



Telecom Decision CRTC 2025-39

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Reconsideration of Telecom Decision 2023-358

Summary

The Commission is working to increase choice and affordability of high-speed Internet service by promoting greater competition between Internet service providers (ISPs) while maintaining incentives for companies to invest in high-quality networks.

In November 2023, the Commission published Telecom Decision 2023-358 (the Temporary Decision). The Temporary Decision granted competitors workable access to sell Internet service using the fibre-to-the-premises (FTTP) networks of Bell Canada and TELUS Communications Inc. (TELUS) in Ontario and Quebec (the Temporary Service).

In November 2024, following a petition presented by Bell Canada, the Governor in Council referred the Temporary Decision back to the Commission to reconsider a discrete aspect: whether Canada's three largest ISPs—Bell Canada, Rogers Communications Canada Inc., and TELUS, as well as their affiliates (collectively, the Large Incumbents)—should be prohibited from using the Temporary Service.

Following the Governor in Council referring the Temporary Decision back to the Commission for reconsideration, the Commission launched Telecom Notice of Consultation 2024-292 (the Notice) to provide interested persons with the opportunity to share their views. In the Notice, the Commission asked whether changing the Temporary Decision would advance the public interest. The Notice also recognized that the Temporary Service has now been replaced by the service (the Final Service) set out in Telecom Regulatory Policy 2024-180 (the Final Decision), published in August 2024.

In response to the Notice, a number of parties submitted that allowing the Large Incumbents to use wholesale access would have material negative effects on future investment and long-term competition. These claims raise important issues that will be considered in the consolidated proceeding to address applications to review and vary the Final Decision, which the Commission intends to complete by summer 2025.

With respect to the current proceeding on the Temporary Decision, the evidence on the public record shows that consumer benefits brought about by Large Incumbent access to the Temporary Service outweighed any impact that access had on investment during the

short time the Temporary Service was in effect. Accordingly, the Commission finds that the public interest would not be advanced by changing the Temporary Decision.

Background

1. Wholesale high-speed access (HSA) is a proven tool to promote greater competition in Canada's Internet service markets. It allows competitors to use the networks of large telephone and cable companies to provide retail Internet service to consumers. Through increased competition, Canadians gain access to a broader range of service plans at lower prices.
2. In March 2023, the Commission launched Telecom Notice of Consultation 2023-56 to renew its approach to encouraging vibrant and sustainable competition in Canada's Internet service markets (the Broader Proceeding). In launching the Broader Proceeding, the Commission recognized that it would take time to develop a record with the evidence needed to make a final determination on how to encourage more competition and continued investment in modern fibre networks. To address urgent competitive concerns, the Commission ran an expedited process to determine whether competitors should gain temporary access to aggregated fibre-to-the-premises (FTTP) services until a final determination could be made.
3. The expedited process resulted in Telecom Decision 2023-358 (the Temporary Decision), released in November 2023. The Temporary Decision provided competitors with access to aggregated FTTP services over the networks deployed by Bell Canada and TELUS Communications Inc. (TELUS) in Ontario and Quebec (the Temporary Service)—the parts of the country where competition had declined most significantly.
4. The Temporary Service was limited in both its geographic and temporal scope. It provided competitors with temporary, expedited access to sell fibre Internet service plans to encourage more competition while the Commission completed the Broader Proceeding. The Temporary Service was implemented in May 2024 and remained in operation until it was replaced by a subsequent service (the Final Service) established in August 2024 with Telecom Regulatory Policy 2024-180 (the Final Decision).
5. As with all previous wholesale HSA mandates, the record of the proceeding that led to the Temporary Decision did not support setting limitations on which companies could access the Temporary Service. Prior to the Temporary Decision, large telephone and cable companies (collectively, the Incumbents) used wholesale HSA services to sell retail Internet service to approximately 150,000 households in Canada. The Temporary Decision did not make any changes to the HSA framework in terms of who could access regulated wholesale services.
6. In February 2024, Bell Canada petitioned the Governor in Council to rescind the Temporary Decision. In the alternative, it asked the Governor in Council to vary or refer the Temporary Decision back to the Commission for reconsideration.

