



Telecom Notice of Consultation CRTC 2019-57

Review of mobile wireless services

**Address by Quebecor Media Inc.,
in its own name and on behalf of its Videotron Ltd. subsidiary**

(Check against delivery)

February 25, 2020

PIERRE KARL PÉLADEAU

Mr. Chairperson,
Madam Vice-Chairperson,
Mr. and Mesdames Commissioners,

Good afternoon,

My name is Pierre Karl Péladeau and I am President and Chief Executive Officer of Quebecor and Quebecor Media. Allow me to introduce the colleagues who are with me today.

To my left are Jean-François Pruneau, President and Chief Executive Officer of Videotron, and Caroline Paquet, Vice President, Marketing and Content of Videotron. To my right are Dennis Béland, Vice President, Regulatory Affairs, Telecommunications of Quebecor Media, and Serge Legris, Vice President and Chief Technology Planning Officer of Videotron. Behind me are Yanick Boily, Senior Director, Regulatory Affairs, Telecommunications of Quebecor Media, and to his right Sylvain Lapointe, Senior Director, Network Evolution of Videotron.

Introduction

This proceeding is the first review of the regulatory framework for wireless mobile services in Canada since 2015. It comes at a pivotal time for two reasons.

To begin with, consumers in all regions of Canada are finally seeing what true four-player competition can do for the first time since the federal government decided in 2008 to pursue a facilities-based wireless competition policy. At Videotron, we are proud to have spearheaded this movement and we can only applaud what our colleagues at Freedom, Eastlink, Xplornet and others are accomplishing.

Secondly, all wireless network operators in Canada, national and regional, are in the process of implementing their 5G plans. More than any previous generation of wireless technology, 5G has the potential to transform the entire economy. This will demand massive investment and a regulatory framework that encourages such investment.

It is therefore imperative that the decisions the Commission makes at the conclusion of this proceeding are consistent with what the Commission instituted in 2015, namely targeted regulatory measures that support the existence of a fourth facilities-based player in all parts of the country.

Relying on facilities-based competition is the right decision

One of the guiding principles that has informed Canadian telecommunications regulators for more than 25 years is the idea that only competition among service providers that invest in their own facilities can achieve and sustain tangible benefits for consumers.

In line with this principle, the federal government and the Commission have worked in tandem since 2008, each adopting regulatory measures to support the fourth-player policy.

Examples of these targeted measures include the spectrum set-asides in the federal government's recent mobile spectrum auctions and the regulations governing the wholesale roaming services provided by the three major national incumbents, Bell, Rogers and Telus, adopted by the Commission in 2015.

It must be recognized that the federal government and the Commission were on the right track when they took these measures.

As a result of ongoing efforts and massive investments by regional carriers such as Videotron, which rose to the challenge of facilities-based competition in 2008, the level of competition in wireless services in Canada has improved and continues to improve at a quickening pace.

The positive impact of regional carriers is undeniable and supported by ample evidence. This afternoon I will confine myself to the most recent example: in its further comments of November 22, the Competition Bureau observed that regional carriers are increasingly disrupting the wireless industry landscape in Canada, and that in regions where these "disrupters" have achieved a market share of more than 5.5%, prices are 35% to 40% lower.¹

As far as Québec specifically is concerned, there is no denying that Videotron has made its presence felt through ongoing business efforts that have forced the Big Three out of their torpor, benefiting Québec consumers. The proof is that over the period of 2008 to 2018, the average price of mobile plans for all service levels (except one) declined more sharply in Québec than in Canada as a whole.²

Videotron did not stop there. In September 2018, it further energized the Québec market by launching a new set of plans under the Fizz flanker brand, geared towards consumers who wish to assemble their own packages based on their specific needs and who also seek superior affordability. For example, Fizz currently offers a basic plan that includes unlimited talk and text and 4 GB of data for \$35 per month.

We would also point out that the lower prices and innovations Videotron's presence has brought to mobile services do not mean the company has skimmed

¹ Competition Bureau, further comments, November 22, 2019, paragraph 5.

² *Price Comparisons of Wireline, Wireless and Internet Services in Canada and with Foreign Jurisdictions*, 2018 edition, study prepared by Wall Communications Inc. for Innovation, Science and Economic Development Canada, Table A2.2 *Canadian Mobile Wireless Price*, pp. 61-62.

on investment since it entered the wireless market. Quite the contrary. Since 2008, Videotron has spent more than \$2.5 billion on mobile spectrum and network build-out.

