Telecom Decision CRTC 2018-133

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Bell Canada and TELUS Communications Inc. – Applications for forbearance from the regulation of pay telephone access line services

The Commission determines that the Bell companies' and TCI's respective wholesale pay telephone access line (PAL) services will no longer be mandated in their respective operating territories following a one-year phase-out period. Following the phase-out period, the Bell companies and TCI can decide whether to continue to make their PAL services available or no longer provide the services. Accordingly, the Commission ***denies*** *Bell Canada's and TCI's requests for it to immediately forbear from the regulation of their PAL services. As well, the Commission* ***directs*** *the Bell companies and TCI to provide their wholesale customers and the Commission with six months' written notice prior to the end of the phase-out period if they intend to withdraw their respective PAL services.*

Background

1. Pay telephone access line (PAL) service is a wholesale service that incumbent local exchange carriers (ILECs) provision to competitive pay telephone service providers (CPTSPs). Through this service, CPTSPs are provided with access to the public switched telephone network (PSTN), enabling them to provide retail pay telephone service. PAL service was first introduced pursuant to Telecom Decision 98-8, in which the Commission approved the introduction of competition in the pay telephone service market and directed the ILECs to file proposed pay telephone access tariffs. The Commission approved those tariffs on a final basis in Order 2000-858.

2. PAL service provides the equivalent of an individual business line but with fewer features. As a result, the Commission set the monthly PAL basic service rate at 75% of the ILEC's business line service rate. As a wholesale service, PAL service is subject to the Commission's regulatory framework for wholesale wireline services set out in Telecom Regulatory Policy 2015-326.

Applications

3. Bell Canada filed an application, dated 23 June 2016, in which the company requested that the Commission no longer mandate its PAL service and that this service be subject to immediate forbearance for itself (including the former Bell Aliant Regional Communications, Limited Partnership); NorthernTel, Limited Partnership (NorthernTel); and Télébec, Limited Partnership (collectively, the

Bell companies)[1] in their operating territories in Ontario, Quebec, and Atlantic Canada.[2]

4. TELUS Communications Inc. (TCI)[3] filed a separate application, dated 15 August 2016, in which that company requested the same regulatory change for its PAL service in its operating territories. It specified that it is seeking rate forbearance under item 216 – Pay Telephone Access Line Service of its Carrier Access Tariff, which covers its operating territories in Alberta and British Columbia.

5. To support their applications, Bell Canada and TCI applied the Essentiality Test and the policy considerations set out in Telecom Regulatory Policy 2015-326 to their respective PAL services. They also applied the forbearance test set out in Telecom Decision 94-19.

6. The Commission received interventions opposing both applications from the Public Interest Advocacy Centre (PIAC). The Commission also received interventions from Bell Canada and TCI, each in support of the other company's application. In addition, two CPTSPs, namely AFX Communications (AFX) and SDI Telecom (SDI), provided information on the record of this proceeding.

Issues

7. The Commission has identified the following issues to be addressed in this decision:

- Should the Bell companies' and TCI's PAL services continue to be mandated?
- Should the Commission immediately forbear from regulating the Bell companies' and TCI's PAL service rates?

Should the Bell companies' and TCI's PAL services continue to be mandated?

Background

8. In Telecom Regulatory Policy 2015-326, the Commission revised its Essentiality Test and set out how it would apply its wholesale services framework in the future. Specifically, the Commission stated that for regulated wholesale services, it would

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[1] See Bell Canada General Tariff item 315 – Pay Telephone Basic Access Line Service; Bell Aliant Regional Communications, Limited Partnership General Tariff item 245 – Pay Telephone Basic Access Line Service; and Télébec, Limited Partnership General Tariff item 2.13 – Ligne d'accès de base aux services téléphoniques payants.

[2] Bell Canada noted that while NorthernTel does not currently have a PAL service tariff, it had requested forbearance for NorthernTel in case the latter company should decide to offer the service in the future. Bell Canada also indicated that it did not provision any payphone access lines in Atlantic Canada as of November 2016.

