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May 20, 2005

Ms. Diane Rhéaume  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, Ontario  
K1A 0N2

Dear Ms. Rhéaume:

**RE: Telecom Public Notice CRTC 2005-2 Local Exchange Forbearance – List of local exchange services**

1. The Canadian Cable Telecommunications Association (CCTA) hereby provides its comments on the submissions of Aliant Telecom Inc. (Aliant), Bell Canada (Bell), MTS Allstream Inc. (MTS Allstream), Saskatchewan Telecommunications (SaskTel), Société en commandite Télébec, and TELUS Communications Inc. (TELUS) (collectively, the ILECs), filed pursuant to paragraph 39 of Telecom Public Notice CRTC 2005-2 (PN 2005-2).

**Background:**

2. In PN 2005-2, the Commission sought input on the local exchange services that should be within the scope of the proceeding. At paragraph 22, the Commission stated that it:

...considers that local exchange services used by residential and business customers to access the public switched telephone network (PSTN) are within the scope of this proceeding, as are the service charges and any features related to the provision of these services.

3. The Commission also indicated that the scope of the proceeding does not include: public telephone services, customer-specific arrangements (CSAs) and bundles that do not include local exchange services, point-to-point services, operator services, mobile and exchange radio services, and competitor services.
4. The Commission directed the ILECs to identify each tariffed local exchange service that they consider to be within the scope of the proceeding, including justification for why each service should be within the scope of this proceeding. For each service identified, the ILEC was also requested to indicate whether the service is dependent on any underlying service.
5. At paragraph 39, the Commission directed the ILECs to provide the following information in a Microsoft Excel spreadsheet:
  - Tariff number and website link directly to the tariff;
  - Item number;
  - Service name;
  - Service description;
  - Basket to which the service is assigned; and
  - Dependency on underlying service(s), if applicable, specifying for each such service:
    - Tariff number and website link directly to the tariff (if tariffed),

- Item number (if tariffed),
- Service name,
- Service description, and
- Nature of the dependency.

6. Parties were invited to review the ILEC's lists of tariffed local exchanges services and provide comments by 20 May 2005.
7. As noted, the Commission directed the ILECs to provide a justification regarding why each service an ILEC identifies should be within the scope of the PN 2005-2 proceeding. CCTA notes that in a number of instances, these justifications are of limited detail and provide little rationale for the services' inclusion within the scope of the proceeding.
8. For example, in Bell's Attachment to its 13 May 2005 submission, it provides a list of the services it considers to be within the scope of the PN 2005-2 and under the column "Justification", offers two note references as explanation:

Note 1: Service is a local exchange service.

Note 2: Service applies to local exchange service.

9. CCTA has reviewed the ILECs' proposed listings of tariffed services within the scope of the proceeding and provide the following comments.

## What are Local Exchange Services?

10. In order to assess the appropriateness of the tariffed services proposed by the ILECs as being within the scope of the proceeding, it requires a common understanding of what are local exchange services.
11. Local exchange services commonly utilize a telephone number conforming with NANP and permit subscribers to call and/or receive calls from any telephone with access to the PSTN. For example, Decision 97-8 established the framework for competitive entry into the local exchange services market. This would include services such as the ILECs' Primary Exchange Service (PES). For example, Bell's General Tariff 6716, Item 30.3 states:

Exchange service (or local service) is the furnishing of the service and facilities required for telephone communication between primary, exchange services of the same exchange or local service area, and between such services and the associated toll office.

12. This understanding of local exchange service is also shared by other ILECs such as SaskTel (notwithstanding some of the service classifications included in its submission). In its cover letter to its 16 May 2005 submission, SaskTel states:

In addition to the local services tariffs identified in the attachment, SaskTel submits that local exchange services used by residential and business customers to access the public switched telephone network it may offer in the future also should be considered to be within the scope of this proceeding.<sup>1</sup> (Emphasis added)

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<sup>1</sup> SaskTel submission filed pursuant to paragraph 24 of PN 2005-2, May 16, 2005, at paragraph 3.

13. Similarly, TELUS in the cover letter to its filing states:

In accordance with the Commission's guidance set out in paragraphs 22 to 24, TELUS is filing lists of the tariffs for local exchange services that allow business and residential customers access to the Public Switched Telephone Network ("PSTN"), as well as any service charges and features related to the provision of local exchange service that may be provided to said residential or business customers.

