

April 29, 2022

FILED VIA GCKEY

Claude Doucet  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Gatineau, QC  
K1A 0N2

Dear Mr. Doucet,

**Subject: RE: Distributel’s Application requesting revised interim access rates for disaggregated wholesale High-Speed Access (HSA) services (8662-D11-202201424) – Intervention of Competitive Network Operators of Canada**

1. Competitive Network Operators of Canada (“**CNOC**”) hereby provides its intervention on Distributel Communications Limited’s (“**Distributel**”) Part 1 application (“**Application**”) to request that the Commission “establish revised interim access rates for disaggregated wholesale high-speed access (“**HSA**”) services to ensure that disaggregated HSA access rates are not higher than the access rates for aggregated HSA services where the access components for each HSA service use the same underlying technology and are within the same tariffed speed band.”<sup>1</sup>
2. CNOC supports Distributel’s application, and all requests for relief: the amendment of interim access rates for the disaggregated HSA services offered by Bell Canada, Cogeco Communication Inc., Rogers Communications Canada Inc., and Videotron G.P. over their respective FTTN equivalents<sup>2</sup>, specifically where the access component of aggregated and disaggregated HSA services uses the same underlying technology and fall within the same speed band.
3. CNOC also agrees with Distributel that the Commission should “state a general expectation that when disaggregated HSA services not currently offered become available from HSA service providers, the access rates for disaggregated HSA services offered by each will, at a minimum, not be higher than their respective aggregated HSA access rates that are in the same tariffed speed band and offered over the same access facilities.”<sup>3</sup>

<sup>1</sup> Application para 1.

<sup>2</sup> Application para 2.

<sup>3</sup> Application para 2.

4. Distributel has clearly demonstrated:
  - a. The rates for equivalent HSA FTTN access components (*i.e.*, that provide the same speed over the same FTTN access facilities) are 3.25% to 36.23% *higher* when purchased via a disaggregated HSA service than when purchased via an aggregated HSA service.<sup>4</sup>
  - b. This rate discrepancy exists even though aggregated and disaggregated HSA services provide access to the same FTTN last-mile facilities as demonstrated in the incumbents' own cost studies.<sup>5</sup>
  - c. There are no policy reasons that otherwise require or justify differential aggregated and disaggregated HSA rates for the same access components, and therefore these rate discrepancies represent a violation of section 27(1) of the *Telecommunications Act* that requires that "every rate charged by a Canadian carrier for a telecommunications service shall be just and reasonable".<sup>6</sup>
5. CNOC shares Distributel's concerns about wholesale competitors facing arbitrary cost increases to provide the same retail services via the disaggregated HSA service framework that they provide today via the aggregated HSA service framework.<sup>7</sup> Therefore, correcting the interim disaggregated rates will remove obstacles to the deployment and use of disaggregated HSA services by competitors.
6. CNOC also shares Distributel's concerns related to the correctness of the aggregated HSA rates established in Telecom Decision 2021-181 or the disaggregated HSA rates established in Telecom Order 2017-312.<sup>8</sup>
7. Granting Distributel's requested relief is one of several important steps toward a workable disaggregated access regime. Others include (not an exhaustive list):
  - a. Establishing regulated wholesale access to transport. The gaps in competitive transport availability present major barriers to the adoption of the disaggregated HSA model and mandated wholesale access at just and reasonable rates would address those barriers.

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<sup>4</sup> Application Appendix 1.

<sup>5</sup> Application Appendix 2.

<sup>6</sup> Application paras 27-28.

<sup>7</sup> Application para 31.

<sup>8</sup> Application Footnote 5.

- b. The matter of port and fibre strand sharing currently remains unresolved.<sup>9</sup> Port and fibre sharing would lower barriers to deploying disaggregated HSA services.
  - c. Lack of carrier-neutral Points of Interconnection (“**POIs**”). Interconnection at carrier-neutral POIs would benefit competitors and Incumbents alike. Competitors would be exposed to less costs and delays while Incumbents would benefit from greater freedom and flexibility to change their networks.
8. Furthermore, the Application does not address the injurious lack of interim access to FTTP facilities. To that end, CNOC wishes to remind the Commission of its January 2021 request<sup>10</sup> for a temporary FTTP resale remedy, which will enable competitors to access FTTP facilities until disaggregated HSA services are available. We urge the Commission to issue its decision on that application as soon as possible.
  9. CNOC supports Distributel’s request that the Commission decide the Application quickly. The issue raised is application is straightforward and the scope of the relief sought is narrow and focused. With the rapid approval of the requested relief, service-based competitors could continue to invest and build out the required components to offer disaggregated service with greater certainty of success.
  10. CNOC is committed to working with all stakeholders to ensure a workable disaggregated solution in the best interests of Canadian consumers.

Yours very truly,

Geoff White  
Executive Director and General Counsel

Copy: Fiona Gilfillan, CRTC (via email)  
Chris Noonan, CRTC (via email)  
Chris Hickey, Distributel (via email)

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<sup>9</sup> *Call for comments – Appropriate network configuration for disaggregated wholesale high-speed access services*, Telecom Notice of Consultation CRTC 2020-187, 11 June 2020, at para 20.

<sup>10</sup> CNOC, Application for expedited and temporary resale remedy for competitive access to Incumbent fibre-to-the-premises facilities, 12 January 2021.