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Claude Doucet
Secretary General
Canadian Radio-Television and Telecommunications Commission
Gatineau, QC
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November 20, 2023

**Re: CRTC 2023-56-3 Request to appear at the public hearing
and**

**Re: CRTC 2023-56-2 Replies to interventions in the Review of the wholesale high-speed access service
framework**

Request to appear at the public hearing

1. As one of few not-for-profit wholesale-based competitors, National Capital FreeNet (NCF) requests to appear at the public hearing of the Review of the wholesale high-speed access service framework beginning February 12th.
2. We believe that our business model coupled with our mission — to provide affordable, high-quality internet that people in the National Capital Region can understand how to use, while feeling safe online — gives us a unique perspective on these issues.

Replies to interventions filed for CRTC 2023-56-2

Executive Summary

3. Founded in 1992, NCF is committed to advancing digital equity. This includes the recognition that the digital divide mirrors and exacerbates other existing social inequities including for those living on low incomes, people with disabilities, and those living in rural, remote and Indigenous communities who continue to be under-connected by incumbents' network investments, despite significant public funding.
4. This reply supports points of commonality we share with many of the interventions, including those from the Public Interest Advocacy Centre (PIAC) and Open Media in their joint submission, Eeyou Communications Network (ECN) and the First Mile Connectivity Consortium (FMCC), as well as TekSavvy.

5. In particular, we agree that:

- the incumbents are engaging in predatory pricing, particularly of FTTP rates, and that this requires lower tariff rates for all aggregated wholesale HSA services, including aggregated access to FTTP services;
- the incumbents are aggressively decommissioning their legacy networks, deepening their market advantage by reducing their wholesale commitments, and that this requires interim relief;
- affordable wholesale access is necessary to support alternative telecom providers, like First Nations Internet service providers and other not-for-profits, co-operatives and municipally owned providers, and that their work speaks to the value of broader definitions of investment and innovation than those claimed by the incumbents;
- the Commission should require public reporting of off-tariff agreements to ensure regulatory oversight, particularly as small providers are likely disadvantaged in accessing these kinds of agreements, and that their very existence suggests a need for lower wholesale rates;
- the Commission should examine the feasibility of structural separation of network development and maintenance business from retail sales.

6. Bell states in its intervention that it considers the inclusion of “general notions such as the ‘broader public interest,’ ‘competition’ or ‘consumer choice’” to be “extraneous”¹ to consideration under the essentiality framework.

7. However the current Telecommunications Policy² is clear in relation to these issues, underscoring that the Commission should consider how its decisions will:

- promote all forms of competition and investment;
- foster lower prices;
- ensure affordable high-quality access across Canada including rural, remote and Indigenous communities;
- protect consumer interests;
- reduced barriers to entry and competition that are new, regional or smaller than national incumbents; and
- stimulate innovation.

Predatory pricing of FTTP services and the need for lower wholesale rates

8. PIAC and Open Media’s joint submission paints a detailed picture of how the incumbents offer long-term discounts of one to two years below the proposed (and often also the new interim) aggregated FTTP rates. They suggest these low rates cast doubt on the proposed FTTP rates, but could also be designed to drive more independent ISPs out of business over the two-year period of the discounts,

¹ CRTC 2023-56 Additional Intervention of Bell Canada, 16 October 2023, p. 3

² Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy: <https://ised-isde.canada.ca/site/mobile-plans/en/order-issuing-direction-crtc-renewed-approach-telecommunications-policy>

which would leave the field clear for the incumbents to offer the higher non-promotional rates in a less competitive market after two years.

9. The intervention found little to no difference between some of the discounted rates offered for FTTN and FTTP services at the same speed, despite very different wholesale tariff rates. Lower speed rates were also priced disproportionately high when compared to the higher speed rates. While this may incentivize consumers upgrading to higher speeds, it also makes it harder for those living on low incomes to find an affordable plan.

10. Given NCF's commitment to internet affordability, particularly for those living on low incomes, we echo the call in this and other interventions for lower wholesale rates for all aggregated wholesale HSA services.

11. In practice, despite not raising our rates since February 2021, we regularly face NCF members saying they are leaving us for an unbeatable deal, even as they appreciate the services we provide. We get it: part of our mission is affordability, and we are hampered in our ability to deliver on it.

Decommissioning of legacy networks and the need for interim relief

12. In their submission, Bell states that "FTTN has become a legacy technology."³ And the 2022 BCE Integrated annual report notes that "the decommissioning of copper networks enables us to accelerate our transition toward more efficient, robust and faster pure fibre connectivity"⁴.

13. As mentioned in TekSavvy's intervention and as detailed in our previous submissions, NCF has faced the effects of Bell decommissioning its copper network, despite never receiving any formal notice about it.

14. We heard directly from more than 50 NCF members using Bell landlines with NCF DSL services that they received notice from Bell in the form of a letter, email, a phone call and/or a visit from a technician, that said if they did not transition to Bell's fibre network by November 1st, they would lose access to their phone service.

