

**BEFORE THE CANADIAN RADIO-TELEVISION  
AND TELECOMMUNICATIONS COMMISSION**

**IN THE MATTER OF**

**TELECOM NOTICE OF CONSULTATION CRTC 2020-83  
*SHOW CAUSE PROCEEDING AND CALL FOR COMMENTS – DISTINCTION  
BETWEEN RESIDENTIAL AND BUSINESS WHOLESALE HIGH-SPEED ACCESS  
SERVICES***

**INTERVENTION OF CANADIAN NETWORK OPERATORS CONSORTIUM INC.**

**4 MAY 2020**

## TABLE OF CONTENTS

1.0	INTRODUCTION AND SUMMARY .....	1
2.0	NO JUSTIFICATION FOR RESIDENTIAL AND BUSINESS DIFFERENTIATION .....	2
2.1	Original justifications no longer apply .....	2
2.2	Speed matching .....	4
3.0	RESIDENTIAL AND BUSINESS DISTINCTIONS INTERFERE WITH SPEED MATCHING	6
3.1	Market segmented speed matching is unjustified and harmful.....	6
3.2	Non-compliance with the speed matching requirement.....	8
4.0	POLICY OBJECTIVES AND POLICY DIRECTIONS.....	11
5.0	CONCLUSION.....	13

## 1.0 INTRODUCTION AND SUMMARY

1. Canadian Network Operators Consortium Inc. (“CNO”) welcomes this proceeding<sup>1</sup> inviting parties to show cause why it is necessary for wholesale high-speed access (“HSA”) service providers to differentiate between wholesale HSA services for residential end-users and those for business end-users within the aggregated and disaggregated wholesale HSA service regimes.

2. The residential/business market segmentation of wholesale HSA services has been without justification going back several years. There is no reason why any given business service cannot be provided to a residential end-user and vice versa. The restrictions that are under examination in this proceeding are purely artificial, contrary to Commission determinations and harmful to competition in downstream retail markets.

3. CNO is especially concerned that certain wholesale HSA service providers appear to rely on superficial language in their tariffs that distinguishes residential and business uses of wholesale HSA services in order to escape the speed matching requirement, which is the cornerstone of the regulatory framework for wholesale HSA services. There is no basis for such an interpretation of the speed matching requirement or the wholesale HSA service tariffs. And yet, certain wholesale HSA service providers seemingly offer retail Internet services to business customers, **for which there is no wholesale equivalent for business end-users, let alone residential end-users.**

4. As a consequence, service-based providers are unable to compete effectively in key retail markets, including Internet access markets but also markets for innovative services that rely on wholesale HSA services as an input (e.g., cloud-based enterprise services). Consumers located in affected markets are denied the choice of innovative and competitive offerings when it comes to service providers, service features and price for service speeds that they need. This outcome is clearly at odds with the telecommunications objectives specified under the *Telecommunications*

---

<sup>1</sup> *Show cause proceeding and call for comments – Distinction between residential and business wholesale high-speed access services*, Telecom Notice of Consultation CRTC 2020-83, 3 March 2020.

*Act*<sup>2</sup> (“Act”) and the 2006 Policy Direction<sup>3</sup> and the 2019 Policy Direction<sup>4</sup> (together, the “Policy Directions”).

5. For these reasons, CNOC requests that the Commission eliminate differentiations between wholesale HSA services for residential end-users and business end-users. To this end, the Commission should order the wholesale HSA service providers to remove all language in their tariffs that distinguishes between residential and business end-users. CNOC also asks that the Commission ensure that the speed matching requirement is applied universally to all retail Internet services that wholesale HSA service providers offer to their own customers. The Commission should thus order wholesale HSA service providers to file tariff notices immediately introducing wholesale services for **all** retail services that currently do not have an equivalent wholesale service pursuant to the speed matching requirement.

## **2.0 NO JUSTIFICATION FOR RESIDENTIAL AND BUSINESS DIFFERENTIATION**

6. In this Part 2.0, CNOC demonstrates that there is no compelling justification for the differentiated treatment of wholesale HSA services for residential end-users and business end-users.

### **2.1 Original justifications no longer apply**

7. The original rationale underpinning the differentiated treatment of residential end-users and business end-users is no longer relevant and does not apply.