[3] In this proceeding, submissions were received from TELUS Communications Company (TCC). However, effective 1 October 2017, TCC's assets were legally transferred to TCI and TCC ceased to exist. For ease of reference, "TCI" is used in this decision.

base its decision about whether to mandate the provision of a wholesale service on two elements: (i) the Essentiality Test, and (ii) a set of policy considerations that could modify or support its decision.

9. The first step in applying the Essentiality Test is to define the relevant markets for the wholesale service in question, which include the product and geographic markets. The Commission then assesses the wholesale service in question against each component of the Essentiality Test: the input component, the competition component, and the duplicability component. For a wholesale service to meet the Essentiality Test, all three components must be satisfied. The Commission then applies the following policy considerations to inform, support, or reverse a decision to mandate the provision of a wholesale service: public good, interconnection, and innovation and investment.

Relevant product and geographic markets

Positions of parties

10. Regarding the relevant product market, Bell Canada and TCI submitted that their PAL services provide CPTSPs with the same functionalities as general business local exchange services. Bell Canada stated that if its PAL service rate were to increase, CPTSPs could simply switch to a general business local exchange service, while TCI stated that CPTSPs could migrate their wholesale services to many alternative service providers.

11. Bell Canada also submitted that all wireline local exchange services – whether offered by the ILEC, competitive local exchange carriers (CLECs), or Internet Protocol (IP) service providers such as cable companies – are in the same product market. Bell Canada proposed that the relevant product market for its PAL service include all wireline business local exchange services. TCI stated that there are already many competitive service offerings in the product market, such as access service lines available from facilities-based CLECs (including large cable companies and competitors co-located at the ILECs' central offices), and local exchange services provided by resellers.

12. Regarding the relevant geographic market, Bell Canada submitted that a CPTSP trying to access the PSTN from a particular payphone location needs to be able to do so from that particular location, and that access from other locations would not be a substitute. However, the company proposed that individual payphone locations be aggregated to the exchange level, as the Commission does when it performs policy analysis related to essentiality or forbearance for wireline local access services. Bell Canada also proposed that exchanges be further aggregated since CPTSPs can secure business local exchange service in any exchange – either from other service providers in forborne exchanges or at a regulated rate in regulated exchanges. The company submitted that as a result, the relevant geographic market should consist of its operating territories.

13. TCI stated that any entity that wishes to enter into the payphone service market in the future, or to maintain and expand its payphone service operations, can select from a wide variety of options available from different suppliers in Canada. According to TCI, these include business line services from most fixed landline-based suppliers or wireless service access from any wireless carrier that operates in a given area. TCI submitted that as a result, the relevant geographic market should be its incumbent operating territories.

14. PIAC submitted that based on previous Commission determinations, it would be appropriate to consider whether there are alternatives to the Bell companies' and TCI's PAL services on an exchange-by-exchange basis. However, it also submitted that the ILECs have not identified any payphone operators that are currently using business line or wireless services to provide payphone service, which suggests that these are not substitutes at current price levels. It submitted, further, that if the Commission decides that business line and wireless services are competitive substitutes, PIAC would accept that using forborne vs. non-forborne retail exchanges would be an appropriate basis upon which to determine whether business line and wireless services are likely to exist in most locations in a local exchange.

15. AFX agreed that the relevant geographic market should be the ILEC's operating territory. Both AFX and SDI stated that they currently use business lines to provide retail service for some of their payphones.

Commission's analysis and determinations

16. CPTSPs must connect to the PSTN through an underlying carrier to operate their payphones. While the ILECs' PAL service is designed for this purpose, it is essentially a discounted business line service. Given that wireline business lines offer the same functionality as PAL service, the Commission finds that the relevant product market for the Bell companies' and TCI's PAL services include all wireline business local exchange services.

17. With respect to the relevant geographic market, since it is not practical or efficient to review each individual payphone location to determine whether substitutes are available, a certain degree of regional aggregation is necessary. Given the widespread availability of business local exchange services, the Commission finds the relevant geographic market to be the Bell companies' operating territories in Ontario, Quebec, and Atlantic Canada, as well as TCI's operating territories in British Columbia and Alberta.