This massive investment is proof positive of Videotron's full commitment to facilities-based competition. The strength of this commitment has made Videotron stand out as a new competitor in several ways.

The first is the speed with which Videotron built and rolled out its mobile network. In just over nine years, Videotron rolled out a vast, state-of-the-art network with a coverage area of more than 84,000 km² that currently reaches 94.4% of the population of Québec and 7.9% of the population of Ontario. By the way, during this period Videotron deployed not just one network but a series of five different technologies: HSPA, HSPA-Plus, LTE, LTE-Advanced and now 5G.

The second is the quality of Videotron's mobile network. J.D. Power's *Canadian Wireless Network Quality Study* has ranked Videotron first in eastern Canada for overall network quality in four of the last five years.³

The third is the superior customer experience Videotron offers. Videotron received the highest customer experience satisfaction score among all Canadian wireless service providers in Forrester's 2018 survey.⁴

Fourth, Videotron's innovative capacity. The company has constantly pushed back the technological limitations of mobile service by densifying coverage, increasing download speeds and reducing latency. Videotron recently announced that it has selected Samsung Electronics as its partner for the deployment of

³ See <https://canada.jdpower.com/business/press-releases/2015-canadian-wireless-network-quality-study>; <https://canada.jdpower.com/business/press-releases/2016-canadian-wireless-network-quality-study>; <https://canada.jdpower.com/business/press-releases/jd-power-2017-canadian-wireless-network-quality-study>; <https://canada.jdpower.com/business/press-releases/jd-power-2018-canada-wireless-network-quality-study>; <https://canada.jdpower.com/press-releases/2019-canada-wireless-network-quality-study>.

⁴ <http://corpo.videotron.com/site/press-room/press-release/1001>.

LTE-A and 5G radio access technologies. This will enable Videotron to accelerate the build-out of its next-generation network, aiming for gradual service availability in 2020. In fact, Videotron is already operating a live 5G network at the Open-Air Laboratory for Smart Living, a joint research and development project launched in 2016 in collaboration with the École de technologie supérieure and the Quartier de l'innovation de Montréal, among others.

Is it realistic to think that Videotron would have been able to achieve all this and have such an impact on the market had it not committed to facilities-based competition? Clearly not. Videotron has been able to reshape the landscape in Québec because it has full control over its business offerings and facilities. That full control is a direct consequence of the company's decision to bank on facilities-based competition.

A regulatory flip-flop that would violate the contract between the federal government and Videotron

While much has been accomplished since 2008, much remains to be done to ensure truly sustainable competition in all regions of Canada. It is therefore vitally important that the federal government and the Commission continue to act in concert and adopt targeted measures to promote facilities-based competition. There can be no question of a regulatory shift until the work begun more than 10 years ago has been completed.

However, when it initiated this proceeding, the Commission indicated its preliminary view that the time has come to require the three major national incumbents to provide Mobile Virtual Network Operators (MVNOs) with wholesale access to their facilities.

In our view, what the Commission is contemplating would be not just a change in direction but a regulatory U-turn. Mandating wholesale MVNO access would mean promoting resale-based competition instead of facilities-based competition.

Aside from the fact that this about-face would be at odds with the choice Canada made in telecommunications regulation more than 25 years ago, the Commission would be making a serious mistake were it to proceed, an historic mistake with dire consequences.

The introduction of pro-MVNO regulation geared to the reselling of services would mark a radical departure from the approach taken by the federal government in its 2008 policy framework for the auction of AWS spectrum, which was guided by a very clear desire to promote facilities-based competition.

A contractual relationship has existed since 2008 between the federal government and Videotron by virtue of Videotron's participation in the AWS spectrum auction. It is enshrined in a Deed of Acknowledgement signed when Videotron's application to participate in the auction was approved.

Has Videotron fulfilled its obligations under this contract? The answer is yes, beyond a shadow of a doubt. First of all, we paid the Canadian government \$555 million for the spectrum we acquired (and since 2008, we have paid an additional \$708 million in total for spectrum acquired in subsequent auctions). Secondly, we complied scrupulously with the auction rules and we have met all the conditions of licence set by the federal government in its policy framework.

