



**The Standing Committee on Industry, Science and  
Technology:  
Accessibility and Affordability of Telecommunications Services  
Brief from Cybera Inc  
January 28 2021**

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## **Introduction**

Cybera is the not-for-profit, technology-neutral agency responsible for driving economic growth in Alberta through the use of digital technology. One of Cybera's core roles is the operation of Alberta's Research and Education Network. This dedicated, unmetered network is used by Alberta's schools, post-secondary institutions and business incubators to aid innovation, enterprise and ingenuity.

In addition, Cybera is committed to robust advocacy for the rights of all Canadians to engage in the modern digital economy, unencumbered by any and all barriers, including those that are social, financial or geographic in nature.

Cybera commends the Standing Committee on Industry, Science and Technology (INDU) for conducting this study on the affordability and accessibility of telecommunications services in Canada. The committee last studied this subject over the course of 2017, culminating in the report, "Broadband Connectivity in Rural Canada: Overcoming the Digital Divide", adopted on March 27, 2018. Since that time, a number of significant developments — including the COVID-19 pandemic — have further highlighted the importance of universal and affordable broadband access, as well as the continued existence of a number of barriers to this accessibility in Canada.

In Cybera's view, a lack of competition in the telecommunications marketplace is one of the most pressing barriers to ensuring access to affordable high-speed internet in Canada. While there are a number of longer-term approaches to this issue, including significant legislative changes, much of this ground has already been covered by the Broadcasting and Telecommunications Legislative Review, which submitted its findings in January 2020.

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As such, this brief will focus on policy and regulatory issues with a nearer-term focus and which were not addressed in the committee's 2018 study on broadband connectivity. These include:

- Structuring future and current funding programs
- Regulation of wholesale high-speed internet services
- Access to poles and support structures

### **Structuring Current and Future Funding Programs**

In order to achieve the universal service objective set out by the Commission of 50 Mbps download, 10 Mbps upload by ISED's target of universal connectivity by 2030, funding mechanisms that champion small and community-run networks should be a central focus of new policies. Networks that are built, operated, and used by local communities can and should be supported, particularly where the usual market-based solutions do not exist. The broadband funding eligibility criteria should also be as inclusive as possible, with a set of principles and a flexible approach that promotes applications by smaller providers in rural and Indigenous communities.

Several Canadian municipalities have expressed an interest in deploying their own broadband projects for their communities, particularly in rural and remote areas where commercial Internet Service Providers (ISPs) lack the economic incentive to operate. Unfortunately, the current requirements of broadband project funding exclude many interested municipalities, which in turn creates further barriers to broadband deployment. Cybera believes municipalities should be able to access funding for these projects without having the required three years of experience in deploying and operating broadband infrastructure, or having to partner with an internet service provider. Municipalities have related on-the-ground expertise in deploying and managing large infrastructure projects, as well as the capacity to identify the needs of citizens. As such, they are well positioned to successfully deploy broadband and should therefore be considered eligible to receive this funding.

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The current application process is also overly burdensome for many groups. The Commission should encourage parties who would not otherwise apply by offering reimbursements for administrative costs incurred during the application process. Eligible parties could include new providers, not-for-profits, municipalities, as well as communities and Indigenous groups. In addition, the Commission should consider offering administrative support during the application process for eligible groups, in order to make the process more inclusive. This could be done through the Commission itself, or through a third-party organization.

For many interested groups, current funding restrictions limit their ability to deploy a network, as they are unable to secure the needed up-front capital. Up-front funding should be made available for approved capital costs in order to encourage groups who may not otherwise have the resources to deploy broadband infrastructure.

In many sparsely-populated areas, it is prohibitively expensive to operate as an Internet Service Provider. In such high-cost serving areas (HCSAs), applicants should be allowed the option to apply for ongoing operational support. The Commission may wish to look to the USA, where the Federal Communications Commission's "High Cost/Connect America" program offers subsidies for operating costs.

Policymakers should also promote innovative geographic configurations of groups working together to provide internet access to their residents. Broadband funding mechanisms should encourage partnerships between groups in disparate geographic regions in order to allow for greater economies of scale. This is particularly relevant where populations in northern and Indigenous communities are spread over large areas. By allowing for organizational flexibility, this funding will be more accessible for smaller carriers looking to serve low density, remote communities. Policymakers should make explicit that flexible organization structures and partnerships are highly encouraged and will be considered for funding.

Laying fibre can be prohibitively expensive, particularly in areas of low population density or difficult geographical terrain. The Commission's funding mechanisms should be flexible enough to include innovative technologies — such as mesh networking — that rural, remote, and

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Indigenous communities to provide access to citizens. Ensuring that funding is not overly restrictive may also allow for applicants to consider unconventional solutions, including Low Earth Orbit (LEO) satellite systems, to serve their communities. It is essential that funding mechanisms are flexible enough to include technologies that communities are able to both deploy and manage.

In many areas, especially in northern communities, it is not feasible to have technicians fly in to address infrastructure issues. At the very least, it can be prohibitively expensive, or introduce unreasonable delays, leaving communities without internet access for days or even weeks. To address this, the Commission should include funding opportunities for network operation training within communities. This may take the form of funding in-person or off-site training, or, where possible, support online learning opportunities. It's important that we invest in people, and not just the technology.