8. For example, in the early days of Third Party Internet Access (“TPIA”) regulation, the matter of residential and business end-users was addressed in Order CRTC 2000-789<sup>5</sup> (“Order 2000-789”). In the proceeding leading to Order 2000-789, the Canadian Cable Television Association (“CCTA”) expressed concern “...with the traffic loads that business customers would

---

<sup>2</sup> S.C. 1993, c. 38.

<sup>3</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355 (“2006 Policy Direction”).

<sup>4</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227 (“2019 Policy Direction”).

<sup>5</sup> *Terms and rates approved for large cable carriers' higher speed access service*, Order CRTC 2000-789, 21 August 2000.

impose on the carriers' networks.”<sup>6</sup> The CCTA also argued that the cable facilities associated with TPIA services were not designed for the business market.<sup>7</sup>

9. The Commission ultimately agreed with CCTA, stating that “...the cable facilities under consideration in this proceeding are designed primarily to serve the residential market, and are not concentrated in high density commercial locations.”<sup>8</sup> Today, these findings are no longer true. As explained below in greater detail, the Commission determined in Telecom Decision CRTC 2013-73 (“TRP 2013-73”) that residential and business wholesale HSA services are functionally equivalent. In addition, cable facilities are now very concentrated in high-density commercial locations. As confirmed by the 2019 Communications Monitoring Report, cable-based carriers accounted for 37.3% of business Internet access service revenue in 2018.<sup>9</sup>

10. Although the Commission determined that there were distinguishing factors between residential and business applications of TPIA in Order 2000-789, it still adopted a policy that was intended to facilitate wholesale access to both residential end-users and business end-users. Indeed, the Commission determined that TPIA should be available for the provision of retail Internet service to end-users, whether residential or business, subject to the imposition of a reasonable volume usage rate restriction that may be applied at the carrier's option.<sup>10</sup> Notably, the Commission also rejected proposals by Shaw<sup>11</sup> and Rogers<sup>12</sup> to restrict the availability of TPIA services outright to residential uses only.<sup>13</sup> Instead, the Commission directed Shaw and Rogers to include an item in their tariffs describing TPIA as being designed for a residential market.<sup>14</sup>

11. Over the years, the justification for differential treatment of wholesale HSA services for residential end-users and business end-users has also involved rate setting considerations. Such justifications were especially relevant to the ILECs whose tariffs reflected different rates for

---

<sup>6</sup> Order 2000-789, at para 21.

<sup>7</sup> *Id.*, at para 22.

<sup>8</sup> *Ibid.*

<sup>9</sup> 2019 CMR, Figure 9.18.

<sup>10</sup> Order 2000-789, at para 24.

<sup>11</sup> Then Shaw Communications Inc.; Now, Shaw Cablesystems G.P. (“Shaw”).

<sup>12</sup> Then Rogers Communications Inc.; Now, Rogers Communications Canada Inc. (“RCCI”).

<sup>13</sup> Order 2000-789, at para 24; See also *Terms and rates approved for large cable carriers' higher speed access service*, Order CRTC 2000-789-1, 31 January 2001, (“Order 2000-789-1”), “Directions to Cogeco, Rogers, Shaw or Vidéotron”.

<sup>14</sup> Order 2000-789-1, “Directions to Cogeco, Rogers, Shaw or Vidéotron”.

residential and business wholesale HSA services up to and until 2013. As foreshadowed above, this rate-related rationale for distinguishing residential and business services is no longer true and does not apply. The Commission determined in TRP 2013-73 that "...business and residential wholesale HSA services provide essentially the same functionality use essentially the same network components, and typically have the same costs."<sup>15</sup> Further, the Commission found that any additional value associated with retail business Internet services is generally created at the retail level by the provider, through additional features such as multiple addresses, business websites, customized email addresses, and technical support.<sup>16</sup> The Commission thus approved wholesale HSA service rates that were the same for equivalent residential and business services.<sup>17</sup>

12. In summary, there remains no valid justification for the differentiated treatment of wholesale HSA services for residential end-users and business end-users.

## **2.2 Speed matching**

13. As recognized in TNC 2020-83,<sup>18</sup> the Commission determined in Telecom Regulatory Policy CRTC 2010-632<sup>19</sup> ("TRP 2010-632") that wholesale HSA service providers must provide these services to competitors at speeds that match all of the speed options the wholesale HSA service providers offer their retail Internet service customers.<sup>20</sup> Although TRP 2010-632 represented a profound commitment to speed matching principles, it is not the origin of this longstanding cornerstone of service-based competition in Canada.

