



Canadian telecom review calls for deregulation and reliance on market forces

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On March 22, 2006, the Telecommunications Policy Review Panel issued a report recommending reliance on market forces and competition policy, instead of regulation, in the telecom sector.

The three-person panel was appointed in by the federal government in April 2005 to review Canada's telecommunications regulatory framework.

The 392-page report's central recommendation is that Canada should rely on "competition and market forces rather than economic regulation, to the maximum extent feasible" in the telecom sector. In particular:

- There should be a presumption *against* regulation – the opposite of Canada's current approach.
- "Economic" and "social" regulation should be separated; for example, regulatory controls over price should not be used to achieve social objectives (such as ensuring access).
- Economic regulation should only be used to constrain anti-competitive behaviour by telecom service providers with significant market power.
- Price regulation should be removed, including price caps and price floors.
- Owners of essential facilities should continue to be required to make them available to competitors at regulated wholesale rates.
- A "Telecommunications Competition Tribunal" should be established to deal

with anti-competitive conduct by telecom service providers.

The proposed TCT is perhaps the report's most interesting proposal. The TCT would be a hybrid three-person panel consisting of a representative from the Competition Bureau, the Canadian Radio-television and Telecommunications Commission ("CRTC"), and a cabinet appointment. The TCT would draw on the CRTC and the Competition Bureau for staff. The TCT would deal with complaints about anti-competitive conduct in all telecommunications markets. The TCT is intended as a transitional body whose mandate would expire in five years.

The report proposes the TCT because the CRTC's regulatory tradition makes it hard for it to adopt a competition law approach, and it lacks the Competition Bureau's expertise in competition law. The Competition Bureau, however, lacks the CRTC's sector-specific expertise, and is unable to resolve complaints quickly enough, because it is an investigator with no adjudicative powers.

Other key recommendations include:

- The government should rely on market-based approaches to managing the radio spectrum.
- A telecommunications ombuds office with the authority to resolve consumer complaints against telecom service providers.
- Government subsidies to ensure ubiquitous broadband coverage by 2010.

- A further review of broadcasting to ensure a “competitively neutral regulatory approach to the rapidly converging broadcasting and telecommunications industries”.
- Foreign ownership restrictions should be loosened – somewhat.

Underlying the report is a recognition of the rapid and massive changes that are occurring in telecommunications industries. The report identifies three particularly important trends: the shift to Internet Protocol (IP) based networks, open network architectures, and convergence of industries. The shift to IP decreases costs, removes barriers to entry, and allows carriers to offer voice, data, television and internet on one platform. Associated with the shift to IP is the opening of network architectures, resulting in a decoupling of services and applications from the underlying networks. These trends in turn promote a four-way convergence of industries: traditional telecom, entertainment and content, consumer electronics, and computing and software.

However, the report notes, Canada’s international competitiveness may suffer because it lags behind other nations in deployment of next generation networks (such as fibre to the home), and wireless communications.

The full report is posted at http://www.telecomreview.ca/epic/internet/intprp-gecrt.nsf/en/h_rx00054e.html

Reaction to the report has been swift. Canada’s largest telephone company, Bell Canada, lauded the report as a “landmark report that will ignite a key driver of Canada’s economy”. See <http://www.bce.ca/en/news/releases/corp/2006/03/22/73421.html>

However, MTS Allstream (an incumbent carrier in Manitoba) criticized the report as “hopelessly complicated and impractical”. See: <http://www.mts.mb.ca/portal/site/mts/menuitem.0290497802902f369e5e921031248a0c/?vgnextoid=a7553fe6a032a010VgnVCM1000000408120aRCRD&year=current>

The Competition Bureau provided comments to the review panel in August 2005. See: <http://www.competitionbureau.gc.ca/internet/index.cfm?itemID=1969&lg=e>



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