7. At that time, the Commission was continuing to build a robust record upon which to finalize its approach to encouraging more competition and continued investment in Canada's Internet service markets. This record included submissions from more than 300 parties and significant expert evidence, as well as detailed testimony from 22 groups, including Incumbents, independent competitors, and consumers, that was provided during a week-long public hearing in February 2024.
8. Based on that record, the Commission issued the Final Decision in August 2024. The Final Decision set out the Final Service, which, among other things, granted competitors access to aggregated FTTP services more broadly across Canada on an indeterminate basis. In particular, the Final Decision requires Bell Canada; Bell Aliant, a division of Bell Canada; Bell MTS Inc.; Saskatchewan Telecommunications (SaskTel); and TELUS (collectively, the incumbent local exchange carriers [ILECs]) to provide competitors with aggregated FTTP services no later than 13 February 2025.
9. The record leading to the Final Decision contained sufficient evidence for the Commission to impose limitations on access to the Final Service. In particular, that evidence demonstrated that wholesale access under the Final Service could negatively impact network investments by the Incumbents in some circumstances.
10. Limitations on access to the Final Service include:
 - a) a rule prohibiting any incumbent, as well as its affiliates, from using the Final Service (including aggregated FTTP services) within its traditional serving territory or that of its affiliates. The record did not support excluding any Incumbent or its affiliates from accessing the Final Service outside those territories; and
 - b) a head-start rule, which exempts the ILECs from the requirement to offer aggregated FTTP services to all new fibre builds for five years.
11. The Final Service replaced the Temporary Service and is now the wholesale HSA service in Ontario and Quebec. Beyond these provinces, competitor access to aggregated FTTP services must be made available by the ILECs no later than 13 February 2025.

Order in Council to reconsider the Temporary Decision

12. On 5 November 2024, the Governor in Council, through an Order in Council¹ (the Reconsideration Order), referred the Temporary Decision back to the Commission to reconsider a discrete aspect of that decision: whether the three largest incumbents in

¹ *Order Referring Telecom Decision CRTC 2023-358 Back to the CRTC*, P.C. 2024-1172, 5 November 2024

Canada – Bell Canada, Rogers Communications Canada Inc. (Rogers), TELUS, and their affiliates (collectively, the Large Incumbents) – should be prohibited from accessing the Temporary Service.

13. Although the Reconsideration Order referred to the Final Decision, it did not order its reconsideration. Following issuance of the Reconsideration Order, several applications were filed requesting that the Commission review and vary different aspects of the Final Decision, including the question of whether the Large Incumbents should be allowed to use the Final Service. On 25 November 2024, the Commission consolidated several applications to review and vary the Final Decision into a single proceeding that is currently underway (the Consolidated R&V Proceeding).²

Telecom Notice of Consultation 2024-292

14. On 21 November 2024, the Commission issued Telecom Notice of Consultation 2024-292 (the Notice), which invited parties to comment on the issues set out in the Reconsideration Order and to specifically address whether changing the Temporary Decision to exclude the Large Incumbents from accessing the Temporary Service would advance the public interest.
15. The Commission received submissions from the Atlantic Economic Council; Bell Canada; Bragg Communications Incorporated, carrying on business as Eastlink; Cogeco Communications Inc., on behalf of Cogeco Connexion Inc. (collectively, Cogeco); Community Fibre Company; Competitive Network Operators of Canada; le Conseil du patronat du Québec; the Labourers' International Union of North America; le Ministère du Conseil exécutif du Gouvernement du Québec; the Public Interest Advocacy Centre; Quebecor Media Inc., on behalf of Freedom Mobile Inc., Videotron Ltd., and VMedia (collectively, Quebecor); Rogers; SaskTel, TekSavvy Solutions Inc. (TekSavvy); TELUS; the Utility Contractors' Association of Ontario; Vaxination Informatique; Xplore Inc.; and several individual interveners.

Should the Temporary Decision have prohibited Large Incumbents from accessing the Temporary Service?

Positions of parties

16. In addressing the question of whether prohibiting the Large Incumbents from using the Temporary Service would have advanced the public interest, many of the submissions the Commission received noted that the Temporary Service is no longer in effect and instead focused on the impact of Large Incumbent use of the Final Service. Whether the Large Incumbents can access the Final Service is an important issue that the Commission will assess through the Consolidated R&V Proceeding.

² See Secretary General [letter](#) dated 25 November 2024.