14. Years earlier, the Commission considered and applied speed matching principles in a rate setting proceeding for TPIA services. The proceeding led to Telecom Decision CRTC 2006-77<sup>21</sup>, wherein the Commission determined:<sup>22</sup>

---

<sup>15</sup> TRP 2013-73, at para 29.

<sup>16</sup> *Id.*, at para 30; TNC 2020-83, at para 4.

<sup>17</sup> TRP 2013-73, at para 34.

<sup>18</sup> TNC 2020-83, at para 3.

<sup>19</sup> *Wholesale high-speed access services proceeding*, Telecom Regulatory Policy CRTC 2010-632, 30 August 2010.

<sup>20</sup> *Id.*, at para 75.

<sup>21</sup> *Cogeco, Rogers, Shaw, and Videotron - Third-party Internet access service rates*, Telecom Decision CRTC 2006-77, 21 December 2006.

<sup>22</sup> *Id.*, at para 209.

“The Commission considers that the availability of competitor TPIA services that match the speeds of retail [high-speed Internet] access services would enable competitors to compete on a more equitable basis. Accordingly, the Commission determines that if a cable carrier introduces a new retail Internet service speed, it is to file, at the same time, proposed revisions to its TPIA tariff to include this new speed offering, with a supporting cost study”

15. Similarly, the Commission applied speed matching principles to ILEC wholesale HSA services in a series of Telecom Orders issued in 2007<sup>23</sup>. Throughout these orders, the Commission signaled that the availability of wholesale services that matched equivalent retail services of the ILECs is in the public interest, since it would allow competitors to compete with the ILECs on a more equitable basis.<sup>24</sup>

16. In Telecom Decision 2008-117<sup>25</sup>, the Commission re-affirmed speed matching principles, stating:<sup>26</sup>

“Service speed is an important competitive attribute, with rates differing significantly by speed and speed often being a major differentiation point from a marketing standpoint. The Commission considers that absent a matching service speed requirement, the ability of competitors that rely on the mandated aggregated ADSL service to compete in the retail market would be significantly restricted, which would likely result in a substantial lessening or prevention of competition in the retail high-speed Internet services market.”

17. Finally, returning to TRP 2010-632, the Commission reconsidered speed matching in response to an Order in Council<sup>27</sup>. The Commission resoundingly confirmed that speed matching principles are of utmost importance to competition in Canada’s retail markets, stating:<sup>28</sup>

“The Commission notes the significant extent to which competitors use existing wireline wholesale services to provision their retail Internet services. The Commission also notes that

---

<sup>23</sup> *Bell Aliant Regional Communications, Limited Partnership for services provided in the Atlantic Provinces*, Telecom Orders CRTC 2007-21, 25 January 2007; *Bell Canada and Bell Aliant Regional Communications, Limited Partnership for services provided in Ontario and Quebec*, Telecom Order CRTC 2007-22, 25 January 2007; *Asymmetric Digital Subscriber Line (ADSL) Data Access Service*, Telecom Order CRTC 2007-23, 25 January 2007; *Aggregated Asymmetric Digital Subscriber Line (ADSL) Service*, Telecom Order CRTC 2007-24, 25 January 2007; *Network-to-Network Interface Service, Wide Area Network ADSL Service, and Wholesale Internet ADSL Service*, Telecom Order CRTC 2007-25, 25 January 2007 (“TO 2007-25”).

<sup>24</sup> See for example, TO 2007-25, at para 64.

<sup>25</sup> *Cybersurf Corp.’s application related to matching service speed requirements for wholesale Internet services*, Telecom Decision CRTC 2008-117, 11 December 2008.

<sup>26</sup> *Id.*, at para 19.

<sup>27</sup> Order in Council P.C. 2009-2007.

<sup>28</sup> TRP 2010-632, at paras 54 and 55.

the incumbents are offering increasingly higher retail Internet service speeds to consumers. In the Commission's view, if speed matching were not required for both the ILECs' aggregated ADSL access services and the cable carriers' TPIA services, competitors would be effectively prevented from offering higher service speed options to their own customers.

