

January 15, 2007

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Telecommunications Policy

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Ottawa, Ontario

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**Re: Canada Gazette, Part 1, Dec. 16, 2006**

**Order Varying Telecom Decision CRTC 2006-15**

Dear Mr. St-Aubin:

The Atlantic Institute for Market Studies (AIMS – [www.aims.ca](http://www.aims.ca)) appreciates this opportunity to comment on the above-noted Canada Gazette notice.

AIMS is a distinctive Atlantic Canadian voice on public policy regionally, nationally and internationally. AIMS is a Canadian, federally incorporated, non-profit, non-partisan organization with charitable status from the Canada Revenue Agency. We are financed by contributions from individuals, corporations, foundations and other organizations, as well as by the sales of our publications.

AIMS wishes to register its support for the approach taken in the proposed Order Varying Telecom Decision CRTC 2006-15. We believe that these measures are pro-competitive in nature and that unfettered competition will lead to the lowest possible prices and the best possible service offerings for Canadian consumers. We note that regulation will remain in place for consumers in areas where competitive alternatives do not exist. This is the correct approach: regulation should remain in place to protect customers who are truly vulnerable in the absence of competitive choice, but the government should move quickly and decisively to cease its interference in the marketplace where competition has taken hold.

We highlight here our agreement with three key elements of the proposed Order.



- 1. Facilities-based competition is a durable form of competition that delivers the greatest benefits to consumers, imposes competitive market discipline on incumbents and strengthens investment in telecommunications infrastructure.**

The proposed competitive facilities test is a sensible approach given the realities of the telecommunications marketplace. Once competing telecommunication network infrastructure is in place, it is highly unlikely that it will be going anywhere. Even in the event of the bankruptcy of any particular service provider, the assets remain available for use by a new party, and hence remain as a competitive constraint on the actions of incumbent firms. Unfortunately the CRTC has failed to recognize these realities in its past rulings and has been overly concerned with the phantom of “predatory pricing”.

- 2. Local Forbearance Regions (LFRs) are not the appropriate geographic component of a relevant market, as they are too vast to retain administrative practicality and they do not reflect a social and economic community of interest.**

The entire province of Prince Edward Island constitutes a single LFR and it provides an interesting example on this point.

The population of PEI is approximately 140,000 and the population of the capital city Charlottetown is approximately 65,000.

Suppose a competitor entered the Charlottetown telephone service market and captured 51 percent of the customers so that it now was the largest service provider in the city. By CRTC rules, the Charlottetown market would remain regulated (because the 25 percent threshold for all of PEI had not been met) and the incumbent telephone company, now the number two service provider in the city, would still have restrictions on its marketing and pricing decisions, unlike its now larger rival.

When the outcome of regulation is to hinder the number two player in its ability to compete with the market leader, then there is something wrong with the regulation.

**3. The removal of marketing restrictions imposed by the Commission on ILECs will foster an increased reliance on market forces and enhance competitive market rivalry .**

A curious aspect of the CRTC's regulatory regime is its focus on preventing some service providers from offering consumers *lower* prices and on preventing consumers from accessing information on the options available to them.

As noted previously, the facts on the ground – quite literally when one considers the wires and cables running beneath our feet – do not support the contention that incumbent service providers can, or would have the incentive to, engage in predatory pricing.

Furthermore, the practice of “selling products at prices unreasonably low, having the effect or tendency of substantially lessening competition or eliminating a competitor” remains an offence under Canadian competition law.

If it is a good thing for consumers to enjoy low prices, then surely it is a good thing for them to be able to learn about the availability of these low prices. If Canadian consumers are such easily-duped sheep that they cannot be trusted to assess the merits of an ILEC's “winback” sales pitch, then presumably they should not have been trusted to assess competitors' pitches in the first place.

We hope that the government will proceed with the proposed Order, to the benefit of Canadian consumers.

Thank you again for considering AIMS' views on this important policy matter.

Sincerely yours,



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