

The logo for Rothschild & Co. is a teal square with the text "rothschild&co." in white lowercase letters.

Eric Rothschild

67 Farnham Avenue, Toronto, Ontario, M4V 1H6 T 416.801.9701 F 416.595.9889 eric@rothschildco.com

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Director General
Telecommunications and Internet Policy Branch
Innovation, Science and Economic Development Canada
235 Queen Streets
10th floor
Ottawa, Ontario
K1A 0H5

Re: Canada Gazette, Part 1, Volume 153, Number 10: Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation

These comments are filed by Rothschild & Co. Limited in response to the above-noted proposed policy direction.

At the time he announced the proposed policy direction, ISED Minister Bains explained the rationale for the updated policy direction. "We wanted to send a very clear policy signal, particularly because the wholesale wireless review is taking place [later this year] and we think this is an important opportunity."

Minister Bains also stated that "The onus is on the CRTC to determine what steps they will take. But we want to see more innovation, we want to see more competition. So, the WiFi-first MVNO model, for example, is one possibility," Mr. Bains said. "What we want ultimately to see is prices go down."

We fully support the intent of the proposed policy direction. CRTC data has shown that Canadians pay the highest rates in the world for mobile services. Canadians deserve more affordable rates for mobile services and increased competition is the best way to achieve this objective.

However, in our view, the wording of the proposed policy direction as currently drafted is open to interpretation and will not necessarily achieve Minister Bains' stated objectives. Many predict that the extent to which the proposed policy direction will ultimately lead to real changes in policy will depend on how "competition" is defined. We concur.

The key issue is whether the policy direction will continue to be interpreted by the CRTC to refer to facilities-based competition as opposed to service-based competition. To prevent the continued bias towards facilities-based competition we recommend that the policy direction should be clarified to make it clear that the reference to "competition" does not refer to facilities-based competition.

This caution was expressed succinctly in a recent submission to Minister Bains by former CRTC Chair Konrad von Finckenstein.

In a memo to Minister Bains published March 6, 2019 by the CD Howe Institute, von Finckenstein stated, "Adherence to the policy of facilities-based competition (where companies each own their hardware and networks) in order not to discourage investment in infrastructure by established telecom companies, as they claim, is no longer sustainable."

Von Finckenstein continued: "It is hard to comprehend how much the concept of facilities-based competition has become accepted dogma of both the CRTC commissioners and staff. Equally, the lobbying and attempts at persuasion or influence (often described as co-opting) of the big carriers is constant and ongoing. Unfortunately, in the past it has generally been very successful. From my experience as Chair of the CRTC, I know how persuasive and convincing this lobbying can be."

We agree with von Finckenstein's recommendation that "(T)here should be a clear and categorical statement that: 'The facilities-based competition concept shall not be further applied or considered by the CRTC in its decision making. It was useful in the days of wireline telephony, however it has a retarding effect on innovation and expansion in the age of the Internet.'"

We recommend that the new policy directive needs to be amended to eliminate any uncertainty that the facilities-based concept of competition must be abandoned immediately because it is now outmoded.

We appreciate the opportunity to comment on this important policy direction.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Eric W. Rothschild". The signature is stylized and somewhat cursive, with a large loop at the end.

Eric W. Rothschild
President