The Commission concludes that, without a speed-matching requirement for wireline aggregated ADSL access and TPIA services, it is likely that competition in retail Internet service markets would be unduly impaired. In the Commission's view, an ILEC and cable carrier duopoly would likely occur in the retail residential Internet service market, and competition might be reduced substantially in small-to-medium-sized retail business Internet service markets. The Commission considers that, in such circumstances, retail Internet service competition would not continue to be sufficient to protect consumers' interests." (emphasis added)

18. Time and time again, the Commission has rightfully confirmed the continued importance of applying speed matching principles to the regulatory framework for wholesale HSA services. There is a direct causal link between the unimpeded application of the speed matching requirement and the effectiveness of competition in downstream retail markets.

19. As demonstrated in Part 3.0, superficial distinctions between residential and business uses of wholesale HSA services have interfered with the application of speed matching thereby eroding the levels of competition that exist in certain retail markets. Given that there is no longer any justification for a differentiated treatment of residential end-users and business end-users, the Commission should confirm unequivocally that the speed matching requirement applies without regard to the market segments that wholesale HSA service providers or their wholesale customers choose to serve using those services.

### **3.0 RESIDENTIAL AND BUSINESS DISTINCTIONS INTERFERE WITH SPEED MATCHING**

#### **3.1 Market segmented speed matching is unjustified and harmful**

20. Section 2.2 outlines the Commission's commitment to the speed matching requirement for nearly two decades. Nowhere in any of the decisions, policies and orders cited therein did the Commission rule that speed matching principles should apply in a market segmented manner. Despite this fact, certain wholesale HSA service provider tariffs feature prominent separations of residential and business applications of wholesale HSA services. This is generally true for most

ILECs and not applicable to cable carriers, whose tariffs tend to simply state that TPIA services are configured and designed for the residential marketplace<sup>29</sup>.

21. As established above, distinctions between residential end-users and business end-users are no longer justified. By extension, the application of speed matching on a market segmented basis serves no purpose whatsoever. A wholesale HSA service provider’s decision to provide a retail service exclusively to business customers should not pre-empt a wholesale customer from offering an equivalent retail service to residential customers (or vice-versa). Afterall, the Commission has found that business and residential services are functionally equivalent. Consistent with the speed matching requirement, this functional equivalence should translate into a single wholesale service that can be used to provide service to either residential end-users or business end-users, at a wholesale HSA service customer’s discretion. If the Commission gave effect to this outcome, consumers could therefore benefit from greater choice of service providers and differentiated services.

22. The mechanics and consequences of speed matching on a market segmented basis are best illustrated by example. TELUS offers a 100 Mbps download (“D”) / 20 Mbps upload (“U”) bonded wholesale HSA service for business end-users, at a monthly access rate of \$40.25.<sup>30</sup> There is no equivalent service for residential end-users. The nearest wholesale HSA service speeds that TELUS offers for residential end-users are as follows:

<b>Download</b>	<b>Upload</b>	<b>Monthly Access Rate</b>	<b>Notes</b>
50 Mbps	10 Mbps	\$26.21	non-bonded
50 Mbps	10 Mbps	\$37.05	bonded
75 Mbps	10 Mbps	\$31.28	non-bonded
75 Mbps	10 Mbps	\$40.25	bonded

<sup>29</sup> See for example, Rogers Access Services Tariff CRTC 21530, Item 702, Section 8.4.

<sup>30</sup> TELUS Carrier Access Tariff, CRTC 21462, Item 226.3.a.

150 Mbps	25 Mbps	\$62.10	bonded
----------	---------	---------	--------

23. If a hypothetical residential customer in TELUS' operating territory requires a service with an upload speed in excess of 10 Mbps and / or a download speed that is an increment higher than 75 Mbps, without the price premium for doubling that speed, a service-based provider could only offer the 150 Mbps D / 25 Mbps U service. The rate associated with this service is 43% higher than the 100 Mbps D / 20 Mbps U business service, which would satisfy both of this hypothetical customer's needs at a monthly access rate of \$40.25 and a commensurately lower retail price.

24. So long as speed matching is applied on a market segmented basis, retail competition and consumer choice will be frustrated by these types of consequences. CNOc therefore requests that the Commission remove the potential for such consequences by eliminating residential and business differentiations and applying the speed matching requirement on a non-market-segmented basis.

