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Filed via electronic mail

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Dear Mr. Lang

Re: Competition in Broadband Services – Market Study

1. Introduction and Executive Summary

1. Distributel Communications Limited ("Distributel") is pleased to submit these comments in response to the market study initiated by the Competition Bureau to review the competitive dynamics of Canada's broadband Internet service industry.

2. Distributel is one of Canada's leading independent telecommunications service providers. Established in 1988 to offer an innovative competitive long distance service to business customers, we now offer a full suite of Internet, television, home phone, and long distance services to residential customers, advanced voice and data services to small business and enterprise customers, and IP voice and data wholesale solutions to other telecommunication service providers.

3. Like our service portfolio, our presence has expanded significantly since our market entry. We currently operate a national network and maintain both major network points of presence and office locations in Toronto, Ottawa, Montreal, Vancouver, and Edmonton. Strongly committed to continued growth, we have most recently expanded our presence in Western Canada and broadened our footprint through partnership with Eeyou Communications Network to provide high speed connectivity to the Cree communities of Eeyou Istchee and the municipalities of the Eeyou Istchee James Bay region in Northern Quebec.

4. As a result of our operations and experiences in the market, Distributel is well acquainted with the competitive dynamics of Canada's broadband Internet service industry. For the same reasons, we have direct insight into the challenges faced by independent telecommunication service providers operating in the market.

5. Most importantly, we are very familiar with the benefits of competitive choice, access to innovative and differentiated services, and increased affordability that competition brings to all Canadians, including each and every one of our customers.

6. Ensuring that Canadians have access to these benefits of competition is critically important given the extent to which the necessity of Internet access is increasingly being woven into the everyday lives of Canadians. In addition to enabling participation in the digital economy, Internet access provides a gateway to education, health care, government services, entertainment, news and information, and an infinite number of other services and resources.

7. As noted in the market study, the Canadian Radio-television and Telecommunications Commission ("CRTC") has taken several measures over the years to foster increased competition in Canada's broadband Internet service market. At their core, these measures are similar to those taken in both Canada's long distance and local telecommunications market where competition in the retail market was fostered by ensuring that certain wholesale services and facilities ("wholesale inputs") are available to service providers seeking to offer competitive retail services.

8. This approach of fostering retail competition through wholesale regulation succeeded in achieving its goal of creating competition in both the retail long distance and telephone markets. Consequently, the vast majority of Canadians are no longer limited to monopoly supply and can instead avail themselves of the benefits of competition when selecting a long distance or local service provider[1].

9. Distributel firmly believes that this approach continues to be the correct means to achieve a vibrantly competitive and healthy retail broadband Internet service market. However, the way this approach has been applied to date in the broadband Internet service market has created a number of barriers that impede competitors from effectively deploying competitive service offerings in the retail market, and which minimize competitive rivalry.

10. We are confident that addressing these barriers will establish a wholesale market that provides access to necessary wholesale inputs at fair prices and enables a level playing field in the retail market, which in turn will serve to achieve the goal of a healthy and vibrant competitive retail broadband Internet service market.

2. Overview of the Retail Broadband Internet Service Industry

11. Canada's broadband Internet service market can generally be defined as being served by two categories of service providers. One category consists of the incumbent telephone and cable companies that previously provided telecommunication and broadcasting services on a monopoly basis in their respective service areas.

12. In the regulatory context, the incumbent telephone and cable companies that have been found to possess market power in relation to certain wholesale inputs required to provide retail broadband Internet services

[1] Measures to facilitate competition were first introduced in 1987 in the long distance market and in 1997 for the local telephone market. This introduction of competition led to the removal of retail rate regulation in each of these markets beginning, respectively, in 1998 and 2006. In the wholesale market, the incumbent telephone companies continue to be required to provide certain mandated wholesale inputs to facilitate interconnection and competition in each retail market.

and are mandated to provide those inputs on a regulated basis ("mandated wholesale broadband inputs") include Bell Canada (inclusive of its operations in Ontario and Quebec, in the former Bell Aliant territory, and in its Bell MTS territory), Saskatchewan Telecommunications ("SaskTel"), TELUS Communications Company ("TELUS"), Cogeco Communications Inc. ("Cogeco"), Bragg Communications Incorporated, operating as Eastlink, Rogers Communications Canada Inc. ("Rogers"), Shaw Cablesystems G.P. ("Shaw"), and Videotron Inc. ("Videotron") (together, "incumbents")[2].

13. The other category of service providers includes all non-incumbent and independent Internet service providers (together, "competitors"). These service providers include those offering Internet services via fixed wireless, satellite, utilities infrastructure, and by using mandated wholesale broadband inputs.

14. For regulatory purposes, the latter are referred to as resellers and Distributel is classified by the CRTC as both a reseller of telecommunications services and as a reseller of high-speed retail Internet services. Additionally, Distributel is classified as a competitive local exchange carrier, a non-dominant carrier, and a digital subscriber line provider.

15. Internet service providers classified as resellers provide retail Internet service by combining mandated wholesale broadband inputs with unregulated inputs. In terms of mandated wholesale broadband inputs, we purchase an access component (which provides a broadband connection to the customer) and transport and interconnection components (which enables Internet traffic to be sent to and from the customer). These mandated inputs are combined with unregulated inputs purchased from other suppliers and incumbents and include, but are not limited to, servers, routers, switches, additional backhaul and transport, peering arrangements, Internet transiting, IP address resources, and other network components. The output of these combined inputs is a retail Internet service.

