Teresa Griffin-Muir
Vice President, Regulatory Affairs
Vice-présidente des Affaires réglementaires
MTS Allstream Inc.

28 July 2006

By Epass

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

Dear Ms. Rhéaume:

Subject: Public Notice 2006-9, *Proceeding to examine whether mobile wireless services should be considered to be in the same relevant market as wireline local exchange services with respect to forbearance, and related issues*

Pursuant to paragraph 12 of Telecom Public Notice CRTC 2006-9 (PN 2006-9), *Proceeding to examine whether mobile wireless services should be considered to be in the same relevant market as wireline local exchange services with respect to forbearance, and related issues,* MTS Allstream Inc. submits the following comments.

Yours truly,

c.c.: Interested parties to Public Notice 2006-9

Winnipeg: PO Box 6666, MP19C, 333 Main Street, Winnipeg, MB R3C 3V6 Tel: (204) 941-6713 Fax: (204) 775-2560 email: reg.affairs@mtsallstream.com
Ottawa: 45 O'Connor Street, Suite 1400 Ottawa, ON K1P 1A4 Tel: (613) 688-8789 Fax: (613) 688-8303 email: iworkstation@mtsallstream.com

Telecom Public Notice CRTC 2006-9

Proceeding to examine
Whether mobile wireless services
Should be considered to be
in the same relevant market
as wireline local exchange services
with respect to forbearance,
and related issues,

Comments of
MTS Allstream Inc.

28 July 2006

Table of Contents

Introduction

1. These are the comments of MTS Allstream Inc. (MTS Allstream) in response to Telecom Public Notice CRTC 2006-9 (PN 2006-9), *Proceeding to examine whether mobile wireless services should be considered to be in the same relevant market as wireline local exchange services with respect to forbearance, and related issues*, 16 June 2006.

2. In PN 2006-9, the Commission noted that a recent Residential Telephone Service Survey from Statistics Canada (the StatsCan Report) indicates that the estimated percentage of Canadian households that have replaced their wireline services with wireless services has increased to 4.8%, with higher rates of substitution in certain urban centres. The Commission therefore requested comment on whether it should revisit its conclusion in Telecom Decision CRTC 2006-15, *Forbearance from the regulation of retail local exchange services,* 6 April 2006 (the Local Forbearance Decision) that wireless services do not belong in the same relevant market as wireline local exchange services.

3. MTS Allstream notes that the StatsCan Report pertains only to the residential market. While the Commission did not specify in PN 2006-9 whether it was requesting comment on the residential market, the business market, or both, MTS Allstream restricts its comments to the residential market for local exchange services. As no new information has been obtained respecting the business market, the Commission's determination should remain undisturbed in respect of the market for business services.

4. A proper market analysis under competition law must rely not simply on the actual level of substitution between products or services, but must also examine, among other things, functional equivalence, pricing and marketing evidence where available. The Commission's analysis in the Local Forbearance Decision of whether wireless services belong in the same relevant product market properly took into consideration not just evidence of the level of substitution of wireless services for wireline services, but these other factors as well, and concluded that wireless services were not in the same relevant product market as the incumbent local exchange carriers' (ILECs) wireline local exchange services.

5. In MTS Allstream's view, an analysis of all of these factors demonstrates that competition from wireless services remains insufficient to constrain the market power of the large ILECs in the market for wireline local exchange services, and that such wireless services remain complementary, rather than close substitutes to, the ILECs' wireline local exchange services, notwithstanding the relatively modest rise in the rate of substitution reflected in the recent StatsCan Report.

6. In any event, in MTS Allstream's view, an analysis of the evidence of increased wireless substitution in the residential market, including the StatsCan Report, itself demonstrates that substitution has not been broad-based, and wireless services remain a complement to wireline service for the most part. This conclusion is supported by the fact that while unique circumstances in specific geographic markets may indicate higher levels of wireless substitution, such is not the case generally. In addition, particular kinds of consumers may be substituting more readily than others. However, as the Commission itself noted in the Local Forbearance Decision, section 34 of the *Telecommunications Act* (the *Act*) requires that the Commission forbear from regulating a "service or class of services," and does not allow the Commission to forbear from regulating any particular class of consumers.

7. For the foregoing reasons, as well as those discussed further below, MTS Allstream believes that the conclusions reached by the Commission in the Local Forbearance Decision remain correct at this point in time.

