



## Telecom Decision CRTC 2011-574

PDF version

Ottawa, 8 September 2011

### **CISC Business Process Working Group – Consensus report BPRE070a regarding Type III and Type IV CLEC agreement requirements**

File number: 8621-C12-01/08

*In this decision, the Commission approves, with changes, the use of version 1.0 of the proposed Special Master Agreement for Local Interconnection (MALI) between local exchange carriers. This agreement is to apply where at least one of the parties interconnects with other telecommunications carriers, or meets some of its competitive local exchange carrier obligations, through a third party.*

#### **Introduction**

1. On 1 December 2010, the CRTC Interconnection Steering Committee (CISC) Business Process Working Group (BPWG) filed consensus report BPRE070a – *Small CLEC – Agreement Requirements* (the report) for Commission approval. The report included a proposed special version of the Master Agreement for Local Interconnection (Special MALI). The Special MALI was adapted<sup>1</sup> to take into consideration the specific circumstances of competitive local exchange carriers (CLECs) that interconnect with other telecommunications carriers, or meet some of their CLEC obligations,<sup>2</sup> through a third party. Specifically, the BPWG requested that the Commission approve version 1.0 of the Special MALI as the default MALI in these circumstances.
2. The report is available on the Commission’s website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under “CRTC Interconnection Steering Committee.”

---

<sup>1</sup> The Special MALI was adapted from the model Standard MALI used for codifying the relationship between local exchange carriers (LECs) that provide local exchange services within an exchange.

<sup>2</sup> The CLEC obligations were first set out in Telecom Decision 97-8 and have since been updated or modified from time to time. The list of the pre-entry, entry, tariff, agreement, filing, and other CLEC obligations can be found at <http://www.crtc.gc.ca/eng/8180/8180m.htm>. The typical CLEC obligation that could be met via a third party is interconnection with other LECs, which may include order processing, obtainment of numbering resources, number portability, equal access for long distance service, and membership in the related industry consortiums.

## Background

3. In Telecom Decision 97-8, the Commission opened local exchange markets to competition and permitted CLECs to enter these markets to compete with each other and with the incumbent local exchange carriers. This created the need for arrangements to be put in place on how customers would be transferred and customer traffic would be exchanged.
4. Through the CISC process and its working groups, these arrangements were developed and codified in the model Standard MALI that carriers execute when they interconnect with each other. This Commission-approved agreement has been used successfully for a number of years, with updates being made on an as-needed basis.<sup>3</sup>
5. As local competition has evolved, smaller carriers have entered the local exchange market and the Commission has permitted different entry and operational requirements for these smaller carriers. The result is that four types of CLECs have evolved.<sup>4</sup>
6. Typically, smaller carriers operate as either Type III or Type IV CLECs. One of the main characteristics of Type III and Type IV CLECs is that they are permitted to fulfill some of their CLEC obligations via third-party arrangements with resellers, other carriers, and/or underlying carriers.<sup>5</sup> These arrangements have created a need for a different form of the MALI, namely the Special MALI.

## Issues

7. The Commission considers that the report raises the following issues:
  - I. Should any changes be made to the terms and conditions of the Special MALI?
  - II. Should the Commission approve the use of the Special MALI?
  - III. Should the Special MALI replace existing agreements?

### **I. Should any changes be made to the terms and conditions of the Special MALI?**

8. The Commission notes that there are three issues with respect to the terms and conditions of the Special MALI: (a) the definition of an “Outsourcing CLEC,” (b) the information to be included in Schedule C, and (c) the definition of the term “interconnection facilities.”

---

<sup>3</sup> The Commission notes that an article in the MALI provides for amendments to the model MALI to be automatically applied to all executed MALIs.

<sup>4</sup> The definitions and entry obligations of the four types of CLECs are summarized on the Commission’s website at <http://www.crtc.gc.ca/eng/8180/8180m.htm>.

<sup>5</sup> See Telecom Decision 2006-58.

**a) Definition of an Outsourcing CLEC**

9. The BPWG noted that the proposed Special MALI is applicable where at least one of the parties is an Outsourcing CLEC, which it defined in the proposed Special MALI as a CLEC that obtains public switched telephone network (PSTN) access from another party.
10. The Commission is of the view that this definition is too narrow because it does not adequately capture all Type III and Type IV CLECs because the interconnection arrangements relied on by these CLECs do not necessarily constitute, in and of themselves, access to the PSTN.
11. Instead, the Commission considers that the definition of an Outsourcing CLEC in the Special MALI should read as follows:

“Outsourcing CLEC” means a CLEC that obtains interconnection arrangements with other local exchange carriers from another party and/or meets some of its other CLEC obligations through another party.

