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Competition Bureau Canada



Market Study Notice: Competition in  
Broadband Services

Initial Submission

31 August 2018

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## **1. Introduction**

1. Saskatchewan Telecommunications (“SaskTel”) is providing the following comments in response to the market study of the competitive dynamics of Canada’s broadband internet services industry (“the study”) issued by the Competition Bureau (“Bureau”) on 10 May 2018.
2. Although SaskTel is providing response to many topics of interest, we may not address all points raised by the Bureau. Failure of SaskTel to address any topic, or any assumptions contained within the consultation document, or the assertions of any party, should not be understood to be agreement with those assertions.
3. In the remainder of these comments, SaskTel first provides some general comment on assumptions that appear to be embedded in the study, and then addresses the Bureau’s questions. The numbering of the individual questions that follow in this document corresponds to the numbering of the Market Study Notice released by the Department.

## **2. Fundamental assumptions embedded in the Study**

4. The Study starts from a basic assumption that broadband internet can only be provided by one of “two networks capable of providing broadband internet services: one owned by the local telephone company, and the other owned by the local cable company”, creating “limited choice [which] leads to obvious questions about competition”.
5. While it is true that there are often only two wireline providers, this restriction ignores the capabilities of other technologies and services.
6. Internet access at broadband speeds can also be provided using ‘cellular’ (mobile wireless) technology, fixed wireless access, or satellite access. While some of these alternatives may not be perceived as having as high a quality of service as fixed wireless alternatives, they can, and do, all deliver broadband access service. As such, they provide a check on the ability of wireline access providers to raise prices or make other consumer-unfriendly moves.
7. For instance, while most cellular data plans may have a higher price per MB than wireline services, they do set an upper bound beyond which wireline service providers

could not charge without causing potentially large migrations to wireless service. Indeed, this type of migration could well occur before wireline prices per MB and wireless prices converged, as mobile services have other benefits which wireline services do not. We also note that substitution between such services does not necessarily mean abandonment of one service and purchase of the other. Rather, customers who today may try to reduce their wireless data usage in favor of consuming fixed data at home may consume more data wirelessly if prices converge. As the wireless service provider may well be a different entity than the wireline provider, this adds pricing discipline to the wireline data market.

8. In the same manner, while satellite and fixed wireless broadband services are typically higher priced and targeted at customers living in areas where wireline service is not available, they are technically available in many wireline-served areas, and lack of pricing discipline in the wireline market could well drive customers to these non-wired alternatives.
9. The study appears to incorporate an assumption that providers of broadband services are earning extraordinary profits from these services, leaving room for 'resellers' to enter the market and grow market share by providing significantly lower retail rates to consumers. This is incorrect.
10. There are not arbitrage opportunities in the broadband access market – each end-user access is somewhat unique as it involves different local usages in each premise and an aggregation network behind the access. Any excess profit in the access is a small portion of the total cost which is well supervised by competitive markets. These markets already contain fixed wireline competitors, wireless providers whose services are near substitutes for wireline services, and some resellers. Any opportunities to earn extraordinary profit levels would be quickly eliminated should they appear.
11. The study also discusses the "impacts that these independent service providers, or "resellers", have had on competition"<sup>1</sup>. SaskTel notes that the term 'resellers' typically means those competitors who buy a complete service from a network owner and resell it, virtually unchanged, to their own customer. However, in addition to this type of

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<sup>1</sup> The Study, paragraph 6

wholesale competition there are independent ISPs who buy components of their service from the network owners, but who then add other components in order to create a broadband internet service. For instance, the ISP may purchase the broadband access path from an end-user location to a point of interconnection from either a cable provider or a telephone company, but the ISP will then provide its own modem at the end-user premise, transport from the point of connection to another point within the ISP network, and ITS connections to the internet (or connections to some other data service).

12. The study appears to be grouping these two types of competitors together. SaskTel will also do so in the rest of this response but notes that those ISPs which provide some of the connection through their own facilities do tend to object strenuously when referred to as 'resellers'.