### 3.2 Non-compliance with the speed matching requirement

25. The Commission's prior speed matching determinations are unequivocal: all retail Internet services offered by wholesale HSA service providers must be made available on a wholesale basis, in accordance with the speed matching requirement. Despite this clear requirement, certain wholesale HSA service providers seemingly offer retail Internet services to business customers, **for which there is no wholesale equivalent for business end-users, let alone residential end-users.**

26. For example:

- Rogers offers a 150 Mbps D / 20 Mbps U retail business service<sup>31</sup> for which there is no equivalent wholesale service;

<sup>31</sup> [https://www.rogers.com/business/products-and-solutions/business-internet/plans-and-pricing?ecid=PS\\_E0010\\_E\\_SWN\\_Apr\\_19\\_ALW\\_X7LGZ7&gclid=Cj0KCQjw7qn1BRDqARIsAKMbHDZe9rCT2jkXvrL5rvorqhHN4JJXNoHYNx5f808xtV2lYZ0izlPyx98aAroxEALw\\_wcB&gclsrc=aw.ds](https://www.rogers.com/business/products-and-solutions/business-internet/plans-and-pricing?ecid=PS_E0010_E_SWN_Apr_19_ALW_X7LGZ7&gclid=Cj0KCQjw7qn1BRDqARIsAKMbHDZe9rCT2jkXvrL5rvorqhHN4JJXNoHYNx5f808xtV2lYZ0izlPyx98aAroxEALw_wcB&gclsrc=aw.ds)

- Rogers offers a 1000 Mbps D / 50 Mbps U retail business service<sup>32</sup> for which there is no equivalent wholesale service;
- Cogeco offers a 20 Mbps D / 10 Mbps U retail business service<sup>33</sup> for which there is no equivalent wholesale service;
- Cogeco offers a 80 Mbps D / 15 Mbps U retail business service<sup>34</sup> for which there is no equivalent wholesale service;
- Cogeco offers a 120 Mbps D / 20 Mbps U retail business service<sup>35</sup> for which there is no equivalent wholesale service;
- Cogeco offers a 1000 Mbps D / 50 Mbps U retail business service<sup>36</sup> for which there is no equivalent wholesale service;
- Shaw offers a 75 Mbps D / 15 Mbps U retail business service<sup>37</sup> for which there is no equivalent wholesale service;
- Shaw offers a 600 Mbps D / 100 Mbps U retail business service<sup>38</sup> for which there is no equivalent wholesale service;
- Shaw offers a 1000 Mbps D / 125 Mbps U retail business service<sup>39</sup> for which there is no equivalent wholesale service;
- Eastlink offers a 150 Mbps D / 20 Mbps U retail business service<sup>40</sup> for which there is no equivalent wholesale service;
- Eastlink offers a 300 Mbps D / 20 Mbps U retail business service<sup>41</sup> for which there is no equivalent wholesale service;

---

<sup>32</sup> *Ibid.*

<sup>33</sup> <https://www.cogeco.ca/en/business/internet/packages>

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

<sup>37</sup>

[https://assets.ctfassets.net/xuyk8cewv1yh/5WmnxdBJWoM0kUAKE4OmCO/7f51c6697d16994e8972fc164863c8f2/shw\\_biz\\_internet\\_sellsheet\\_0219\\_v3.pdf](https://assets.ctfassets.net/xuyk8cewv1yh/5WmnxdBJWoM0kUAKE4OmCO/7f51c6697d16994e8972fc164863c8f2/shw_biz_internet_sellsheet_0219_v3.pdf)

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> <https://business.eastlink.ca/internet/>

<sup>41</sup> *Ibid.*

- Videotron offers a 100 Mbps D / 50 Mbps U retail business service<sup>42</sup> for which there is no equivalent wholesale service; and
- Videotron offers a 200 Mbps D / 50 Mbps U retail business service<sup>43</sup> for which there is no equivalent wholesale service.

27. In virtually every case listed above, the retail business service is distinguished from the nearest available wholesale service on the basis of higher upload speeds. Of course, upload speeds are critical to modern business applications including cloud solutions, video conferencing and more. So while the above-listed carriers have tailored their suite of business services to respond directly to retail demand conditions, those offerings have not been extended on a wholesale basis in accordance with the speed matching requirement. Service-based competitors are thus left with wholesale options that are ill-suited to meet the needs of business customers.