**b) Information to be included in Schedule C**

12. The Commission notes that the report was filed prior to the issuance of Telecom Decision 2011-92, in which the Commission made determinations on non-consensus report BPRE075a dealing with the content of Schedule C of the Standard MALI. The Commission considers that its determinations in Telecom Decision 2011-92 are equally applicable to Schedule C of the Special MALI. Accordingly, Schedule C of the Special MALI is to reflect the determinations made in Telecom Decision 2011-92 with respect to Schedule C of the Standard MALI.

**c) Definition of interconnection facilities**

13. The BPWG noted that a different definition of the term “interconnection facilities” was proposed for use in the Special MALI as compared to the definition in the Standard MALI. According to the BPWG, the definition in the Special MALI recognized that there were differences in the types of arrangements between carriers<sup>6</sup> but reflected a compromise by BPWG participants to reach consensus and to allow more commonality in the language between the two MALIs.
14. The Commission finds that the definition of the term “interconnection facilities” in the Special MALI is reasonable with respect to the specific circumstances contemplated by the Special MALI. Accordingly, it is not applicable in other circumstances, such as those contemplated by the Standard MALI or for the purpose of Commission directives for interconnection and interconnection facilities.

---

<sup>6</sup> These arrangements would include trunks connecting their respective switches, links connecting signalling nodes, and transport facilities connecting points of interconnection.

## **II. Should the Commission approve the use of the Special MALI?**

15. The BPWG recommended that the Special MALI be given the same status as the Standard MALI, by being subject to the same filing requirements, execution obligations, and conditions that are required by the Commission for the Standard MALI.
16. Further, the BPWG recommended that the Special MALI be subject to a similar updating process as that used for the Standard MALI, so that any updates to the model Special MALI would apply automatically to all executed Special MALIs. However, the BPWG submitted that any updates to the model Standard MALI should not automatically apply to any executed Special MALIs. The Special MALI would therefore be subject to its own updating process.
17. Upon review of version 1.0 of the proposed Special MALI, the Commission finds that this model agreement covers all aspects required for the exchange of traffic, service orders, records, and other information, as well as for the transfer of customers between local exchange carriers (LECs), where at least one of the parties is an Outsourcing CLEC. The Commission considers that the Special MALI is better suited for these arrangements than the Standard MALI in these circumstances.
18. The Commission therefore agrees, subject to the exceptions discussed in Part III below, that version 1.0 of the Special MALI, as modified by the Commission's determinations in this decision, should be used between LECs when at least one of the parties is an Outsourcing CLEC.
19. The Commission considers that, like the Standard MALI, the Special MALI is an agreement that falls within the scope of section 29 of the *Telecommunications Act*. The Commission determines that, for regulatory purposes, Commission requirements for the execution and filing of a MALI agreement can be satisfied through the execution and filing of a Special MALI in the circumstances, as outlined above, where a Special MALI is appropriate.
20. The Commission is of the view that the BPWG's recommended updating approach for the Special MALI is appropriate. Accordingly, consistent with the proposed terms of the Special MALI, the Commission determines that the Special MALI will be updated separately from the Standard MALI and that only changes adopted specifically for the model Special MALI will apply to executed Special MALIs.

## **III. Should the Special MALI replace existing agreements?**

21. The Commission notes that some Outsourcing CLECs have executed Standard MALIs in the absence of a Special MALI, or have obtained Commission approval for alternative agreements that contain terms and conditions tailored to the relationship between the parties involved.

22. In order to maintain existing relationships between parties, the BPWG recommended that any existing, executed, and approved agreements should remain in effect, notwithstanding that the arrangements would otherwise trigger a requirement to execute and file a Special MALI. In addition, the BPWG recommended that either party to an executed Standard MALI or alternative arrangement should be allowed to request that the Special MALI replace the existing agreement and that the other party should not unreasonably refuse the request.
23. The Commission notes that the existing executed agreements already reflect the negotiated conditions agreed upon by the parties and that the replacement of these agreements with the Special MALI would not always be necessary and, in some cases, could cause confusion or uncertainty. The Commission considers therefore that to the extent that parties are satisfied with prevailing arrangements, these existing agreements should continue to apply. The Commission further considers that the use of the Special MALI would be appropriate if either of the parties signifies to the other party that it wishes to replace the existing agreement with the Special MALI.
24. Accordingly, the Commission determines that LECs are not required to replace existing executed agreements with the Special MALI where at least one of the parties is an Outsourcing CLEC, unless one of the parties expresses a desire to do so, in which case the other party may not unreasonably refuse the request.

## **Conclusion**

25. The Commission **approves** the model Special MALI (Version 1.0) submitted by the BPWG, with the changes noted in this decision.

Secretary General

## **Related documents**

- *CISC Business Process Working Group – Non-consensus report BPRE075a regarding fulfillment of Type III and IV CLEC obligations*, Telecom Decision CRTC 2011-92, 11 February 2011
- *Canadian Cable Telecommunications Association – Part VII application regarding the application of some competitive local exchange carrier (CLEC) obligations to certain CLECs*, Telecom Decision CRTC 2006-58, 18 September 2006
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997