14. CCTA submits that the ILECs have identified a number of services it claims to be within scope of the PN 2005-2 proceeding that are either (i) inappropriately classified as local exchange services, or (ii) not solely related to local exchange services.
15. Before proceeding to that analysis, CCTA notes that the services identified as local exchange services for the purposes of the PN 2005-2 proceeding are not consistent with those services that the ILECs have identified as local exchange services for the purposes of another recent proceeding. In the follow-up proceeding to Retail quality of service rate adjustment plan and related issues, Telecom Decision CRTC 2005-17 (Decision 2005-17), the ILECs were required to file information on business and residential local services for purposes of finalizing the rate adjustment plan. As discussed further below, a number of ILECs have proposed to include Digital Network Access (DNA) service as a local service that is within the scope of the PN 2005-2 proceeding. By comparison, Aliant stated in its filing in response to Decision 2005-17 that DNA service revenues should be excluded because DNA service is "not a local exchange service". Aliant has also taken different approaches as between the two proceedings respecting the treatment of late payment charges. CCTA is of the

view that the Commission should scrutinize the two sets of filings to ensure consistency in the definition of which services constitute local services.

### **Inappropriately classified services**

16. CCTA has identified several services that the ILECs have inappropriately proposed to classify as local exchange services.

#### *Digital Network Access:*

17. A number of ILECs have identified Digital Network Access (DNA) services as a local exchange service within the scope of PN 2005-2. As indicated above, Bell's justification for this classification is simply that the DNA service is a local exchange service. SaskTel's justification states "business local service." Similarly, Aliant's justification states "Service applies to a local exchange service."
18. By comparison, in Aliant's comments filed in response to Decision 2005-17, it stated that the appropriate classification of DNA service is not as a local exchange service and provided the following explanation:

Many access services are used to transport data only; there is no access to the PSTN and no ability to make and/or receive voice calls. These access services do not meet the Commission's definition of local exchange services and are therefore excluded.<sup>2</sup>

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<sup>2</sup> Aliant filing pursuant to paragraph 276 of Decision 2005-17, dated April 25, 2005, Attachment 4A at paragraph 5.

19. CCTA submits that DNA service is not a local exchange service – it doesn't provide subscribers with the ability to call/and or receive calls from any telephone with access to the PSTN. For example, Bell's National Services Tariff, Tariff 7400, Item 301 describes the service as follows:

Digital Network Access provides for the digital transmission of information from the customer's premises to another premise within the exchange at 1.533 Mbps, or 44.736 Mbps, or from the customer's premises to the rate centre to connect with other network services at speeds of less than 1.544 Mbps, 1.544 Mbps or 44.736 Mbps.

For Bell only, transmission at 155 Mbps (OC-3) and 622 Mbps (OC-12) is available between two points in the same exchange or to connect a customer location to a network service at the wire centre or rate centre.

20. Bell and the other ILECs have identified Megalink/ISDN-PRI and Digital Exchange Access services, both of which provide connectivity to the PSTN, as dependent on DNA service where a customer to these services must subscribe to DNA for the access component of the service. While the Commission indicated at paragraph 23 of PN 2005-2 that the dependencies between the underlying access and transport services and local exchanges services are relevant to the proceeding, the CCTA submits that this dependency does not imply that the underlying access service (DNA) is a local exchange service within the scope of the proceeding.
21. CCTA notes that not all of the ILECs have included DNA services within the scope of the current proceeding. MTS Allstream's submission does not include the service, clearly indicating that it does not consider the service to be a local exchange service either. In addition, TELUS has not identified DNA as a local exchange service in its filing.

22. Furthermore, CCTA notes that DNA service was previously the subject of a forbearance proceeding by the ILECs (PN 99-7). In Order CRTC 2000-653, the Commission denied the application by the major ILECs for forbearance from regulation of the provision of digital network access services. In the DNA forbearance proceeding, the applicants defined DNA services as:

Providing a subscriber with a dedicated digital point-to-point or multipoint transport capability of DS-0 bandwidth or greater between the subscriber's premises and a telecommunications carrier's central office (CO) or point of presence (POP) in the same wire centre, for the purposes of transmitting any form of information.<sup>3</sup>

23. As indicated above, in PN 2005-2 the Commission stated that the scope of the proceeding does not include point-to-point services. CCTA submits that this further confirms that DNA service is not a local exchange service and not within the scope of the proceeding. In addition, the Commission has already developed and applied a framework for forbearance for DNA services.