Input component

Background

18. Under the input component, if the Commission finds that the wholesale service in question is a required input for competitors to provide downstream retail services, and that there is and would continue to be sufficient demand for the wholesale service in question, the input component is satisfied.

Positions of parties

19. Bell Canada and TCI submitted that their PAL services do not satisfy the input component of the Essentiality Test. They indicated that their PAL services are not a critical component for CPTSPs to provide payphone service; the only connectivity service required to operate a payphone is a business line, and any wireline business line can be successfully connected to a payphone. Both companies submitted, further, that access to business lines is currently available through multiple service providers, including ILECs, cable-based carriers, or alternative service providers.

20. Bell Canada indicated that there is declining demand for its PAL service due to increasing consumer reliance on wireless services and the lack of growth in CPTSPs. TCI also submitted that demand for PAL service is in sharp decline, based on the mass reduction of consumer use of payphones, in general due to the proliferation of mobile wireless services.

21. AFX and SDI stated that they use both standard business line and PAL services for their payphones. Both companies indicated that they prefer to use standard business line service because it can be offered at a cheaper rate than PAL service.

Commission's analysis and determinations

22. Based on the record of the proceeding, CPTSPs use PAL service as an input to deliver their retail payphone services. However, in terms of functionality, PAL service is simply a discounted business line service. The true input required by CPTSPs is connectivity to the PSTN, which can be achieved through several means, including purchasing a retail business line service from an ILEC or another carrier with facilities at or near the location of the payphone.

23. Given the PAL service demand trends demonstrated in Bell Canada's and TCI's submissions, as well as the Commission's 2015 payphone fact-finding exercise[4] and 2017 *Communications Monitoring Report*,[5] it is highly likely that the retail payphone service market, and thus demand for the Bell companies' and TCI's PAL services, will continue to diminish.

24. In light of the declining demand for PAL services across the Bell companies' and TCI's operating territories, as well as the widespread availability of functional alternatives, the Commission finds that the Bell companies' and TCI's PAL services do not satisfy the input component of the Essentiality Test.

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[4] In Telecom Notice of Consultation 2013-337, the Commission initiated a fact-finding process to clarify the role of payphones in the Canadian communications system. The Commission published the results of this process in a report entitled Results of the Fact-Finding Process on the Role of Payphones in the Canadian Communications System, dated 26 February 2015.

[5] According to this report, in 2016, there were 57,542 large ILEC payphones across Canada and ILECs continued to be the primary providers of payphone service in Canada. Since 2012, there has been a steady and significant decline in ILEC payphones each year, with slightly more than 60% remaining at the end of the period from 2012 to 2016.

Competition component

Background

25. Under the competition component, the Commission must examine (i) the upstream market conditions (specifically, whether a firm or group of firms have market power), and (ii) the impact that any upstream market power might have on competition levels in the associated downstream retail market(s). If, on balance, the Commission finds that there is upstream market power and that the associated downstream retail market(s) could be negatively affected to a substantial degree if it does not mandate the provision of the wholesale service, the competition component is satisfied.

Positions of parties

26. Bell Canada and TCI submitted that their PAL services do not satisfy the competition component of the Essentiality Test. Bell Canada stated that the relevant upstream product market is local business access services, since these services can be used as a substitute for PAL service. Bell Canada added that ILECs are not able to exert market power because exchanges in which local business services have been forborne are competitive, and that any potential market power ILECs have over PAL service in regulated exchanges is restricted by the continued tariffed status of their local business voice services.

27. In Bell Canada's view, without any upstream market power for its PAL service, there could be no impact on competition in the associated downstream retail markets, such as that for payphone service users. Bell Canada submitted that in regulated retail exchanges, the withdrawal of mandated access to its PAL service would not have any material impact on downstream competition since CPTSPs would continue to be able to subscribe to the regulated retail business local exchange service.

28. Bell Canada and TCI submitted that the downstream retail market consists not of the payphone service market, but of the broader out-of-home calls market, which they submitted is overwhelmingly served by wireless services. In their view, wireless products and services are meeting the needs of Canadians who want to make out-of-home calls. They submitted that if CPTSPs were to be weakened by the withdrawal of their PAL services, this should not have a material impact on competition in the downstream retail market.