8. MTS Allstream also notes that, according to the July 2006 CRTC Telecommunications Monitoring Report that was released yesterday (the Competition Report), the Bell group of companies (the Bell Group), TELUS Communications Inc. (TCI) and Rogers Wireless (Rogers) account for over 90% of mobile market subscribers across the country. Moreover, in their incumbent serving territories, the Bell Group and TELUS hold market shares ranging from 38% to 100%.[1] Therefore, even if the Commission considers that the rate of wireless substitution has increased sufficiently to suggest that wireless services are in the same relevant product market as wireline local exchange services – a proposition with which MTS Allstream strongly disagrees – to take into account this fact

the Commission would be required to ensure that the loss of a wireline network access service (NAS) by an ILEC to that ILEC's wireless affiliate is not considered in the calculation of the ILEC's market share loss. Market power must remain the key consideration in any analysis of market share loss. When a customer of an ILEC replaces its wireline service with a wireless service provided by that same ILEC, however, there has been no diminution of the ILEC's market power.

The Local Forbearance Decision

9. In the Local Forbearance Decision, the Commission concluded that wireless services were not in the same relevant product market as wireline services for the following reasons:

- while the prices of wireline local exchange services and mobile wireless services may be similar in some cases, the pricing methodologies, particularly usage-sensitive pricing of mobile wireless services, represent a fundamental difference in how the services are priced;

- mobile wireless services are generally not marketed as a replacement for wireline services; in fact, there is increasing evidence that several Canadian carriers offer bundles consisting of both wireline and mobile wireless services, which would suggest that the two services are not substitutes for each other;

- the StatsCan *Residential Telephone Service Survey* as of December 2004 showed that only 2.7 percent of all households in Canada have replaced their wireline services with wireless services, which was very low in comparison to the 67 percent of all Canadian households that have at least one subscription to mobile wireless services; and

---

[1] CRTC Telecommunications Monitoring Report, *Status of Competition in Canadian Telecommunications Markets,* July 2006 Table 4.6.3, page 84.

- while some consumers are substituting mobile wireless services for their wireline service, at present, the level of substitution is not significant enough to provide a constraint on the market power of the ILEC in a relevant market.[2]

10. MTS Allstream submits that reviewing these four factors in light of the new data available from StatsCan, which go to only one of the factors, does not change the conclusion reached in the Local Forbearance Decision that wireless services and wireline local exchange services are not in the same relevant product market.

The need for a full analysis

11. Properly defining a relevant product market is an essential step in the assessment of market power. Defining the relevant market for the purposes of forbearance is therefore an exercise requiring the careful consideration of numerous factors. An overbroad definition of the relevant market can result in an artificial reduction of industry concentration and market power, to the detriment of competition and consumers.

12. The question of whether wireless service should be considered as part of the same relevant market as wireline local exchange services, for market power assessment purposes, effectively hinges on whether mobile wireless service can be shown to be a "close" substitute for wireline local exchange services.

13. The Competition Bureau, which the ILECs credit with economic expertise in defining markets as well as other aspects of determining market power, previously concluded that wireline and wireless are not in the same market: see *Technical Backgrounder – Acquisition of Microcell Telecommunications Inc. by Rogers Wireless Communications Inc.*, an April 2005 document summarizing the main findings of its review of the acquisition of Microcell by RWCI (the Technical Backgrounder re RWCI acquisition of Microcell).

14. In its submissions in the proceeding leading up to the Local Forbearance Decision, the Competition Bureau noted that defining the relevant product market would require the examination of key factual issues:

---

2 Local Forbearance Decision, paragraphs 58 to 61.

> The first issue is how willing and able are consumers to substitute other technological forms of access to the PSTN for ILEC circuit-switched local exchange services. Second, are there attributes inherent in an ILEC's service for which competitors cannot offer good substitutes, because competitors cannot provide the features, competitors' features are not of the same quality or functionality as those provided by the ILEC, competitors' costs are too high, or the switching costs for consumers are significant? Third, are competitors successful in holding on to their customers and, if so, what mechanisms do they adopt to reduce customer churn?[3]