### **Wholesale High- Speed Internet Access**

The Competition Bureau has noted:

“Wholesale-based competitors fulfill a meaningful competitive presence in the marketplace. They currently serve more than 1,000,000 Canadian households, and act as an alternative for countless others, who use the presence of wholesale-based competitors to negotiate lower prices and better terms from other competitors in the marketplace.”

Unfortunately, there is currently significant uncertainty in the regulatory environment pertaining to wholesale high-speed access (HSA) in Canada. This relates both to ongoing uncertainties regarding the price of wholesale access for incumbent networks, and the appropriate framework within which disaggregated wholesale HSA can be deployed. This regulatory uncertainty is particularly concerning in light of:

- The need for regulatory certainty before service-based competitors can deploy fibre-to-the-premises (FTTP) services to retail end-users, and;

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- The well established importance of enabling multiple service-based providers in Canada in order to contribute to a competitive and affordable telecommunications market.

The result of this uncertainty has been service-based competitors unable to understand the costs relevant to them to operate and provide services to their customers at affordable prices. This includes both the cost of capacity based billing (CBB) rates related to aggregated wholesale HSA (an issue that is subject to a number of Commission, Governor in Council, and judicial proceedings), and the costs associated with the planned migration to a disaggregated wholesale HSA model. This in turn has led to internet pricing remaining stagnant — or going up — for everyday customers.

While this matter is currently before several proceedings, in Cybera's view, the shortcomings of the current wholesale HSA regime can be traced, in large part, to distorted and inflated pricing in the wholesale market. This has put service-based ISPs at a significant competitive disadvantage. As these rates were also part of the justification for the migration to a disaggregated framework, the consistent uncertainty in the setting of these rates has created significant regulatory uncertainty for competitors.

While wholesale pricing is under the purview of the CRTC, policymakers should be aware of the August 2019 decision by the Commission to lower wholesale rates charged to competitors. The resulting legal and regulatory challenges to this decision have resulted in significant delays in setting agreed-upon rates. This has caused wholesale providers to increase end-user prices, to make up the difference. Policymakers should work to find legislative and regulatory solutions to ensure that incumbent carriers cannot delay attempts to lower prices in the wholesale market.

### **Access to Poles and Support Structures**

The inability to efficiently access support structures is a roadblock for many smaller service providers. Regulatory policy that allows for efficient access to existing infrastructure — including support structures — will facilitate the likelihood that the federal government will meet the

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targets outlined in the 2019 budget: 100% universal high-speed access for Canadians by 2030, no matter where they live.

In order to fulfill the universal service objective, it is essential that smaller carriers have competitive access — at fair rates — to the poles and conduits of Canadian carriers. In the decade since the last review of these services (Telecom Decision 2010-900), enough has changed to warrant a new review.

The federal government should launch a legislative review into the appropriate jurisdiction of support structures and utilities. While the Commission has the authority to regulate access to support structures owned by Canadian carriers, or those to which the carrier has been granted the right to access, it does not have jurisdiction to regulate support structures owned by third-parties. The inconsistency of access to support structures has resulted in barriers to accessing infrastructure that may assist in achieving the universal service objective.

Additionally, clarity and consistency around access to support structures would aid in achieving the goals outlined in the federal government's March 2019 policy direction issued to the Commission. In this direction, the government called on the Commission to “promote competition, affordability, consumer interests and innovation.” In its final report, the Broadcasting and Telecommunications Legislative Review Panel also recommended that, in order to promote efficient network deployment, the Telecommunications Act should be similarly amended. The panel suggested a requirement that those providing electronic communications service to the public be granted access to support structures at fair and reasonable rates, and on a non-exclusive basis to persons who own or operate transmission facilities used to provide connectivity services to the public.

Furthermore, funding should be made available to cover the costs of accessing support structures. Where access is available, but upgrades are needed, the broadband fund should allow applicants to apply for needed upgrades to support structures, such as utility poles, conduits, telecom towers, etc. For this reason, policymakers should facilitate the creation of a database to provide information about availability, costs, and upgrades required for support

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structures not owned by telecoms. In addition, policymakers should make available a transparent mechanism to report issues encountered with support structures, including inability to access a structure, prohibitive costs, and the timeliness of access.

Policymakers should also outline best practices for other levels of government to prioritize “dig once” policies. Support for fibre should be a requirement for all infrastructure projects, especially in rural and remote communities. This will require government to collaborate with infrastructure developers — including governments, utilities, road construction companies, etc — to incentivize them to include fibre infrastructure in their projects.

### **Conclusion**

As the Committee is aware, the issue of telecom affordability and accessibility is a pressing one that is much-discussed in policymaking circles, including before the Committee. In the time since the committee last studied this issue, a number of pressing concerns have highlighted the importance and priority of ensuring that all Canadians have affordable, universal access to high-speed internet.

As such, Cybera hopes policymakers will approach this issue from both a short-term and long-term solution perspective. While funding and regulatory changes are crucial to ensuring affordability and access, there are also a variety of longer-term legislative changes that would greatly address structural issues in Canada’s telecommunications marketplace, including the very wording of the *Telecommunications Act*, which too narrowly constrains regulators’ ability to foster competition. While legislative initiatives to address these issues are currently before other proceedings, Cybera believes there are numerous shorter-term regulatory approaches that could act as a ‘stop-gap’ to ongoing problems, as outlined above.

Cybera thanks the Standing Committee on Industry, Science and Technology for undertaking this study and looks forward to its findings.

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