29. Bell Canada stated that even if its PAL service were no longer mandated, and forborne from regulation, the ILECs' retail payphone service rates would continue to be regulated, while the CPTSPs' retail payphone service rates would continue to be unregulated. Therefore, according to Bell Canada, ILECs' payphone services would continue to serve an important purpose for individuals who rely on those services, such as certain groups of vulnerable Canadians.

30. In TCI's view, regulation is unnecessary for an upstream service for which the Commission has acknowledged that the associated downstream retail market is in

steep decline. The company submitted that the marketplace is far different today than in the past, and it is no longer necessary to mandate the provision of its PAL service since substitutes are readily available.

31. PIAC submitted that payphones are not a complete substitute for mobile wireless services or home phone services, and that they can be useful in certain emergency situations or for convenience if wireless service is not available or too costly.

32. PIAC argued that TCI offered no evidence that competitive business line service is available at payphone locations at competitive rates. PIAC submitted that few alternatives to the Bell companies' and TCI's PAL services would be available from CLECs and that if alternatives are available, the price would be considerably higher.

33. In response, Bell Canada stated that it had demonstrated that alternatives are available, such as business line service, which in its view are superior to its PAL service. Bell Canada submitted that it runs its own payphones over business lines and that it has received requests from CPTSPs to switch their connections over to business line service.

34. Regarding PIAC's concern about the potential for high business line service rates for CPTSPs, Bell Canada noted that a rate is either tariffed because there is no competition, or it is subject to market forces in a competitive environment. According to Bell Canada, the purpose of regulation is not to maintain low rates for its PAL service, but rather to sustain them until the market has become sufficiently competitive.

Commission's analysis and determinations

35. The Commission considers that the forbearance status of an exchange is a useful representation of where competitive alternatives are present and, by extension, where upstream market power does not exist.

36. In exchanges where forbearance from the regulation of business local exchange service has been granted, the competitor presence test has been met. These exchanges are typically urban areas with medium to high population densities. The competitor presence test can be met by the presence of either a fully independent facilities-based carrier (such as a cable company), or a carrier leasing ILEC facilities (such as unbundled local loops). However, the threshold to pass the competitor presence test is that competitors are capable of serving at least 75% of the exchange in question.[6] The record of this proceeding does not include details of specific payphone locations, so competitors' service options may be limited in certain areas. However, the Commission considers it reasonable to conclude that the Bell companies and TCI would not have upstream market power in forborne exchanges within their operating territories.

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[6] See Telecom Decision 2006-15, as amended by Order in Council P.C. 2007-532, for details about the specific criteria.

37. In non-forborne exchanges, the competitive situation is somewhat different. These areas have not passed the competitor presence test and are often rural areas with low population densities. The Commission considers that in these areas, the Bell companies and TCI likely have market power over the provision of both retail business line and PAL services.

38. Given that upstream market power analysis is performed pursuant to the relevant geographic market (i.e. each company’s respective operating territory, as defined above), which includes both forborne and non-forborne areas, the results are inconclusive. The Commission must next examine whether no longer mandating the provision of the Bell companies’ and TCI’s PAL services would result in a substantial lessening or prevention of competition.

39. Based on the record of this proceeding, there is not a significant amount of competition for retail payphone services, and there has been a significant decline in demand for the Bell companies’ and TCI’s PAL services over the past decade; therefore, mandating these companies’ PAL services has not contributed to the growth of competition in the downstream retail market to any significant degree. As a result, no longer mandating the Bell companies’ and TCI’s PAL services would not have a major effect on competition in the downstream retail market.

40. In addition, retail payphone service has seen significant decline in demand over the years mostly due to the emergence of wireless services. The Commission therefore considers it reasonable to conclude that no longer mandating the provision of the Bell companies’ and TCI’s PAL services is not likely to result in a substantial lessening or prevention of competition in the retail payphone service market in either forborne or non-forborne exchanges.

41. In light of all the above, the Commission finds that the Bell companies’ and TCI’s PAL services do not satisfy the competition component of the Essentiality Test in either forborne or non-forborne exchanges.