15. As noted by the Competition Bureau in its submissions, and as properly addressed by the Commission in the Local Forbearance Decision, this in turn requires consideration of a variety of factors, of which the actual level of substitution is but one:

    a) What is the actual level of substitution?
    b) Are the two services functionally equivalent?
    c) Are price levels similar? What is the cost of switching?
    d) Are wireless services marketed as substitutes for wireline services?
    e) Is the level of substitution significant enough to provide a constraint on the market power of the ILEC in a relevant market?

a) Level of substitution

16. The StatsCan Report showed that as of December 2005, 4.8% of Canadian households (or just over 615,000 households) reported having only a cellphone. In British Columbia, that percentage was 7.1% and in Alberta, 5.8%. In addition, the StatsCan Report noted that certain urban centres showed higher rates of wireless-only use, specifically Vancouver (9.6%), Montréal (6.4%) and Calgary (6.4%).

17. In light of this information, the Commission issued PN 2006-9 in which it decided to re-examine the issue of whether wireless services are in the same relevant product market as wireline local exchange services.

---

[3] Argument of the Commissioner of Competition, 15 September 2005, in response to Telecom Public Notice 2005-2, *Forbearance from regulation of local exchange services* at paragraph 45.

18. While the 4.8% level of substitution is mathematically greater than the 2.7% that was in evidence at the time that the Commission made the Local Forbearance Decision, it still pales in light of the number of households who have both a wireline and wireless phone. To place the numbers in context, StatsCan's June 2006 *Innovation Analysis Bulletin* estimates that by the end of 2005 there were 16.6 million subscribers to mobile communications services.[4] In other words, only .037% of those 16.6 million subscribers had a mobile phone only.[5]

19. And even in the area with the highest percentage of wireless-only customers – Vancouver – it is worth noting that roughly 90% of the population continues to rely on wireline local exchange service. Moreover, as discussed in more detail below, Vancouver's higher ratio of wireless substitution is most likely attributable to a specific offering and marketing campaign by Microcell in that city that was not available throughout Canada.

20. It may be that unique circumstances in specific geographic markets lead to higher levels of wireless substitution, or that particular demographics may be more inclined to use cellular telephones in lieu of wireline. For example, younger consumers may have cellphones only; as they move into their own households, they may determine they do not yet need wireline service. But while this might demonstrate that for this niche demographic wireless service is an acceptable substitute for wireline local services, this does not represent evidence of "substitution" as such, since many of these consumers never possessed wireline telephones to begin with.[6]

21. In any event, as the Commission itself noted in the Local Forbearance Decision, section 34 of the *Act* requires that the Commission forbear from regulating a "service or

---

4 Statistics Canada, *Innovation Analysis Bulletin* Vol. 8, no. 2 (June 2006), page 12.

5 Assuming one wireless subscriber for each of the 615,000 households that reported having only a cell phone. See Statistics Canada *The Daily*, 5 April 2006 at page 5. Even if it were assumed that each of the 615,000 households had two wireless subscriptions each, this would still represent only 0.074% of the 16.6 million wireless subscriptions in Canada.

6 In the United States, 7.1% of adults aged 18-24 are wireless-only, but may have never had a wireline phone. Substitution rates plummet as the demographic ages: e.g. substitution rates are 4.3% for those aged 25-44, 1.6% for 45-65 and just 0.5% for those over 65. Source: L. Selwyn, "Avoiding Missteps Made South of the Border: Learning From the US Experience in Competitive Telecommunications Policy," July 2006 at 29.

class of services," and does not allow the Commission to forbear from regulating any particular class of consumers, such as young people.

22. Despite these isolated pockets of higher substitution, MTS Allstream submits that the evidence to date – both statistically and with respect to the other factors discussed below – demonstrates that wireless service is complementary to, rather than a substitute for, local exchange wireline service.

b) Are the two services functionally equivalent?

23. Under the Competition Bureau's Merger Enforcement Guidelines (MEGs), functional interchangeability is a necessary but not sufficient condition for concluding that two products are close substitutes.[7]

24. Clearly, the largest distinction between wireless and wireline services is the mobility function of mobile wireless services. Other factors that are relevant include service quality (dropped calls), coverage, health and safety issues (e.g., access to 911 services), and wireless number portability (WNP). Currently, customers perceive mobile wireless services to be less reliable, sound quality is often weaker than on wireline service, coverage may be limited and the usage of mobile phones is limited by battery life.[8] Additionally, implementation of WNP is not mandated to take place until mid-March 2007[9] - accordingly, a subscriber to wireline local exchange service is not currently able to port his or her local number to a wireless service.

