2) Refrain from mandating FTTP, encouraging the widespread construction of fibre networks and allowing us to build to as many communities as we can, as fast as we can;

- 3) Refrain from mandating BAS, avoiding further regulatory intervention where the costs would outweigh any benefits;
 - 4) Forbear from mandating GAS, TPIA, and unbundled local loops, but only in urban areas, where competitive supply is strong, and after a reasonable phase-out period;
 - 5) Maintain its recently affirmed forbearance for high-speed CDN and Ethernet, but continue to mandate access to low-speed CDN, for which the evidence of competitive supply is less clear and continued regulation can be justified; and
 - 6) Continue to mandate interconnection and public good services.
19. We want to thank the Commission and staff for the opportunity to participate in this proceeding and we look forward to answering any questions.