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BULLETIN

WHAT IS A “TRANSMISSION LINE”? SUPREME COURT OF CANADA CONFIRMS THAT TELECOM COMPANIES MUST NEGOTIATE WITH LOCAL GOVERNMENTS TO INSTALL 5G WIRELESS TECHNOLOGY ON PUBLIC LAND

Under Canada’s constitution, telecommunication is a matter of exclusive federal jurisdiction. Neither the Province nor local governments have regulatory authority over telecommunications. The federal *Telecommunications Act* gives telecom carriers (phone companies) a qualified right of access to construct and operate their transmission lines using local government property such as road right of ways. If a telecom carrier wants to attach a telephone wire to the flagpole outside city hall, or a bus shelter on a suburban street, and cannot get the local government’s approval, the carrier can apply to the Canadian Radio-television and Telecommunications Commission (CRTC) for permission, despite local government objections.

In [*Telus Communications Inc. v. Federation of Canadian Municipalities*, 2025 SCC 15](#), the Supreme Court of Canada had to decide whether the same access regime applies to wireless telecommunications infrastructure, specifically “5G small cell antennas.” The Court concluded it did not and that to install small cell equipment on local government infrastructure, telecom carriers must secure the local government’s agreement.

The decision turned on the Court’s interpretation of the term “transmission line” (which is undefined in the *Telecommunications Act*), because the CRTC’s authority to grant access to telecom carriers under the Act only applies to transmission lines. If the term “transmission line” included wireless transmission infrastructure, then telecom carriers could use the CRTC access regime to install 5G small cell antennas on local government property; if it did not, then carriers would have to negotiate with local government. The Court held that wireless telecom infrastructure is not included within the ordinary meaning of “transmission line,” which is instead limited to transmission of intelligence along physical linear pathways. Antennas, which emit radio waves that travel through space, did not fit naturally within the ordinary meaning of transmission line.

The carriers argued that the term “transmission line” ought to be read in harmony with Parliament’s broader policy objective of facilitating the “orderly development” of telecommunications. They said a broad interpretation of “transmission line” that includes antennas would best accord with Parliament’s objective by ensuring the efficient deployment of 5G infrastructure across the country.

A broader interpretation would clearly be favourable to telecom carriers because it would allow them to seek a CRTC order for access, despite any local government objections. However, the Court was not convinced. The Court noted that Parliament had no issue placing other limits on the scope of the telecom access regime and that the existence of a procedure for installing antennas under the *Radiocommunications Act* signalled Parliament's intention to maintain a distinction between how wireless and wireline equipment ought to be treated. The Court concluded that Parliament intended to leave access to public property sites up to good faith negotiation between carriers and the relevant public authorities, including local governments.

The Supreme Court's ruling makes clear that until Parliament says otherwise, telecom carriers do not have the same right of access to install wireless infrastructure on local government land as they do for wired technology. Because the CRTC does not have jurisdiction to set the terms of access for small cell antenna installations, local governments can refuse to allow telecom carriers to use their infrastructure for 5G small cell antennas unless the carriers offer satisfactory terms, and the CRTC cannot interfere.

Nick Falzon has also written about this case in the firm's June 2025 Newsletter.

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