25. In its evidence in the Local Forbearance proceeding, the Competition Bureau noted that although technological improvements to transmission quality, coverage and reliability are underway, "the Bureau has not undertaken any assessment that would demonstrate that mobile services are currently close substitutes for local wireline services. Also, functional interchangeability is a necessary but not sufficient condition for concluding that two products are close substitutes."[10]

---

7 Competition Bureau, Merger Enforcement Guidelines, s. 3.16.
8 See Competition Bureau (CRTC) 202(b) PN 2005-2.
9 Telecom Decision CRTC 2005-72, *Implementation of wireless number portability*, 20 December 2005.
10 Competition Bureau (CRTC) 202(a) PN 2005-2.

26. MTS Allstream is of the view that wireless and wireline local exchange services are not functionally interchangeable. Unlike developing nations where penetration levels of wireline services are low and quality is poor, and where wireless services have accordingly made significant inroads as a substitute for wireline service, in Canada wireline local exchange services are ubiquitous, with 98% penetration, and of the highest quality and reliability. Most Canadians will not accept the diminution in sound quality, security and reliability associated with wireless services for their primary connection to the outside world, including emergency services. Therefore, in Canada there still exist numerous physical and technical differences between wireline and wireless telephone services that prevent them from being functionally interchangeable.

c) Are price levels similar? What is the cost of switching?

27. In the Local Forbearance Decision, the Commission found that pricing methodologies, particularly usage-sensitive pricing of mobile wireless services, represent a fundamental difference in how the services are priced. There is no evidence to suggest that this finding should change.

28. Currently, wireless and wireline services are priced very differently, both with respect to local and long distance and in terms of fee structure and levels. These differentials are impediments to substitution of wireline local exchange service with wireless service.

29. In Canada, wireline local exchange subscribers will pay monthly fees for unlimited local access ("flat rate") calling, a small monthly 9-1-1 access fee, and may pay a one-time service connection charge depending on the provider (as well as any monthly fees for optional services). However, they are typically not "locked in" to a contract period nor is there any penalty to changing providers. In addition, subscribers to wireline local exchange services typically have access to lower long-distance rates (either from the local exchange service provider or other long distance providers enjoying equal access) and may have an unlimited number of handsets throughout the home giving access to the same wireline local exchange service.

30. By contrast, a subscriber to a wireless service who is willing to enter into a contractual commitment will generally pay a one-time fee to purchase the handset, service

connection charge, plus fees for local and/or long distance minutes (sometimes with unlimited local minutes on evenings or weekends bundled into one fee), fees for additional local and long distance minutes outside the bundle, roaming charges, system access and 9-1-1 fees as well as fees for additional optional services – and all this is presuming that the subscriber "locks in" to a package, typically of 12-36 months. (The alternative is to buy the telephone itself and buy time on a pre-paid basis – often a desirable alternative for those with less than stellar credit histories.) In the case of a wireless service, the contract is typically tied to a single handset.

31. MTS Allstream notes that the CRTC's most recent Competition Report found that average wireless revenue per subscriber had increased from $48 per month in 2001 to $53 per month in 2005.[11] Wireless service as a replacement for wireline local exchange services becomes a very expensive proposition for 2+ person households.

32. In the Technical Backgrounder re RWCI acquisition of Microcell, the Competition Bureau found that "evidence on the own-price elasticity of demand for wireless services and the cross-price elasticity of demand for wireless services with respect to the price of wireline services suggests that both are low."[12] As a result, it found that "the available empirical evidence indicates that there has been little substitution to date between wireless and other telecommunications services such as wireline."[13]

33. Switching costs may discourage buyers from switching products even if they are deemed functionally interchangeable. Such costs could include converting equipment or buying new equipment (e.g., handsets), and the pricing differences described above. The fact that WNP is not yet available for wireless services also carries with it significant switching costs both in terms of the value lost in being easily reachable, and actual expenditures to publish or circulate one's new telephone number.

d) Are wireless services marketed as substitutes for wireline services?

---

11 CRTC Telecommunications Monitoring Report *Status of Competition in Canadian Telecommunications Markets,* July 2006 page 77.

