



**Submission to the Governor in Council in respect of the Petition concerning Telecom
Regulatory Policy CRTC 2021-130 brought by Data On Tap Inc. pursuant to Section 12(1)
of the *Telecommunications Act***

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Telecom Regulatory Policy CRTC 2021-130
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SUBMISSION OF TELUS COMMUNICATIONS INC.

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1. Introduction and Executive Summary

1.1 Summary

1. In its petition, Data On Tap Inc. (“dotmobile”) asks the Governor in Council to significantly alter major aspects of the Canadian Radio-television and Telecommunications Commission’s¹ decision in Telecom Regulatory Policy CRTC 2021-130.² The Governor-in-Council should deny dotmobile’s petition because its primary requested relief – dramatic expansion of regulated mandated wholesale wireless services – will not benefit Canadians and would detract from 5G wireless network deployment in urban and rural areas, a fundamental national objective and priority.
2. There are three reasons why the Governor in Council should reject dotmobile’s request to expand the Commission’s wholesale mobile virtual network operator (“MVNO”) access policy.
 - **Canadian Wireless Marketplace Is Already High Performing Making a Broad-Based MVNO Access Service Unnecessary.** Considering price and quality dimensions, Canada’s wireless marketplace is the envy around the world, making *any* MVNO mandate unnecessary. On the pricing side, international comparative evidence filed in the CRTC’s proceeding demonstrates that Canadian wireless prices compare favourably with peer countries. Moreover, StatsCan data show that wireless prices in Canada are declining. On the quality front, multiple facilities-based competitors across the country offer wireless services at blazing fast speeds, despite this country’s extremely low population density, harsh geographic terrain and climate. Over 99% of Canadians have access to wireless 4G LTE connectivity where they live positioning Canada to lead the 5G race. *In short, there is no problem to fix in Canada’s wireless marketplace.*
 - **The CRTC Rejected a Broad-Based MVNO Mandate Because It Would Be Bad for Canada.** The CRTC rejected a broad-based MVNO mandate – the model that dotmobile seeks - because of the importance of broadband network investment, especially in rural areas. In comparison, MVNOs also will not contribute to the estimated \$26 billion required to roll out 5G networks in Canada that will enable additional connectivity solutions that revolutionize industry, healthcare, education and agriculture through improved speeds, capacity and reliability. The pandemic has revealed that the digital divide is a problem that

¹ In this submission, the Canadian Radio-television and Telecommunications Commission is abbreviated as the “CRTC” or the “Commission.”

² *Review of mobile wireless services*, Telecom Regulatory Policy CRTC 2021-130, 15 April 2021 (“TRP 2021-130”).

needs to be solved, meaning that policies that detract from facilities-based competition and broadband network investment in rural areas put some Canadians at a major disadvantage. *Therefore, granting the dotmobile petition would be a major step backward for Canada.*

- **The CRTC’s Decision Reflects Government Policy.** In making its determinations, the Commission correctly applied both the 2006 and 2019 Policy Directions and the policy objectives in section 7 of the *Telecommunications Act*. The Commission ruled straight out that facilities-based competition is the best way to further the Policy Directions and the policy objectives, highlighting the importance of broadband connectivity from facilities-based wireless providers while MVNOs would contribute *nothing* to network and technological innovation. *In other words, the CRTC has done exactly what the government asked.*

1.2 Background – TRP 2021-130 and MVNO Wholesale Access

3. In the proceeding,³ the CRTC investigated the state of competition in Canada’s retail mobile wireless service market, and considered whether to impose new regulatory measures on the national wireless service providers (“WSPs”).⁴ The CRTC focused on whether it should require the national WSPs to provide a wholesale MVNO access service.
4. Wholesale MVNO access service enables other providers to offer wireless services in the marketplace by reselling the network services from the facilities-based wireless service providers. These new competitors – MVNOs – thereby avoid the investment necessary to acquire radiocommunications spectrum licences and build their own wireless networks. In short, MVNOs would lease network access from facilities-based WSPs such as TELUS, which have invested billions of dollars in acquiring spectrum and building networks.

1.3 TRP 2021-130 – CRTC Orders a Facilities-Based MVNO Mandate

5. In TRP 2021-130, the Commission determined that the national WSPs must make available a wholesale wireless MVNO access service for seven years, based on regulated terms and conditions, but rates are to be commercially-negotiated. It also extended this requirement to Saskatchewan Telecom (“SaskTel”) in Saskatchewan because of

³ Review of mobile wireless services, Telecom Notice of Consultation CRTC 2019-57, February 28, 2019, (“TNC 2019-57”).

⁴ The national wireless service providers are Rogers, Bell Mobility and TELUS.

SaskTel's incumbent position in that province. However, the Commission did not impose a broad MVNO mandate because it ruled that not every prospective competitor should be entitled to demand MVNO access from the national WSPs. Importantly, the Commission set eligibility requirements that restrict which companies could qualify to obtain wholesale MVNO access service.

6. In particular, the service would be available only to certain wireless carriers: the regional facilities-based wireless service providers ("Regional WSPs") who have already invested in acquiring spectrum and building networks and are now seeking to expand wireless services into other areas within their spectrum licence footprint. As a result, the Commission's requirements are characterized as a "facilities-based" MVNO mandate, in that Regional WSPs must own wireless spectrum where they seek to obtain MVNO access, and have the intention to build in those areas to eventually migrate from MVNO access to serving customers on their own networks.

1.4 Dotmobile Now Seeks a Broad-Based MVNO Mandate

7. Dotmobile asks the Governor in Council to impose an indefinite broad-based MVNO mandate, with no requirement that the MVNO build facilities, acquire spectrum or meet any investment thresholds. As a result, dotmobile is asking for a dramatic expansion of the Commission's MVNO mandate – it wants to move the CRTC's policy from one that is focused on facilities-based competition and building multiple wireless networks across Canada to one where multiple competitors simply rely on the facilities of others. Dotmobile further demands that MVNOs should obtain these services from National WSPs and SaskTel at arbitrary prescribed rates.

1.5 Governor in Council Should Deny dotmobile's Petition

8. The Governor in Council should deny dotmobile's petition and decline its requested relief for three reasons.
9. ***Canadian Wireless Marketplace Is Already Competitive Making Broad-Based MVNO Access Unnecessary.*** First, the Canadian marketplace for retail mobile wireless services is high performing, with multiple competitors providing high quality services across the country. When the quality of wireless service is coupled with objective wireless evidence,

it is clear that an MVNO mandate *in any form* is unnecessary. TELUS provided expert evidence from NERA Economic Consulting that demonstrates that Canadian wireless prices are below the international norm and regulatory intervention is not warranted. StatsCan data show that wireless prices are declining, even when the overall consumer price index figures are increasing.