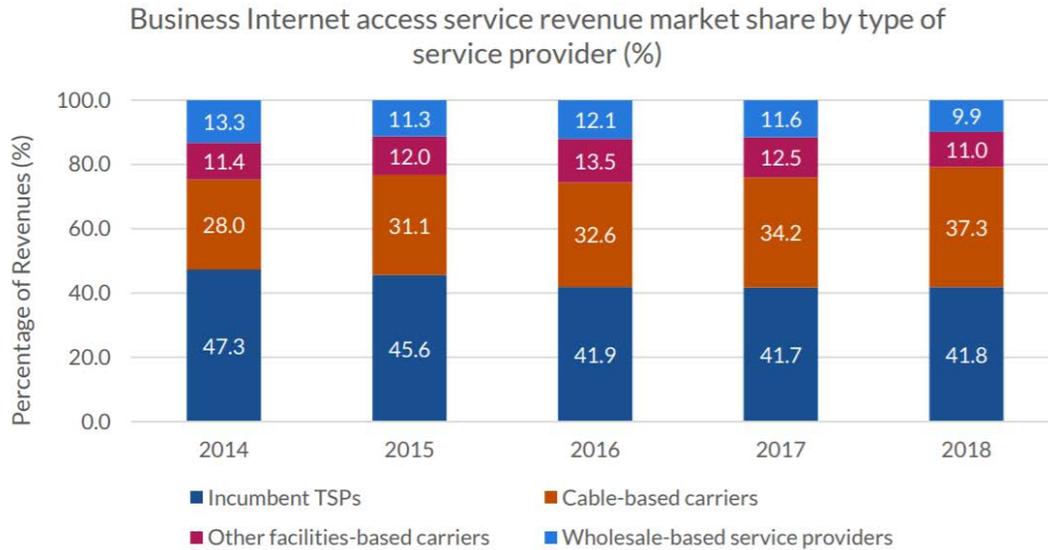
28. This situation has allowed Rogers, Cogeco, Shaw, Eastlink and Videotron to enjoy significant competitive advantages in retail business markets. Indeed, CNOC suspects that non-compliance with the speed matching requirement has contributed significantly to the ability of these carriers to consistently capture additional market share year-after-year, as reflected in Figure 9.18 of the 2019 CMR:

---

<sup>42</sup> <https://videotron.com/business/b/products-solutions/internet/internet-access/hybrid-fibre-internet/N-1sfbfyf/>

<sup>43</sup> *Ibid.*

Figure 9.18 Business Internet access service revenue market share, by type of service provider (%)



29. As the Commission forewarned in TRP 2010-632 and preceding rulings,<sup>44</sup> the outright denial of speed matching in these circumstances has restricted the ability of service-based providers to compete in downstream markets, thereby unduly impairing the levels of competition that exist in those retail markets. To make matters worse, retail business service agreements are typically subject to three-year fixed terms.<sup>45</sup> Consequently, even if the Commission restores compliance with the speed matching requirement at the conclusion of this proceeding, the competitive harms of non-compliance will persist for years to come. For this reason, CNOC urges the Commission to issue the remedies requested in this intervention as soon as possible.

#### 4.0 POLICY OBJECTIVES AND POLICY DIRECTIONS

30. Ensuring compliance with the speed matching requirement and eliminating the superficial differentiated treatment of residential end-users and business end-users are regulatory measures

<sup>44</sup> See Section 2.2 of this intervention.

<sup>45</sup> For example, consider the promotional incentives offered by Cogeco (<https://www.cogeco.ca/en/business/internet/packages>) and Rogers ([https://www.rogers.com/business/products-and-solutions/business-internet/plans-and-pricing?ecid=PS\\_E0010\\_E\\_SWN\\_Apr\\_19\\_ALW\\_X7LGZ7&gclid=Cj0KQCQjw7qn1BRDqARIsAKMbHDZe9rCT2jkXvrL5rvorqhHN4JJXNoHYNx5f808xtV2lYZ0izlPyx98aAroxEALw\\_wcB&gclsrc=aw.ds](https://www.rogers.com/business/products-and-solutions/business-internet/plans-and-pricing?ecid=PS_E0010_E_SWN_Apr_19_ALW_X7LGZ7&gclid=Cj0KQCQjw7qn1BRDqARIsAKMbHDZe9rCT2jkXvrL5rvorqhHN4JJXNoHYNx5f808xtV2lYZ0izlPyx98aAroxEALw_wcB&gclsrc=aw.ds))

that further the telecommunications policy objectives in a manner that is consistent with the Policy Directions.

