



Telecom Decision CRTC 2024-90

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Groupe Maskatel Québec LP – Application requesting forbearance from the regulation of wide area network services

Summary

The Commission **approves** an application from Groupe Maskatel Québec LP requesting forbearance from the regulation of wide area network services in its operating territory, which consists of the exchanges of Notre-Dame-du-Bon-Conseil, Sainte-Rosalie, St. Ephrem, St. Victor, and Upton, Quebec.

Background

1. When individuals or businesses connect to the Internet, they typically do so through a local area network (LAN). A LAN is a small network that connects computers and other devices within a limited geographic area, like a home, school, or office building. A home Wi-Fi network that connects to the Internet via a router is a common example of a LAN. Wide area network (WAN) services allow customers to connect two or more LANs over a large geographic area.
2. WAN services are generally used to facilitate the secure transmission of data between geographically dispersed locations. For example, businesses with data centres in multiple cities, provinces, or countries might use WAN services instead of the public Internet to transfer data between those locations. WAN services generally offer more consistent data transfer speeds, can provide wholesale transport connectivity, and are more secure.
3. Subsection 34(1) of the *Telecommunications Act* (the Act) provides that the Commission may refrain from regulating conditions of service, rates, working agreements, and liability limitations related to a service or class of services supplied by a Canadian carrier, if it finds that such forbearance would be consistent with the policy objectives of the Act.
4. In addition, subsection 34(2) of the Act requires the Commission to forbear where there is sufficient competition to protect the interests of customers, while subsection 34(3) says that it shall not forbear if it finds that doing so would impair competition.

5. In Telecom Decision [94-19](#), the Commission established a framework for assessing forbearance under section 34 of the Act. Within this framework, the first step in assessing the appropriateness of forbearance is to define the relevant market, which is the smallest group of products, within the smallest geographic area, for which a firm with market power can profitably impose a sustainable price increase. The Commission also established several other criteria that could be examined when determining whether a market is competitive. These include the market shares of the dominant and competing firms, demand and supply conditions, the likelihood of entry into the market, barriers to entry into the market, and evidence of rivalrous behaviour.
6. In Telecom Order [2000-553](#), the Commission defined WAN services¹ and forbore from the regulation of current and future WAN services provided by most large incumbent local exchange carriers (ILECs). In subsequent decisions, the Commission forbore from the regulation of WAN services offered by all the large ILECs and many of the small ILECs that were not included in Telecom Order 2000-553.²

Application

7. On 8 March 2022, the Commission received an application from Groupe Maskatel Québec LP (Maskatel) requesting forbearance from the regulation of WAN services in its operating territory, which consists of the exchanges of Notre-Dame-du-Bon-Conseil, Sainte-Rosalie, St. Ephrem, St. Victor, and Upton, Quebec. Maskatel is an affiliate of Bell Canada and is the ILEC in its operating territory.
8. Maskatel proposed using the definition of WAN services set out by the Commission in Telecom Order 2000-553. Maskatel could not provide estimates of market share for WAN services in its operating territory because it is not currently offering those services. Maskatel submitted, however, that Cogeco Inc. (Cogeco) has the technology and infrastructure required to provide WAN services within Maskatel's operating territory.
9. Given Cogeco's ability to compete in Maskatel's territory, Maskatel held that, should its application be approved, forbearance would allow for the provision of WAN services at market-based rates and would support competition, affordability, high-quality services, and innovation, and thus benefit consumers.
10. Maskatel stated that the services offered would be subject to competition sufficient to protect the interests of users and that refraining from regulating WAN services would not cause harm to the establishment or continuation of a competitive market.

¹ See paragraphs 4 and 5 of Telecom Order 2000-553.

² See Telecom Order 2001-118, Telecom Decision 2004-7, Telecom Decision 2004-57, Telecom Decision 2004-58, and Telecom Decision 2012-143

11. Maskatel submitted that refraining from the regulation of WAN services in Notre-Dame-du-Bon-Conseil, Sainte-Rosalie, St. Ephrem, St. Victor, and Upton would therefore be consistent with the forbearance framework set out in Telecom Decision 94-19 and with the policy objectives of the Act.
12. The Commission did not receive any interventions in response to the application.

Commission's analysis

13. In Telecom Decision 94-19, the Commission established that any decision on its part to forbear from the regulation of a service would require an assessment of the existing competition relative to that service. To make that assessment, the relevant service and product market must be defined.

Service definition and product market

14. The Commission notes that it has consistently applied the product market definition for WAN services set out in Telecom Order 2000-553. In the absence of any evidence to the contrary on the record of this proceeding, the Commission is of the view that it would be appropriate to apply that service and product market definition in respect of the application.