### **3. SaskTel Response to the Bureau's questions**

#### **8.a) Have resellers been able to deploy competitively effective service offers?**

- i. What competitive influence have resellers had, to date, on traditional phone and cable network owners? How could this competitive influence change in the future?
  - ii. Are there differences between the services offered by traditional phone and cable network owners and those provided by resellers that could explain the observed consumption patterns? What are the value points that matter the most to consumers?
13. As noted previously, wireline 'reseller' competition includes both pure resellers and ISPs who purchase some wholesale services from network owners and then augment these with other components. It is more likely to be the second type of competitor, the competitive ISP that provides long-term competition, as they are at least partially facilities-based.
14. Competitive wireline ISPs have gained more market share in more populous areas than in less populous areas such as Saskatchewan. This is obviously because economies of scale dictate that more populous areas offer more chance of a successful business case.

15. When SaskTel has made our own competitive forays abroad, we have always argued for an environment that favours facilities-based competition because, as reseller new entrants we are unable to differentiate our product (except on price) as we are bound by the incumbent's territory, technology and upgrade plans. For such pure resellers, there is nothing to attract the customer other than price. And as competition matures the price advantage disappears, making the business unsustainable and leading to exits and sales of customer bases. And, should such a reseller fail, there is nothing left for a successor to build a business on.
16. In Saskatchewan, neither pure resellers, nor competitive ISPs have made huge inroads. We believe, in addition to our small size and dispersed customer base, there are several likely reasons that the mass consumer market does not move to these providers – reasons that apply in other national markets as well.
- Customers of network owners know that they will always upgrade their network – there is a development path. This is not necessarily so with a reseller, especially a pure reseller.
  - Services offered by the owner of the underlying infrastructure are serviced by that provider who has first hand and real time knowledge of what is going on. Customers know this. They would rather book a ride in the car owned by the driver, than book a ride in a taxi borrowed by the driver.
  - Internet service may be simply too important to be reliant on a third party who doesn't control the infrastructure.
  - There may be institutional memory that resellers and start-ups are short lived in the telecommunications industry. The least disruptive choice is to stick with an incumbent.
  - While broadband connectivity is indeed important to consumers, it is unlikely to be the most significant thing occurring in their lives. So long as they are receiving good service at a reasonable price, they have no incentive to go in search of alternatives. Those too closely enmeshed in this industry – or who stand to benefit from regulatory actions – likely overstate the importance of this issue to average Canadians.

- While we won't pretend to speak for other broadband providers in Saskatchewan, we believe that SaskTel has set the market with unlimited wireline internet with no overage charges, leaving less opportunity for a resale model.
  - Some consumers seem to prefer one bill vs many.
  - In Saskatchewan, we believe many consumers may prefer to work with a local company, and there are two local fixed-line internet service providers in many Saskatchewan markets, further reducing the market attractiveness to competitors.
17. We note that competition does not have to achieve lofty levels of market share to constrain market players. In parts of eastern Canada, network owners sell buckets of monthly data beyond which overage charges apply. Competitive ISPs were able to affect a strong initial entry into these markets by offering 'unlimited' data packages. SaskTel was already offering unlimited data on our wireline service – and always has – but the observation of this activity was certainly a factor in our continuing to do so even without large customer losses to resellers.

**8.b) How have consumers reacted to new competitive alternatives?**

- i. How aware are Canadian consumers of their options for broadband services? Are there factors that may drive consumer inertia in this industry and, if so, are there ways to overcome these factors?
  - ii. How does the fact that resellers do not typically provide other telecommunications services (e.g., television or phone service) affect the competitive attractiveness of resellers?
  - iii. How do industry contractual practices affect consumer behaviour? How are contract lengths and bundling discounts structured? How aware are consumers of their contractual obligations and rights?
18. It is hard to assess how aware consumers are of their broadband options. This, like many issues cannot be judged by the volume of comments in a social media forum. However, the issue has received a great deal of press and we presume that those consumers who are most concerned about this issue are aware of their options.
19. In many cases, consumers may have tried other options, or may have acquaintances who have done so, and may simply prefer the service provided by the network owners.

Because of this, low reseller market share may not be due to consumer inertia but may instead be heavily influenced by informed choice.

20. The fact that resellers do not offer as many services can pull in two directions. For some customers, one bill is preferable to many. On the other hand, this can lead to bill shock for other customers which could actually drive them to move to resellers as the perception is that their bill from the network owner is too high.
21. SaskTel does not currently offer contracts for wireline broadband services so cannot provide input to this issue.