10. Unfortunately, the Commission incorrectly analyzed the findings of NERA Economic Consulting. Had the Commission properly analyzed the NERA study and its findings, it would have found that no MVNO mandate is required, let alone the expanded MVNO definition that dotmobile now requests. In an Appendix to this Submission, TELUS includes an affidavit from Dr. Christian Dippon, the author of the NERA study, which describes why the Governor in Council should not expand the current MVNO mandate as the evidence does not support such an expansion. Further, the Governor in Council should also instruct the Commission to strike certain sentences in TRP 2021-130 where the Commission has misinterpreted the NERA research findings.
11. ***CRTC Already Rejected a Broad-Based MVNO Mandate.*** Second, in TRP 2021-130, the Commission conducted an in-depth analysis of a broad-based MVNO mandate – the model that dotmobile seeks – and rejected it, based on both the Essentiality Test and policy reasons.⁵ In fact, both the CRTC and Innovation, Science and Economic Development Canada (“ISED”) have soundly rejected broad resale mandates for many years following multiple proceedings.
12. The CRTC’s and ISED’s past rejections stem from their recognition of the importance of broadband network investment. Given Canada’s vast size, low population density, challenging geographic terrain and harsh climate, the challenge and cost of network construction in this country is unparalleled around the world. Wireless networks are a vital part of meeting this challenge because radio antenna networks provide broadband coverage over a large geographic area. This is especially critical in rural and remote areas of the country.

⁵ These concepts are explained further below in this submission.

13. Despite the inherent challenges of building networks in this country, Canada's mobile wireless networks remain the envy of the world over with multiple facilities-based competitors offering wireless services at blazing fast speeds – over 99% of Canadians have access to wireless 4G LTE connectivity where they live.⁶ The CRTC's and ISSED's resistance to broad resale mandates have played a vital role in providing a regulatory environment hospitable to the deployment of Canada's leading networks. Canada must remain committed to the goal of encouraging facilities-based investment in order to maintain the investment climate required for upcoming generational investments in 5G wireless networks. A broad-based MVNO policy would undermine this commitment.
14. ***CRTC's Decision Takes Into Account the 2006 and 2009 Policy Directions and Furthers Government Policy.*** Third and contrary to dotmobile's assertions, in making its determinations in TRP 2021-130, the Commission correctly applied both the 2006 and 2019 Policy Directions and the policy objectives in section 7 of the *Telecommunications Act*. The Commission ruled straight out that facilities-based competition is the best way to further the Policy Directions and the policy objectives. The Commission did not misinterpret the 2019 Policy Direction but rather gave it careful consideration, including many of the arguments that dotmobile recycles in its petition. Moreover, dotmobile's petition is directly contrary to incentives for ongoing investment, "particularly to foster enhanced connectivity for those who are unserved or underserved," a stated critical objective for telecommunications policy.⁷ Given that the Commission followed the Policy Direction and that dotmobile's petition contradicts government policy, the Governor in Council must reject the petition.
15. In addition, dotmobile asks the Governor in Council to impose arbitrary tariffed rates that are not supported by evidence. The Governor in Council is not empowered to set arbitrary MVNO tariff rates that have not been found to be just and reasonable. Finally, there are

⁶ CRTC Communications Monitoring Report 2019, online:
<<https://crtc.gc.ca/eng/publications/reports/policymonitoring/2019/cmr10.htm>>.

⁷ *Response by the Government of Canada to petitions concerning CRTC wholesale Internet rates*, statement of Minister of Innovation, Science and Industry, August 15, 2020, available at:
<https://www.canada.ca/en/innovation-science-economic-development/news/2020/08/response-by-the-government-of-canada-to-petitions-concerning-crtc-wholesale-internet-rates.html>

important current government initiatives and marketplace realities that all favour dismissing the dotmobile petition. TELUS describes in detail below.

2. The evidence does not support an MVNO mandate, let alone an expanded MVNO mandate

2.1 Canada's Wireless Marketplace Is High-Performing

16. The evidence from the proceeding demonstrates that mandated MVNO access is not required. Dr. Robert Crandall, an expert economist whose research includes analysis of network industries in various countries, found that the Canadian wireless industry is competitive⁸ and demonstrated that the Canadian wireless sector is less concentrated than that of its U.S. and EU counterparts.⁹
17. The record also provides ample evidence of rivalrous behavior among Canadian wireless service providers, including aggressive year-round marketing activities, falling wireless prices and an expanding selection of wireless products and services in the Canadian marketplace.¹⁰ Even the Commission's own telephone survey of Canadians demonstrates that only 10% of the Canadian population are dissatisfied with the cost of their wireless service.¹¹

2.2 Canada's Wireless Prices Compare Favourably with Peer Countries

18. During the CRTC's proceeding, many parties filed studies that purported that Canadian wireless services prices were higher when compared on a nominal basis with those in

⁸ *An Analysis of the Performance of the Canadian Mobile Wireless Industry*, Robert Crandall, PhD D., May 15, 2019, filed as Appendix A to TELUS' Intervention, paras ES1 and 23 (hereinafter, "Dr. Crandall First Submission").

⁹ *The Performance of the Canadian Mobile Wireless Industry*, Robert Crandall, Ph.D., November 22, 2019, filed as Appendix 1 to TELUS' Further Comments, p. 3.

¹⁰ TNC 2019-57, TELUS' Further Comments, November 22, 2019, Section 3.0 *There is No Problem to Be Solved: the Canadian Retail Wireless Sector is Competitive*.

¹¹ The Commission conducted a representative telephone survey of Canadians. Only 16% of respondents were dissatisfied with their wireless provider, and of that 16%, only 65% cited costs as the reason. 65% of 16% is 10% of the representative survey population. CRTC, *Telephone Survey on Mobile Wireless Services in Canada Final Report: Prepared for Canadian Radio-television and Telecommunications*, January 2020, Figure 5: Reasons for dissatisfaction with current cell phone provider, p. 7 (<https://crtc.gc.ca/eng/publications/reports/por/ph/por.pdf>).

other countries. However, such assertions are wrong and do not provide any economic justification for mandating MVNO access.