Duplicability component

Background

42. Under the duplicability component, the Commission must determine whether it is practical or feasible for competitors to duplicate the functionality of a facility, either through self-supply or third-party supply. If the Commission finds that the functionality of a particular wholesale service cannot be duplicated by a reasonably efficient competitor on a sufficient scale, the duplicability component is satisfied.

Positions of parties

43. Bell Canada and TCI submitted that the functionality of PAL service could be duplicated through standard business line services, which are available from a variety of facilities-based providers, thereby demonstrating the duplicability of the two companies’ respective PAL services.

Commission's analysis and determinations

44. While business line service offers the same functionality as PAL service, the Commission considers that CPTSPs are not in a position to duplicate the functionality of the Bell companies' and TCI's PAL services, or business line services, either via self-supply or third-party supply.

45. As the Commission indicated in Telecom Regulatory Policy 2015-326, it assesses duplicability from the perspective of a reasonably efficient competitor, taking into account economic considerations (e.g. capital costs and construction time frames), legal or regulatory considerations (e.g. government approvals and access to rights-of-way), and technical impediments (e.g. network or technological issues) or other impediments faced by competitors. Duplicability therefore implies more than service substitutability.

46. To duplicate the functionalities of the Bell companies' and TCI's PAL services, a CPTSP would have to duplicate the company's local access network, for which there would be multiple impediments, such as securing capital and rights-of-way, and addressing construction challenges (e.g. trenching and timelines), to provide a service with limited economic sustainability.

47. Consequently, the Commission finds that the Bell companies' and TCI's PAL services meet the duplicability component of the Essentiality Test, given that it is not practical or feasible for CPTSPs to duplicate the functionalities of the companies' respective PAL services.

Conclusion regarding the Essentiality Test

48. In light of the above, the Commission determines that the Bell companies' and TCI's PAL services fail two of the three components of the Essentiality Test and that these services should no longer be mandated.

Policy considerations

49. Despite the determination above, the Commission must examine the public good, interconnection, and innovation and investment policy considerations to conclude whether or not it should continue to mandate the provision of the Bell companies' and TCI's PAL services.

Positions of parties

50. Bell Canada and TCI submitted that there were no public policy considerations to justify continuing to mandate the provision of their respective PAL services. Bell Canada expressed the view that the regulatory measures relating to the removal of the last payphone from a community, as well as the existing retail payphone service rate regulation would ensure that consumers remain protected.

51. PIAC stated that payphones remain important for Canadians (i) with low incomes, (ii) in rural areas with no mobile coverage, and (iii) in crisis. PIAC cited the results of a survey it had conducted in 2013 that approximately half of low-income individuals occasionally rely on payphones, particularly in emergencies, for accessing social services, for safety reasons, and for making long distance calls. PIAC added that low-income individuals use payphones to call government services to avoid using up their allotment of mobile wireless minutes on hold times, and that many low-income individuals in rural areas receive phone calls from payphones because no cellular service is available.

52. PIAC submitted that continuing to mandate PAL service would respond to the economic and social requirements of users of telecommunications services, render reliable and affordable telecommunications services in all regions, and safeguard the social and economic fabric of Canada and its regions, consistent with what it considered were the relevant policy objectives set out in section 7 of the *Telecommunications Act* (the Act).

Commission's analysis and determinations

Public good

53. Under the public good policy consideration, the Commission must determine whether there is a need to mandate the wholesale service in question for reasons of social or consumer welfare, public safety, or public convenience.

54. Payphones play an important role for individuals who are facing economic hardships or part of socially vulnerable groups (e.g. the homeless, those suffering from mental illnesses, and victims of abuse), making it easier for them to communicate with government, social and medical services, and potential employers. Payphones also continue to serve the needs of Canadians (i) in rural areas who experience sporadic wireless service, (ii) who choose not to own a mobile device, (iii) whose mobile device has failed, and (iv) who are in distress when their wireless or wireline phone service is inaccessible due to power outages or weather-related events.

55. However, the ILECs continue to provision the vast majority of payphones across Canada, with CPTSPs occupying a very small percentage of the retail payphone service market. Given (i) that the ILECs are the dominant payphone service providers in Canada, and (ii) the limited presence of CPTSPs in that market, no longer mandating the Bell companies' and TCI's PAL services would not likely have a significant impact on the social needs of consumers.