16. Given Distributel's use of a variety of inputs purchased from various parties to provide its retail Internet services, we use the term "service-based competitor" instead of "reseller" as it a more accurate descriptor of our operations as an Internet service provider.

3. The Market Impact and Influence of Service-based Competitors

17. Based on the most recent CRTC Communication Monitoring Report, incumbents have an 87.4% share of subscribers in the residential Internet service market[3]. In comparison, competitors have a 12.6% share of residential Internet subscribers[4]. Breaking the competitor category out further, service-based competitors have approximately an 8% residential Internet service subscriber market share[5].

[2] See for example: Telecom Regulatory Policy 2015-326, at paras. 121, 122, 123, 124 and 143.
[3] 2017 CRTC Communications Monitoring Report, Table 5.3.4.
[4] 2017 CRTC Communications Monitoring Report, Table 5.3.4.
[5] Percentage derived by dividing the total number of subscriptions to mandated wholesale broadband inputs contained in Table 5.6.7 of the CRTC 2017 Communications Monitoring Report by the total number of residential Internet service subscribers of other service providers contained in Table 5.3.4 of the CRTC 2017 Communications Monitoring Report.

18. On its surface, this relatively modest market share may raise questions about the impact that service-based competitors have on competition in the retail broadband Internet service market.

19. It is our experience that service-based competitors do not generally elicit broad market responses from the incumbents when they introduce new retail Internet service offerings to the market. However, this does not mean that incumbents do not respond to service-based competitors. They do so principally by directly targeting customers at the time they decide to leave the incumbent after accepting a competing Internet service offering from a service-based competitor. These responses are referred to as "winbacks" as the goal is to win the customer back.

20. When a customer of an incumbent chooses a competitive retail Internet service offering from Distributel, either the customer or Distributel acting on behalf of the customer must notify the incumbent that the customer is cancelling their existing Internet service. At this point, the incumbent can contact the customer to persuade them to not cancel their service. Generally, this includes offering to match or better the competitive offer that the customer accepted from Distributel.

21. We have no objections to customers being able to select amongst all competitive offers that are available to them as that is the nature and benefit of a competitive market. However, the way in which winback activity occurs raises certain concerns. For example, winback activities are in many cases triggered by information that the service-based competitor must provide to the incumbent. In addition, they are not a competitive initiative undertaken by the incumbent to broadly introduce a competing offer in the market, but rather a targeted reaction designed to counter the service-based competitor's competitive offer to as few customers as possible. As such, winbacks represent retaliatory responses that service-based competitors elicit each time that they win a customer from the incumbent.

22. In addition, the existence of service-based competitors brings a level of price discipline and a broad range of available pricing to the retail market. As shown in the 2017 CRTC Communication Monitoring Report, urban centres served by more than two Internet service providers demonstrate the highest variance between retail Internet service rates offered in the market. In these markets, 5Mbps Internet service is available at price points that range between $25 to $80, 25Mbps Internet service is available at price points between $28 to $93, and 50Mbps Internet service is available at price points ranging from $50 to $135[6].

23. This broad range of pricing provides significant benefits to customers as it: 1) enables them to select from a wide range of off the rack Internet service offerings to find one that fits their budget without needing to expend time and resources to negotiate with their existing service provider; 2) leverage the existence of lower rates in the market to obtain a preferable rate from their existing service provider if they are willing to expend the time and resources to do so; and, or 3) select from a number of service offerings with a range of pricing to find one with the characteristics that best suits their needs.

[6] 2017 CRTC Communications Monitoring Report, Figure 5.3.3, 5.3.4, and 5.3.5.

4. A Wholesale Market with Fair Pricing and an Even Competitive Playing Field Leads to Increased Competition in the Retail Broadband Internet Service Market

24. The significant disparity between the top line subscriber market shares of the incumbents and service-based competitors also masks the fact that between 2010 to 2016: 1) the subscriber market share of service-based competitors grew 12.61% on a CAGR basis[7]; and 2) this subscriber market share growth outpaced the subscriber growth of the incumbents (1.93%) and the broadband Internet service market as a whole (2.99%) on a CAGR basis[8].

25. Notably, the timing of this growth in subscriber market share correlated with the release of several regulatory decisions that enabled service-based competitors to compete on a more even playing field with the incumbents, including:

    a. Telcom Regulatory Policy CRTC 2010-632, *Wholesale high-speed access services proceeding* ("2010-632 speed matching decision")

       The CRTC mandated the incumbents to provide wholesale broadband inputs over their fibre-to-the-node networks ("wholesale FTTN broadband inputs") and hybrid-fibre coax networks via DOCSIS 3.0 technologies ("wholesale HFC broadband inputs") as to enable service-based competitors to offer retail Internet services at speeds equivalent to those offered by the incumbents on a retail basis over those same networks. The CRTC also directed the incumbent cable companies to provide service-based competitors with access to their mandated wholesale HFC broadband inputs via an aggregated interconnection configuration. This decision enabled service-based competitors to offer significantly higher-speed broadband Internet services in the retail market than they were previously able to.

    b. Telecom Regulatory Policy CRTC 2011-703, *Billing practices for wholesale residential high-speed access services* ("2011-703 billing practices decision")