12 Statistics Canada, *Innovation Analysis Bulletin,* Vol. 8, no. 2, (June 2006) at 12.

13 Statistics Canada, *Innovation Analysis Bulletin,* Vol. 8, no. 2, (June 2006) at 12.

34. One indicator for assessing whether wireless service is a close substitute for wireline local exchange service is how the two services are marketed and offered to consumers. In Decision 2005-28 (the "VoIP Decision"), for example, the Commission found that VoIP services were being marketed and offered as a replacement for circuit-switched local exchange services; websites of VoIP providers (such as Primus and Vonage) also indicated that VoIP could be used as a replacement for the customer's existing local exchange services. Moreover, the Commission found that customers perceived VoIP as a replacement.[14]

35. In contrast, in the Local Forbearance Decision, the Commission found, on the evidence before it, that mobile wireless services are generally not marketed as a replacement for wireline services. To the contrary, it found increasing evidence that several Canadian carriers offer bundles consisting of both wireline and mobile wireless services, which would suggest that the two services are not substitutes for each other. This reinforces the conclusion that wireless is a complement to, and not a substitute for, wireline service.

36. A notable but limited exception to this was Microcell, which explicitly marketed its City Fido mobile wireless services first in Vancouver, and later in Montréal, Toronto and Calgary as a substitute for wireline local exchange service. Indeed, the higher rate of mobile substitution in Vancouver and Montréal, where this service was actively being marketed for a longer period prior to the company's acquisition is likely due to the specific strategy pursued by Microcell.

37. Since Rogers' takeover of Microcell, however, Rogers has altered the pricing and features of the City Fido service to the point that it is no longer a feasible substitute for wireline service except to a very small number of users.[15]

---

[14] Telecom Decision CRTC 2005-28, *Regulatory framework for voice communication services using Internet Protocol*, 12 May 2005, paragraphs 115 to 116 and 121.

[15] The original City Fido product ($45 per month for unlimited usage with broad City zones) is no longer available to new subscribers: see http://www.fido.ca/portal/en/support/cityfidobefmarch.shtml. As of 1 March 2005, new City Fido subscribers have two options to choose from: 750 anytime minutes for $45 per month and 1,500 anytime minutes for $65 per month. City Fido pricing now also includes an additional $6.95 system access fee: see http://www.fido.ca/portal/en/support/cityfidomarch.shtml#one

e) *Is the level of substitution significant enough to provide a constraint on the market power of the ILEC in a relevant market?*

38. The key question in this analysis is whether the level of substitution from wireline to wireless is significant enough to provide a constraint on the market power of the ILEC in a relevant geographic market. Put another way, does evidence of 4.8% substitution mean wireline local exchange customers generally are prepared to switch to wireless from wireline local exchange services in response to a non-transitory 5% increase in the price of wireline local exchange service imposed by the ILEC?

39. MTS Allstream submits that at the end of the day, given how much more expensive wireless service is than wireline local exchange service, the increase in wireless substitution from 2.7% to 4.8% reported in the StatsCan Report does not make it any more likely that a 5% increase in the price of wireline local service would provoke wireline customers to switch to wireless service to a degree sufficient to make the increase unprofitable.

40. Indeed, both Bell Canada and Bell Aliant have filed tariff applications in which they propose to eliminate their service connection charges (applicable to new or moving Bell local exchange service customers) in favour of increasing the monthly rates for <u>all</u> local residential telephone subscribers by $0.80 cents per month – across their <u>entire</u> serving territories. Their ability to simply impose non-transitory rate increase in the neighborhood of 5% in the price of the underlying service in this fashion, and to impose that increase on their entire residential customer bases, is an unequivocal demonstration of their significant market power. It also suggests that neither Bell Canada nor Bell Aliant are concerned about losing customers to their wireless competitors as a result of this increase.

41. When all of the above factors are taken together, it is MTS Allstream's view that the rise in substitution of wireless for wireline services in certain unique markets or demographics across the country does not outweigh the fact that the other findings made by the Commission in the Local Forbearance Decision remain justified. Wireline and wireless services remain complementary services for the vast majority of users.

