

Categories of Services for 214 Applications  
(Streamline/Non-streamline)

- ASSIGNMENT OF LICENSE
- GLOBAL FACILITIES-BASED SERVICE
- GLOBAL FACILITIES-BASED/GLOBAL RESALE SERVICE
- GLOBAL RESALE SERVICE
- INDIVIDUAL FACILITIES-BASED SERVICE
- INTERCONNECTED PRIVATE LINE RESALE SERVICE
- LIMITED GLOBAL FACILITIES-BASED SERVICE/LIMITED  
GLOBAL RESALE SERVICE
- LIMITED GLOBAL FACILITIES-BASED SERVICE
- LIMITED GLOBAL RESALE SERVICE
- INMARSAT AND MOBILE SATELLITE SERVICE
- SWITCHED RESALE SERVICE
- TRANSFER OF CONTROL
- SUBMARINE CABLE LANDING LICENSE
- INTERNATIONAL SPECIAL PROJECT

Description of Application: \_\_\_\_\_

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READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE

APPROVED BY OMB

3060-0598

358115

(1) LOCKBOX #

PAGE NO. 1 OF 1

REC/MELTON JAN 14 1997

(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card)

Miller Nash Wiener Hager & Carlsen, LLP

(3) TOTAL AMOUNT PAID (dollars and cents)

\$ 780.00

(4) STREET ADDRESS LINE NO. 1

601 Union Street

(5) STREET ADDRESS LINE NO. 2

Suite 4400

ITC-71c-19990114-00023

(6) CITY

Seattle

(7) STATE

WA

(8) ZIP CODE

98101

(9) DAYTIME TELEPHONE NUMBER (include area code)

(206) 777-7424

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B  
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

SECTION B - APPLICANT INFORMATION

(11) APPLICANT NAME (if paying by credit card, enter name exactly as it appears on your card)

BC TEL

(12) STREET ADDRESS LINE NO. 1

21-3777 Kingsway

(13) STREET ADDRESS LINE NO. 2

(14) CITY

Burnaby

(15) STATE

BC-Canada

(16) ZIP CODE

V5H 3Z7

(17) DAYTIME TELEPHONE NUMBER (include area code)

(18) COUNTRY CODE (if not in U.S.A.)

COMPLETE SECTION C FOR EACH SERVICE. IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEETS (FORM 159-C)

SECTION C - PAYMENT INFORMATION

(19A) FCC CALL SIGN/MOTHER ID

(20A) PAYMENT TYPE CODE (PTC)

C U T

(21A) QUANTITY

1

(22A) FEE DUE FOR (PTC) IN BLOCK 20A

\$ 780.00

FCC USE ONLY

(22A) FCC CODE 1

(20B) PAYMENT TYPE CODE (PTC)

(21B) QUANTITY

(22B) FEE DUE FOR (PTC) IN BLOCK 20B

(24B) FCC CODE 2

FCC USE ONLY

(19B) FCC CALL SIGN/MOTHER ID

(20C) PAYMENT TYPE CODE (PTC)

(21C) QUANTITY

(22C) FEE DUE FOR (PTC) IN BLOCK 20C

(24C) FCC CODE 2

FCC USE ONLY

(19C) FCC CALL SIGN/MOTHER ID

(20D) PAYMENT TYPE CODE (PTC)

(21D) QUANTITY

(22D) FEE DUE FOR (PTC) IN BLOCK 20D

(24D) FCC CODE 2

FCC USE ONLY

(22C) FCC CODE 1

(20E) PAYMENT TYPE CODE (PTC)

(21E) QUANTITY

(22E) FEE DUE FOR (PTC) IN BLOCK 20E

(24E) FCC CODE 2

FCC USE ONLY

(19D) FCC CALL SIGN/MOTHER ID

(20F) PAYMENT TYPE CODE (PTC)