       The CRTC established rates for mandated wholesale broadband inputs pursuant a costing proceeding that followed its 2010-632 speed matching decision. At the same time, the CRTC denied the incumbents requests to apply the usage-based billing framework that the incumbents applied on a retail basis to wholesale broadband inputs. This decision enabled service-based competitors to offer differentiated retail Internet service packages, including unlimited usage offerings, in the retail market.

    c. Telecom Regulatory Decision CRTC 2013-73, *Canadian Network Operators Consortium Inc. – Application to review and vary Telecom Regulatory Policies 2011-703 and 2011-704*

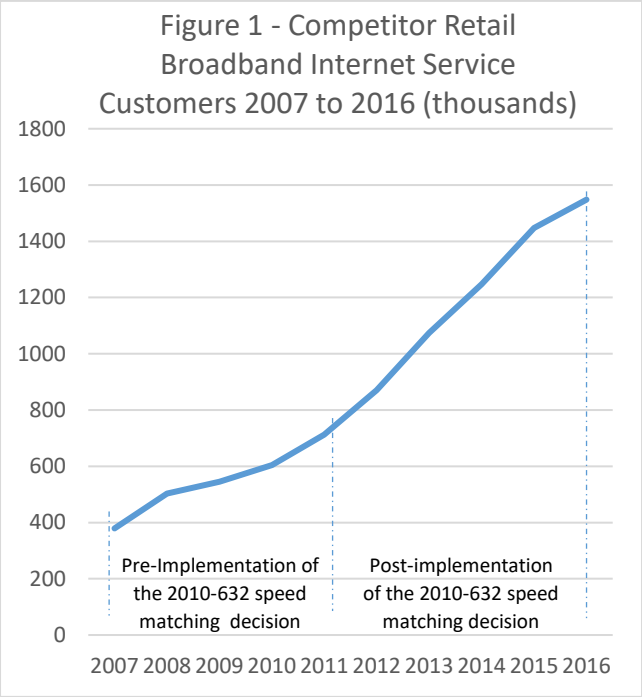
       The CRTC established revised rates for mandated wholesale broadband inputs following a review of applications raising issues with the rates established in the 2011-703 billing practices decision. After revisions were made to address several costing issues identified, the rates for many wholesale broadband inputs decreased significantly. As one example, Bell Canada's capacity rate that

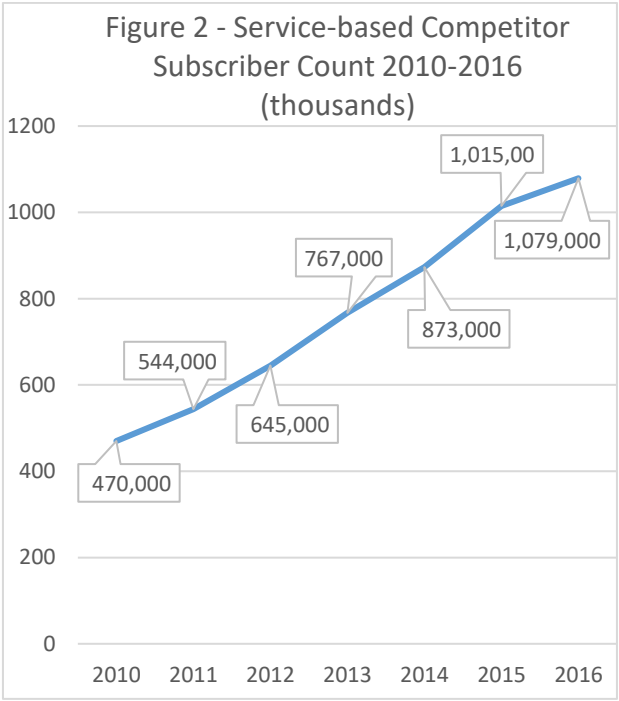
[7] Percentage derived using the total number of subscriptions to mandated wholesale broadband inputs contained in Table 5.6.7 of the 2015, 2016 and 2017 CRTC Communication Monitoring Reports.

[8] Percentages derived using the total number of incumbent Internet service subscribers and the total number of Internet service subscribers in Table 5.3.4 of the 2015, 2016 and 2017 CRTC Communication Monitoring Reports.

compensates it for the transport of wholesale broadband traffic and other usage sensitive wholesale broadband inputs decreased from $2,213 per 100Mbps to $1,036.49 per 100Mbps[9].

26. The impact of these decisions on customer response to service-based competitor service offerings is further evident upon review of competitor and service-based competitor subscriber market shares in the periods prior to and after the implementation of the 2010-632 speed matching decision.





27. As shown in the figures above[10], the subscriber market share of competitors increased by 225,000 between 2007 to 2010. By comparison, at the end of 2014 and following the implementation of the 2010-632 speed matching decision, the subscriber count of competitors increased by 643,000 compared to 2010 with service-based competitors representing 63% of this subscriber growth. During the period of 2014 to 2016, the subscriber market share of competitors increased again by 301,000 with service-based competitors accounting for 69% of this subscriber market share growth.

28. While service-based competitors continue to face several barriers when seeking to offer competitive broadband Internet services in the retail market, the above demonstrates that when barriers to doing so are minimized and the playing field is leveled to a degree, subscribers clearly respond to the retail Internet service offerings of service-based competitors.

