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July 11, 2006

Leonard St. Aubin  
Acting Director General  
Telecommunications Policy Branch  
Industry Canada,  
16th Floor, 300 Slater Street  
Ottawa, Ontario K1A 0C8

RE: *Canada Gazette*, Part I, notice dated June 8, 2006, introduced in the House on June 13, 2006 and listed in *Canada Gazette* as Vol. 140, No. 24 on June 17, 2006

ORDER UNDER SECTION 8 OF THE TELECOMMUNICATIONS ACT –  
POLICY DIRECTION TO THE CANADIAN RADIO-TELEVISION AND  
TELECOMMUNICATIONS COMMISSION

Dear Director General,

Attached are Execulink's representations with respect to the proposed Order. If you require clarification or wish further input please feel free to contact me.

Yours truly,

A handwritten signature in black ink, appearing to read "K Stevens", with a long horizontal flourish extending to the right.

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**Representations submitted by Execulink Telecom with respect to *Canada Gazette*, Part I, Notice dated June 8, 2006**

**ORDER UNDER SECTION 8 OF THE TELECOMMUNICATIONS ACT – POLICY DIRECTION TO THE CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION**

**Background**

1. Execulink Telecom is a small telecommunication service provider operating primarily in south-western Ontario. Execulink offers local telephone, cable TV, long distance and Internet access services. Our routes as a Small Incumbent Local Exchange Carrier are over 100 years old.
2. Execulink owns and operates its own facilities including twisted copper telephone cables, co-axial TV cables, fiber optics cables, wireless equipment and radios, telephone switching equipment, cable TV distribution equipment and Internet routers and servers. Execulink also uses wholesale facilities from other telecommunication providers to deliver services such as broadband in areas where it is uneconomical or impossible to use our own facilities.

**General Comments**

3. Execulink supports the broad objectives of the proposed Policy Direction. Specifically for the CRTC to rely on market forces where feasible and when relying on regulation to use measures that are efficient and proportional.
4. Execulink does however have significant concern with two aspects of the implementation of the Policy Direction.
5. The first is a concern for the survival of smaller telecom providers if there is no check on the economic power of the dominate providers. This concern is based upon the past actions of some dominate providers coupled with how the CRTC has determined there was sufficient 'competition' to stop regulating.
6. Historically, the CRTC have used criteria such as 'less than 75% of market share' to decide there is sufficient competition to deregulate a market segment. This may seem reasonable until one realizes that the other 25% is spread across 25 or 30 competitors. When one competitor has 75% market share and the next largest has 2 or 3% it is hardly a level playing field. Left unchecked the dominate provider through their economic power could force smaller competitors to stop providing the service.



7. The second area of concern is how 'essential services' will be defined in section (c) (ii) where the proposed Policy Directive states; " the extent to which mandated access to wholesale service that are not essential service should be phased out". Historically the CRTC uses a very narrow definition of 'essential service' and there are number services where competitors cannot install their own equipment and must obtain the services from the incumbent on a wholesale basis that the CRTC has not classified as 'essential'.
8. DSL broadband service in areas where the incumbent telephone company serves their customers through a remote switching unit is a good example. On Bell Canada's existing installation base of DSL customers, it is estimated that more than 24% are in locations that are not eligible for collocation. This number will grow with Bell's publicly announced initiatives to take DSL further into its network to reach customers not previously served. In many of these areas there is no other option for high speed but wholesale DSL is not considered an 'essential services' by the CRTC. If access to wholesale service is removed the incumbent telephone companies will have a monopoly on broadband access in many areas of Canada.

#### **Specific Recommendations**

9. Execulink strongly encourages the Minister to make two changes to the proposed policy directive.
10. The first change is to require the CRTC when determining if they can rely on market forces to take into account the effects on the smaller providers. In particular do not rely on market forces if the incumbent could use their market dominance and economic power to force their competition to stop offering the service.
11. The second recommended change is to require the CRTC to not remove mandated access to any wholesale service that is not universally competitive or where competitors are not able to install their own equipment.