

## CABLE & TELECOM

May 20, 2019

1 week 3 days ago

# Independent telcos call Bell abusive, anti-competitive

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OTTAWA – Recent, large, price increases imposed by Bell Canada on independent telcos in Ontario and Quebec for access to Bell's unbundled local loops must be overturned by the Competition Bureau, say those independent telecommunications providers.

In a letter sent Friday May 17 to the Bureau's Anthony Durocher, deputy commissioner, mergers and monopolistic practices branch, the Independent Telecommunications Providers Association (a group of 21 independent telcos in rural Ontario, Quebec, and B.C. which serve about 180,000 access lines) called for:



- “An investigation by the Bureau into price increases recently announced by Bell Canada applicable to Unbundled Local Loops (ULLs), which are facilities leased by Bell's competitors in order to provide retail services in competition to Bell.
- A finding that these price increases are evidence of Bell's abuse of its dominant position and constitute an anti-competitive act by Bell within the meaning set out in section 78 (1) of the Competition Act, in particular paragraph (a) concerning margin squeezing and paragraph (e) regarding pre-emption of scarce facilities;
- A directive requiring that Bell to stay price increases scheduled to take effect on (or after) 1 June 2019, or if Bell has already implemented such price increases, a directive requiring that Bell reverse those price increases and issue credits of the incremental amount billed within thirty days.”

Two price increases in four months, ranging from a 34% rise to a 251% jump will make it impossible for ITPA members to continue to provide competitive local phone and ISP services. “Bell is abusing its dominant position and committing an anti-competitive act by increasing monthly prices for ULLs twice in less than four months, with increases as high as 251%,” reads the ITPA letter.

Back in 1997 when the CRTC was still in the throes of attempting to deregulate the local phone business, it directed Bell and the other incumbent telcos to unbundle their local loops (Telecom Decision CRTC 97-8), forcing them to open up their local copper networks to other providers which could use them to provide competitive services without having to undergo the expense of building another network.

In 1997, reminds the ITPA letter, the CRTC realized “competitors could not feasibly duplicate the local loop connecting customers to the central offices of the ILECs. The CRTC ordered ILECs to unbundle the local loops from the other components of local telephone service, and provide ULLs to competitors on a wholesale basis.”

CRTC 97-8 is one of the the seminal decisions which also led to the launch of multiple competitors in the local ISP market and to the creation and growth of additional companies such as Teksavvy and VMedia.

Here’s a sampling of that lengthy decision, from paragraph 237: “The Commission is of the view that resale can promote the development of a competitive market while allowing competitors time to construct their own facilities. While resale competition can help promote the development of a competitive market, it is the Commission’s view that the full benefits of competition can only be realized with facilities-based competition.”

Back to the ITPA letter, it explains: “In general, ITPA members and other competitors who currently lease ULLs are actively deploying their own facilities and also leasing bundled wholesale Internet access services, but remain several years away from being able to use these options to serve customers currently served using ULLs.”

Pricing of ULLs, dating back to the 1997 decision, involved an approved costing system plus an allowed markup of 15%. In 2015, however, the CRTC said in Telecom Regulatory Policy CRTC 2015-326 regulation of ULLs was no longer necessary, starting in 2018. Bell notified the independents of planned 25% price increases which took effect February 1, 2019 and then it notified ITPA members on May 1<sup>st</sup> of larger increases which are to take effect June 1.

These increases, say the independents, “constitute an anti-competitive act,” reads its letter. “Since many ULLs are used to provide standalone residential local phone service in direct competition to Bell, the margin squeeze means it will no longer be possible for competitors to cover their costs while

charging a competitive price. Even for higher-revenue services such as Internet access, the margin squeeze will severely impede a competitor's ability to remain in a market, let alone expand in that market," reads the letter.

This move speaks to Bell's "troubling pattern of misconduct," adds the ITPA, which called out the recent public investigations into carrier retail sales practices, **including Bell's**. "It may be reasonable to speculate that the current scrutiny on these practices has led to greater discipline by Bell in that area, resulting in Bell taking aggressive steps in other areas such as ULL pricing to generate the revenue increases that aren't being generated in the retail market," speculates the ITPA letter.

Bell has yet to respond to the complaint to the Bureau. We've emailed the company for a response and will update the story when we get one.

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