

Competition Tribunal



Tribunal de la Concurrence

Reference: *The Commissioner of Competition v BCE Inc and XPLOLNET Communications Inc*,
2018 Comp Trib 1
File No: CT-2018-002
Registry Document No: 005

IN THE MATTER OF a consent agreement registered by the Competition Tribunal on February 15, 2017 in File no CT-2017-007 with respect to the proposed acquisition by BCE Inc of Manitoba Telecom Services Inc;

AND IN THE MATTER OF an application, on consent, pursuant to paragraph 106(1)(b) of the *Competition Act*, RSC 1985, c C-34 to vary the consent agreement.

BETWEEN:

The Commissioner of Competition
(Applicant)

and

**BCE Inc and Xplornet
Communications Inc**
(Respondents)



Decided on the basis of the written record
Members: D. Gascon J. (Chairperson), Dr. W. Askanas, Mr. L. P. Schwartz
Date of Order: January 29, 2018
Order signed by: Mr. Justice D. Gascon

**ORDER ALLOWING AN APPLICATION UNDER PARAGRAPH 106(1)(b) OF THE
COMPETITION ACT TO VARY A CONSENT AGREEMENT**

[1] **FURTHER** to the Consent Agreement filed on February 15, 2017 by the Commissioner of Competition (“**Commissioner**”) in relation to the acquisition by BCE Inc (“**Bell**”) of Manitoba Telecom Services Inc (“**Transaction**”);

[2] **AND WHEREAS** the Consent Agreement provides for, among other things, the divestiture of certain assets to Xplornet Communications Inc (“**Xplornet**”) comprising spectrum, retail stores and postpaid mobile wireless subscribers;

[3] **AND WHEREAS** Xplornet will acquire certain mobile wireless subscribers in accordance with an amended Divestiture Agreement with Bell;

[4] **AND WHEREAS** the Commissioner is satisfied that the amended Divestiture Agreement is sufficient to ensure that any substantial lessening and/or prevention of competition will not result from the Transaction;

[5] **AND FURTHER** to an application made pursuant to paragraph 106(1)(b) of the *Competition Act*, RSC 1985, c C-34, by Bell and Xplornet, with the consent of the Commissioner, to vary the Consent Agreement (“**Application**”);

[6] **AND UPON** considering the Application, the information and the reasons set out therein for the variation of the Consent Agreement;

[7] **AND UPON** being satisfied with the reasons and information provided;

[8] **AND UPON** noting that the amendment of the Consent Agreement is on consent but is nevertheless a discretionary matter for the Tribunal;

THE TRIBUNAL ORDERS THAT:

[9] The Consent Agreement is hereby varied by:

- a. (a) The definition of “Divestiture Agreement” at paragraph [1](k) shall be amended as follows: “Divestiture Agreement” means the binding and definitive agreement between Bell and Xplornet dated February 14, 2017, as may be amended, and to the extent such amendments relate to sections 3, 4, or 5 of this Agreement as approved by the Commissioner, to effect the Divestiture and the Divestiture Services pursuant to this Agreement; and

- b. The definition of “Divestiture Subscribers” at paragraph [1](p) shall be amended as follows: “Divestiture Subscribers” means 24,700 postpaid mobile wireless subscribers based in Manitoba or such other subscribers determined in accordance with the Divestiture Agreement and approved by the Commissioner.

[10] There shall be no costs on this Application.

DATED at Ottawa, this 29th day of January 2018.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Denis Gascon

Counsel of record

For the applicant:

The Commissioner of Competition

Steve Sansom

For the respondents:

BCE Inc. and Xplornet Communications Inc.

Brian A. Facey and Micah Wood