[9] Telecom Decision 2013-73, appendix.
[10] The data contained in Figure 1 reflects data contained in in Table 5.3.4 of the 2015, 2016 and 2017 CRTC Communication Monitoring Reports. The data contained in Figure 2 reflects data contained in Table 5.6.7 of the 2015, 2016 and 2017 CRTC Communication Monitoring Reports.

5. Barriers Faced by Service-Based Competitors to Deploying Competitive Services

29. While service-based competitors have made hard fought advances in the broadband Internet service market following Commission decisions that enabled them to compete on a more even playing field in the retail market, there continue to be barriers that impede service-based competitors from effectively deploying competitive service offerings in the retail market. As will be clear from the examples in this section, if competition is to be increased in the market for broadband Internet services, it is essential that conditions be set which provide for fair pricing and a level playing field.

a. Lack of Access to Wholesale Broadband Inputs Required to offer Retail Internet Service Speeds Equivalent to those Offered by the Incumbents on a Retail Basis

30. One of the largest recurring barriers to the deployment of competitively effective service offerings by service-based competitors is access to the wholesale broadband inputs that are required to offer retail broadband Internet services at speeds equivalent to those that the incumbents offer in the retail market.

31. As discussed above, the CRTC's 2010-632 speed matching decision enabled service-based competitors to access the wholesale broadband inputs required to provide retail Internet services at speeds equivalent to those provided by the incumbents on a retail basis via their respective FTTN and HFC networks. While this decision had an immediate impact on competition in the retail market, it was also a decision that represented the culmination of years of regulatory process initiated following the Commission's first decisions to establish the same obligations on the incumbents in 2006 and 2007[11].

32. Unfortunately, service-based competitors find themselves again facing years of delay with respect to obtaining access to wholesale broadband inputs provided over fibre-to-the-premise ("FTTP") networks ("wholesale broadband FTTP inputs") that are required to provide retail Internet services at speeds equivalent to those now being offered by the incumbents.

33. For background, the shift of focus to FTTP deployments by the incumbent telephone companies began at the end of the 2000s. For example, in 2008 TELUS reported that it had partnered with multiple-dwelling unit developers to deploy FTTP in 2007 and that it had completed FTTP field trials in 2008[12]. Likewise, in 2009 Bell Canada announced that it had expanded its FTTP deployment program and that it would deploy FTTP going forward in areas served by aerial infrastructure, including the Quebec City region and in new housing developments across its Ontario and Quebec footprint[13].

34. Since that time, FTTP deployments have proliferated. Based on data contained in the CRTC's Communications Monitoring Reports, by 2013 there were 2 million homes passed by FTTP deployments. This subsequently grew to 2.8 million in 2014, 3.3 million in 2015 and to 4.76 million as of 2016[14]. Further, as of 2016 8.6% of

[11] For the incumbent cable companies, these obligations were first imposed in Telecom Decision 2006-7. For the incumbent telephone companies, these obligations were imposed in various telecom orders issued in 2007 (i.e. Telecom Orders 2007-21, 2007-22, 2007-24 and 2007-25).
[12] TELUS Corporation, 2008 Management's discussion and analysis, at page 63.
[13] BCE Inc., 2009 Annual Report, at pg. 13.
[14] 2014, 2015, 2016, 2017 CRTC Communication Monitoring Reports, Figure 5.1.5

households to a retail FTTP broadband Internet service. For perspective, this represents 32% of customers that subscribe to either a FTTN or FTTP Internet service[15].

35. This data also does not include additional FTTP deployments that have been completed since 2016. For example, as of the end of 2017 Bell Canada reported that its FTTP footprint passes 3.7 million homes[16], while TELUS reports that its FTTP footprint now passes 1.44 million homes[17]. Taken together, the FTTP footprint of these two incumbent telephone companies now pass 5.14 million homes.

36. Throughout this proliferation, service-based competitors have not been able to offer retail Internet services using wholesale FTTP wholesale broadband inputs. This is due to a refusal of the incumbents to offer these inputs voluntarily, as well as a lack of a regulatory requirement mandating access to wholesale FTTP broadband inputs.

37. More specifically, as the CRTC's 2010-632 speed matching decision limited the speed matching obligations to the incumbents' wholesale FTTN broadband inputs and wholesale HFC broadband inputs, it did not mandate access to wholesale FTTP broadband inputs[18].

38. Subsequently, the CRTC initiated a proceeding in 2013[19] to review the regulatory status of all mandated, deregulated and non-mandated wholesale inputs, including whether access to wholesale FTTP broadband inputs should be mandated. In Telecom Regulatory Policy CRTC 2015-326, *Review of wholesale wireline services and associated policies* ("2015-326 wholesale wireline decision"), the CRTC determined that wholesale FTTP broadband inputs should be available on a mandated basis. However, in the same decision the CRTC further determined that access to wholesale FTTP broadband would be available only under a new disaggregated interconnection configuration, which has been the subject of ongoing regulatory proceedings ever since[20].

39. The impact of this change to the interconnection configuration is discussed in further detail below. However, the end result is that it is now over three years since the CRTC determined that wholesale FTTP broadband inputs should be mandated and almost a decade since FTTP deployments began and the rates, terms, and conditions related to access to wholesale FTTP broadband inputs have yet to be finalized.

