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The Broadcasting and Telecommunications Legislative Review Panel
c/o Innovation, Science and Economic Development Canada
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Iristel comments on legislative review of communications.

Iristel is pleased to submit these brief comments to the Broadcasting and Telecommunications Legislative Review Panel.

Iristel is Canada's largest voice over IP competitive local exchange carrier (CLEC), and provides voice services to consumers, businesses and resellers in over two thousand rate centres located across all ten provinces and three territories. Iristel has several affiliates including Ice Wireless which provides mobile wireless services in the three northern territories and Télécommunications de l'Est which provides a variety of wireless telecommunications services in the lower north shore, the lower Saint-Lawrence and the Gaspé regions eastern Quebec.

Iristel is a member of the Canadian Network Operators Consortium (CNOC). Iristel's comments will not cover the breadth of the entire legislative review, are intentionally brief, and are intended to complement the extensive comments made by CNOC on behalf of its members, including Iristel. Note that the views presented herein are Iristel's and do not necessarily represent the views of other CNOC members.

As it stands, the current version of the Telecommunications Act promotes competition in the telecommunications industry through various means, for example through its Section 7 (f) policy objectives¹, and through section 34 (2) which provides direction to the CRTC to forebear from regulating services where sufficient competition exists. However, there is no distinction or consideration between service-based competition and facilities-based competition.

Competitive access to telecommunications infrastructure is an efficient method of fostering competition. In many cases, it is not economical to overbuild infrastructure. Allowing competitive service providers to access incumbent network infrastructure is a logical solution to this problem and, in one area at least, has shown to be highly effective at providing consumers with choice and affordability. Voice services were the first telecommunication services where competitive access to incumbent infrastructure was mandated in the 1990's and the result have been overwhelmingly positive for consumers. Gone are the days of

¹ "(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective;" Section 7 (f), Telecommunications Act

\$0.35/minute for long distance calls. Indeed, long distance calling has become so inexpensive that unlimited long distance is now almost ubiquitous with voice plans.

The voice sector appears to be in a gradual decline as consumers increasingly turn to broadband-based or mobile wireless services to fulfil their communications needs. Competitive access has not been nearly as successful with broadband, where High Speed Access sputters along, seemingly tied-up in endless regulatory proceedings, and competitive access to mobile wireless networks is not mandated and simply does not exist (with the exception of mandated roaming which is available only under certain circumstances and only to those carriers that are already facilities-based mobile network operators). Government policy to date has focussed primarily on facilities-based competition, especially with regards to mobile services. This is ironic, given that mobile wireless poses the greatest barriers to new facilities-based entrants due largely to the limited availability and high cost of spectrum. One can always build more poles and bury more wire, but spectrum is a finite resource. Once there is no more, there are no alternatives.

If the focus on facilities-based competition was meant to incent carriers to build in rural and remote regions of the country, it has served instead to keep the control of all mobile wireless services and most broadband services in the hands of a few companies who, absent any government subsidies, spend their efforts on the low hanging fruit of already well-served urban markets.

Recommendations:

Iristel submits the following recommendations for consideration by the Panel. Some of these may require legislative changes, but many are achievable under the current legislative framework and could be achieved by the regulator or through policy direction:

Competitive Access:

1. Consider enshrining in legislation competitive access to network facilities that are deemed essential for wholesale providers;
2. Consider imposing an open access requirement of up to 50% on all new transport infrastructure builds, especially if they are publicly funded;
3. Consider emulating the New Zealand model² of structural separation between network infrastructure providers and providers of business and retail services;

² https://www.ofcom.org.uk/__data/assets/pdf_file/0019/58222/vodafone_annex_5.pdf

Spectrum Policy and Mobile Wireless access:

4. Mandate an obligation to provide wholesale access to Mobile Virtual Network Operators on Mobile Network Operators that have a dominant market share;
5. Continue to use set-asides and other competitive measures to ensure that there is no monopoly or duopoly on spectrum;
6. Consider reserving a significant portion of spectrum for public mobile wireless networks such as the Citizen Broadband Radio Service in the USA that allows certain classes of mobile network operators to build their networks without acquiring licenced spectrum.

Conclusion

Competitive access to incumbent network infrastructure has provided demonstrable and positive impacts on affordability, innovation and choice for consumers in the voice sector. It is high time that these benefits be made available to consumers of broadband and wireless mobile services.