19. Dr. Dippon performed an independent and detailed comparison of mobile wireless prices in Canada to mobile wireless prices in the remaining G7 countries and Australia (the “NERA Pricing Study”).¹² This study clearly demonstrates that Canadian mobile wireless prices are below the prices that international peers would charge for the same plan. Dr. Dippon also performed several robustness checks by increasing the size of his sample and by benchmarking not only plans available to Canadian subscribers but plans that Canadian providers find most valuable to them. Each time, Dr. Dippon was able confirm his results – Canadian prices are not more expensive but *less expensive* than mobile wireless plans offered in other jurisdictions.
20. Despite the comprehensive study performed by Dr. Dippon and the robustness of its results, the Commission wrongly rejected the conclusion of the NERA Pricing Study. In a short paragraph, the Commission alleges that the study is subject to a “selection bias” that “serves to artificially lower the average price index used in the study, and leads to underestimating the prices Canadians actually pay for retail mobile wireless services.”¹³ As the Commission acknowledged, it had several price comparison studies on the record in the proceeding in addition to the NERA Pricing Study. Yet, the Commission offered no review on any other study, nor commented on the widespread criticism of some of these studies. Rather, it accepted them wholesale.
21. In this submission, TELUS corrects the record and requests that the Governor in Council instruct the Commission to strike certain sentences in TRP 2021-130 where the Commission has misinterpreted the NERA research findings. As Dr. Dippon explains in a sworn affidavit attached as an Appendix, the NERA Pricing study is not a “notable exception” as alleged by the Commission, and it is not subject to “a significant flaw

¹² *An Accurate Price Comparison of Communications Services in Canada and Select Foreign Jurisdictions*, Christian Dippon, Ph.D., NERA Economic Consulting, October 2018. The Commission specifically referenced the NERA Pricing Study at para 121 of TRP 2021-130.

¹³ TRP 2021-130, para 121.

insofar as it uses an unrepresentative sample of Canadian retail mobile wireless service plans.”¹⁴ Dr. Dippon carefully reviewed the Commission’s claim and concludes that:

- The CRTC’s claim demonstrates a fundamental misunderstanding of the NERA Pricing Study as it incorrectly refers to a price index, mistakenly believes that the study forecasts what Canadians actually pay for mobile wireless service and offers no support for its claim that the alleged sample bias results in an underestimation;
- The CRTC’s concern about an unrepresentative sample is misplaced because NERA built its database following the sampling design requested by ISED and it is identical to the sample design in the Wall and Nordicity studies. The CRTC overlooks several important improvements that NERA made to the Canadian sample and the overall study;
- There is no geographic plan sample bias because the NERA Pricing Study sampled from the same cities as requested by ISED, uses the same cities as used in the Wall and Nordicity studies, and reports its results on a city level, thereby ensuring that the results are not driven by a particular Canadian city;
- There is no provider sample bias because the NERA Pricing Study followed ISED’s sample selection requirements, sampled from the same providers as those used in the Wall and Nordicity Reports, and reports its results at the provider level, thereby ensuring that results are not driven by a particular Canadian provider;
- There is no plan sample bias because NERA confirmed its results with a larger sample and with a sample of TELUS plans that over 3.6 million Canadian consumers purchased;
- The NERA Pricing Study is not a notable exception – the CRTC overlooks a 2020 CTIA commissioned study that uses a different methodology, database, benchmark countries, plan sampling procedure, and analytical methodology, yet still arrives at the same result; and
- The CRTC does not appear to have considered the known errors in the other international price ranking studies that it acknowledged were part of the evidentiary record.

22. TELUS objects to the CRTC’s claim that the international price ranking study in the NERA Pricing Study is flawed. Based on the evidence provided in Dr. Dippon’s affidavit, TELUS requests that the Governor in Council instruct the CRTC to strike the following sentences from paragraph 121 of TRP 2021-130:

¹⁴

Ibid.

Despite the fact that the study appears to generally be using a sound methodology, the study has a significant flaw insofar as it uses an unrepresentative sample of Canadian retail mobile wireless service plans. This serves to artificially lower the average price index used in the study, and leads to underestimating the prices Canadians actually pay for retail mobile wireless services. In the Commission's view, this selection bias in the data sheds doubt on the validity of the conclusions drawn in the study.

2.3 Imposing MVNOs in a Competitive Marketplace Is Unnecessary and Potentially Harmful to Consumers

23. Dr. Crandall stated that “providing MVNOs with regulated access to [mobile network operators’] networks in a market that is already competitive cannot generate consumer benefits because prices are already competitive.”¹⁵ In fact, because Canada’s wireless marketplace is already competitive, mandated MVNO access is not only unnecessary but potentially harmful to Canadian consumers.
24. Dr. Dippon summarized the findings from the economic literature that “examines the repercussions on investment by facilities-based providers because of a regulatory mandate to open a wholesale market.” Dr. Dippon explains that MVNOs invest minimally and that “even a 1.5 percent loss in wireless capital investment will likely not be remedied by an offsetting investment from an access seeker because it would require a doubling of reseller capital investments.”¹⁶
25. Moreover, research shows that MVNOs are typically not sustainable, often focus only on niche markets and have little competitive impact. For example, as Dr. Dippon explains, “approximately 87 percent of all independent-owned MVNOs in the OECD elect not to compete directly with MNOs but focus on niches in the market, limiting their competitive impact.”¹⁷ Dr. Dippon also examined jurisdictions where MVNOs were mandated and found no net benefits in terms of changes to the average revenue per user, download speeds, breadth of wireless network deployment or other potential consumer benefits.¹⁸

¹⁵ Dr. Crandall First Submission, para 53.

¹⁶ *An Examination of the Regulatory Framework for Mobile Virtual Network Operators and Other Wholesale Mobile Services*, Christian Dippon, Ph.D, NERA Economic Consulting, May 15, 2019 2018, filed as Appendix C to TELUS’ Intervention, (hereinafter, Dr. Dippon First Submission), para 83.

¹⁷ Dr. Dippon First Submission, paras ES5, 11 and 18.

¹⁸ Dr. Dippon First Submission, paras ES6, 34.

There is no evidence that mandating MVNO access for additional MVNO companies would provide any material benefit to consumers; indeed, the evidence suggests that it would not.

3. The Commission already considered and rejected the broad-based MVNO mandate that dotmobile seeks

26. The Commission considered and rejected a broad-based MVNO mandate because broad MVNO wholesale services fail the Commission’s “Essentiality Test,” a test it applies to services to determine if they should be subject to mandated provision. It also denied a broad MVNO mandate for policy reasons – namely that Canadians are far better served under a policy of facilities-based competition than the service-based competition that mandated MVNO would support. TELUS explains below.