(21F) QUANTITY

(22F) FEE DUE FOR (PTC) IN BLOCK 20F

(24F) FCC CODE 2

FCC USE ONLY

(22D) FCC CODE 1

(20G) PAYMENT TYPE CODE (PTC)

(21G) QUANTITY

(22G) FEE DUE FOR (PTC) IN BLOCK 20G

(24G) FCC CODE 2

FCC USE ONLY

SECTION D - TAXPAYER INFORMATION (REQUIRED)

COMPLETE THIS BLOCK ONLY IF APPLICANT NAME IN B-11 IS DIFFERENT FROM PAYER NAME IN A-3

(25) PAYER TIN

9 3 - 0 4 1 0 5 1 8

(26) APPLICANT TIN

\* n / a

(27) CERTIFICATION STATEMENT

I, David Rice

(PRINT NAME)

Certify under penalty of perjury that the foregoing and supporting information

are true and correct to the best of my knowledge, information and belief. SIGNATURE

*David Rice*

SECTION F - CREDIT CARD PAYMENT INFORMATION

MASTERCARD/VISA ACCOUNT NUMBER:

MASTERCARD

EXPIRATION DATE:

VISA

AUTHORIZED SIGNATURE

MONTH

YEAR

DATE

I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/amount(s) herein described.

SEE PUBLIC BURDEN ESTIMATE ON REVERSE

FCC FORM 159 JULY 1997 (REVISED)

\*applicant is a Canadian corporation

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of Application for Authority to  
Transfer Control of BC TEL's Section 214  
Authorization Under the Communications Act  
of 1934 as Amended, for Global Authority to  
Operate as an International Facilities-Based  
Carrier

File No. I.T.C. - 98-\_\_\_\_\_

**APPLICATION FOR TRANSFER OF CONTROL OF  
SECTION 214 AUTHORIZATION**

BC TEL, a limited liability corporation ("BC TEL") hereby requests authority, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. Section 214 (1982), and Section 63.18 of the Commission's Rules, 47 C.F.R. Section 63.18, to transfer control of its authorization to provide global international facilities-based services between the United States and international points to BCT.TELUS Communications, Inc. ("BCT.TELUS"). BC TEL requests streamlined processing of this application.

**I. BACKGROUND AND REASONS FOR THE APPLICATION**

**A. Merger Overview**

BC TEL, a Canadian telecommunications company, is currently the largest local exchange service provider in British Columbia.<sup>1</sup> In addition, BC TEL holds Section 214 authority to provide global, facilities-based service between the U.S. and all authorized points.<sup>2</sup> BC TEL is a wholly-owned subsidiary of BC TELECOM, Inc. ("BC TELECOM"). GTE

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<sup>1</sup> Canada is a member of the World Trade Organization.

<sup>2</sup> See *Public Notice*, DA No. 98-2313, Report No. TEL-00031 (rel. Nov. 12, 1998)(referencing FCC file No. ITC-214-19980921-00660).

Corporation ("GTE") owns 50.8% of BC TELECOM through a wholly owned subsidiary, Anglo-Canadian Telephone Company.

TELUS Communications Inc. ("TELUS Communications"), a Canadian telecommunications company that provides local phone service, long-distance, data, wireless, internet, multimedia and advertising services, is the largest local exchange service provider in Alberta. TELUS Communications is a wholly owned subsidiary of TELUS Corporation ("TELUS"). TELUS Communications and TELUS do not hold Section 214 authorizations and provide no service in the U.S.

BC TELECOM (the parent corporation of BC TEL) and TELUS (the parent corporation of TELUS Communications) have agreed to merge, creating a new entity to be called BCT.TELUS Communications, Inc. ("BCT.TELUS"). BC TEL and TELUS will become wholly owned subsidiaries of BCT.TELUS. TELUS Communications will remain a wholly owned subsidiary of TELUS, and BC TELECOM will cease to exist. Note that GTE's indirect ownership of BC TEL will drop from 50.8% to 26.7% upon consummation of the merger. The merger will be effective at 11:59 p.m., January 31, 1999.