40. As a result, service-based competitors continue to be unable to offer retail Internet services at speeds equivalent to the ever-higher service speeds being offered by the incumbents on a retail basis. This is especially a concern given that the rapid pace of FTTP deployments is resulting in more and more customers that service-based competitors simply cannot compete for.

[15] 2017 CRTC Communications Monitoring Report, Figure 5.1.6.
[16] BCE Inc., 2017 Annual Report, at pg. 7.
[17] TELUS, 2017 Annual Report, at pg. 19.
[18] Telecom Regulatory Policy 2010-632, at paras. 121 and 122.
[19] Telecom Notice of Consultation 2013-551.
[20] Telecom Regulatory Policy 2015-326, at paras. 143 and 151.

b. The "Either, Or" Approach for Wholesale Broadband Input Interconnection Configurations

41. Service-based competitors also face ongoing challenges stemming from how they are required to interconnect with the incumbents to access the wholesale broadband inputs required to provide retail Internet services.

42. Broadly speaking, there are two types of interconnection configurations that have been imposed when determining how service-based competitors should obtain access to incumbent wholesale broadband inputs. The first is the aggregated interconnection configuration, which was the original interconnection configuration approved in relation to access to the incumbent telephone companies' wholesale broadband inputs[21]. Under this type of interconnection configuration, service-based competitors purchase mandated wholesale broadband access and transport inputs and interconnect with the incumbent at single point of interconnection.

43. The second is the disaggregated interconnection configuration, which was the original interconnection architecture approved in relation to access to the incumbent cable companies' wholesale broadband inputs[22]. This type of interconnection configuration requires service-based competitors to interconnect with the incumbent at multiple points of interconnection within their networks.

44. Notably, both of these interconnection configurations lend themselves to distinct purposes. For instance, an aggregated interconnection configuration minimizes the barriers to market entry by service-based competitors. As an illustrative example, following the CRTC's decision in the 2010-632 speed matching decision to require the incumbent cable companies to move from their disaggregated interconnection models to aggregated interconnection models, the number of subscribers served by service-based competitors using cable company wholesale broadband inputs increased rapidly from 28,000 in 2010 to 502,000 in 2016[23].

45. On the other hand, a disaggregated interconnection model enables service-based competitors that have entered the market and obtained sufficient customer densities in a serving area to leverage either competitive supply or investments to replace the transport input that is included in the aggregated interconnection configuration to obtain cost efficiencies and increased control over their network inputs.

46. Recognition of the distinct purposes served by both aggregated and disaggregated interconnection configurations has a long history in Canadian telecommunication regulation. Indeed, the necessity of both of these models was recognized in the context of both long distance and local telephone competition with versions of both models being approved in each instance.

47. For long distance, the CRTC approved an interconnection framework whereby long distance competitors could interconnect with the incumbent telephone company to exchange long distance traffic either on a

[21] See for example Telecom Order 2005-62 that granted final approval to Bell Canada's Gateway Access Service, where the CRTC noted that Bell Canada's service, "provide(s) a bundled solution, allowing for the provision of ADSL access, aggregation, and transport of ADSL traffic to a common point of interconnection".
[22] These approvals include those contained in Telecom Decisions 98-9, 99-8, 2005-69, 2006-77, and Telecom Orders 2000-789, 2006-333, and 2007-493.
[23] 2015, 2016, and 2017 CRTC Communication Monitoring Reports, Table 5.6.7.

disaggregated basis directly at the localized point serving the long distance customer or on an aggregated basis at a toll switch that connects to multiple localized points[24].

48. Likewise, competitive telephone service providers were originally required to interconnect with the incumbent telephone company in a disaggregated manner at a point located in a localized telephone exchange in order to provide retail telephone services to customers located in that exchange. The CRTC subsequently determined that this disaggregated interconnection configuration alone was not sufficient and created an aggregated form of interconnection that provided access to multiple telephone exchanges[25].

49. Despite these precedents, the CRTC has to date refused to take a similar course of action with respect to approving both aggregated and disaggregated forms of interconnection for the purpose of accessing incumbent wholesale broadband inputs. Instead, the CRTC chose to take an either / or approach. This occurred in its 2010-632 speed matching decision where the CRTC determined that it would require the incumbents to provide access to their respective wholesale broadband inputs only via aggregated interconnection configurations[26]. Most recently, this occurred again in the 2015-326 wholesale wireline decision where the CRTC determined that access to broadband wholesale inputs should only occur via disaggregated interconnection[27].

50. The CRTC's determinations in its 2015-326 wholesale wireline decision are having the unintended effect of erecting numerous barriers to competition in the retail broadband Internet service market. First, there is a substantial disparity between the level of disaggregation currently approved for Cogeco, Rogers and Videotron relative to Bell Canada. At a high level, the disaggregated points of interconnection approved for each of these incumbent cable companies represent centralized points within their networks and locations through which they broadly traverse their retail Internet traffic in the normal course. In contrast, the disaggregated points of interconnection approved for Bell Canada are highly localized and do not represent centralized points within its network or locations through which it broadly traverses its retail Internet traffic.

51. The ultimate result of this disparity is that there are over 891 existing disaggregated points of interconnection for Bell Canada[28] compared to a total of 149 disaggregated points of connection combined for the three incumbent cable companies (i.e. 36 for Rogers, 60 for Cogeco, and 53 for Videotron).