It seems indisputable to us that the introduction of pro-MVNO regulation by the Commission would have the effect of violating the contractual relationship between the federal government and Videotron, since it would undermine the very basis of the contract and render it null and void in practical terms. The Commission and the federal government would therefore have to bear responsibility for the loss suffered by Videotron if such regulations were introduced, and Videotron would have no alternative but to seek redress through the courts.

Disproportionate negative impact on regional players

Pro-MVNO regulation would jeopardize realization of the fourth-player policy. There is no way around this, for the main victims of such regulation will be precisely the regional carriers, for two reasons.

First, regulation favouring resale-based competition will allow MVNOs to capture a substantial portion of the regional carriers' market share.

Secondly, the regional carriers' loss of market share will inevitably lead to a decrease in their revenues, resulting in less investment in network modernization, innovation and service improvements.

A number of business experts and financial analysts have, like us, warned the Commission about the harmful effects that pro-MVNO regulation would have on regional players. Let me begin by quoting Dr. Erich Emch, the outside expert retained by Shaw for this proceeding:

These smaller facilities-based carriers are most at risk of a change in policy that mandates MVNO wholesale access. MVNOs and smaller facilities-based carriers tend to target similar types of consumers, meaning that the impact on subscribers and thus investment incentives will be felt most acutely by recent entrants.⁵

And here's what Scotiabank telecom analyst Jeff Fan said in a report published on November 11:

Smaller facilities-based wireless operators like Freedom, Vidéotron and Eastlink (yes, the same companies that have created the competition

⁵ Dr Erich Emch (Bates White Economic Consulting), *The Evolution of facilities-based competition in Canada – Recent gains and regulatory risks*, May 15, 2019, paragraph 6.

over the past decade) are more likely to be affected by MVNOs than the incumbents ... [An MVNO mandate] would undermine a decade of their investment in spectrum licenses and network build-out.

So the danger is very real. For Videotron, its customers and its employees, the consequences of this scenario would be truly dramatic, as the financial viability of the company's mobile wireless operations would be jeopardized.

Because pro-MVNO regulation would compromise the financial and operational capabilities of the regional carriers, the competitive gains from which Canadian consumers have greatly benefited to date would also be compromised. These gains might even be wiped out forever, since there is absolutely no equivalence between regional carriers and MVNOs.

In reality, the effect of pro-MVNO regulation would be the exact opposite of what its proponents claim. Far from weakening the Big Three's hold on the Canadian market, it would strengthen their dominant position by eliminating the only players that are really capable of competing with them in the long term.

In recent years, the fourth-player policy has increasingly given Canadian consumers the best of both worlds: prices are falling and network quality is improving. Now is not the time to break that momentum.

The importance of consistency

In an industry as important to Canada's economy as wireless telecommunications, competition policy must be based on sound principles and applied consistently.

In Canada, an enlightened policy designed to establish sustainable wireless competition was almost wrecked, just a few years ago, by poor execution and

lack of a coherent long-term vision. I am referring to the period during and after the 2008 spectrum auction, when the field was left open to pernicious forces, which impeded the emergence of a strong fourth player in some parts of the country outside Québec.

First, as a result of the very design of the auction, in some regions the frequencies set aside for new entrants wound up fragmented among different bidders, some of which were motivated more by speculative purposes than a genuine desire to build a long-term business.

Secondly, sensing the weakness of many of the new entrants, the Big Three took advantage of the free rein they had been allowed to do all in their power to undermine these players, including blocking reasonable access to essential services such as tower sharing and roaming.

In addition there was the disagreement between two regulatory authorities, which couldn't agree on whether one of the major new entrants was indeed controlled by Canadians and therefore eligible to launch its network. This sad saga was a true gift from heaven for the Big Three cartel.

I mention all this today to underscore the importance of implementing an enlightened policy in a consistent manner. The rest of Canada missed an excellent opportunity in the wake of the 2008 spectrum auction because of the failures I have just described. Fortunately, our colleagues at Shaw were able to pick up the pieces and are now moving forward with determination and energy. I urge you to give them, and us, a chance to continue offering Canadian consumers the benefits we have shown we can deliver.

MVNOs do not provide lasting benefits

To be an effective component of the machinery of sustainable competition in all regions of the country, MVNOs would have to be able to exert an impact on the mobile market somewhat comparable to that of the regional carriers that have opted for facilities-based competition, an impact that must translate into tangible, sustainable benefits for consumers.

