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Claude Doucet
Secretary General
Canadian Radio-television and
Telecommunications Commission
Gatineau, QC
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April 24, 2023

Re: CRTC 2023-56 Notice of Consultation

Mr. Doucet,

Summary

1. As a small not-for-profit Internet Service Provider, National Capital FreeNet (NCF) supports the Commission's preliminary view that the provision of FTTP facilities over aggregated wholesale HSA services should be mandated on a temporary and expedited basis.
2. We believe this will help further the implementation of the Canadian telecommunications policy objectives, including supporting meaningful competition, and ensuring wider availability of high-quality, affordable, and reliable internet services for all Canadians.
3. We also agree with the Commission's analysis that "incremental changes to the Commission's wholesale HSA service framework are not going to address the underlying concerns that have arisen with respect to the state of wholesale-based competition, or more broadly in the retail Internet service market."¹ Providing aggregated access to FTTP facilities is a significant way to alleviate some of these concerns.
4. To help with business planning, financial sustainability, and to help mitigate the risk of subscriber loss, we ask that if the Commission approves expedited temporary

¹ Telecom Notice of Consultation CRTC 2023-56 p. 6 para 24.

aggregated access to FTTP facilities, that this access last for at least five years from the date of the decision, unless replaced by a decision to offer the provision of FTTP facilities over aggregated wholesale HSA services indefinitely.

5. We will address other concerns related to the HSA framework and the retail Internet service market, as well as other ways we believe the Commission can advance the Canadian telecommunications policy objectives, in our June submission to this process.

About NCF

6. NCF is a not-for-profit Internet Service Provider (ISP), based in Ottawa. Founded in 1992 we were the first ISP in the region and have connected more than 100,000 members. We believe that everyone has a right to affordable and high-quality internet that they can understand how to use, while feeling safe online.
7. NCF is committed to advancing digital equity, ensuring everyone has the information technology capacity for full participation in society, democracy, and the economy.² Digital equity recognizes that the digital divide mirrors and exacerbates other social inequities, disproportionately affecting marginalized groups, including those living on low incomes, Indigenous peoples and people of colour, seniors, and people with disabilities.
8. Our services include selling residential and commercial DSL and cable internet, our award-winning HelpDesk of staff and volunteers, free locally hosted email, basic web hosting and dial-up internet connectivity, and helping people improve their digital skills. This has included offering workshops and online resources that taught seniors basic internet and computer skills, promoting online safety and privacy, helping those on low incomes apply online for government subsidies through the Ontario Electricity Support Program and the Canada Learning Bond, founding Digital Access Day, and more. In 2017 NCF established our Community Access Fund, offering a 6Mbps speed plan with unlimited usage to Ottawa Community Housing (OCH) tenants for \$25/month.
9. We currently serve around 4800 members, of whom almost 2600 subscribe to our broadband internet services. The Community Access Fund plan for OCH tenants currently serves around 300 members.
10. As a social enterprise, NCF is structured like many other independent service-based ISPs and we believe we share many concerns. However, NCF is also one of very few not-for-profit ISPs in Canada. We wish there were more. We believe that a “vibrant and

² National Digital Inclusion Alliance, Definitions: <https://www.digitalinclusion.org/definitions/>

sustainable competitive retail Internet service market”³ includes not-for-profits, municipalities, co-operatives, and other community-based service providers.

11. Though we are small, we believe our mission around internet affordability, digital skills, and digital equity, combined with our business model makes us uniquely placed to assess elements of how wholesale internet regulation decisions can help provide internet services that are affordable, technologically and socially innovative, and responsive to Canadians’ evolving social and economic needs.

Challenges of the current system

12. Despite a general move away from DSL internet services over the last decade, NCF had net annual positive subscriber growth from when we first launched DSL services in 2005 until 2019. From a peak of 3336 DSL subscribers in June 2019, we have dropped to 2492 DSL subscribers in April 2023, the lowest in more than ten years.
13. While it is not the only factor in our losses, we believe that the incumbents having had more than seven years head start in offering FTTP services bolstered their market dominance at the expense of independent providers like NCF.
14. At the same time as the incumbents rolled out their FTTP access, our ability to offer DSL services has been reduced as Bell has been decommissioning existing infrastructure while upgrading its exclusive FTTP infrastructure. In one case, a prospective NCF member contacted us about getting service in August 2020. At the time, their address validated for a 15/1Mbps connection. By the time they decided to proceed with the order in October 2020, their address only validated for 6/1Mbps service. They said a Bell technician told them they should be able to get much higher speeds, but we weren’t able to validate that through our troubleshooting and available infrastructure.
15. The member did sign up for NCF internet services, but eventually left because the 6/1Mbps speed wasn’t high enough to support his needs. Given that we had supported the Commission’s Basic Service Objective of 50/10Mbps five years earlier, we understood and wished we could do more to help.
16. Rogers and Bell have also been expanding their FTTP networks into some newer neighbourhoods without also provisioning FTTN, legacy or cable internet services, meaning we have lost the chance to recruit new members and lost existing members who moved into these areas. This includes NCF Business and Community Development Manager Andrew Martey Asare, who can no longer subscribe to NCF’s internet services and instead must choose between Rogers and Bell FTTP services.

³ Telecom Notice of Consultation CRTC 2023-56 para 6.