15. After first contacting Bell about this in April, we were asked to send them our list of affected subscribers, rather than the other way around. Eventually Bell representatives told us that wholesale subscribers were not required to transition to a fibre-backed phone service, and that the misinformation would be corrected. Some members did report receiving a correction email, only to later receive another letter threatening the cancellation of their phone service, followed by a phone call with the same message.

16. We know we lost one member because of this process and have no idea how many members we may have lost who didn't mention it to us. Many other NCF members lost their internet access after a forced fibre transition and could only be reconnected by installation of a dry line at additional cost.

17. As mentioned in past submissions, we have also noticed a degradation in speeds being offered at the same address.

³ CRTC 2023-56 Additional Intervention of Bell Canada, 16 October 2023, p. 7

⁴ BCE Integrated Annual Report 2022, Our Networks: <https://www.bce.ca/2022-integrated-report/our-capitals/our-networks>

18. The inability to offer FTTP access, combined with network decommissioning, has reduced the reach of our available offerings. Given this, we support TekSavvy's request that the Commission immediately:

- a. "order the Incumbents to identify the specific addresses where copper or coaxial cable facilities have been or are overlaid with fibre facilities and provide for the temporary resale of retail internet services over FTTP on the same tariffed rates and terms as would have been available to wholesale competitors for equivalent speeds on existing technologies to all such locations; and
- b. order the Incumbents to provide adequate notice to competitors (or at least six months' notice) of any future upcoming areas where they are decommissioning existing infrastructure, including providing all specific addresses and technical details of the upgrades, and ensuring the availability of these addresses is properly reflected in vendor wholesale portals."⁵

The value of alternative telecom providers and recognizing the value of community investment and social innovation

19. In its intervention, Bell states that "investment and innovation policy consideration must remain at the forefront"⁶ of this review. We do not disagree that these are important considerations — alongside considerations of affordability, the public interest, competition, and consumer choice — but challenge the idea that Bell and other incumbents are the only source of meaningful investment and innovation.

20. As mentioned in our previous submissions, there are important kinds of community investment and social innovations that are likely to come from providers that are smaller, local and are not-for-profits, co-operatives, municipally owned, or run by Indigenous communities.

21. This includes the benefits of community ownership and autonomy, including a commitment to affordability over shareholder profit, additional digital skills training opportunities, and other innovations.

22. Some of these investments and innovations directly relate to addressing the effects of a distorted telecommunications system that leaves many Canadians under-connected and/or struggling to pay higher rates than they can afford. And yet those same market distortions make it harder for alternative providers to invest and innovate.

23. For instance, NCF offers an internally subsidized program for Ottawa Community Housing tenants, has offered workshops including a series to help those living on low incomes apply online for government subsidies like the Ontario Electricity Support Program, co-founded Digital Access Day and Digital Equity Ottawa to focus on how to help those most affected by the digital divide, and is working to develop a community network.

24. High wholesale rates and regulatory uncertainty around access to FTTP services meant we were not able to expand eligibility for our lower-cost program, or to offer higher speeds for lower rates as we had planned to after the release of TD 2019-288.

⁵ Third Intervention of TekSavvy Solutions Inc. 16 October 2023 Abridged p. 14

⁶ Bell submission, p. 3

25. Similarly, in its submission, the FMCC states that its work focuses on “innovative solutions to digital infrastructure and services with an in rural and remote regions and communities across Canada,”⁷ supporting members whose “work foregrounds sustainable local and regional enterprise development in rural and remote regions, including the Far North and the Northern regions of the provinces.”

26. In its intervention, ECN states that it is “committed to encouraging social and economic development in the region for the benefit of all communities and municipalities”, including offering “equal services at equal rates all over its territory, independent of the location and geography.”⁸

27. ECN also notes that it has made considerable network investments alongside its community investments, including implementing network redundancy and connecting an undersea cable with another Northern provider.⁹

Conclusion

28. As noted, we also support TekSavvy’s intervention in its request that the Commission require public reporting of off-tariff agreements to ensure regulatory oversight, and its recommendation that the Commission examine the feasibility of structural separation of incumbents’ network and retail sales lines of business.

29. Having worked in community radio in the past, I appreciate that the Commission makes regulatory decisions that address the different needs and capacities of commercial, public and community broadcasters. It is disheartening to see a telecom sector where instead, regulatory inaction has meant that independent commercial providers are unable to sustain their businesses, selling out to the incumbents in droves, and alternative non-commercial providers are sidelined into obscurity or never even get the chance to start.

30. The consequences of this system are clear: higher prices, less competition and consumer choice, less community investment and social innovation. We support the above-mentioned interventions that make recommendations for how the Commission can reverse these factors and contribute to a stronger and more diverse telecommunications system that serves all Canadians, regardless of where they live or their income level.

Thank you,
Shelley Robinson,
Executive Director, NCF

*****END OF SUBMISSION*****

⁷ FMCC submission, p. 1

⁸ CRTC 2023-56 Eeyou Communications Network, October 16 2023 pp. 1-2

⁹ CRTC 2023-56 Eeyou Communications Network, October 16 2023 p. 2