This merger is in response to recent regulatory and competitive developments and consolidations in the communications industry in Canada and worldwide. The merger will allow for higher revenue growth, improvements in service and increased operating efficiencies, resulting in benefits that will be passed on to consumers. Grant of this application will facilitate the merger and thereby serve the public interest, convenience, and necessity.

## **II. BC TEL'S APPLICATION PRESENTS NO FOREIGN OWNERSHIP CONCERNS**

In the recent Foreign Participation Order, the Commission promulgated new rules to liberalize foreign participation in basic telecommunication services in the United States. Report and Order, Market Entry and Regulation of Foreign-Affiliated Entities, FCC No. 97-398 (rel. Nov. 26, 1997) ("Foreign Participation Order" or "Order"). The Commission adopted "a rebuttable presumption that applications for Section 214 authority from carriers from WTO Members do not pose concerns that would justify denial of an application on competition

grounds," Id. at para. 50, and, as a result, the Commission anticipates denying or attaching conditions to the authorization only under "exceptional circumstances." Id. at para. 54.

Under this standard, the transfer of control of BC TEL's Section 214 authorization to BCT.TELUS raises no foreign ownership concerns. As an applicant from Canada - a WTO member country - BCT.TELUS is entitled to a presumption of entry. See Foreign Participation Order at 50. The Commission has already granted Section 214 authority to BC TEL, and the proposed transfer of control will simply integrate two carriers based in Canada. Moreover, the Commission has granted Section 214 authorization to a wholly owned affiliate of Teleglobe, a monopoly provider of overseas telecommunications services in Canada, under an earlier, stricter entry standard in place before the liberalized WTO rules were implemented. Matter of Teleglobe, 13 FCC Rcd 2560 at para. 2 (1998). Like these transactions, the Commission should have few competitive concerns regarding the proposed transfer of control from BC TEL to BCT.TELUS. Note that BC TEL will still be the authorization holder of record following the merger of its parent company.

### **III. REQUIRED INFORMATION REGARDING THE TRANSFER OF CONTROL OF SECTION 214 AUTHORIZATION FROM BC TEL TO BCT.TELUS**

As required by Section 63.18(e)(5), the applicants hereby submit information required by 63.18(a)-(d) for both the transferee and transferor, and 63.18(h)-(k) for the transferee.

BC TEL's certification is enclosed as Attachment A and incorporated by reference.

#### **A. Transferor (BC TEL)**

1. Name, address, and telephone number of BC TEL

BC TEL  
Legal Department  
21-3777 Kingsway  
Burnaby, B.C. VSH 3Z7

2. Government under which BC TEL is organized

BC TEL is a corporation organized under the laws of Canada

3. Where to send correspondence

Correspondence concerning this application should be sent to:

Attention: Mr. Michel E. Belec, Senior Counsel  
BC TEL  
Legal Department  
21-3777 Kingsway  
Burnaby, B.C. VSH 3Z7  
Direct Tel. No.: (604) 432-2151  
Fax No.: (604) 439-1261

- and -

Brooks Harlow  
Miller, Nash, Wiener, Hager & Carlsen LLP  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98109  
Tel.: (206) 622-8484  
Fax No.: (206) 622-7485

4. Whether BC TEL currently has Section 214 approval

BC TEL currently holds Section 214 authority. *See Public Notice*, DA No. 98-2313, Report No. TEL-00031 (rel. Nov. 12, 1998)(referencing FCC file No. ITC-214-19980921-00660).