Measurement of mobile wireless services and the calculation of market share loss

42. In the Local Forbearance proceeding, the large ILECs argued that the formula used to assess market share loss should reflect losses to wireless as well as to wireline competitors. The Commission found, in the Local Forbearance Decision, that wireless was not in the same product market, and therefore refused to include losses to wireless providers as part of its formula for calculating market share loss.

43. MTS Allstream submits that wireless services should, again, be found to not form part of the relevant product market in this proceeding, and should similarly not be included in the formula for assessing market share loss. Indeed, an approach where losses to wireless providers were included in the formula even if wireless services were not deemed part of the relevant market would be contrary to the principles of competition law – the very principles that the large ILECs constantly insist that the Commission apply.

44. However, should the Commission consider that the adoption rate of wireless has increased sufficiently to make wireless services substitutable for local exchange services – a proposition with which MTS Allstream strongly disagrees – the Commission must ensure that any adjustments to its formula for calculating market share loss do not improperly take into account the loss of a wireline NAS by an ILEC to that ILEC's wireless affiliate, at least in its incumbent serving territory. The rationale is simple: when a customer of an ILEC replaces its wireline service with a wireless service provided by that same ILEC, there is no loss of revenues for the ILEC, and no loss of market power. Indeed, MTS Allstream notes that the Competition Bureau's list of factors to be assessed in determining the relevant product market, cited above, speaks of comparing attributes between services of ILECs and of <u>competitors</u>. If an ILEC loses a customer to an affiliate, it cannot be deemed to have lost it to a "competitor."

45. The concentration of the wireless market share in the hands of the largest ILECs is undisputable. The most recent Competition Report noted that the three largest suppliers in the industry – the Bell Group (Bell Canada, Aliant Telecom, Northwestel Mobility Inc., Télébec Mobilité and NorTel (Northern) Mobility), TCI and Rogers – dominate the sector

with a combined market share of over 90%.[16] When subscriber share per province is examined, it is clear that the Bell Group and TCI hold the majority of wireless subscribers in their incumbent serving territories, particularly in Alberta (where TCI has 61% of wireless subscribers), the Atlantic Provinces (where the Bell Group holds between 63% and 86% of subscribers) and the North (where the Bell Group has 100% of mobile subscribers).[17] Accordingly, even if Bell and TCI's wireline subscribers replaced their service with Bell or TCI-provisioned wireless service, arguably representing a form of substitution, this would have no impact on these providers' market power since the customers, and the revenues, would remain with those companies.

46. Similarly, if it is assumed that only "wireless-only" customers fall into the same market as wireline customers, it would be necessary to exclude any wireless-only customers of the ILEC from a calculation of wireline NAS supposedly lost to competition. However, MTS Allstream submits that just as there is no basis to include wireless services within the relevant market for wireline local exchange services, the same is equally true for this small subset of the wireless market, i.e., wireless-only customers.

47. Calculation of wireline NAS lost to wireless substitution raises additional non-trivial administrative difficulties such as determining the appropriate geographic market to which a wireless service belongs, as well as uncertainty regarding other elements of the calculation, such as the appropriate denominator over which to measure market share loss. There would also be the requirement for WSPs to provide data on the number of wireless customers in the different LFRs. To the extent estimates are used in any calculations, potential error would be introduced, as well.

48. This approach would add considerable complexity to the current local forbearance procedures set out in the Local Forbearance Decision, and likely even slow the process due to lags in the provision of wireless data, such as that on "wireless-only" households.

Conclusion

---

[16] CRTC Telecommunications Monitoring Report, *Status of Competition in Canadian Telecommunications Markets*, July 2006, page iv.

[17] CRTC Telecommunications Monitoring Report, *Status of Competition in Canadian Telecommunications Markets*, July 2006, Table 4.6.3, page 84.

49. MTS Allstream submits that an analysis of all of the relevant factors demonstrates that the Commission's finding in the Local Forbearance Decision that mobile wireless services are not part of the relevant product market for purposes of the local exchange service forbearance analysis remains correct and should be upheld. The most important consideration is whether the two services are sufficiently good substitutes to make a small, non-transitory price increase by the ILEC unprofitable. In MTS Allstream's view, the answer to this question is clearly no, notwithstanding the rise in substitution in certain specific markets and among certain demographic niches. Accordingly, the Commission's determinations in the Local Forbearance Decision in respect of this issue should remain undisturbed.