56. ILEC payphones are rate regulated, and consumer safeguards are in place to protect the interests of users. Neither the Bell companies nor TCI has removed the last payphone from any of their respective communities,[7] and should they decide to do

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[7] In Telecom Regulatory Policy 2015-545, the Commission expanded the definition of "community," and clarified that the notification requirement would be triggered whenever a payphone is scheduled for removal that is the last in its wire centre, municipality, or First Nation community.

so, they are required to (i) provide 60 days' written notice to the location provider and the local government, (ii) post a notice on the payphone scheduled for removal for at least 60 days prior to removal, and (iii) place a notice in the local newspaper at least 60 days prior to removal. This notification requirement also applies to all payphones in an area with no mobile wireless service coverage.[8]

57. Accordingly, the Commission finds that the public good policy consideration does not warrant a change to the determination to no longer mandate the provision of the Bell companies' and TCI's PAL services.

Interconnection

58. Under the interconnection policy consideration, the Commission must determine whether the wholesale service in question would promote the efficient deployment of networks and facilitate network interconnection arrangements. PAL service is an access service, not an interconnection service; therefore, this policy consideration does not apply.

Innovation and investment

59. Under the innovation and investment policy consideration, the Commission must determine whether mandating or not mandating the wholesale service in question could affect (i) the level of innovation and investment in advanced or emerging networks or services for incumbents, competitors, or both, or (ii) the associated level of adoption of advanced or emerging services by telecommunications service users.

60. Given the limited demand for payphone service, the Commission considers that the mandated status of the Bell companies' and TCI's PAL services would not affect innovation and investment to any great extent. Accordingly, the Commission finds that the innovation and investment policy consideration does not warrant a change to the determination to no longer mandate the provision of the Bell companies' and TCI's PAL services.

Conclusion regarding the policy considerations

61. In light of the above, the Commission finds that the application of the policy considerations would not impact its determination to no longer mandate the provision of the Bell companies' and TCI's PAL services.

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[8] Telecom Regulatory Policy 2015-545 states that the "notification requirement is to be triggered for the removal of any payphone that is in a location, determined by street address, which does not have access to mobile wireless services by any carrier, except in instances where the payphone to be removed is part of a bank of payphones and there remains at least one working payphone in the bank of payphones in question."

Conclusion regarding mandating the provision of the Bell companies' and TCI's PAL services

62. In light of all the above, the Commission finds that it should no longer mandate the provision of the Bell companies' and TCI's PAL services.

Should the Commission immediately forbear from regulating the Bell companies' and TCI's PAL service rates?

Background

63. The Commission decides whether or not to forbear from the regulation of a service pursuant to section 34 of the Act. The Commission can forbear if it is satisfied that doing so would be consistent with the policy objectives set out in section 7 of the Act, or if it is satisfied that there is sufficient competition in the provision of the service to protect the interests of service users. In both cases, the Commission must also be satisfied that forbearance would not unduly impair the establishment or continuance of a competitive market for that service.

Positions of parties

64. Both Bell Canada and TCI requested that their PAL service rates be immediately forborne from regulation.

65. Bell Canada submitted that through its Essentiality Test and policy consideration analysis, it had demonstrated that there is no need for PAL service regulation within its operating territories. It requested that, as a result, and given the ease with which a service provider can access a business line, the Commission forbear from the regulation of its PAL service throughout its operating territories. Bell Canada provided analysis to support its request based on the forbearance framework set out in Telecom Decision 94-19.

66. TCI submitted that since there is no justification for the Commission to mandate the provision of its PAL service, the Commission can consider whether forbearance from the regulation of the service is justified. TCI also provided analysis to support its request based on the Commission's forbearance framework. In addition, TCI requested that the Commission directly regulate CPTSPs, under section 24.1 of the Act,[9] and require them to comply with the provisions in its tariff dealing with registration and consumer safeguard obligations.

