



Telecom Decision CRTC 2025-340

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Reference: Part 1 application posted on 3 March 2023

Gatineau, 15 December 2025

Public record: 8622-V3-202301068

Quebecor Media Inc. – Application regarding Bell Canada and the increase in its wholesale fibre access and transport rates

Summary

The Commission is working to maintain a fair and transparent regulatory framework to foster competition and investment in Internet services.

Quebecor Media Inc. (Quebecor), on behalf of its subsidiary Videotron Ltd. (Videotron), filed an application alleging that Bell Canada was subjecting it to an undue disadvantage regarding a rate increase for wholesale fibre transport services. While the Commission has refrained from exercising most of its powers regarding these services, it has retained some of them, in accordance with paragraph 34(1) of the *Telecommunications Act* (the Act).

Initially, Fibrenoire Internet Inc. (Fibrenoire) subscribed to Bell Canada's transport services through a contract. Videotron then acquired Fibrenoire, and when the contract expired, Videotron entered into negotiations with Bell Canada. Quebecor maintained that the rate increases subject Videotron to an undue disadvantage, contrary to paragraph 27(2) of the Act, because they limit Videotron's ability to honour its commitments to its customers and remain competitive. According to Quebecor, the rates proposed by Bell Canada as part of negotiations would be at least 30% higher than the rates between Bell Canada and Fibrenoire.

After reviewing the record of the proceeding, the Commission finds that the expired contract was associated with a long-term agreement with minimum annual revenue commitments, and that it is unclear whether the terms and conditions of the new proposals were equivalent. The Commission considers that it does not have sufficient evidence to clearly demonstrate that a preference or disadvantage exists in this case.

Nevertheless, the Commission will examine issues related to the availability of competitive transport services through a separate proceeding at a later date.

Application

1. In February 2023, Quebecor Media Inc. (Quebecor), on behalf of its subsidiary Videotron Ltd. (Videotron), filed an application seeking relief from proposed rate

increases for Bell Canada's fibre transport services billed to Videotron.¹ The services in question are forborne from regulation.² As a result, Quebecor is basing its claim on an allegation of undue preference under paragraphs 27(2) and 27(4) of the *Telecommunications Act* (the Act).³

2. The services in question were originally provided to Fibrenoire Internet Inc. (Fibrenoire). The contracts were transferred to Videotron when it acquired Fibrenoire.
3. Quebecor underscored that because of the forbearance from regulation granted by the Commission for wholesale fibre transport services, Bell Canada is benefitting from its dominant position at certain points of presence and raising its rates excessively. Quebecor asserted that Bell Canada's rate increases subject Videotron to an undue disadvantage, contrary to paragraph 27(2) of the Act. Quebecor explained that Videotron faces difficulty meeting its contractual commitments to its customers, which limits its ability to compete in the retail market.
4. Quebecor therefore requested that the Commission:
 - order Bell Canada to freeze all wholesale fibre transport rates for points of presence where the company is in a dominant position and to maintain this freeze until the Commission publishes its determinations on the proceeding to review the regulatory framework for wholesale wireline services; and
 - launch without delay the proceeding to review the regulatory framework for wholesale wireline services to examine the regulation of wholesale transport services.
5. The Commission received a reply from Bell Canada, interventions from the Competitive Network Operators of Canada (CNOC) and TekSavvy Solutions Inc. (TekSavvy), and a reply from Quebecor.

Assessment of undue disadvantage

6. The Commission assesses allegations of undue disadvantage under paragraph 27(2) of the Act, which states the following:

¹ The Commission notes that the application refers to increases to access rates, that the evidence presented does not relate to access rates, and that the applications for relief do not refer specifically to access rates. For these reasons, this decision is limited to transport services and the circuits associated with these transport services.

² Telecom Decision 2008-17.

³ In its application, Quebecor alleged that Bell Canada is granting itself an undue or unreasonable preference, and that it subjected Quebecor to an undue or unreasonable disadvantage or unjust discrimination. For readability, the term "undue disadvantage" will be used in most cases throughout this decision.