3.1 The Commission found that a broad-based MVNO service is not essential for competition

27. The Essentiality Test is a tool used by the Commission to determine whether wholesale facilities are truly essential for competition. The Commission’s Essentiality Test is based on the essential facilities doctrine, an economics principle that limits mandated access to wholesale facilities to only those that are essential for competitors to compete, because mandated sharing of wholesale facilities should be rare.
28. In a competitive marketplace, competitors should generally rely on their own inputs – by way of either self-supply or negotiated access to another’s facilities – to deliver their products and services in the retail marketplace. Competitors relying on their own inputs leads to innovation and differentiation in the marketplace – the essence of competition that drives benefits for consumers. So, if a wholesale service fails to meet the Essentiality Test, it should not be mandated, so that consumers and obtain the full benefits of competition.
29. There are three (3) components to the CRTC’s Essentiality Test:
1. the facility is required as an input by competitors to provide telecommunications services in a relevant downstream market (the input component);
 2. the facility is controlled by a firm that possesses upstream market power such that denying (or withdrawing) access to the facility would likely result in a substantial

lessening or prevention of competition in the relevant downstream market (the competition component); and

3. it is not practical or feasible for competitors to duplicate the functionality of the facility (the duplicability component).¹⁹

30. The Commission evaluated whether access to radio access network (“RAN”) passes the Essentiality Test. The RAN consists of “spectrum, towers and related facilities and equipment located at tower sites.”²⁰ The Commission found that a broad-based MVNO access service failed two of the three components of the Essentiality Test: the competition component and the duplicability components.

3.1.1 Competition component analysis – Mandating broad-based MVNO access would have minimal effects on retail competition

31. The Commission determined that broad-based MVNO access does not meet the competition component. It found that the absence of mandated RAN access for broad-based MVNO is unlikely to cause a substantial lessening of competition – in other words, broad-based MVNO would not cause a meaningful increase in wireless competition. It also found that potential benefits on retail competition from the mandated provision of broad MVNO access service are “speculative at best.”²¹ Therefore, the Commission determined that mandating RAN access for broad MVNOs is not likely to substantially increase wireless retail competition.

3.1.2 Duplicability component analysis – RAN access can be duplicated and need not be mandated

32. The Commission also found that the RAN access service can be duplicated because a range of WSPs of varying sizes have built wireless networks. In fact, in all tier 4 areas of Canada,²² Regional WSPs have either built their own RANs or have purchased spectrum.²³ Despite the fact that building networks and acquiring spectrum is expensive, RAN access can be practically and reasonably duplicated.²⁴

¹⁹ Review of wholesale wireline services and associated policies, Telecom Regulatory Policy CRTC 2015-326, July 22, 2015, para 15; TRP 2021-130, para 162.

²⁰ TRP 2021-130, para 173.

²¹ TRP 2021-130, paras 199 and 200.

²² Tier 4 areas are geographies in which ISED licenses spectrum.

²³ TRP 2021-130, paras 202-203.

²⁴ TRP 2021-130, paras 205-206.

33. Because broad-based MVNO access service failed the Essentiality Test, the Commission had a *prima facie* basis to find that the National WSPs should not be required to provide the services. The Commission then considered whether there are policy reasons to impose broad-based MVNO mandated access.

3.2 The Commission rejected a broad-based MVNO mandate because it would interfere with facilities-based competition

34. A broad MVNO mandate violates maximum reliance on facilities-based competition, in that competitors have mandated access to others' facilities, meaning that they do not have to build networks to compete. This has caused the CRTC and ISED to soundly reject broad resale mandates for many years after multiple proceedings.²⁵ Most recently, in TRP 2021-130, the Commission carefully considered a broad MVNO access mandate and rejected it in favour of a narrower MVNO remedy based on continued facilities-based competition.
35. The Commission found the following detrimental effects of a broad-based MVNO access, all of which harm consumers: any downward pricing pressure would be moderate and unsustainable;²⁶ there would be a low impact on innovation (with possibly some service innovation)²⁷ and there would be a high negative impact on the sustainability of regional wireless carriers.²⁸

²⁵ See Telecom Decision CRTC 94-15, *Regulation of Wireless Services*, Telecom Decision CRTC 96-14, *Regulation of Mobile Wireless Telecommunications Services*, Telecom Order CRTC 98-1343, 23 December 1998 (an order granting forbearance from regulation of the provision of mobile wireless services by the newly-amalgamated entity comprising the former TELUS Communications Inc., TELUS Mobility Inc., and others); and Telecom Order CRTC 99-991 (an order extending forbearance to all mobile wireless services provided by the former Stentor member companies). In Telecom Decision CRTC 2012-556, *Decision on whether the conditions in the mobile wireless market have changed sufficiently to warrant Commission intervention with respect to mobile wireless services*, the Commission found that "competition in the mobile wireless market continues to be sufficient to protect the interests of users with respect to rates and choice of competitive service provider...there is no evidence that the conditions for forbearance have changed sufficiently to warrant Commission intervention" (para 21). In Telecom Regulatory Policy CRTC 2015-177, *Regulatory framework for wholesale mobile wireless services*, the Commission determined that wholesale MVNO access would not be mandated due to policy considerations, namely the potential to undermine network investment, particularly in rural areas (para 121).

²⁶ TRP 2021-130, para 241.

²⁷ TRP 2021-130, para 246.

²⁸ TRP 2021-130, para 256.

36. Instead of a mandate that furthers service-based competition, the Commission found that facilities-based competition is “more sustainable.” It also noted that the Regional WSPs have already demonstrated that they are capable of bringing competition to the market.²⁹

Arguably, while a broad-based wholesale MVNO access service would encourage broader service-based competition, (...), this would likely come at the expense of more sustainable competition brought about by facilities-based competitors. [emphasis added]³⁰

37. The evidence from the proceeding also showed that broad-based MVNOs are largely niche players that focus on extracting value from attractive market segments that are typically located in urban and semi-urban areas, bringing no benefit to rural areas.³¹ In fact, MVNOs would likely target many of the same market segments that Regional WSPs target. The Commission made this finding by stating that:

MVNOs would be able to enter the mobile wireless service market while contributing comparatively little capital and taking on very little risk relative to regional wireless carriers. MVNO competitors would likely target the same budget-conscious consumers targeted by these regional wireless carriers.³² [emphasis added]

... an MVNO attempting to enter this space would face significant challenges attempting to create innovative service offerings, or finding significant niche markets that have been neglected by WSPs already in the market. [emphasis added]³³

3.3 Mandating broad-based MVNOs will negatively impact investment, including in 5G networks and rural connectivity

38. In TRP 2021-130, the Commission recognized the importance of wireless network construction. It refrained from a broad-based MVNO access mandate because broad-based MVNOs do not build networks and do not expand wireless coverage or service in rural Canada. MVNOs also will not contribute to the estimated \$26 billion required to roll

²⁹ TRP 2021-130, paras 263 and 266.