**B. Transferee (BCT.TELUS)**

1. Name, address, and telephone number of transferee

BCT.TELUS Communications Inc.  
C/o Mr. Michel E. Belec  
BC TEL  
Legal Department  
21-3777 Kingsway  
Burnaby, B.C. VSH 3Z7  
Direct Tel. No.: (604) 432-2151  
Fax No.: (604) 439-1261

BCT.TELUS will be a corporation organized under the laws of Canada

2. Where to send correspondence

BCT.TELUS Communications Inc.  
C/o Mr. Michel E. Belec  
BC TEL  
Legal Department  
21-3777 Kingsway  
Burnaby, B.C. VSH 3Z7  
Direct Tel. No.: (604) 432-2151  
Fax No.: (604) 439-1261

Brooks Harlow  
Miller, Nash, Wiener, Hager & Carlsen LLP  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98109  
Tel.: (206) 622-8484  
Fax No.: (206) 622-7485

3. Whether BCT.TELUS currently has Section 214 approval

BCT.TELUS has not received authority previously under Section 214 of the Communications Act.

4. Certification as to whether or not the transferee is a foreign carrier (63.18(h)(1))

Once incorporated, BCT.TELUS will be a Canadian carrier

5. The 10% or greater owners of BCT.TELUS following the merger (63.18.(h)(2))

- a. Anglo-Canadian Telephone Company  
Anglo-Canadian Telephone Company (“Anglo-Canadian”)  
1155 Rene Levesque Boulevard West  
Room 3301  
Montreal, Quebec  
H3B 3T1  
Citizenship: Canadian  
Principal business: Telecommunications  
Anglo-Canadian will hold 26.7% of BCT.TELUS following the merger.

b. GTE Corporation

1 Stanford Forum  
Stanford, CT 06904

Citizenship: USA

Principal business: Telecommunications

GTE will own 26.7% of BCT.TELUS indirectly through its wholly owned subsidiary Anglo-Canadian.

6. Interlocking Directorates (63.18(h)(2))

At this time, the parties intend that BCT.TELUS will not have any interlocking directorates but agree to supplement this notification in the event of a change.

7. World Trade Organization membership (63.18(h)(5)

Once incorporated, BCT.TELUS will be a Canadian carrier. Canada is a member of the World Trade Organization.

8. Special Concessions

BC TEL certifies that it has not agreed and will not agree in the future to accept any direct or indirect special concessions from a foreign carrier or administration with regards to traffic or revenue flows between the United States and any foreign countries the company is authorized to serve.

9. Anti-Drug Abuse Act

BC TEL certifies that no party to this application has been denied federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. Once incorporated, BCT.TELUS will also make this certification.

10. BCT.TELUS is entitled to non-dominant regulation (63.18(h)(8))

At this time, BC TEL is regulated as non-dominant. BC TEL requests continued non-dominant treatment after the merger for the reasons outlined in BC TEL's January 13, 1999 letter to the Commission, enclosed as Attachment B and incorporated herein by reference.

11. Streamlined processing (63.18(k))

BC TEL requests streamlined processing of this application under

Section 63.12(c)(1) of the rules, which permits streamlined processing if a carrier qualifies for a presumption of non-dominance under Section 63.10(a)(3). That section provides that a carrier is



presumed non-dominant if it lacks 50% market share in the “international transport and the local access markets on the foreign end of the route.” Here, as explained in BC TEL’s letter of January 13, 1999 (Attachment B), BCT.TELUS will not have 50% of the market share in Canada. Although BCT.TELUS will be a “monopoly provider” in British Columbia and Alberta, these regions are not large enough to total 50% market share. As a result, streamlined processing is appropriate.

#### IV. CONCLUSION

In conclusion, BC TEL certifies that all information in this application is accurate and correct. For these reasons, BC TEL respectfully requests that the Commission grant this application.

Respectfully submitted,

MILLER, NASH, WIENER, HAGER & CARLSEN LLP



Brooks E. Harlow

Miller, Nash, Wiener, Hager & Carlsen LLP  
4400 Two Union Square  
601 Union Street  
Seattle, Washington 98101-2352

Attorneys for BC TEL

Date: \_\_\_\_\_

1/13/99

Attachment A

The undersigned certifies that the information contained in the foregoing application is true and correct.