Have the interveners in this proceeding who advocate resale-based competition been able to show an equivalence between the demonstrated impact of regional carriers and the hypothetical impact of MVNOs?

The answer is no. Their only arguments are empty assertions devoid of any factual support. This vacuous reasoning makes it clear that the supposed benefits of pro-MVNO regulation are sheer speculation.

This is unsurprising. It is obvious that, should regulations that are favourable to them be put in place, the MVNOs will limit their investments to the bare minimum, comfortably ensconced in a business plan that is risk-free because it is protected by the Commission's regulatory arbitrage. It is certain that such a model will not generate lasting benefits for consumers, be it in terms of service reliability and quality, truly competitive pricing or innovative services.

In light of all these considerations, the only possible conclusion is that the Commission must refrain from mandating wholesale MVNO access in any form.

Facilities-based competition is working. A trend that benefits consumers has developed and is gaining momentum, due to the disruptive effect of regional carriers such as Videotron. In short, this proceeding is being held against the backdrop of a business environment in which the very outcomes the Commission seeks to achieve are already being produced by a competitive marketplace.

In this situation, we firmly believe that the only sensible regulatory approach is to allow the existing positive forces to follow through on their efforts.

Regulators must recognize their own limits

In addition to all the compelling reasons I have outlined to demonstrate why pro-MVNO regulation is a very bad idea – the harm to network quality and expansion, the disproportionate adverse impact on regional carriers, the lack of lasting benefits for consumers – we must also address the practical question of whether you, as a regulator, even have the means to implement such regulation.

Our American neighbours have an expression that I think is very fitting here: “regulatory humility.”

Think about it. To implement a regulatory policy based on mandated resale, you must find an incredibly delicate balance, a target that is probably impossible to hit. The rates you set must be just high enough to encourage continued investment by network builders and just low enough to create a space in the market for the resellers. And you have to pull this off in a very fast-moving environment where consumer needs are constantly changing, traffic is growing exponentially and network operators are rolling out one new generation of technology after another.

Nowhere in the world has a regulator achieved this feat. And with all due respect, I don't think you will be the first.

In fact, your recent attempts to achieve this balance in wireline services should serve as a clear warning. In its August 15, 2019 decision on wholesale wireline Internet access rates, the Commission failed utterly to strike the right balance, particularly for high-speed access. If the wholesale price set by the Commission in this decision is allowed to stand, the incentive for network operators to invest

in high-speed services will not only be weakened but will disappear altogether. That is absolutely no exaggeration.

That decision is currently being appealed to the courts, the federal Cabinet and the Commission itself. It is of course not the subject of this proceeding. However, do we really want to repeat this experience in the wireless realm?

The decisions made at the conclusion of this proceeding will be vitally important, for they will have an impact on the innovative capacity of our entire economy. International experience should serve as a warning about the consequences that ensue when things go off the rails. For example: an article published in the *Wall Street Journal* just a few days before the Commission released its decision on TPIA rates described the high price the German economy had paid for past failures to promote diversified competition in wireline Internet infrastructure.⁶ Slow speeds are hampering digitization of many industries in Germany and negatively affecting their national and international competitiveness. This is not the future we want for Canada's economy.

The Commission must ask itself whether it is truly confident it has the factual knowledge and analytical capacity to do a better job of price-setting in wireless than it has in wireline. Humility – and experience – would suggest that the answer is no.

Conclusion

When the Commission decided in 2015 not to mandate wholesale MVNO access, the main reasons provided were the importance of facilities-based competition and the need not to undermine the investments of the new regional carriers.

⁶ <https://www.wsj.com/articles/germans-grow-frustrated-with-their-slow-poke-internet-11565002666>

It was a fair, informed and pragmatic decision.

It supported the sustained efforts of the new regional players to end the oligopoly of the Big Three national incumbents. It has encouraged and even stimulated investment by network operators. And it has contributed substantially to the current favourable trend for Canadian consumers.

With 5G coming to Canada soon, and with much work still to be done to ensure truly sustainable competition in the mobile wireless market, it is imperative that the Commission abandon the idea of lending unjustified support to resale-based competition.

Rather, the Commission must ensure that investment in facilities continues, while continuing to recognize the unique contribution to competitiveness and innovation made by Videotron and other regional players.

Thank you for your attention.

We will be pleased to answer your questions.