³⁰ TRP 2021-130, para 263.

³¹ *An Examination of the Regulatory Framework for Mobile Virtual Network Operators and Other Wholesale Mobile Services*, Christian Dippon, Ph.D, NERA Economic Consulting, May 15, 2019, para ES2, filed as Appendix C to TELUS’ Intervention in TNC 2019-57 [“NERA MVNO Report”].

³² TRP 2021-130, para 254.

³³ TRP 2021-130, para 244.

out 5G networks in Canada³⁴ that will enable additional connectivity solutions that revolutionize industry, healthcare, education and agriculture through improved speeds, capacity and reliability.

39. There was also considerable discussion on the impact of a broad MVNO mandate on network investment. Much of the literature reviewed by NERA determined that there is a negative investment impact following a regulatory mandate to open a wholesale market.³⁵
40. The Commission found that the negative investment impact of a broad MVNO mandate would have an especially significant effect on Regional WSPs.

...regional wireless carriers have invested billions of dollars in the acquisition of spectrum and the funding of capital projects to build their networks, and these costs must be recovered. MVNOs...would not have to purchase spectrum or build RANs, and could therefore enter and exit the market with comparatively little risk. In the Commission's view, this would put regional wireless carriers at a significant disadvantage...and would have a significant negative impact on future investment, particularly in areas outside the major urban centers, as well as on 5G deployment.(...)³⁶ (emphasis added)

41. The Commission weighed all of the evidence and ultimately determined that “the overall impact of a broadly mandated full wholesale MVNO access regime would be negative.”³⁷ At the end of the day, the Commission found that the MVNO business model is not sustainable, MVNOs would not provide lasting benefits and would threaten the more sustainable facilities-based competition model and facilities build-out in general.

³⁴ Accenture Strategy – *Fuel for Innovation: Canada's Path in the Race to 5G*, June 2018, p. 3. (https://www.5gcc.ca/wpcontent/uploads/2018/06/CWTA-Accenture-Whitepaper-5G-Economic-Impact_Updates_WEB_06-19-2018.pdf), cited by Mr. Entwistle (Tr. Vol. 3, paras. 3620-3621).

³⁵ NERA MVNO Report, pp 48-50. Any reduction would disproportionately affect rural areas where population density, difficult geography, and remote locations make investment hurdle rates more challenging. NERA concluded that given that MVNOs provide little benefit for Canadian consumers, the overall impact of mandating MVNO access would be negative (NERA MVNO Report, paras ES17, 70, 79-86). An expert report from Charles River Associates filed by Bell in TNC 2019-57 concluded that mandating wholesale access for MVNOs is expected to reduce wireless investment in Canada by approximately \$489 million in the short term, and the evidence demonstrates that mandated MVNO access has been shown to reduce wireless CAPEX intensity by 17.1% in the short run and 32.6% in the long run (*The Value of High Quality Networks*, Charles River Associates (Margaret Sanderson *et al*), May 14, 2019, pp 26-27, filed as Appendix A to Bell's Intervention in TNC 2019-57).

³⁶ TRP 2021-130, paras 255-256.

³⁷ TRP 2021-130, para 261.

3.4 Dotmobile has other existing options to obtain mandated MVNO access that do not require a complete upheaval of the Commission's wireless policy

42. Dotmobile acknowledges in its petition that there are ways for it to obtain MVNO access, conceding “[t]he CRTC Decision does allow regional providers to resell their mandated access to MVNOs.”³⁸ This underscores the Commission’s finding that MVNO access is duplicable. Yet dotmobile seeks government intervention even though 1) the Commission found the model it seeks to be harmful to facilities-based competition and consumers, and 2) such intervention is unnecessary.
43. The fact that dotmobile’s selected business model – a reseller with no wireless facilities investment – does not align with the Commission’s MVNO regulation does not mean that the Commission’s decision needs to be overturned. Dotmobile still has options available to it, rather than seeking relief from the Governor in Council.
44. First, dotmobile can invest to acquire spectrum and build a network just as the regional providers have done, to make itself eligible for mandated MVNO access. As the Commission noted in its decision, “making a business choice against building a RAN...does not mean that it is not possible to build one”³⁹ [emphasis added].
45. In response to the argument that it is too difficult or too costly to build a wireless network, the Commission noted that smaller carriers such as Ice Wireless and SSi Micro have done so. The Commission thereby concluded that “multiple companies” have built their wireless networks in tier 4 areas and that they intend to continue.⁴⁰
46. Alternatively, dotmobile can also commercially negotiate MVNO access, and it has at least two (2) options to do so – it can negotiate directly with the National WSPs for MVNO access independent of the MVNO tariff, or it can obtain MVNO access via a Regional WSP using a reseller model.
47. During the oral hearing, TELUS explained that it regularly enters into commercial negotiations with other service providers. Just as with any other commercial arrangement,

³⁸ Petition of dotmobile, May 4, 2021, para 6.

³⁹ TRP 2021-130, para 205.

⁴⁰ TRP 2021-130, para 204.

“it starts with a foundation principle that both parties will derive roughly equivalent value.”⁴¹ There is nothing preventing dotmobile from negotiating MVNO access on commercial terms. If both negotiating parties provide something of value, an agreement can be reached. These arrangements are open for dotmobile to seek, whether with a National WSP or with a Regional WSP.

48. In short, while it may be easier to file a petition than build a network or enter into commercial negotiations, the fact remains that dotmobile has options to access the MVNO service it desires.

4. The Commission correctly applied both the 2006 and 2019 Policy Directions and considered the *Telecommunications Act* policy objectives in making its determinations

49. Section 47 of the *Telecommunications Act* states:

The Commission shall exercise its powers and perform its duties under this Act and any special Act

- (a) with a view to implementing the Canadian telecommunications policy objectives (...); and
- (b) in accordance with any orders made by the Governor in Council under section 8 (...)