Michel E. Belec, Senior Counsel  
BC TEL  
Legal Department  
21-3777 Kingsway  
Burnaby, B.C. V5H 3Z7  
Direct Tel. No.: (604) 432-2151  
Fax No.: (604) 439-1261

Attachment B

Miller, Nash, Wiener,  
Hager & CarlSEN LLP

4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352  
(206) 622-8484  
(206) 622-7485 fax

3500 U.S. Bancorp Tower  
111 S.W. Fifth Avenue  
Portland, OR 97204-3699  
(503) 224-5858  
(503) 224-0155 fax

[www.millernash.com](http://www.millernash.com)

**Brooks E. Harlow**  
[harlow@millernash.com](mailto:harlow@millernash.com)  
(206) 777-7406 direct line

January 13, 1999

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554



Re: Addendum to the Section 63.11 Notification Letter of BC TEL dated  
December 18, 1998

Dear Ms. Salas:

Pursuant to Section 63.11 of the Commission's rules, BC TEL files this addendum to its notification letter dated December 18 regarding the proposed merger of BC TEL's parent corporation BC TELECOM Inc. ("BC TELECOM") with TELUS Corporation ("TELUS") to form a new entity called BCT.TELUS Communications, Inc. ("BCT.TELUS"). In the December 18 letter, BC TEL promised to provide data to support its request for continued non-dominant treatment following the merger, which will result in a transfer of control of BC TEL's Section 214 authorization to BCT.TELUS.<sup>1</sup> This information is provided below. Additionally, this letter requests a waiver of the sixty day notification requirement under Section 63.11(a) of the Commission's rules and changes information about the merger as reported in the December 18<sup>th</sup> letter.<sup>2</sup>

### Carrier Classification

Section 63.10 of the Commission's rules addresses whether a carrier is classified as dominant or non-dominant. Section 63.10(a)(2) provides that if a carrier is a monopoly in the destination country, the carrier is presumptively classified as dominant. In order to overcome dominant treatment, the carrier has the burden of proof to show that it lacks market power in the destination market. 47 C.F.R. § 63.10(b). Section 63.10(a)(3) provides that if a carrier is not a monopoly provider, it also bears the burden of demonstrating that it lacks market power to affect competition adversely in the U.S. market. However, such a carrier is presumptively non-dominant if it lacks 50% market share in relevant markets.

<sup>1</sup> Note that BC TEL will continue to be the authorization holder of record.

<sup>2</sup> BC TEL's certification is enclosed as Attachment B.

January 13, 1999

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The Commission has stated that the relevant markets for both monopolies and non-monopolies are “international transport facilities or services; including cable landing station access and backhaul facilities; inter-city facilities or services; and local access facilities or services on the foreign end of a particular route.” 47 C.F.R. § 63.10(a). “Market power” is defined as “a carrier’s ability to raise price[s] by restricting its output of services” in relevant markets. In the Matter of Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, FCC 97-398, IB Docket No. 97-142 (1997)(“*Foreign Entry Order*”). In particular, the Commission analyzes the carrier’s control of bottleneck services and other advantages that might allow a carrier to “affect competition adversely in the U.S. international services market.” *Id.* at ¶ 144.

Because BCT.TELUS will be the monopoly local service provider in British Columbia and Alberta but will not be the monopoly provider for all of Canada, this letter analyzes BCT.TELUS as both a monopoly and a non-monopoly for the sake of completeness. In either case, the rules provide that BC TEL bears the burden of demonstrating that its new parent corporation BCT.TELUS cannot adversely affect competition in relevant markets. If that burden is met, BC TEL will continue to be entitled to non-dominant treatment.