17. Most parties stated that the Commission should have prohibited the Large Incumbents from accessing the Temporary Service because, in their view, Large Incumbent access harmed competition and reduced network investment.
18. Many parties, including Cogeco, Quebecor, and TekSavvy, argued that Large Incumbent access to the Temporary Service impeded competition for Internet service plans. These parties asserted that this would ultimately lead to market consolidation and higher prices for consumers.
19. In contrast, TELUS submitted that the Temporary Service had a marked and positive impact on competition, innovation, and consumer choice in Ontario and Quebec. TELUS provided evidence that it used the Temporary Service to sell fibre Internet service plans to consumers in those provinces. Several other parties referred to TELUS's promotional materials, indicating that it used the Temporary Service to market competitive fibre Internet service plans, including through discounted promotional offers. Accordingly, TELUS indicated that if it had been prohibited from accessing the Temporary Service, these benefits to consumers would not have occurred.
20. With respect to investment, many Incumbents, including Bell Canada, claimed that allowing the Large Incumbents to access the Temporary Service reduced future network investments significantly. TELUS argued that Bell Canada's investment concerns related more to the Commission's decision to impose the Temporary Service itself, rather than to allow the Large Incumbents access to the Temporary Service.

Commission's analysis

21. As set out in paragraph 20 of the Notice, the objective of this proceeding is to determine whether the public interest would have been advanced by prohibiting the Large Incumbents from accessing the Temporary Service.
22. In assessing whether changes to the Temporary Decision would have advanced the public interest, the Commission weighed the consumer benefits brought about by Large Incumbent access to the Temporary Service against the impact that access had on investment during the short time the Temporary Service was in effect.
23. Consumer benefits brought about by Large Incumbent access to the Temporary Service included both increased choice for Canadians and more intense competition between ISPs. The evidence in this proceeding shows that more than a dozen providers, including one of the Large Incumbents and its affiliates, used the Temporary Service to offer new retail fibre Internet service plans in Ontario and Quebec. This brought observable benefits to Canadians.
24. The record did not demonstrate that there has been a negative impact on investment that can be attributed to the Large Incumbents' use of the Temporary Service. The

Temporary Service was in effect for only a short period of time, during which Incumbents lost a limited number of customers across a variety of competitors.

25. Nevertheless, it is important for the Commission to consider possible longer-term impacts of Large Incumbent use of wholesale HSA services on investment and competition. Given that the Temporary Service was replaced by the Final Service, these impacts are appropriately addressed in the Consolidated R&V Proceeding. The Commission will make this assessment in the context of the Final Decision, which includes measures to promote investment and competition.
26. Finally, as a general matter, the Commission must exercise its authorities with a view to implementing the policy objectives set out in paragraphs 7(a), (b), (c), and (h) of the *Telecommunications Act*, as well as subsections 2(a) and (b) and section 8 of the 2023 Policy Direction.³ The Commission is not convinced that varying the Temporary Decision would further the implementation of these objectives.

Conclusion

27. The evidence in this proceeding shows that consumer benefits brought about by Large Incumbent access to the Temporary Service outweighed any impact that access had on investment during the short time the Temporary Service was in effect. Accordingly, the Commission finds that the public interest would not be advanced by changing the Temporary Decision.
28. The Commission will continue to develop the record of the Consolidated R&V Proceeding to assess longer-term concerns about investment and competition. That assessment will be made in the context of the Final Decision, which includes measures to promote investment and competition.

Secretary General

Related documents

- *Call for comments – Reconsideration of an aspect of Telecom Decision 2023-358*, Telecom Notice of Consultation CRTC 2024-292, 21 November 2024
- *Competition in Canada’s Internet service markets*, Telecom Regulatory Policy CRTC 2024-180, 13 August 2024

³ *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*, SOR/2023-23, 10 February 2023

- *Review of the wholesale high-speed access service framework – Temporary access to fibre-to-the-premises facilities over aggregated wholesale high-speed access services*, Telecom Decision CRTC 2023-358, 6 November 2023
- *Notice of hearing – Review of the wholesale high-speed access service framework*, Telecom Notice of Consultation CRTC 2023-56, 8 March 2023; as amended by Telecom Notices of Consultation CRTC 2023-56-1, 11 May 2023; 2023-56-2, 4 July 2023; 2023-56-3, 6 November 2023; and 2023-56-4, 8 April 2024