50. The Governor in Council has issued two Policy Directions to the Commission about how to implement the telecommunications policy objectives: the 2006 Policy Direction⁴² and the 2019 Policy Direction.⁴³

4.1 The 2006 and the 2019 Policy Directions co-exist

51. Much of dotmobile’s petition is based on a misunderstanding of the 2019 Policy Direction. Dotmobile is under the mistaken belief that the 2019 Policy Direction is the only Policy Direction in operation and refers to it in its petition as “the current ISI

⁴¹ Oral Hearing Tr. Vol. 3, paras 4087-4089 (TELUS, Mr. Amery).

⁴² *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, (the “2006 Policy Direction”).

⁴³ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227 (the “2019 Policy Direction”).

Policy direction.”⁴⁴ This is incorrect. The preamble to the 2019 Policy Direction refers to the fact that the Governor in Council is issuing “additional directions,” not replacement or superseding directions. The 2006 Policy Direction was not repealed but rather coexists with the 2019 Policy Direction.⁴⁵ The CRTC is mandated to follow both the 2006 and the 2019 Policy Directions. This was acknowledged by the Commission at paragraph 21 of TRP 2021-130 where it noted that its decision takes into consideration “the policy objectives of the Act, as well as the 2006 Policy Direction and the 2019 Policy Direction.”⁴⁶

52. The key part of the 2006 Policy Direction requires the Commission to rely on market forces to the maximum extent feasible to achieve the policy objectives, and when relying on regulation, to use measures that interfere with competitive market forces to the minimum extent necessary. Therefore, Cabinet has instructed the Commission to use market forces as the primary means to achieve the telecommunications policy objectives, meaning that regulation is to be used only as a last resort.
53. The 2019 Policy Direction is intended to guide the Commission on how to implement the 2006 Policy Direction.⁴⁷ Section 1(a) of the 2019 Policy Direction instructs the Commission to “consider how its decisions can promote competition, affordability, consumer interests and innovation” (emphasis added). It does not mandate a particular outcome. In TRP 2021-130, the Commission has indeed considered the objectives set out in the 2019 Policy Direction. As detailed below, the Commission explained its rationale of how its decision promotes competition, affordability, consumer interests and innovation.

4.2 The Commission correctly applied the 2006 and 2019 Policy Directions

54. While dotmobile asserts that the Commission misinterprets or did not properly apply the 2019 Policy Direction and, in particular, the direction for the Commission to consider “all

⁴⁴ Petition of dotmobile, May 4, 2021, para 12.

⁴⁵ The preamble to the 2019 Policy Direction states: “Whereas one of the purposes of the additional directions is to guide the Commission on how the 2006 Direction is to be implemented”.

⁴⁶ TRP 2021-130, para 21.

⁴⁷ The preamble to the 2019 Policy Direction states: “[W]hereas one of the purposes of the additional directions is to guide the Commission on how the 2006 Direction is to be implemented...”

forms of competition and investment.”⁴⁸ However, it is plain from the decision that the Commission did correctly apply both the 2006 and the 2019 Policy Directions.

55. First, the preamble to TRP 2021-130 explicitly references the policy objectives of the *Telecommunications Act* and both the 2006 and 2019 Policy Directions. In addition, in TRP 2021-130, the Commission explicitly refined its strategic objectives for mobile wireless services (originally established in TRP 2015-177)⁴⁹ by integrating the concepts set out in the 2019 Policy Direction. The Commission stated its decision takes into consideration “the policy objectives of the Act, as well as the 2006 Policy Direction and the 2019 Policy Direction” to achieve the following strategic objectives with respect to mobile wireless services:

- (a) continued innovation and investment in, **and affordable access to, high-quality telecommunications facilities in all regions of Canada, including rural and remote areas;**
- (b) sustainable competition that provides benefits, such as **affordable** prices, and innovative services, to Canadians;
- (c) implementing efficient regulatory measures with respect to wholesale mobile wireless services, along with continued reliance on market forces where appropriate; and
- (d) **reducing barriers to entry into the market for competitors that are new, regional, or smaller than the incumbent national carriers.** [bolding in original].⁵⁰

56. Importantly, the Commission already considered arguments that a facilities-based MVNO mandate could ignore “the 2019 Policy Direction by failing to encourage all forms of competition and by asking entities that do not hold spectrum to wait until the next mobile wireless service review before the question of providing them with mandated MVNO access is reassessed.”⁵¹ In response, the Commission considered the evidence and found that deployment of competing networks is the “best way to achieve a sustainable competitive retail market that responds to consumers’ interests over the long term.”⁵²

⁴⁸ 2019 Policy Direction, section 1(a)(i).

⁴⁹ *Regulatory framework for wholesale mobile wireless services*, Telecom Regulatory Policy CRTC 2015-177, May 5, 2015, para 16.

⁵⁰ TRP 2021-130, paras 21-22.

⁵¹ TRP 2021-130, para 274.

⁵² TRP 2021-130, para 289.

4.3 Dotmobile misinterprets the 2019 Policy Direction

57. Dotmobile also takes issue with the fact that the term “telecommunications facilities” is not referenced in the 2019 Policy Direction. Dotmobile concludes that facilities-based competition and a facilities-based MVNO remedy are not consistent with the 2019 Policy Direction simply because “facilities” is not mentioned in that Policy Direction.
58. Dotmobile’s position is a false reading of the 2019 Policy Direction. While the 2019 Policy Direction might not explicitly state “facilities,” subparagraph (i) of the 2019 Policy Direction directs the Commission to encourage “all forms of competition,” which, of course includes facilities-based competition. The 2019 Policy Direction also does not mention “reseller” or “MVNO” yet those are other forms of competition that dotmobile promotes. In fact, the Commission considered all forms of wireless competition including reseller, MVNO, facilities-based and a so-called “hybrid” MVNO model, in TRP 2021-130.
59. Similarly, subparagraph (iii) of the 2019 Policy Direction directs the Commission to ensure that affordable access to high-quality telecommunications services is available in all regions of Canada, including rural areas. Because there is no specific mention of the word “facilities” in this subsection, dotmobile concludes that the Commission should focus on providing “services” and not telecommunications “facilities”. Yet telecommunications services are only made possible through telecommunications facilities.
60. Dotmobile also notes subparagraph (vi) of the 2019 Policy Direction that instructs the Commission to consider how its decision could enable innovation in telecommunications services, including new technologies and differentiated service offerings. The Commission found that facilities-based wireless providers deliver technical innovation “by consistently improving network performance” that leads to “the introduction of new services over time” as a result of spending “millions of dollars annually on research and development”, and to bring the latest technical innovations to market.⁵³ In contrast, the

⁵³ TRP 2021-130, para 243.

