

# CRTC Wholesale Rates Regulations

From 2015-2021, the CRTC initiated a number of impactful proceedings with respect to wholesale rate regulation in Canada. Historically, the CRTC has applied an “essentiality test” to infrastructure owned by facilities-based carriers. Where telecommunications firms own “bottleneck facilities” that are not easily or practically duplicable by competitors, but are otherwise required as an input to provide telecommunications services, the CRTC mandates that wholesale providers be given access to these networks in order to deliver internet services, thereby fostering competition in the telecommunications market<sup>163</sup>.

Whereas large DSL and cable providers have been required to share their copper and coaxial cable networks through wholesale and Third Party ISP Access (TPIA) arrangements since the 1990s, incumbents have been required to do the same with fibre optic access networks or “fibre-to-the-home” networks since 2015<sup>164</sup>.

Between 2016-2019, the CRTC undertook an extensive proceeding to investigate the reasonableness of its costing framework with respect to wholesale rates. The proceeding was spurred by filings by wholesale providers claiming the existing pricing framework allowed incumbent carriers to unjustly overcharge them for network access, thereby significantly increasing the fees they had to charge their customers.

The CRTC accepted this reasoning in 2019 and significantly lowered wholesale access rates (by as much as 89% in some cases) and mandated incumbent carriers to repay wholesale providers all overcharged rates retroactive to 2016<sup>165</sup>. In response, incumbent carriers Bell and Rogers filed an appeal with the CRTC, in conjunction with initiating court proceedings to appeal the rate-setting decision<sup>166</sup>.

Following a stay order of its 2019 decision while it investigated Bell’s appeal, in May 2021, the CRTC reversed its previous determination on overcharged wholesale rates and significantly raised rates on wholesalers. Met with widespread derision by wholesale providers and broadband advocates, the decision led to immediate price increases and suspensions of services by a number of wholesale providers.

At the time of writing, wholesale provider Teksavvy had petitioned the federal Minister of Innovation, Science and Industry to have the CRTC’s May 2021 rate increase overturned<sup>167</sup>.

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## References

<sup>163</sup>CRTC. [Telecom Decision CRTC 2008-17](#). 03 March 2008.

<sup>164</sup>CRTC. [Telecom Regulatory Policy CRTC 2015-326](#). 22 July 2015.

<sup>165</sup>CRTC. [Telecom Order CRTC 2019-288](#). 15 August 2019.

<sup>166</sup>The Canadian Press. [Bell petitions Trudeau government to overrule CRTC on wholesale network rates](#). 13 November 2019.

<sup>167</sup>TekSavvy. [TekSavvy Petitions Federal Cabinet to Overrule CRTC’s Arbitrary Rate Decision](#). 28 May 2021.