



**Canadian Network Operators Consortium Inc.
Consortium des Opérateurs de Réseaux Canadiens Inc.**

January 16, 2012

FILED VIA ACCESS KEY

John Traversy
Secretary General
Canadian Radio-television and
Telecommunications Commission
Gatineau, Quebec
K1A 0N2

Dear Mr. Traversy,

Subject: CRTC File No. 8661-M59-201115403 - MTS Allstream Inc. Part I Application for reclassification of Wholesale Ethernet Services and Ancillary Relief – Intervention of Canadian Network Operators Consortium Inc.

1. This intervention is being made by Canadian Network Operators Consortium Inc. ("CNOC") with respect to the above-cited application ("Application") of MTSA Allstream Inc. ("MTSA") pursuant to Part I of the *CRTC Rules of Practice and Procedure*.

2. In its Application MTSA is seeking the reclassification of wholesale Ethernet Access and Transport services of incumbent local exchange carriers ("ILECs") from the "non-essential subject to phase-out" category as follows:

- i. Ethernet Access services ("EAS") to the "conditional essential" category of wholesale services; and
- ii. Ethernet Transport services ("ETS") to the "conditional mandated non-essential" category of wholesale services.

3. MTSA is also seeking the unbundling of wholesale EAS and ETS, so that competitors can obtain the services either individually or together.

4. Finally, MTSA is seeking a variance of the Commission's determination to forbear from exercising certain of its powers in respect of wholesale EAS and ETS, all as set out in *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008 (the “Essential Services Decision”).

5. CNOC is in support of the Application for all of the reasons set out therein and also offers the following additional comments.

6. The continued availability of EAS and ETS is essential to a competitive marketplace. Competition is particularly lacking in the small to and medium sized business (“SMB”) Internet market and is limited in other sectors of the Internet business market.

7. On the surface it appears that there is a significant degree of competition in the business Internet market, since independent service providers currently have a 25 percent market share.¹ The competitive reality on the ground is very different. Competition in business markets is highly concentrated, resulting predominantly from a handful of incumbents such as Bell Canada, MTSA, Telus and Rogers competing out of territory. The smaller independent ISPs find it much more difficult to make inroads in serving business customers, yet it is often the case that these smaller service providers that are the nimblest and most innovative.

8. In order for independent ISPs to be able to compete, they must be able to employ Ethernet access and transport services as building blocks to deliver retail services that businesses need and want. Without regulated access to ILEC EAS and ETS, there will not be a sufficient degree of such building blocks available.

9. If the regulated wholesale access rules put in place by the Commission do not facilitate competition from the independent ISP sector, innovation that could better serve the business sectors will be retarded and prices for business retail services will be higher than would be the case in a more competitive environment. Such an outcome will also adversely affect Canada’s economic efficiency and international productivity.

¹ Paragraph 30 of *Billing practices for wholesale business high-speed access services*, Telecom Regulatory Policy CRTC 2011-704, 15 November 2011.

Since businesses ultimately (either directly or indirectly) serve consumer needs, consumers will also be harmed. All of this will occur because competition will be unduly lessened in the absence reasonably priced and accessible ILEC EAS and ETS.

10. The Commission has, quite correctly, been spending a significant degree of time and effort to address such important issues as matching speeds and usage-based billing in order to promote competition, in recognition of the fact that wholesale access is the foundation of a competitive marketplace at the retail level. Regulated access to incumbent EAS and ETS on reasonable terms and conditions is another essential element of an effective wholesale access regime. Without such access, the full benefits of competition that the Commission has been striving to entrench by other means will not come to fruition.

11. For all of these reasons, CNOC urges the Commission to order the relief requested in the MTSA Application.

Yours very truly,

William Sandiford
Chair of the Board and President

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