Commission found that MVNOs would not have any impact on network and technical innovation, stating that:

Since MVNOs...do not own RANs, and generally do not have the same capital...it is unlikely that MVNOs can have any significant impact with respect to technical innovation at the network level.⁵⁴ [emphasis added]

61. It is also telling that dotmobile failed to consider an analysis of other elements of the 2019 Policy Direction that do not favour a broad-based MVNO business model. These include subparagraph (iii) which references affordable access to high-quality telecommunications services available in all regions of Canada, including rural areas; and subparagraph (vii) that relates to stimulating investment in research and development that support the offer and provision of telecommunications services. As explained below, MVNOs do not contribute to these policy objectives as they do not build networks or invest in research and development and their niche business models are not focused on rural areas.

4.4 The Commission's decision is consistent with the objectives found in the Telecommunications Act

62. The Commission's findings are also consistent with the policy objectives in subsections 7(c) and (f) of the *Telecommunications Act*, which direct the Commission to "enhance the efficiency and competitiveness [...] of Canadian telecommunications" and "foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective."⁵⁵ Importantly, the Commission determined that given the negative impact of a broad-based MVNO access on Regional WSPs, such a broad mandated MVNO policy would "detract from the fulfillment of the telecommunications policy objectives set out in paragraphs 7(c) and (f) of the Act."⁵⁶

⁵⁴ TRP 2021-130, para 243.

⁵⁵ *Telecommunications Act*, s. 7. See paragraphs 632-635 of TRP 2021-130 where the Commission affirms that the entirety of its decision is consistent with subsections 7 (a), (b), (c), (f) and (h) of the *Telecommunications Act* (and also with the 2006 and 2019 Policy Directions). See also paragraphs 263, 289, 355, 373, 407, 592, 597 and 618 where the Commission makes reference to specific elements of section 7 and the Policy Directions. Specific to the MVNO decision, the Commission rightly noted its findings with respect to subsections 7 (c) and (f).

⁵⁶ TRP 2021-130, para 262.

63. In summary, as the administrative body entrusted with regulating Canada's telecommunications sector, the Commission is best able to correctly apply the Policy Directions that are applicable to it. The Commission has carefully applied the 2006 and 2019 Policy Directions, and has given consideration to the section 7 objectives set out in the *Telecommunications Act*. Consistent with Parliament's intent,⁵⁷ the Governor in Council should not overrule the Commission's decision.

5. The Governor in Council should not impose arbitrary rates for MVNO access

64. In addition to seeking to overturn the Commission's decision by replacing facilities-based mandated MVNO access with broad-based MVNO access, dotmobile also asks the Governor in Council to impose rates for mandated broad-based MVNO access. Dotmobile proposes arbitrary rates in its petition. There are procedural and policy difficulties with the rate remedy that dotmobile seeks.
65. Under the *Telecommunications Act*, the Commission determines the rates for regulated telecommunications services.⁵⁸ In the proceeding that led to TRP 2021-130, the Commission specifically considered three different rate setting models for mandated MVNO access.⁵⁹ After consideration, the Commission selected commercial negotiation with arbitration fallback. That is, the parties are to negotiate the rates for the MVNO access, and if negotiations fail to obtain agreement, recourse to Commission arbitration.

⁵⁷ Parliamentary committee debates demonstrate that subsection 12(1) of the *Telecommunications Act* was intended to be used "only when there is a decision made which is inconsistent with public policy objectives, or where there is an error which is fairly extreme." (Canada, Parliament, Senate, Standing Committee on Transport and Communications, *Proceedings*, 34th Parl, 3rd Sess, Vol. 2 No. 10-19 (4 May 1992). See 12:46-47 where the Minister of Communications, Perrin Beatty, states "governments [must] use the power sparingly and only in the most extraordinary circumstances [...] [T]he CRTC does its job well and effectively. One of the reasons why we have a body such as the CRTC to do that is to give a process which is open and transparent and which will satisfy people that decisions have been fairly made. It is only when there is a decision made which is inconsistent with public policy objectives, or where there is an error which is fairly extreme, that the government would want to intervene. It does so in every instance with considerable controversy.") Even then, Parliament recognized that the Governor in Council "does so in every instance with considerable controversy." (*Ibid.*)

⁵⁸ Subsection 25(1) provides that "no Canadian carrier shall provide a telecommunications service except in accordance with a tariff filed with and approved by the Commission that specifies the rate or the maximum or minimum rate, or both, to be charged for the service." The *Act*, s 25(1).

⁵⁹ The three rate-setting models are: "cost-based plus a markup, which is the Commission's standard approach; retail minus, which takes the retail rate and applies a markdown; or commercial negotiations, which could include arbitration as a backstop." TRP 2021-130, para 334.

66. In contrast, dotmobile’s request for the Governor-in-Council to simply assign rates is not based on evidence – there is no evidence from the proceeding to support dotmobile’s proposed rates. Therefore the Governor in Council should not intervene to set rates in any manner, let alone at the arbitrary rates proposed by dotmobile. The Commission warned of the market harm that could result from implementing incorrect rates, even as an interim measure, noting that setting an interim rate incorrectly “would risk distorting the market.”⁶⁰ Just as importantly, assigning telecommunications rates that do not have evidentiary support would violate the requirement under section 27(1) of the *Telecommunications Act* that all rates for telecommunications services must be just and reasonable.⁶¹ As a result, the Governor in Council must dismiss dotmobile’s request to impose arbitrary rates on the mandated MVNO service.

6. Additional considerations favour dismissing the dotmobile petition

67. The Commission’s decision to mandate MVNO access in TRP 2021-130 is indeed unprecedented. Research from NERA found that very few OECD countries have an MVNO mandate, and of those that do, MVNO regulation was either part of a merger remedy, part of the spectrum license process, or applied to the provider with individual significant market power.⁶² Even these few cases require commercial negotiation.⁶³ Nevertheless, the Commission has elected to move forward with its form of mandated MVNO access. The National WSPs and SaskTel have filed their proposed MVNO tariffs and the Commission is currently conducting a public process to allow for review and comment on the draft terms and conditions. It would be premature for the Governor in Council to now interfere with a Commission decision before the impacts of the MVNO mandate on competition in the Canadian wireless market begin to emerge.
68. The Governor in Council should allow time for the mandated MVNO offerings to be made available and the subsequent effects to become known. This also provides for

⁶⁰ TRP 2021-130, para 350.