17. At the same time, regulatory uncertainty related to the final wholesale HSA rates, from 2016 to 2019 and then 2021, as well as the wait for a final FTTP disaggregated decision, meant we couldn't make long-term plans about our network or new business or community services for fear of later not having the time or money to respond to regulatory changes, once decided. While we waited, we needed to raise prices to stay sustainable.
18. For example, NCF had been discussing adding cable internet services since at least 2016. However, as a small ISP with limited resources, we didn't want to invest in the network and business changes associated with aggregated cable internet services if disaggregated FTTP would soon supplant it. While we have never been convinced NCF would be able to offer disaggregated FTTP services to our members as that service was designed, we were going to do our best, especially as the Commission kept underscoring that disaggregated access was the only way forward.
19. As noted in the Notice of Consultation, during the lockdowns of COVID-19 when school, work, government and health services, and staying in touch with friends and family all moved online, it became even more important that everyone had fast, reliable and affordable home access to the internet. NCF experienced a 30% jump in usage overnight while also losing many members who needed higher speeds than we could provide over FTTN DSL services. We believe this sped up the market asymmetry related to exclusive incumbent access to FTTP.
20. During the pandemic NCF established the Digital Equity Ottawa Coalition with the Social Planning Council of Ottawa, working with other social service organizations and community stakeholders to research and help address the widening digital divide during COVID-19. As part of this work, we hoped to start a pilot project offering free community WiFi in partnership with Ottawa Community Housing.
21. We also planned to expand our lower-cost Community Access Fund program to offer higher speeds at lower prices for those living on low incomes. As before, we held off on these offerings due to regulatory and the related financial uncertainty, reducing our ability to deliver on our mission.
22. When NCF finally added higher speed cable internet services in the summer of 2021, it felt like a long overdue response to a situation that has gotten significantly worse in the meantime. And unfortunately, it has not stemmed the tide of our membership losses.
23. The incumbents' acquisition over the last year of so many independent ISPs makes clear that NCF is not alone in facing these challenges. That some of these formerly independent ISPs are continuing as flanker brands not overtly associated with their incumbent owners makes things even harder for small and still-independent ISPs like NCF to differentiate ourselves. Especially without the ability to offer FTTP services. In this case, what looks like a crowded market is in fact just competition cosplay.

Support for aggregated access to FTTP facilities

24. We believe there is sufficient evidence that FTTP facilities should be provisioned over aggregated wholesale HSA services on a permanent basis. However, we appreciate the Commission's regulatory responsibilities and that making this service available on a temporary basis also means it can be made available on an expedited basis. As the Commission noted, providing expedited aggregated access to FTTP facilities is particularly important given how long incumbents have had exclusive access to market and sell FTTP services.⁴
25. NCF is excited for the chance to offer our members FTTP services as quickly as we can through aggregated access. As a small ISP we identify with the Commission's description of more service-based competitors. As such, unlike all the unknowns related to disaggregated FTTP access, we are confident that since we are currently offering aggregated DSL and cable services, we can adapt to this change.
26. Many current NCF members have told us that they would like to switch to FTTP services through NCF when they become available. Similarly, some past members have told us, when moving to a location that only offered FTTP internet services, that they would like to come back to NCF if given the chance. Given this, we would expect that if the wholesale rates allow for us to offer an affordably-priced FTTP service, a significant portion of our current DSL members could migrate to the FTTP service, joined by some new or returning members.
27. That said, while we're pleased the Commission is taking substantive action on these long overdue issues, there are still significant business risks associated with selling FTTP services based on a temporary mandate. As a small ISP with limited staff capacity and financial resources, we will need time and money to make the network, business, and support changes necessary to offer high quality, reliable FTTP service over aggregated HSA services, without knowing how long these changes may last.
28. Similarly, the Commission could mandate temporary aggregated access to FTTP facilities and then after NCF has transitioned many of its current DSL subscribers to FTTP services, the Commission could decide to discontinue temporary aggregated FTTP access in favour of disaggregated access to FTTP facilities. In this case, if NCF is unable to implement disaggregated FTTP access, we would risk losing all NCF members that transitioned to FTTP.
29. It is also possible, particularly given the significant public interest and media coverage of this hearing, that potential subscribers will be hesitant to sign-up for NCF's FTTP service offering if they know it is based on a temporary mandate, as this suggests they could have to suddenly change to another provider.

⁴ Telecom Notice of Consultation CRTC 2023-56, p. para

30. While it is not possible to completely mitigate these risks, we ask that if the Commission approves expedited temporary aggregated access to FTTP facilities, that this access last for at least five years from the date of the decision, unless replaced by a decision to offer the provision of FTTP facilities over aggregated wholesale HSA services indefinitely.
31. In the end, whether aggregated access to FTTP facilities will help address the current market distortion and promote competition, innovation and affordability in Canadian internet provision depends on ensuring reasonable wholesale rates that allow independent ISPs the opportunity to meaningfully compete, despite all the incumbents' structural advantages.
32. Given this, one advantage of mandating temporary access to FTTP facilities over aggregated wholesale HSA services is that the Commission could consider different temporary pricing methodologies for the temporary access. One such possibility is retail minus pricing, which could also help address the need for an expedited process.

Conclusion

33. As a small not-for-profit internet service provider committed to affordability and digital equity, we believe NCF represents an important but nascent form of competition and choice in the telecommunications sector.
34. As such, we support the Commission's preliminary view that the provision of FTTP facilities over aggregated wholesale HSA services should be mandated on a temporary and expedited basis as an important step in helping address market asymmetries that work against the development and growth of small and community-based providers.

Thank you,



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