*Ethernet Access:*

24. CCTA also notes that Bell has proposed to classify Ethernet Access (GT 6716, Item 5020) as a local exchange service. According to Bell's tariff, Ethernet Access provides for transmission of information between an end user's premises and a serving central office at speeds of 10 Mbps, 100 Mbps and 1000 Mbps. However, Ethernet Access does not provide the end user with the ability to call and/or receive calls from any telephone with access to the PSTN.

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<sup>3</sup> Order CRTC 2000-653, at paragraph 7.



25. CCTA submits that for similar reasons detailed above regarding DNA service, Ethernet Access service is not a local exchange service and should not be considered within the scope of the current proceeding.

**Other services not solely related to local exchange service**

26. CCTA notes that the ILECs have identified tariff service elements ancillary to local exchange related services within the scope of the current proceeding. However, CCTA is concerned that in a number of instances, these tariff elements are not solely related local exchange service but are also applicable to other tariffed services.
27. As an example, Bell has identified late payment charges (General Tariff 6716, Item 25) and NSF cheque charge (Tariff 6716, Item 28) as local exchange service within the scope of the proceeding. However, it is CCTA's understanding that these elements, as part of Bell's General Tariff 6716, apply to all tariff services within the tariff, not just local exchange service. For example, services such as lease of channels and Gateway Access Service are not identified as local exchange services but would be impacted by items such as the late payment charge or NSF cheque charge.
28. In addition, CCTA notes that Bell's Access services tariff 7516, Item 10.1(d) contains the following reference:

Insofar as they are reasonably applicable and not inconsistent with this Tariff, the Company's General Tariff, CRTC 6716, and all other Company tariffs, including any amendments to or replacements of them, extend and apply to this Tariff.

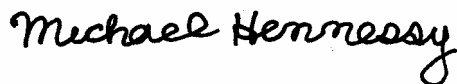
29. As another example, TELUS' Tariff 1005, Item 110, contains the following reference to the applicability of service charges to other services:

#### C. MISCELLANEOUS SERVICE CHARGES

1. Many services are covered in other sections of the Company's Tariffs, some of which carry a cross reference to Item 110 for the applicable service charge. The cross reference to Item 110 indicates that the service charge will consist of the appropriate service charge elements.
  2. Many services outlined in other sections of the Company's Tariffs carry a service charge designated by a specified amount or refer to Item 111 or Item 170. Such charges apply apart from MEP service charge elements as appropriate and are not related to the MEP service charges
30. CCTA also notes that in MTS Allstream's Tariff 24001, Item 2600.3 – Mobile Telephone Service, which MTS Allstream has not identified as a local exchange service, Note 2 indicates that Item 510 – Service Charges applies. However, MTS Allstream has identified Item 510 – Service Charges as a service related to local exchange services.
31. Finally, CCTA notes that Aliant and Bell have included in their lists 9-1-1 related services: Aliant's Provincial Enhanced 911 Service (GT 21491, Item 235); and Bell's 9-1-1 Public Emergence Reporting Service (GT 6716, Item 1400). In the case of Aliant, the same tariff item is charged to competitors that use this service to provide 9-1-1 capability to their local exchange service end-customers. In Bell's case, the referenced tariff also applies to Wireless Access services, in addition to Bell's local exchange services.

32. CCTA does not dispute that these types of tariff elements would not apply to local exchange service if and when the local exchange service is forborne. However, the ILECs have failed to identify whether the tariff items identified also apply to other non-local exchange services. When considering which services could be forborne it is important that the Commission ensure that the ILECs are not provided with an opportunity to engage in discriminatory behaviour with respect to the pricing of services that are used by competitors and their own end-customers. CCTA submits that to the extent that tariff items identified by the ILECs are also applicable to other tariffs components, including tariffs related to Competitor services, it would be inappropriate to consider forbearance for these tariff items as part of the local exchange service proceeding.

Sincerely,

A handwritten signature in black ink that reads "Michael Hennessy". The signature is written in a cursive, slightly slanted style.

Michael Hennessy,  
President

cc.: Interested Parties – CRTC Telecom Public Notice 2005-2

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