31. The Commission has already determined that the speed matching requirement advances the telecommunications policy objectives in a manner that is consistent with the 2006 Policy Direction. In TRP 2010-632, the Commission determined that its determinations regarding speed matching engaged subparagraphs 1(b)(ii) and (iv), paragraph 1(a), and subparagraph 1(b)(i) of the 2006 Policy Direction.<sup>46</sup> Further, the Commission considered that the policy objectives set out in paragraphs 7(a), (b), (c), (f), and (h) of the *Act* were advanced by its speed matching determinations.<sup>47</sup> Specifically, the Commission determined that its speed matching determinations “...aim to ensure that retail Internet service markets will remain competitive and continue to deliver high-quality services and respond to users’ economic and social requirements.”<sup>48</sup> In addition, the Commission considered that its speed matching determinations in TRP 2010-632 neither deterred economically efficient competitive entry into retail Internet services nor promoted economically inefficient entry.<sup>49</sup>

32. The regulatory measures proposed in this intervention<sup>50</sup> seek to establish the outcome that the Commission envisioned in TRP 2010-632 and prior speed matching related rulings.<sup>51</sup> Accordingly, the remedies proposed by CNOC advance the telecommunications policy objectives in a manner consistent with the 2006 Policy Direction, just as the Commission described in TRP 2010-632.

33. The measures proposed in this intervention are also consistent with the 2019 Policy Direction, by allowing the Commission to implement the telecommunications policy objectives in a manner that:

---

<sup>46</sup> TRP 2010-632, at para 144.

<sup>47</sup> *Id.*, at para 146.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

<sup>50</sup> Namely, (1) ensuring universal compliance with the speed matching requirement; and (2) eliminating the differentiated treatment of wholesale HSA services to residential end-users and business end-users.

<sup>51</sup> Including those listed in Section 2.2. of this intervention.

- a. Encourages all forms of competition and investment by allowing service-based competition to operate effectively on the basis of a robust speed matching requirement that is unimpeded by superficial distinctions between residential and business applications (consistent with subparagraph 1.a.i. of the 2019 Policy Direction);
- b. Fosters affordability and lower prices where wholesale HSA service providers exercise market power, by empowering service-based providers to compete effectively on the basis of robust speed matching requirement (consistent with subparagraph 1.a.ii. of the 2019 Policy Direction);
- c. As an extension of points a. and b., ensures affordable access to high-quality telecommunications services in all regions of Canada (consistent with subparagraph 1.a.iii. of the 2019 Policy Direction);
- d. Reduces barriers to entry into the market and to competition for service-based providers that currently face barriers due to market-segmented application of the speed matching requirement and non-compliance with that requirement (consistent with subparagraph 1.a.v. of the 2019 Policy Direction); and
- e. Enables innovation in telecommunications services, including differentiated service offerings by granting service-based providers the freedom to deploy available wholesale HSA services in whichever market – residential or business – that they wish to serve (consistent with subparagraph 1.a.vi. of the 2019 Policy Direction).

## **5.0 CONCLUSION**

34. It is no longer necessary for wholesale HSA services to differentiate between residential end-users and business end-users. These distinctions have been completely superficial since at least 2013, when the Commission determined that residential and business wholesale HSA services are functionally equivalent. With the passage of time, these distinctions have led wholesale HSA providers to apply the speed matching requirement on a market segmented basis. In some cases, wholesale HSA service providers do not comply with the speed matching requirement at all. This

situation has unduly impaired competition in downstream retail markets, to the ultimate detriment of Canadian consumers of Internet access services and other telecommunications services.

35. For these reasons, CNOC requests that the Commission:

- (1) order the wholesale HSA service providers to remove all language in their tariffs that distinguishes between residential and business end-users; and
- (2) ensure that the speed matching requirement is applied universally to all retail Internet services that wholesale HSA service providers offer to their own customers. The Commission should thus order wholesale HSA service providers to file tariff notices immediately introducing wholesale services for **all** retail services that currently do not have an equivalent wholesale service pursuant to the speed matching requirement.

\*\*\* END OF DOCUMENT \*\*\*