52. Further, as the approved disaggregated points of interconnection for Bell Canada are not centralized locations within its network or locations through which it broadly traverses its retail Internet traffic, Bell Canada has stated that it must deploy equipment and complete substantial work at each point of interconnection to support disaggregated interconnection[29]. As a result, the cost to interconnect at a Bell

[24] Telecom Decision 92-12, Section C.2.(a)i.
[25] Telecom Decision 2004-46, at paras. 59 and 69.
[26] Telecom Regulatory Policy 2010-632, at paras. 132 and 140.
[27] Telecom Regulatory Policy 2015-326, at paras. 151 and 155.
[28] While there are over 1000 potential points of interconnection in Bell Canada's network, 891 are currently equipped with high-speed broadband capability.
[29] Bell Canada Tariff Notice 7522.

Canada disaggregated point of interconnection is substantially higher than the cost to interconnect at a disaggregated cable company point of interconnection.

53. Second, the CRTC framework governing the transition from the aggregated to disaggregated interconnection configuration includes additional measures that will result in substantial harm to competition. Specifically, the Commission has set out a phase-out mechanism whereby aggregated interconnection at a point of interconnection will be removed three years after a single service-based competitor interconnects at that point of interconnection on a disaggregated basis[30]. In addition, the CRTC has established a condition whereby access to the wholesale broadband inputs required to provide retail Internet at speeds over 100Mbps can only be obtained by using the new disaggregated interconnection configuration[31].

54. Put bluntly, these measures will require service-based competitors to strand their customers following the phase-out of aggregated interconnection where they do not have sufficient density to invest in the deployment of disaggregated interconnection. Even in the locations where such density exists, disaggregated interconnection cannot be deployed quickly enough to allow service-based competitors to continue offering Internet speeds greater than 100Mbps where they do today.

55. All of these barriers could be avoided if a model similar to that used in the both the long distance and local telephone markets were to be implemented to provide both aggregated and disaggregated interconnection options to service-based competitors. The availability of an appropriate level of aggregated interconnection would allow competitors of various sizes to enter or remain in the market to provide competitive alternatives to the incumbent providers. At the same time, the availability of disaggregated interconnection would provide service-based competitors with the capability to enter the market and make further economically efficient investments as they grow to obtain cost efficiencies and greater control over their network inputs.

Recommendations to address barriers identified in 5 a) and 5 b):

a. *Access to wholesale broadband inputs should be approved on a technological and network neutral basis to eliminate the recurring inability of service-based competitors to offer retail Internet services at speeds equivalent to those offered by the incumbents on a retail basis;*

b. *The available interconnection configurations should be informed by the frameworks established for local telephone and long distance competition that included both appropriate levels of aggregated and disaggregated interconnection configurations; and*

c. The level of aggregation and disaggregation under the interconnection configurations applicable to the incumbent telephone and cable companies should be symmetrical to the greatest extent possible.

[30] Telecom Regulatory Policy 2015-326, at para. 155.
[31] Telecom Regulatory Policy 2015-326, at para. 154.

c. The Costing Process for Wholesale Broadband Inputs and Head Starts

56. Barriers to deploying competitively effective service offerings also arise from the rate setting process for mandated wholesale broadband inputs.

57. After the CRTC determines that a wholesale input should be made available on a mandated basis, the next step is to establish regulated rates for that service. The first step of that process is the filing of proposed rates by the incumbents. These proposed rates should be created through the application of approved costing principles and methodologies and the use of Phase II incremental costs. The rates proposed by the incumbents and associated cost studies are then subject to review and either approved by the CRTC as proposed or following modification.

58. While this process should be straight forward in theory, in practice it poses several recurring challenges.

59. First, the wholesale rates proposed by the incumbents are in many cases either unreasonably close to or higher than the incumbent's retail rate for an equivalent service. As one example, in the ongoing process to determine the rate for wholesale FTTP broadband inputs, Bell Canada has proposed a monthly recurring rate of $113.43 for the FTTP access component and a one-time installation fee of $247.90[32]. These proposed rates do not include the additional proposed costs such as for capacity and interconnection or all other non-regulated input costs that must be incurred by a service-based competitor to provide a retail Internet service. In comparison, Bell Canada's currently offers a retail 1Gbps FTTP Internet service at a regular monthly price of $99.95 that includes a 6-month promotional price of $74.95 and a one-time activation fee of $59.95[33].

60. While we make no comment about the retail price that Bell Canada wishes to offer to the market, we are concerned with the significant discrepancy between the rates for wholesale FTTP broadband inputs that Bell Canada proposes compared to its retail rates for equivalent services. In the context of a costing process, a comparison between these rates should immediately raise competitive alarms. Yet, the costing process does not currently include a mechanism to compare the proposed rates for wholesale broadband inputs to the rates of the equivalent retail Internet services offered by the incumbents.

61. Second, the length of time it takes to complete a costing proceeding directly impacts the ability of service-based competitors to access and utilize mandated wholesale broadband inputs. As noted earlier, while the CRTC determined three years ago that wholesale FTTP broadband inputs should be mandated, the associated rates, terms and conditions have not yet been finalized. During this entire time, the incumbents have been able to sign-up and lock in customers without the threat of service-based competition. With customer inertia being a characteristic of the retail broadband Internet servicer market, this represents a significant head start that is very difficult to overcome.

