

WORLD TRADE ORGANIZATION

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Group on Basic Telecommunications

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COMMUNICATION FROM CANADA

Draft Offer on Basic Telecommunications

Revision

The following communication is circulated at the request of Canada to the members of the Group on Basic telecommunications.

1. With a view to achieving a comprehensive and mutually advantageous agreement on basic telecommunications within the WTO/GATS, Canada submits the attached revised offer which improves market access commitments and is conditional upon receiving comparable benefits from other major GBT participants.

2. Canada will make Additional Commitments based on the Reference Paper of 24 April 1996.

3. Canada reserves the right to make technical changes to the offer and to correct any errors, omissions or inaccuracies, respecting items at federal or sub-national levels.

4. This offer has been amended in accordance with the Chairman's note of 26 November 1996 (S/GBT/W/2). Specific technical changes include: deletion of subsector descriptions, deletion of technology categories, and deletion of reference to provision on a facilities-basis or by resale.

5. These changes have been made on the following assumptions.

Unless otherwise noted, any basic telecommunications service listed in the sector column:

- (a) encompasses local, long distance and international services supplied over a public telecommunications network;
- (b) may be provided on a facilities basis or by resale; and
- (c) may be provided by means of any technology (e.g., cable, radiocommunications including satellites).

6. Canada has removed its market access limitation on spectrum availability, in accordance with the draft Chairman's note on Market Access Limitations on Spectrum Availability. Canada reserves the right to re-instate this limitation, depending on whether there is a consensus on the status of the draft Chairmans note, and whether other offers also exclude this limitation.

7. In addition, Canada reserves the right to withdraw or modify elements of its offer at any time prior to the conclusion of the negotiations on basic telecommunications, depending on progress on issues of interest to Canada.

CANADA - CONDITIONAL SCHEDULE OF COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons				
Sector or Sub-sector (GNS/W/120 Coding)	Limitations on Market Access		Limitations on National Treatment	Additional Commitments
2C Telecommunications Services*				Canada undertakes the obligations contained in the reference paper attached hereto.
2C(a) Voice telephone services	(1) None, other than: Routing of basic telecommunications traffic is regulated to promote the use of Canadian transmission facilities for telecommunications between points within Canada and until December 31, 1999, between Canada and points outside Canada.	(1) None		
2C(b) Packet-switched data transmission services				
2C(c) Circuit-switched data transmission services				
2C(d) Telex services	(2) None	(2) None		
2C(e) Telegraph services	(3) None, other than: Foreign investment in facilities-based telecommunications service suppliers is permitted up to a cumulative total of 46.7% of voting shares, based on 20% direct investment and 33⅓% indirect investment. Such entities must be controlled in fact by Canadians.	(3) None, other than: At least 80 per cent of the members of the board of directors of facilities-based telecommunications service suppliers must be Canadian.		
2C(f) Facsimile services				
2C(g) Private leased circuit services				
2C(o) Other - Mobile services	- except for operations conducted under an international submarine cable licence where foreign investment will be allowed up to 100% as of October 1, 1998. Facilities-based telecommunications service suppliers that exceeded the permissible cumulative foreign investment level cited above on 22 July 1987 and continue to exceed this level may be subject to restrictions.			
* Excluding services regulated under the <i>Broadcasting Act</i> and measures affecting such services.				

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Sector or Sub-sector (GNS/W/120 Coding)	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>On October 1, 1998, Teleglobe Canada will no longer be authorized as the sole Canada-overseas facilities-based telecommunications service supplier.</p> <p>For Teleglobe Canada, a "non-resident carrier" or "associate" as defined in the Teleglobe Canada Reorganization Act may, on October 1, 1998, hold voting shares up to the permissible cumulative foreign investment level cited above.</p> <p>On October 1, 1998, the right to obtain a licence to land a submarine cable will no longer be limited.</p> <p>Nova Scotia: no person may vote more than 1,000 shares of Maritime Telegraph and Telephone Ltd.</p> <p>Manitoba: no person or members of any one group of associated persons may beneficially own, other than by way of security, more than ten percent of the total number of voting shares of Manitoba Telecom Services Inc. or of an affiliate.</p> <p>On April 15, 2002, Telesat Canada will no longer be authorized as the sole operator in Canada of satellite space segment facilities used to provide national and Canada-U.S. fixed satellite services.</p> <p>Until April 15, 2002, licences to operate earth stations for the provision of Canada-U.S. fixed satellite services may be limited.</p>		

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons				
Sector or Sub-sector (GNS/W/120 Coding)	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	
	<p>The use of pay telephones to provide services on a resale basis and to provide local services is not permitted.</p> <p>Competition in the provision of interexchange voice telephone service in the serving areas of Northwestel Inc., Ontario Northland Transportation Commission, and Prince Rupert City Telephones, may be limited.</p> <p>Competition in the provision of local wireline telephone services in the serving areas of Northwestel Inc., Ontario Northland Transportation Commission, Prince Rupert City Telephones, Telus Communications (Edmonton) Inc. and the other independent telephone companies listed in CRTC Telecom Public Notice 95-15, may be limited.</p> <p>(4) Unbound, except as has been indicated in the head notes to the Canadian schedule.</p>	<p>(4) Unbound, except as has been indicated in the head notes to the Canadian schedule.</p>		

REFERENCE PAPER

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

1. Competitive safeguards

1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided.

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known

to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence and
- (b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.