No Canadian carrier shall, in relation to the provision of a telecommunications service or the charging of a rate for it, unjustly discriminate or give an undue or unreasonable preference toward any person, including itself, or subject any person to an undue or unreasonable disadvantage.

7. To determine if an undue disadvantage exists, the Commission must first determine whether the behaviour in question constitutes a disadvantage. If the Commission does determine this, it must then decide whether the disadvantage is undue.
8. The party making the allegations must first establish the disadvantage. Once the disadvantage is established, the onus then falls on the respondent party to establish that there is no undue disadvantage, as required by paragraph 27(4) of the Act.

Procedural issue

9. In its response, Bell Canada raised concerns about Quebecor's application. Bell Canada asserted that the application did not specify the amount at which rates should be frozen or the specific locations where Quebecor alleged that Bell Canada was in a dominant position. Bell Canada submitted that because this information was not included in the application, it could not fully respond to Quebecor's accusations.
10. Bell Canada added that an application for interim relief, namely, to freeze all wholesale fibre transport rates for points of presence where Bell Canada is in a dominant position, must be assessed under the parameters of the RJR-MacDonald test.⁴ According to Bell Canada, this part of the application should therefore be rejected.
11. On 17 April 2023, Bell Canada filed a procedural request to strike certain paragraphs from Quebecor's reply. Bell Canada asserted that Quebecor had attempted to add new information to the record following Bell Canada's response. Bell Canada alleged that it was inappropriate for Quebecor to improve its application at the reply stage, and that the statements in question should have been included in the application itself.
12. The Commission, through a staff [letter](#) dated 5 May 2023, introduced an additional procedure to ensure that the record is as complete as possible, and that parties have an opportunity to file comments on the evidence and arguments raised in Quebecor's reply. Specifically, the additional procedure invited:
 - (a) Quebecor to indicate whether it considered the RJR-MacDonald test to be the most appropriate means of dealing with its application for interim relief;

⁴ The RJR-MacDonald test sets out the following criteria: (i) there is a serious issue to be determined; (ii) the party seeking interim relief will incur irreparable harm if the interim relief is not granted; and (iii) the balance of convenience, taking into account the public interest, favours granting the interim relief. To be granted interim relief, an applicant must demonstrate that its application meets all three criteria of the RJR-MacDonald test.

- (b) interested persons, including Bell Canada, to file comments in response to Quebecor's reply and to its comments in response to point (a) above; and
- (c) Quebecor to file a reply to the parties' comments.

Issue

13. The Commission considers that the request to initiate a proceeding to review the regulatory framework for wholesale wireline services is beyond the scope of this proceeding. However, after Quebecor filed its application, the Commission stated in another decision that it would consider "issues related to the availability of competitive transport services through a separate proceeding at a later date."⁵
14. The Commission has determined that it should consider in this decision whether Bell Canada's rate increases subject Videotron to an undue disadvantage and, if so, whether Quebecor's requests for relief are appropriate.

Do Bell Canada's rate increases subject Videotron to an unfair disadvantage?

Background

15. In 2016, Videotron acquired Fibrenoire. Following Fibrenoire's merger with Videotron in 2022, Fibrenoire's previous contract with Bell Canada expired. This led the Bell Canada and Videotron teams to exchange several offers and counter-offers over several months to negotiate a new agreement. Bell Canada's proposals offered two options: (i) better prices in return for a long-term contract and a commitment to minimum annual revenues or (ii) higher prices with no commitment.

Positions of parties

Quebecor

16. In its application, Quebecor maintained that Bell Canada's rate increases subject Videotron to an unfair disadvantage, contrary to paragraph 27(2) of the Act, because they limit Videotron's ability to honour its commitments to its customers and remain competitive.
17. Quebecor alleged that in regions where Bell Canada has a near-monopoly position, if the Commission does not intervene, Videotron's customers will have to turn to the only other services available: Bell Canada's.
18. Quebecor submitted that Bell Canada had required that the contractual provisions requiring Fibrenoire to commit to providing a minimum annual revenue over several years continue to apply. Quebecor added that these minimum annual revenue

⁵ Paragraph 46 of the Appendix to Telecom Regulatory Policy 2024-180.

commitment provisions are not required for Videotron's other existing contracts. Quebecor indicated that the amounts Videotron would have to commit to provide upon renewal of the agreement disproportionately exceed the amounts Fibrenoire previously paid for the use of the same transport links.