67. PIAC opposed both companies' requests for forbearance, submitting that they were premature. PIAC argued that Bell Canada had not provided sufficient evidence to support its forbearance request and had narrowly construed the forbearance

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[9] Section 24.1 of the Act states that the offering and provision of any telecommunications service by any person other than a Canadian carrier are subject to any conditions imposed by the Commission, including those relating to (a) service terms and conditions in contracts with users of telecommunications services; (b) protection of the privacy of those users; (c) access to emergency services; and (d) access to telecommunications services by persons with disabilities.

provisions of the Act and the policy objectives set out therein. PIAC also argued that TCI had not met its onus to provide sufficient evidence to justify the relief it was seeking. However, PIAC submitted that if forbearance were granted, it supported TCI's proposal to impose consumer safeguards directly on CPTSPs.

Commission's analysis and determinations

68. In the past, the Commission has typically applied a phase-out period to wholesale services that would no longer be mandated, during which the service would continue to be offered by the ILEC to give competitors sufficient time to make alternative arrangements. In light of the current low demand for the Bell companies' and TCI's PAL services and the substitutability of business lines for those services, the Commission considers that a one-year phase-out period would be appropriate.

69. Accordingly, the Commission establishes a one-year phase-out period for the Bell companies' and TCI's respective PAL services. During this period, those companies can reassess the market for their PAL services and decide whether they wish to (i) continue to make their PAL services available after the expiry of the phase-out period, or (ii) no longer provide the services.

70. If either company intends to continue to make its PAL service available after the expiry of the phase-out period, the company can choose to file a forbearance application that includes an appropriate test that the Commission could use to assess forbearance.

71. If either company chooses to cease making the service available, the company should provide reasonable written notice to its PAL service customers to enable them to review and rearrange their service provisioning as appropriate.

72. Accordingly, the Commission **denies** Bell Canada's and TCI's forbearance requests. The Commission **directs** the Bell companies and TCI to provide their wholesale customers and the Commission with written notice, six months prior to the end of the phase-out period, if they intend to cease offering their PAL services. This notice should include the date on which PAL service will no longer be available, and any potential alternative arrangements that may be available to wholesale customers.

73. The Commission considers that its determinations set out in Telecom Regulatory Policy 2017-11 address TCI's concerns regarding the consumer safeguard obligations.

Policy Direction

74. The determinations set out in this decision are consistent with the Policy Direction[10] for the reasons set out below.

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[10] *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

75. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the Act, shall implement the policy objectives set out in section 7 of the Act, in accordance with paragraphs 1(a), (b), and (c) of the Policy Direction.

76. The issues under consideration in this proceeding relate to the provision of the Bell companies' and TCI's PAL services and the impact of no longer mandating these services on competition in the downstream retail payphone market.

77. The Commission has determined that the Bell companies' and TCI's PAL services are no longer mandated, subject to a phase-out period. As a result, the Commission is not imposing any new regulatory measures, and only subparagraph 1(a)(i) of the Policy Direction applies. Specifically, by ceasing to mandate the provision of the Bell companies' and TCI's PAL services, the Commission is relying on market forces to the maximum extent feasible as the means of achieving the policy objectives set out in section 7 of the Act.

Secretary General

Related documents

- *Application of regulatory obligations directly to non-carriers offering and providing telecommunications services,* Telecom Regulatory Policy CRTC 2017-11, 17 January 2017; as amended by Telecom Regulatory Policy CRTC 2017-11-1, 10 July 2017

- *Public notification policy for the removal of the last payphone in a community*, Telecom Regulatory Policy CRTC 2015-545, 10 December 2015

- *Review of wholesale wireline services and associated policies,* Telecom Regulatory Policy CRTC 2015-326, 22 July 2015

- *Fact-finding process on the role of payphones in the Canadian communications system*, Telecom Notice of Consultation CRTC 2013-337, 16 July 2013; as amended by Telecom Notice of Consultation CRTC 2013-337-1, 11 September 2013

- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006; as amended by Order in Council P.C. 2007-532, 4 April 2007

- Order CRTC 2000-858, 15 September 2000

- *Local pay telephone competition,* Telecom Decision CRTC 98-8, 30 June 1998

- *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994