

BROADCASTING AND TELECOMMUNICATIONS LEGISLATIVE REVIEW

APPENDIX 12

TO

**SUBMISSION OF CANADIAN NETWORK OPERATORS CONSORTIUM INC. TO
THE BROADCASTING AND TELECOMMUNICATIONS LEGISLATIVE REVIEW
PANEL**

11 JANUARY 2019

**Revised Order Issuing a Direction to the CRTC on Implementing the Canadian
Telecommunications Policy Objectives**

Registration

SOR/~~2006-355-2019-XXX~~

TELECOMMUNICATIONS ACT

Order Issuing a Revised Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives

P.C. ~~2006-1534-2019-YYYY~~ ~~December 14, 2006~~ [MONTH] [DAY], 2019

Whereas, pursuant to subsection 10(1) of the *Telecommunications Act*¹, the Minister of Industry had a copy of the proposed *Revised Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives* published in the *Canada Gazette, Part I*, on ~~June 17, 2006~~ [MONTH] [DAY], 2019, substantially in the annexed form, and a reasonable opportunity was thereby given to interested persons to make representations to the Minister with respect to the proposed Order;

Whereas, pursuant to subsection 10(1) of that Act, the Minister laid the proposed Order before each House of Parliament and forty sitting days of Parliament have elapsed since the proposed Order was tabled in both Houses;

Whereas, pursuant to subsection 10(2) of that Act, the Minister consulted the Canadian Radio-television and Telecommunications Commission with respect to the proposed Order before it was published and laid and consulted the Commission again with respect to the proposed Order in its definitive form;

And whereas, pursuant to section 13 of that Act, the Minister, before making his recommendation to the Governor in Council for the purposes of this Order, notified the minister designated by the government of each province of his intention to make the recommendation and provided an opportunity for each of them to consult with the Minister;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Industry, pursuant to section 8 of the Telecommunications Act, hereby makes the annexed Revised *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*.

¹ S.C. 1993, c. 38.

Revised Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives

Direction

1 In exercising its powers and performing its duties under the *Telecommunications Act*, the Canadian Radio-television and Telecommunications Commission (the “Commission”) shall implement the Canadian telecommunications policy objectives set out in section 7 of that Act, in accordance with the following:

- (a) the Commission should
 - (i) rely on ~~market forces~~ competition among telecommunications service providers to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and
 - (ii) when relying on regulation, use measures that are efficient and proportionate to their purpose, ~~that interfere with the operation of competitive market forces to the minimum extent necessary to meet~~ while promoting competition among telecommunications service providers to the maximum extent feasible as the means of achieving the policy objectives;
- (b) the Commission, when relying on regulation, should use measures that satisfy the following criteria, namely, those that
 - (i) specify the telecommunications policy objective that is advanced by those measures and demonstrate their compliance with this Order,
 - (ii) if they are of an economic nature, neither deter economically efficient competitive entry into the market nor promote economically inefficient entry,
 - (iii) if they are not of an economic nature, to the greatest extent possible, are implemented in a symmetrical and competitively neutral manner, ~~and~~
 - (iv) if they relate to network interconnection arrangements or regimes for access to networks, buildings, in-building wiring or support structures, ensure the technological and competitive neutrality of those arrangements or regimes, to the greatest extent possible, to enable competition from new technologies and not to artificially favour either Canadian carriers or ~~resellers~~ other telecommunications service providers,
 - (v) ensure that Canadian carriers that are dominant in their retail markets are subject to mandatory wholesale obligations to file tariffs and provide all required technical and commercial information for wholesale services that incorporate essential facilities whenever they launch new retail services that also incorporate those essential facilities,
 - (vi) do not allow Canadian carriers that are subject to mandatory wholesale obligations to use information obtained in the performance of those obligations to compete with their telecommunications service provider customers in the provision of retail services,

- (vii) ensure that Canadian carrier mandatory wholesale obligations require wholesale services to be delivered at a quality of service with regard to functions such as order processing, installation, repair and disconnection as equivalent as possible to the quality of service that Canadian carriers provide for those functions to their own corresponding retail operations, and
- (viii) ensure that Canadian carriers that have mandatory wholesale obligations perform, at all times, their duty to adhere to Commission approved costing methodologies, processes and procedures.
- (c) the Commission, to enable it to act in a more efficient, informed and timely manner, should adopt the following practices, namely,
 - (i) to use only tariff approval mechanisms that are as minimally intrusive and as minimally onerous as possible consistent with promoting competition among telecommunications service providers to the maximum extent feasible,
 - (ii) ~~with a view to increasing incentives for innovation and investment in and construction of competing telecommunications network facilities, to complete a review of its regulatory framework regarding mandated access to wholesale services, to determine the extent to which mandated access to wholesale services that are not essential services should be phased out and to determine the appropriate pricing of mandated services, which review should take into account the principles of technological and competitive neutrality, the potential for incumbents to exercise market power in the wholesale and retail markets for the service in the absence of mandated access to wholesale services, and the impediments faced by new and existing carriers seeking to develop competing network facilities~~ to conduct a review of wireline wholesale services in 2019,
 - (iii) to publish and maintain performance standards for its various processes, and
 - (iv) to continue to explore and implement new approaches for streamlining its processes and improving the timeliness of decisions that it renders.

~~2 Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives, P.C. 2006-1534, is hereby repealed.~~

Effect of Order

23 This Order is binding on the Commission beginning on the day on which it comes into force and applies in respect of matters pending before the Commission on that day.

Coming into Force

34 This Order comes into force on the day on which it is registered.