19. Quebecor submitted that when Videotron refused to commit to paying such amounts, Bell Canada agreed to use the transport links used by Fibrenoire with no commitment provisions but with higher monthly usage fees. Quebecor added that Bell Canada indicated its intention to disconnect customers served by Videotron on these transport links if the company did not pay the increases.
20. Quebecor maintained that the evidence accompanying the application demonstrated that Bell Canada's rate increases and intention to disconnect customers have a direct impact on the associated retail market, to the extent that a company like Videotron can no longer compete or find alternatives.

Bell Canada's reply

21. According to Bell Canada, the Commission classified the services included in the application, wholesale fibre transport services, as non-essential in Telecom Decision 2008-17. Those services have been forborne from regulation since 2011.⁶ Bell Canada claimed that this forbearance stems from the Commission's determination in Telecom Decision 2008-17 that a high number of competitors self-supply or find other solutions for their fibre transport services. In that decision, the Commission also considered that the reported level of alternative supply demonstrates the existence of competition in the upstream market for such facilities. According to Bell Canada, for it to comply with Videotron's request, solid evidence would be required to challenge the Commission's previous determinations. This should only be done after a thorough review involving broad industry and public participation.
22. Bell Canada submitted that Videotron subscribes to several wholesale fibre transport circuits that were originally governed by agreements between Bell Canada and Fibrenoire and included a minimum volume commitment⁷ and a multi-year commitment. Bell Canada indicated that it is still offering Quebecor either (i) a guaranteed favourable price over several years in exchange for a long-term revenue commitment or (ii) a higher price with the flexibility to switch suppliers quickly and without commitment to Bell Canada.

⁶ These services were phased out over a three-year period following Telecom Decision 2008-17.

⁷ Quebecor's evidence included a contract between Bell Canada and Fibrenoire, which referred to a "volume commitment." However, in its request, Quebecor mainly used the term "minimum annual revenue commitments." In its response, Bell Canada used the term "minimum volume commitment." In the Commission's view, Bell Canada used the terms "minimum volume" and "revenue commitments" interchangeably. For readability, the Commission will use the term "minimum revenue commitments" in this decision.

23. According to Bell Canada, offering discounts to encourage wholesale customers to make long-term commitments is common practice and provides financial certainty for both Bell Canada and its customers. Bell Canada mentioned that if its objective was to undermine the success of Videotron or other competitors, it would not offer more advantageous rates for long-term commitments.

Quebecor's reply

24. Quebecor submitted that Bell Canada, in its reply, avoided the core of the application, which is that Bell Canada used anti-competitive tactics to give itself an undue preference in the fibre transport services market. Furthermore, according to Quebecor, Bell Canada did not deny the allegations that the disadvantage imposed on Videotron was undue, even though Bell Canada has the burden of demonstrating otherwise.

25. Quebecor mentioned that Bell Canada seemed to explain the differences between its rate proposals by the discounts it offers in return for revenue and term commitments. According to Quebecor, the practice of offering lower rates in return for such commitments is not abusive in itself. However, the company added that when this practice is used to maintain or increase a dominant market position by imposing conditions that undermine its competitors, as in this case, it constitutes an anti-competitive practice.

26. Quebecor stated that market forces are not sufficient to protect the interests of Canadian consumers of fibre transport services where Bell Canada is in a near-monopoly position. Quebecor asserted that Videotron's retail customers would be affected by Bell Canada's increases. Quebecor indicated that without the Commission's intervention, the undue preference Bell Canada is giving itself by using its dominant negotiating position and the associated undue disadvantage experienced by its competitors and their fibre transport customers will continue to increase.