62. The CRTC does have interim rate making powers that may be used to make wholesale inputs available until the costing proceeding and rates are finalized. However, this does not necessarily result in interim rates that are workable. For example, the Commission has approved an interim rate of $121.79 for Bell Canada's

[32] Bell Canada Tariff Notice 7522

[33] See: https://www.bell.ca/Bell_Internet/Products/Fibre-to-the-home (accessed on August 27, 2018).

wholesale broadband FTTP access component and $167.84 for the one-time installation fee[34]. As discussed above this rate is clearly unworkable when compared to Bell Canada's retail rates.

63. Lengthy costing proceedings and periods of time during which service-based competitors are unable to utilize a mandated wholesale broadband inputs accrue the same benefits to the incumbents as if the Commission had determined that regulated access to the wholesale broadband input should not be approved. In this regard, the length of the process related to wholesale FTTP broadband inputs has provided the incumbents with a three-year period (and counting) during which they are able to offer Internet service speeds that service-based competitors cannot match and further entrench their market share and dominance.

64. There are additional aspects of the costing process that enable the incumbents to obtain significant head starts in the market. As one example, when introducing a new wholesale FTTN or HFC broadband input that supports a new Internet service speed, the incumbents are not required to obtain approval of proposed rates or make the input available to service-based competitors before they introduce the new Internet speed in the retail market. As a result, service-based competitors continually obtain access to wholesale broadband inputs long after the incumbent has introduced equivalent speeds in the retail market.

65. Apart from the costing process, there are other approved process and procedures that enable incumbents to obtain head starts. For example, the incumbents require service-based competitors to complete certification of the modems that are used to provide retail broadband Internet services. This is justified on the basis that equipment must be determined to be compatible with the incumbents' network. In the normal course, this process can take months to complete. The delay in the normal course is significant and not seemingly justifiable in certain cases, such as where the modem is already used by the incumbent in its network but nonetheless still requires a lengthy certification process. In another case, competitive supply of the type of modem required by a cable company does not exist due to factors such as supply or exclusivity arrangements. The result in these cases is a significant head start in the retail market afforded to the incumbent.

Recommendations to address barriers identified in 5 c):

a. *Proposed and approved rates for wholesale broadband inputs should be compared to retail rates to allow for validation and confirmation of the reasonableness of the rates;*

b. *The rate setting process should be reviewed with a view to streamlining and shortening the time associated with completing costing reviews; and*

c. *Measures should be introduced to eliminate the ability of incumbents to enjoy head starts when introducing new retail Internet service speeds.*

[34] Telecom Order 2017-312, at appendix 1.

d. Lack of Access to Equivalent Levels of Ancillary Services and Information

66. While incumbents are required to provide certain wholesale broadband inputs on a mandated basis, they are not required to provide levels of ancillary services (i.e. installation and repair scheduling) equivalent to those that they offer with their retail services.

67. As an example, incumbents can, and do, offer same day or next day installation options to customers that subscribe to their retail Internet services[35]. However, they do not make these installation options available to customers of service-based competitors. Instead, if a customer chooses to subscribe to an Internet service offered by a service-based competitor, they do not have the ability to request same day or next day installation and must generally wait at least a week, and often much longer, to have their service installed due to the installation availabilities that the incumbents make available to the service-based competitor.

68. It goes without saying that being unable to provide the same levels of ancillary services as those offered by an incumbent places a service-based competitor at a significant competitive disadvantage. While some customers may be content or able to accept longer installation and repair timeframes, the majority are not because of the essential nature of Internet access. The incumbent providers could provide retail equivalent levels of ancillary services to service-based competitors, but as they have no regulatory mandate to do so, choose not to. Each case where a customer of a service-based provider declines or cancels service because installation and repair times are too long represents a customer lost to the service-based competitor for reasons that do not need to exist.

69. Service-based competitors also lack access to information and data equivalent to that which is available to the incumbents' retail operations. For example, while competitors are provided with service qualification tools that allow for confirmation as to whether a customer can be provided service through the use of wholesale broadband inputs, service-based competitors are not provided with data or mapping that sets out the boundaries of service areas, wholesale broadband input speeds available in a service area, availability of wholesale FTTN or FTTP inputs in a service area, information on the make-up of facilities, or other information necessary to create business, operational or marketing plans. As a result, service-based competitors are again placed at a disadvantage relative to the incumbents.

70. The CRTC has recently established a wholesale quality of service framework that will apply to wholesale broadband inputs and ancillary services[36]. However, this framework will not address the issues identified above as it does not require the offering of ancillary services at levels equivalent to those offered by the incumbents on a retail basis. Instead, the framework is limited to comparing the levels of ancillary services that the incumbent provides to service-based competitors to ensure that one service-based competitor is not receiving service levels lower than another service-based competitor. However, as described above, the issue faced by a service-based competitor is not whether it is receiving better or worse levels of service than another

[35] See for example: https://support.bell.ca/Billing-and-Accounts/How_to_get_my_Bell_services_install_fast (accessed on August 27, 2018).
[36] Telecom Regulatory Policy 2018-123.

service-based competitor but that it simply cannot offer ancillary levels of service equivalent to those offered by the incumbents.