**8.c) How does regulation in this industry affect the economic behaviour of broadband suppliers?**

- i. How does the Canadian reseller regime affect the incentives that network owners have to expand or upgrade their networks? Have network investment levels changed following the establishment of resellers?
  - ii. What investments must resellers make in order to provide services to consumers? Are there features of the marketplace that impede the expansion of resellers?
  - iii. Have network owners used the reseller regime to expand their reach outside of their incumbency area? Why or why not?
22. In response to this question, SaskTel returns to the definition of the Canadian reseller regime as both true resale (where the wholesale customer buys the entire internet access product and sells it in an unchanged fashion) and the purchase by ISPs of mandated wholesale Competitor Access Tariff products (which the facilities owner is mandated to provide at an arbitrarily low rate, and which provide a component of the broadband path between the end-user premise and the internet).
23. In the case where ISPs are buying mandated products provided by facilities owners through their Competitor Access Tariffs (CATs), the potential purchase of these products in order to provide internet access to end-users lowers the potential profitability of any network expansions or upgrades being contemplated by incumbents. When such an expansion is being contemplated, the facilities owner must assess the potential take rate for its services in the new premises being passed and the forecasted average revenue per customer for those who do take service. Of homes being passed: some may take

- service from the facilities owner now deploying service; some may take service from alternative facilities owners, and; some may not wish to take service at all.
24. The presence of mandated CAT services which must be provided to ISPs adds another factor to this analysis – those end-users who may take service from a ‘reseller’. Those end-users will provide a much lower return to the facilities owner, not only because of retail internet revenue being replaced by wholesale internet revenue, but also because of other services, such as voice connectivity or video entertainment, which may also be lost. This lower potential return will make any network expansion projects with low expected net present values even less appealing and may well lead to a lessening of network investment.
  25. Although this negative impact seems obvious, it is impossible to compare actual network investment levels with and without resale and to draw any conclusions. Network investment changes over the years due to: technology changes; the strength of facilities-based competitors; customer demands; the services being delivered over broadband and the data demands of those services; and many other factors. Looking at a point in time where resale was not present and comparing it to a point in time where resale was present and comparing investment between those periods is invalid because such a comparison would miss all of the above factors. The valid comparison would be between identical points in time (and geographic areas) with and without resellers. However, such a comparison is not available.
  26. The investments resellers make in order to provide services to consumers vary greatly depending on the type of reseller and the service being provided.
  27. Pure resellers only need invest in sales, marketing, and billing to directly resell the services of facilities owners. If these resellers also offer other products, this investment may be minimal indeed (as is the benefit to consumers).
  28. ISPs who buy mandated CAT services from facilities owners and who provide retail internet access must provide modems at the end-user premise, potentially transport from the facilities owner’ interconnection point to the ISPs location, and internet transport service to connect to the actual internet.

29. However, at least in Saskatchewan, this is mostly not the service these ISPs are providing. Rather, they use the mandated CAT services to provide a low cost, lower speed, lower quality<sup>2</sup> broadband data connection service to certain business customers who do not require high throughput levels.
30. Certain network owners do indeed use aspects of the reseller regime to expand their reach outside of their incumbency area, especially when providing service to customers with national footprints.

#### **4. SaskTel's Conclusions**

31. The market for broadband internet services in Canada and in Saskatchewan exhibits a healthy level of competition. Resale, especially the use by ISPs of mandated CAT services, provides some of this competition. However, the strongest competitive driver comes from the contention between pure facilities-based providers, often in the form of promotional offers aimed at incenting customer churn from one provider to another.
32. Pricing is also constrained by near-substitutes which may not provide identical service attributes to wireline-based services, but which deliver a service whose quality is strong enough that customers would accept the service trade-offs were prices of wireline services to rise significantly.
33. Even with the strength of these market factors, 'resellers' have been able to gain some market traction, especially in areas of high population concentration and when providing niche services. Given the existing level of competition, it is unsurprising that this progress has slowed somewhat as all existing market participants react to the offerings and potential offerings of non-facilities-based providers.
34. As competition in this market remains healthy, there is no need for additional government interference in the marketplace.
35. SaskTel thanks the Bureau for this opportunity to express its opinion and stands ready to participate further in the study.

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<sup>2</sup> All 'lower' notations in comparison to a higher end Business data connectivity service.