Interventions

27. The CNOC submitted that it was not aware of the specific details of this case, but that the description provided by Quebecor chronicled the same difficulties encountered by the CNOC in obtaining access to wholesale transport services across Canada.

28. TekSavvy reported that its only experience in acquiring transport services from Bell Canada in a region where Bell Canada is the dominant provider mirrored the experience described by Quebecor. TekSavvy agreed that the rate increases described by Quebecor create barriers to competition.

Commission's analysis

29. The Commission is of the view that the parties submitted sufficient arguments for it to consider the application under paragraph 27(2) of the Act and, if necessary, assess the requests for interim relief using the RJR-MacDonald test.

30. As previously mentioned, in Telecom Decision 2008-17, the Commission refrained from exercising some of its powers under section 34⁸ of the Act for wholesale fibre transport services, including Ethernet services. However, the Commission retained the powers granted by paragraphs 27(2) and 27(4) of the Act to address any issue of undue disadvantage, as previously mentioned.
31. As mentioned above, Quebecor's claim of undue disadvantage is based on its following allegations:
- Bell Canada is using its dominant position in certain markets to raise transport service rates disproportionately.
 - Increases have a direct impact on the retail market because they limit Videotron's ability to honour its commitments to customers and remain competitive.
32. Quebecor submitted that the amounts Videotron would have to commit to pay upon renewal of the agreement (with minimum time and revenue commitments) considerably exceed the amounts Fibrenoire previously paid for the use of the same transport links.
33. Considering that several years have passed since the last agreement, the Commission is of the view that a rate increase does not in itself demonstrate a disadvantage.
34. Furthermore, in the Commission's view, the public record of this proceeding does not allow it to gain an overall understanding of the agreement or to find that Bell Canada is subjecting Videotron to a disadvantage for the reasons below:
- Although the application referred to a minimum annual revenue commitment between Bell Canada and Fibrenoire, the record of this proceeding does not contain enough information on this commitment. The Commission is therefore not able to compare this commitment between Bell Canada and Fibrenoire with those proposed by Bell Canada to Quebecor in these recent offers. The Commission is also not able to validate some of Quebecor's allegations, particularly those regarding the difference in increases.
 - It is not clear from the evidence on the record if this increase is associated with the same terms and conditions as those for Fibrenoire. In particular, the agreement between Bell Canada and Fibrenoire included volume commitments, namely, a minimum number of circuits to be ordered for a given period with a penalty of a predetermined amount if the volume is not met. Bell Canada's new proposal, however, includes a minimum annual revenue commitment. There is an important

⁸ Paragraph 34(1) of the Act provides that the Commission may make a determination to refrain from the exercise of some powers in relation to a service or class of services provided by a Canadian carrier.

distinction between these two notions, and the Commission is not in a position to determine how the volume commitment translates into revenue for Bell Canada.

- The record includes only two offers from Bell Canada, but it refers to several offers and counter-offers between the two parties. It is therefore not possible to determine with certainty how negotiations or the situation following the latest offers have progressed.

35. In light of the above, the Commission finds that the record does not contain sufficient evidence to clearly demonstrate that a preference or disadvantage exists in this case. Therefore, it is not necessary for the Commission to make a determination on this issue.

Conclusion

36. In light of all of the above, the Commission rejects Quebecor's application.

37. The Commission recognizes the importance of competition in the transport services market. For that reason, the Commission is of the view that it would be appropriate for it to reaffirm in this decision the intentions set out in Telecom Regulatory Policy 2024-180. Specifically, the Commission reiterates that it will consider issues related to the availability of competitive transport services through a separate proceeding at a later date.⁹

Secretary General

Related documents

- *Competition in Canada's Internet service markets*, Telecom Regulatory Policy CRTC 2024-180, 13 August 2024
- *Regulatory policy – Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008

⁹ Paragraph 46 of the appendix to Telecom Regulatory Policy 2024-180.