71. These issues were not a problem under the framework that fostered competition in the local telephone market. In that case, regulations were put in place that included prescribed timelines for completing certain activities ancillary to a mandated wholesale service. Further, in recognition that failure by the incumbent to meet prescribed timelines resulted in harm to the competitor, a rebate plan existed whereby competitors were compensated if the incumbent did not meet certain delivery, installation, and repair metrics related to mandated local telephone inputs[37]. Lastly, incumbents were subject to obligations to provide information such as service area maps, loop make-up reports, and other data required by competitive telephone service providers. Those features are not included in the framework for the provision of mandated wholesale broadband inputs.

Recommendations to address the barriers identified in 5 d):

a. *Competitors should be provided with levels of ancillary services equivalent to those that the incumbents offer on a retail basis; and*

b. *All information and data that is available to the incumbent's retail broadband Internet service operations, including wholesale broadband input availability, service area maps, qualification information, and technical information on facilities, should be made available to service-based competitors.*

6. Impact on Investment

72. During each regulatory proceeding that considers whether a wholesale broadband input should be mandated, the incumbents repeat the well-worn refrain that mandating such access will act as a disincentive to investment. However, history has shown that notwithstanding these claims, mandated access to wholesale broadband inputs has not actually disincentivized the incumbent from investing.

73. From an industry wide perspective, investments by incumbents in telecommunications plant and equipment continued to increase. Based on data contained in the most recent CRTC Communications Monitoring report, investments by the incumbent telephone companies increased by 4.1% on a CAGR basis for the period of 2012 to 2016, while the investments by incumbent cable companies and other facilities-based competitors increased by 12.1% on a CAGR basis for the same period[38].

74. This ongoing investment is evident from the following statistics on the percentage of homes that had access to broadband Internet services at speeds ranging from 1.5Mbps to 100Mbps+ during the period of 2012 to 2016[39]. The largest increases in service speed availabilities during this period were for Internet services at

[37] Telecom Decision 2005-20.
[38] 2017 CRTC Communications Monitoring Report, Table 5.0.5.
[39] 2017 CRTC Communications Monitoring Report, Figure 5.3.16.

speeds at 25Mbps and above. Notably, these speeds are supported via the incumbents' FTTN, FTTP, and HFC networks deployments.

Figure 3 - Percentage of Households with Access to Broadband Service by Speed

Internet Service Speed (Mbps)	2012	2013	2014	2015	2016
1.5-4.9	97	97	97	98	98
5-9.9	91	94	94	96	97
10-15.9	84	84	85	92	95
16-24.9	82	82	84	89	91
25-29.9	80	81	82	88	91
30-49.9	79	80	81	83	86
50-99.9	77	78	79	82	86
100+	35	60	71	75	83

75. Bell Canada is one of the largest proponents of the claim that mandated access to wholesale broadband inputs will stifle its investment. Yet, a more granular review of its investments in broadband facilities indicates that this is not the case. For example, between 2009 and 2014, Bell Canada increased its FTTN and FTTP network footprint from 2.9 million homes to 6.5 million homes in Ontario and Quebec[40].

76. Unfortunately, Bell Canada's reporting in 2015, 2016, and 2017 does not provide sufficient detail to determine the growth of its FTTN and FTTP footprint in Ontario and Quebec. That said, Bell Canada did report that as of 2015 its FTTN and FTTP footprint increased to 8 million homes across its Ontario, Quebec, and Atlantic operating territories and that at the end of 2017 this footprint had grown to 9.2 million homes across its Ontario, Quebec, Atlantic, and Manitoba operating territories[41].

77. This ongoing investment in broadband facilities belies the claim that mandated access to wholesale broadband inputs prevents or acts as a disincentive to investment. As made clear by Bell Canada's statements to its shareholders during this period, the decision to continue investing in FTTN and FTTP facilities was not driven by whether these facilities would be subject to wholesale regulation, but rather by more significant factors, including: 1) the necessity to support Bell Canada's IPTV product offering[42]; 2) the need for increased capabilities to support higher Internet service speeds to compete against the Internet service speeds offered by the incumbent cable companies[43]; 3) the future proof nature of FTTP deployments[44]; 4) the realization of reduced operating and maintenance costs resulting from FTTP deployments[45]; and 5) decreased customer churn and increased average revenue per end-user[46].

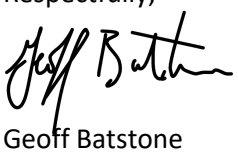
[40] BCE Inc. 2009 Annual Report, at pg. 13. & BCE Inc., 2014 Annual Report, at pg. 28.
[41] BCE Inc. 2015 Annual Report, at pg. 32. & BCE Inc. 2017 Annual Report, at pg. 32.
[42] BCE Inc. 2010 Annual Report, at pg. 32.
[43] BCE Inc. Q3 2015 Results Conference Call, at pg. 9
[44] BCE Inc. Investor Conference 2013, at pgs. 104 and 112.
[45] BCE Inc. Q1 2015 Results Conference Call, at pg. 18.
[46] BCE Inc. Q4 2014 Results Conference Call, at pg. 17.

78. Put simply, the obligation to offer wholesale broadband inputs on a mandated basis has not prevented investment in or the deployment of broadband facilities. Nor is it a driving consideration when incumbents make investment decision.

7. Closing

79. Distributel thanks the Competition Bureau for the opportunity to submit these comments and looks forward to participating in the remainder of the market study.

Respectfully,



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