⁶¹ Section 27(1) of the *Telecommunications Act* requires that “Every rate charged by a Canadian carrier for a telecommunications service shall be just and reasonable.” [emphasis added]

⁶² NERA MVNO Report, para ES8.

⁶³ NERA MVNO Report, para ES1.

regulatory certainty, a key risk factor that telecom companies and their investors consider when making investment decisions.

69. The Governor in Council must also consider the MVNO mandate in the context of other regulatory decisions and broad strategic government initiatives that are designed to increase competition in the wireless market and further the government's policy objectives. These include:
- a. The Commission's expectation in TRP 2021-130 that Bell, Rogers, TELUS and SaskTel will provide prescribed low-cost and occasional-use retail plans;⁶⁴
 - b. The government's 25% wireless retail price reduction targets that were announced in March 2020 for the National WSPs;⁶⁵
 - c. Continued use of purported pro-competitive measures in spectrum auctions such as spectrum set-asides; and
 - d. The government's stated universal broadband objectives of 50 Mbps download and 10 Mbps upload speeds for all Canadians, including those who live and work in rural and underserved areas in Canada.
70. In respect of the Commission's prescribed low-cost and occasional-use retail plans, Bell, Rogers, TELUS and SaskTel all introduced these plans earlier this year and they are currently in market. The National WSPs and SaskTel must report on these plans semi-annually to the Commission, including the number of subscribers per plan.⁶⁶
71. Regarding the government's 25% price reduction targets, Statistics Canada has already reported significant and material declines in wireless prices, in an environment when the overall consumer price index ("CPI") have shown increases. For example, in its June 2021 Consumer Price Index report, Statistics Canada data show that consumers paid 21.4% less for cellular services on a year-over-year basis in June, while the overall consumer price index rose 3.1% during the same time period.⁶⁷

⁶⁴ For a summary of these plans, see *Low-cost and occasional-use wireless service plans*, CRTC, June 4, 2021, online: < <https://crtc.gc.ca/eng/phone/mobile/occa.htm>>.

⁶⁵ *Offering Canadian consumers more affordable options for their wireless services*, ISSED Canada, March 5, 2020, online: <<https://www.canada.ca/en/innovation-science-economic-development/news/2020/03/offering-canadian-consumers-more-affordable-options-for-their-wireless-services.html>>.

⁶⁶ TRP 2021-130, para 567.

⁶⁷ Statistics Canada, Consumer Price Index, June 2021, available online: <<https://www150.statcan.gc.ca/n1/daily-quotidien/210728/dq210728a-eng.pdf>>.

72. In addition to actions in the wireless retail market, the government is also taking other steps that it believes will foster wireless competition. In wireless spectrum auctions since 2007, ISED adopted a policy of setting aside spectrum for WSPs that are not national incumbent WSPs, allowing them to acquire spectrum at much lower prices than the spectrum purchased in the open auction. In Canada's recent 3500 MHz spectrum auction, the average price of spectrum sold in the set-aside auction was \$0.92/MHz-pop while spectrum sold at an average price of over 3.5 times higher at \$3.24/MHz-pop in the general auction.⁶⁸ Companies such as dotmobile had every opportunity to obtain set-aside spectrum at a considerable discount from what the National WSPs paid.
73. Meeting the government's universal broadband objectives will require significant investment from both the public and private sectors. In an effort to bolster investment, the government has put in place a series of funding initiatives, including the CRTC's Broadband Fund, designed to help bridge the digital divide in rural and underserved areas. To date, service providers of varying sizes and geographic locations have been awarded funding for building or upgrading fixed and mobile network infrastructure.⁶⁹
74. The government and the Commission have already taken numerous steps to further the government's goals of improving the quality, coverage and price of telecommunications services, and in particular wireless services. StatsCan data show that wireless prices in Canada are declining. In light of this and the significant investment dollars needed for 5G rollout and expanded rural network coverage, now is not the time to upend the Commission's wholesale wireless determinations in TRP 2021-130.

7. Conclusion

75. From coast-to-coast-to coast, network connectivity is fundamental. The COVID-19 pandemic has shown that to work, to attend school and to stay socially-engaged, broadband availability is a necessity and an expectation. Therefore, the path forward for Canada is a regulatory environment that is centrally-focused on facilities-based

⁶⁸ MHz-pop is a measurement of the number of megahertz of spectrum bandwidth multiplied by the population within a specified service area.

⁶⁹ See *Broadband Fund: Closing the digital divide in Canada*, CRTC, online: <<https://crtc.gc.ca/eng/internet/internet.htm>>.

competition and prioritizes wireless network construction as a vital economic and social need.

76. Getting the regulatory environment right is also essential because the world sits at the precipice of 5G wireless networks, a sea change for wireless technology. 5G means ultra-fast data transmission - up to 100 times faster than 4G technology - and omnipresent connectivity for Canadians on the move. The reliability and low latency of 5G networks will allow much heralded services, such as automated and connected cars, drone deliveries, smart cities, smart energy grids and advanced remote health monitoring to become available at the fingertips of consumers, businesses and governments. It is a network transformation that sets the stage for social and economic transformation, driving economic growth and making possible new advances in digital health and education. Canada needs to be at the pinnacle of this technology advancement rather than falling behind global peers.
77. Dotmobile's petition ignores this reality. Dotmobile asks Canada to take a step backward at the 5G starting line by asking for a broad-based MVNO policy. MVNOs will not build networks, will not cause technology innovation, will not connect more Canadians and will not bridge the digital divide.
78. In this light, the task for the Governor in Council is clear: to position Canada and its citizens for success, it must maintain the CRTC's decision, because it favours network construction and facilities-based competition. The Governor in Council must deny dotmobile's petition and decline to implement a broad-based MVNO policy and other relief, for the following three reasons:
- *The Canadian wireless marketplace is high-performing and makes broad-based MVNO access unnecessary and harmful to Canadians;*
 - *The CRTC already rejected a broad-based MVNO mandate because broad-based MVNO services fails the essentiality test and would be bad policy for Canada; and*
 - *The CRTC's decision takes into account the 2006 and 2009 Policy Directions, the Canadian telecommunications policy objectives and furthers the Government's connectivity goals.*

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