Statistics on the Canadian telecommunications market indicate that, following the merger, BCT.TELUS will be unable to control sufficient power in relevant Canadian markets to affect competition adversely in the U.S. First, BCT.TELUS will have only a small portion of the total telecommunications market in Canada. As shown in Attachment A, BCT.TELUS, the new entity, will control only 23% of total Canadian telecommunications revenues, which includes local, long distance, and international service. This is in contrast to Bell Canada, which will control 45%. The remaining revenues are divided up between Stentor, Callnet, Cantel, and numerous other smaller carriers. BCT.TELUS’s non-dominance is also clear by examining its anticipated portion of total telecommunications minutes per year between Canada and the U.S. Currently, the total for all Canada/U.S. traffic stands at three billion minutes. After the merger, BCT.TELUS will control 25% of the total minutes, with the balance being controlled by Bell Canada and others. Finally, out of the 898 million minutes per year of non-US overseas traffic, BCT.TELUS will control 30%, with 60% controlled by Bell Canada and the remainder handled by Teleglobe. These statistics indicate that while BCT.TELUS will be a monopoly in its home markets of British Columbia and Alberta, it will only handle about 25% of total Canadian traffic.

Turning back to the Commission’s rules, if BCT.TELUS is considered to be a non-monopoly under Section 63.10(a)(3) based on its small size relative to the total Canadian market, these statistics qualify it for automatic non-dominance because it controls less than 50% of relevant markets. If BCT.TELUS is considered to be a monopoly based on its local service offerings in British Columbia and Alberta, then these facts should still be sufficient to demonstrate that it does not control enough total traffic to adversely affect competition in the U.S. market.

January 13, 1999

Page 3

Essentially, BCT.TELUS will simply be a bigger version of BC TEL, which the Commission already regulates as non-dominant. As pointed out in BC TEL's initial application for Section 214 authorization, the Commission previously determined that BC TEL (as it exists before the TELUS merger) has "little ability to influence Stentor [the entity that administers settlements] or otherwise discriminate against . . . U.S. competitors." In the Matter of Petition of GTE Hawaiian Telephone Company, 11 FCC Rcd. 20354 at ¶ 63 (1996). The Commission also found that BC TEL "provid[es] local exchange service in only a limited portion of Canada," Id. at ¶ 63, and controls no bottleneck services in relevant markets. See ¶¶ 62-63. This analysis supported BC TEL's request for regulation as a non-dominant carrier in its original Section 214 application, which was granted. The change in BC TEL's control of total Canadian telecommunications revenues from about 13% currently to 25% after the merger will not alter the basic facts underlying these conclusions. In the aggregate, all of the foregoing factors warrant continuing to regulate BC TEL as non-dominant.

#### Waiver of the Sixty Day Notification Requirement

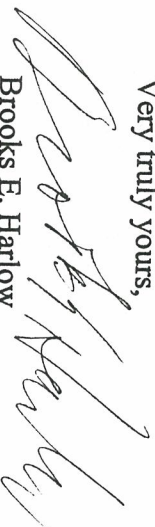
BC TEL requests a waiver of the requirement to provide notification of foreign affiliation sixty days in advance of the acquisition. 47 C.F.R. § 63.11(a). BC TEL's 63.11(a) notification letter was dated December 18, 1998 and stamped as received by the FCC on December 21. Under Section 63.11(a), BC TEL must wait until at least February 19, 1999 to consummate the merger. However, due to business necessity, the merger must be finalized at 11:59 p.m., January 31, 1999. BC TEL requests a waiver of Section 63.11(a) to allow consummation of the merger at that time.

#### Change Regarding the Merger

This letter changes certain information provided in the December 18 letter. BC TEL will no longer seek a pro forma assignment of its authorization to a wholly owned subsidiary referred to in the December 18 letter as NewCo US. All other aspects of the transaction (such as the transfer of control) will remain the same.

If you have any questions about this letter, please contact the undersigned.

