



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

November 8, 2012

FILED VIA ACCESS KEY

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

Dear Mr. Traversy,

Subject: Canadian Network Operators Consortium Inc. Request for Enforcement of Speed-Matching Requirement against Rogers Communications Partnership

1. Canadian Network Operators Consortium Inc. ("Cnoc") is in receipt of Tariff Notice 28 ("TN 28") filed with the Commission yesterday by Rogers Communications Partnership ("Rogers"). TN 28 raises immediate and serious issues of competitive equity which if left unaddressed will cause serious harm to independent ISPs and consumers. For this reason, Cnoc is bringing this application for the Commission to require Rogers to comply, on an expedited, basis with Telecom Decision CRTC 2006-77 ("Decision 2006-77") and increase immediately the 18 Mbps, 28 Mbps and 32 Mbps service speeds offered to its third party Internet access ("TPIA") customers to 25 Mbps, 35 Mbps and 45 Mbps, respectively, with no price increase, for both disaggregated and aggregated points of interconnection ("POIs").

2. In TN 28, Rogers is seeking approval of "new" 25 Mbps, 35 Mbps and 45 Mbps aggregated POI TPIA services at prices of \$21.00, \$21.68 and \$22.35, respectively, effective December 7, 2012. Rogers is not proposing to make the new speeds available at all in conjunction with disaggregated POIs. TN 28 coupled with Rogers' behavior in the marketplace, violate one of the speed-matching principles adopted by the Commission in Decision 2006-77 for TPIA, which has not been amended or repealed.

3. At paragraph 210 of Decision 2006-77 the Commission stated in part:

"The Commission determines that should a cable carrier introduce a speed upgrade to one of its retail Internet service offerings with no corresponding price change, it is to issue at the same time,

revised TPIA tariff pages that match these retail service speed changes with no corresponding price change.”

4. No subsequent Commission determination has varied or rescinded this particular TPIA speed-matching requirement.
5. Rogers “new” 25 Mbps, 35 Mbps and 45 Mbps retail speeds are not really new. They are simply speed increases to Rogers’ Express, Extreme and Extreme Plus retail services previously offered at 18 Mbps, 28 Mbps and 32 Mbps service speeds, respectively. Rogers has already implemented the speed increases to its’ Express, Extreme and Extreme Plus retail packages without any price change to Rogers’ retail customers.
6. The current pricing for the corresponding aggregated POI TPIA services is \$14.25, \$19.06 and \$21.00, respectively. A separate set of rates also exists for corresponding disaggregated POI TPIA services.
7. In these circumstances the speed-matching directive from Decision 2006-77 cited above is clear. Rogers should have ensured that the same speed increases were made available concurrently to TPIA customers without any changes to TPIA rates for both disaggregated and aggregated POIs when Rogers increased these speeds for its retail consumers without changing the prices of those services. Rogers’ failure to do this places competitors at an undue disadvantage contrary to subsection 27(2) of the *Telecommunications Act*.
8. Speed is the most essential attribute for Internet access services and is absolutely essential to the marketing efforts of all ISPs. If the current situation caused by Rogers is allowed to persist for any length of time, Rogers’ TPIA customers, who are also Rogers’ competitors at the retail level, will be disadvantaged in the marketplace and consumers will be harmed as a reduction in competitive choices ensues.
9. In order to mitigate, as much as possible, the undue lessening of competition caused by Rogers’ failure to adhere to its speed-matching obligation, CNOC is requesting an order from the Commission on an expedited basis, requiring Rogers to increase immediately the 18 Mbps, 28 Mbps and 32 Mbps service speeds offered to its TPIA customers to 25 Mbps, 35 Mbps and 45 Mbps, respectively, with no price increase, for both disaggregated and aggregated POIs.

10. Due to the urgent nature of this application, CNOC is also requesting that the Commission dispense with the usual form and timing requirements associated with applications filed under Part I of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedures* in this instance. Instead, CNOC requests that the Commission treat this letter as a complete application and abridge the schedule for the filing of comments by Rogers (and any interested parties) and reply by CNOC. More specifically, CNOC proposes that the Commission require Rogers and any interested parties to file comments with the Commission (serving them on all relevant parties) with respect to this application by no later than 8:00 PM on Monday, November 12, 2012, with CNOC's reply to follow on Wednesday, November 14, 2012.

Yours very truly,

William Sandiford
Chair of the Board and President

Copy: David Watt, Rogers Communications Partnership (via email)

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