Evidence of a competitive market

15. The Commission notes that Maskatel is not currently offering WAN services. Therefore, 100% of the market share is by held by competitors.
16. The Commission notes that, in response to a request for information, Cogeco confirmed that it offers WAN services in all the exchanges named in the application, with the exception of St. Ephrem, where it does not have the available network capacity.
17. For the exchange of St. Ephrem, the Commission notes that while Cogeco does not currently have available network capacity to offer WAN services, it does have the required infrastructure in place (i.e., the underlying fibre network) and would be capable of providing those services. The Commission considers that, in response to shifting market or customer demand, Cogeco could redirect or increase network capacity and decide to offer WAN services at any time. The Commission is of the view that this is sufficient to constitute competitive presence in St. Ephrem.
18. The Commission thus considers that, should Maskatel offer WAN services in its operating territory, potential customers would have access to other providers of WAN services; this is one component of a competitive service.
19. As for potential barriers to entry, the Commission notes that WAN services use industry-standard interfaces that have made interoperability between customer-owned equipment and the network more straightforward. Moreover, the Commission notes that innovation and technical change in the market for WAN services, including

software-defined solutions, are increasing choice for consumers and further lowering barriers to entry.

20. The Commission also notes that it is currently considering the larger question of competition in transport services and that its findings in that regard may affect the analysis of similar applications in the future. However, with respect to the current application, the Commission is of the view that the market in question is sufficiently competitive and that the conditions for forbearance set out in Telecom Decision 94-19 are met in Maskatel's territory with respect to WAN services.

Compliance with policy objectives

21. The Commission considers that forbearance from the regulation of WAN services in Maskatel's operating territory would advance the policy objectives set out in paragraphs 7(c) and (f) of the Act.³
22. The Commission also considers that forbearance would be consistent with paragraphs 2(a) and (c) of the 2023 Policy Direction,⁴ which state that the Commission should encourage all forms of competition and investment, and should ensure that affordable access to high-quality, reliable and resilient telecommunications services is available in all regions of Canada.

Conclusion

23. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that the provision of WAN services in Maskatel's operating territory is sufficiently competitive to protect the interests of users so as to warrant forbearance to the extent set out in this decision.
24. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that refraining from the regulation of WAN services in Maskatel's operating territory is unlikely to unduly impair the continuance of a competitive market for that class of services.
25. Pursuant to subsection 34(1) of the Act, the Commission finds as a question of fact that refraining from exercising its powers and performing its duties with respect to WAN services in Maskatel's operating territory, to the extent set out in this decision,

³ The cited policy objectives are: 7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; and 7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective.

⁴ *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*, SOR/2023-23, 10 February 2023

is consistent with the Canadian telecommunications policy objectives set out in the Act, specifically those found in paragraphs 7(c) and (f).

26. The Commission therefore **approves** Maskatel's application.

27. In light of the above, and pursuant to subsection 34(4) of the Act, the Commission declares that, effective the date of this decision, sections 24, 25, 27, 29, and 31 of the Act do not apply to Maskatel's current and future WAN services, with the following exceptions:

- conditions pursuant to section 24 of the Act with respect to the confidentiality of customer information;
- any future condition that the Commission may impose, pursuant to section 24 of the Act, with respect to WAN services;
- the Commission's powers under subsections 27(2) and (4) of the Act regarding unjust discrimination and undue preference with respect to the provision of WAN services; and
- the Commission's powers under subsection 27(3) of the Act with respect to compliance with powers and duties it has retained.

Secretary General

Related documents

- *Dryden Municipal Telephone System – Application requesting forbearance from the regulation of wide area network services*, Telecom Decision CRTC 2012-143, 9 March 2012
- *Application by Société en commandite Télébec for forbearance from regulation of wide area networking services*, Telecom Decision CRTC 2004-58, 31 August 2004
- *NorthernTel, Limited Partnership and O.N.Telcom – Forbearance from regulation of wide area networking services*, Telecom Decision CRTC 2004-57, 31 August 2004
- *Application by TELUS Québec for forbearance from regulation of wide area networking services*, Telecom Decision CRTC 2004-7, 5 February 2004
- *Forbearance granted to wide area networking services provided by SaskTel*, Telecom Order CRTC 2001-118, 6 February 2001
- *Forbearance granted for telcos' wide area network services*, Telecom Order CRTC 2000-53, 16 June 2000

- *Review of Regulatory Framework*, Telecom Decision CRTC 94-19, 16 September 1994