Very truly yours,



Brooks E. Harlow

Attachments

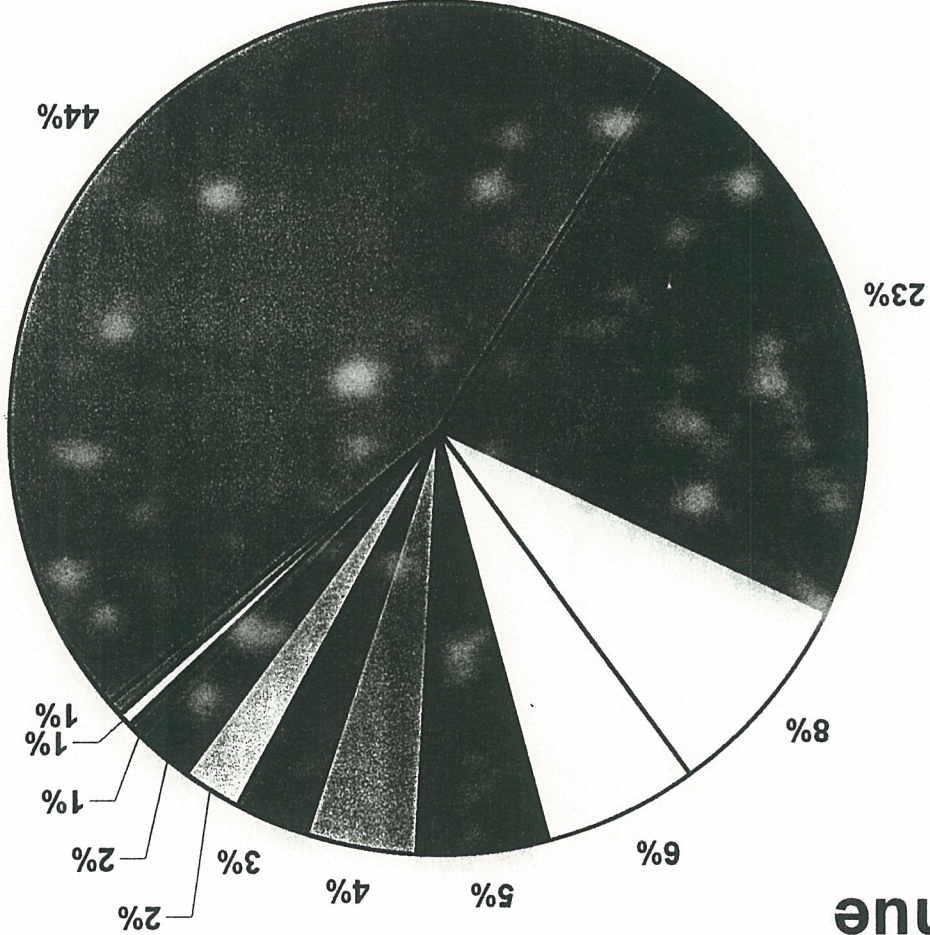
cc: Susan O'Connell  
Joanna Lowry

MILLER NASH

MILLER, NASH, WIENER, HAGER & CARLSEN LLP | ATTORNEYS AT LAW

Attachment A

# BCT.TELUS Share of Total Canadian Telecommunications Revenue



- BCT.TELUS 23%
- STENTOR 8%
- CALLNET 6%
- CANTEL 5%
- ATT-LDS 4%
- SASK 3%
- MTS 2%
- OTHER 2%
- CLEARNET 1%
- MICROCELL <1%
- ACC <1%



# MILLER NASH

MILLER, NASH, WILSON, MACDONALD & COMPANY LLP ATTORNEYS AT LAW

Attachment B

The undersigned certifies that the information contained in the foregoing letter is true and correct.



Michel E. Belec, Senior Counsel  
BC TEL  
Legal Department  
21-3777 Kingsway  
Burnaby, B.C. V5H 3Z7  
Direct Tel. No.: (604) 432-2151  
Fax No.: (604) 439-1261