



Broadcasting and Telecom Regulatory Policy CRTC 2011-191

PDF version

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Additional references: 2010-406-1, 2010-406-2

Ottawa, 18 March 2011

The customer transfer process and related competitive issues

In this regulatory policy, the Commission sets out measures that will simplify the process when customers wish to change the provider from which they receive telecommunications and/or broadcasting services. Under these measures, a new service provider that the customer has selected will be able to cancel service from the current provider on the customer's behalf. Customers may still cancel service on their own, if they prefer, and receive offers made by the current service provider.

Further, the Commission finds that changes to existing rules governing inside wire, quality of service standards, access agreements, and the use of local availabilities in the broadcasting distribution market are not warranted.

Background

1. Increased competition in both the telecommunications and broadcasting sectors has provided consumers with additional choice in services and service providers. When consumers exercise this choice they often move from one service provider to another. In many instances such movement can require the two service providers to work together to coordinate the transfer of facilities or resources¹ so that customers experience a smooth transition from one service provider to another.
2. As part of the implementation of local competition in the telecommunications industry, the telecommunications industry developed a process for the efficient transfer of a customer's service, commonly referred to as the customer transfer process. Under this process, in cases where coordination between the current and new service provider is necessary, the new service provider may obtain authorization from the customer to cancel telecommunications services on behalf of the customer (the authority to act).
3. Over the years, the broadcasting and telecommunications industries have adopted similar customer transfer processes in such service categories as wireless, Internet and broadcasting services, including the new service provider's authority to act for the

¹ For example, these facilities or resources could include local loops and/or telephone numbers.

customer where coordination between current and new service providers is required. However, in other instances, the customer transfer process can be different.

4. In the context of increasingly converged telephony and broadcasting markets, where communications services are commonly offered to customers on a bundled basis by a single service provider, the applicability of the authority to act for some customer service transfers is being disputed by some service providers, resulting in some requests not being acted upon or customers experiencing extra costs and/or frustration.
5. Both telecommunications and broadcasting service providers have also established groups to isolate sensitive customer/competitor information from the sales and marketing function. These groups are referred to as either carrier service groups, in the case of telecommunications, or customer service groups, in the case of broadcasting (both abbreviated as “CSG”). The purpose of the CSG is to permit competitors to exchange competitively sensitive information when customers wish to change service providers. The CSG ensures that the information received from competitors is not communicated to the sales and marketing group, thus avoiding an unfair and ultimately anti-competitive advantage for incumbents.

The requests

6. The Commission received a request by Bell Aliant Regional Communications, Limited Partnership, Bell Canada and Bell TV (the Bell companies), dated 27 May 2010, proposing changes to the customer transfer processes in telecommunications or broadcasting, and other regulatory changes intended to achieve regulatory symmetry between the telephony and broadcasting distribution markets. The Bell companies sought relief under both the *Telecommunications Act* and the *Broadcasting Act*. The Bell companies also sought relief for several other items under the *Broadcasting Act*.
7. This followed an earlier request from Shaw Communications Inc. (Shaw), received on 25 May 2010, for a Commission determination regarding the requirements applicable to handling customer cancellation and transfer requests in the broadcasting distribution market, and whether there is a requirement for broadcasting distribution undertakings (BDUs) to handle third-party cancellation requests through a CSG.
8. In Broadcasting and Telecom Notice of Consultation 2010-406, the Commission called for comments on the Bell companies’ and Shaw’s requests and expanded the proceeding to include the customer transfer process for high-speed Internet services. In Broadcasting and Telecom Notice of Consultation 2010-406-2, the Commission further expanded the proceeding to include the customer transfer process for wireless services.
9. The Commission received submissions regarding the Bell companies’ and Shaw’s requests from Access Communications Co-operative Limited; Association des Compagnies de téléphone du Québec inc.; Bragg Communications Inc.; the Canadian Cable Systems Alliance Inc.; Cogeco Cable Canada Inc. (Cogeco); Comwave

Telecom Inc.; Distributel Communications Limited; Globalive Wireless Management Corp.; Mobilicity and Public Mobile Inc.; MTS Allstream Inc. (MTS Allstream); Novus Entertainment Inc.; Primus Telecommunications Canada Inc.; the Public Interest Advocacy Centre, on behalf of the Consumers' Association of Canada and Canada Without Poverty (formerly the National Anti-Poverty Organization); Quebecor Media Inc. (QMI); Rogers Communications Inc. (RCI); Saskatchewan Telecommunications (SaskTel); Shaw; Tbay Tel; TekSavvy Solutions Inc.; TELUS Communications Company (TELUS); and l'Union des consommateurs. The complete record is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

The Bell companies' request

10. The Bell companies requested that the Commission impose a condition under section 24 of the *Telecommunications Act* regarding the provision of business and residential primary exchange services and long distance services by Canadian carriers and by telecommunications service providers (TSPs). The condition would require that when any carrier – or a TSP providing services via the lease and/or resale of carrier services and facilities – wishes to provide a customer with such services, the cancellation of an existing service must be received directly from the end-user customer, as distinct from the prospective new service provider.
11. In the alternative, the Bell companies submitted that a service provider should be able to cancel existing services on behalf of a new customer in the broadcasting distribution market. However, the Bell companies argued that modifying the customer transfer process for telephony service would be the preferred approach.
12. The Bell companies also requested that the Commission:
 - impose conditions applicable to the termination and migration of television broadcasting distribution services by BDUs through the introduction of quality of service (Q of S) standards, including appropriate cost-based charges applicable to any BDU failing to meet the relevant Q of S standards;
 - eliminate the \$5.00 one-time charge for inside wire in single-unit dwellings (SUDs) and the \$0.52 per subscriber/per month fee for inside wire in multiple-unit dwellings (MUDs);²
 - impose a condition on BDUs requiring that all access agreements between BDUs and MUD owners pertaining to the provision of broadcasting distribution services be made public; and

² In Public Notice 2000-81, the Commission accepted a "non-interference model," as proposed by the Canadian Cable Television Association, for the use of cable inside wire in both SUDs and MUDs.

- require cable and new entrant BDUs to share each other's local availabilities³ promotional components, and in particular, for a period of five years from the date of a Commission determination, require cable and Internet Protocol television BDUs to share the 25 percent of local availabilities that each is permitted to use for the promotion of its own services, with 12.5 percent allocated to the cable BDU and 12.5 percent allocated to the competitor.

Should the customer transfer process be made consistent across all telecommunications and broadcasting distribution services?

The Bell companies' position

13. In support of their request, the Bell companies submitted that the Governor in Council's *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-2534, 14 December 2006 (the Policy Direction), requires that non-economic regulatory measures, such as customer transfer processes, be applied in a symmetric manner. The Bell companies argued that, on this basis, regulatory symmetry should be applied to address the divergence in regulatory requirements across the converging telephony and broadcasting distribution markets.
14. The Bell companies also submitted that services and markets have converged and service providers have increasingly come to rely on service bundles to attract customers. They suggested that, as a result, the current regulatory environment runs counter to and undermines convergence by imposing different regulatory measures for customer transfers in the telecommunications and broadcasting distribution markets. They argued that this generates customer confusion and inconvenience, as many customers are unaware that different regulatory requirements and cancellation protocols apply to their different telecommunication and broadcasting services.
15. The Bell companies considered that their proposal for the telephony service cancellation process to be initiated directly by the customer would foster far more informed customer transfer decisions by consumers than the status quo. According to the Bell companies, consumers would gain access to accurate retention offers and information about early termination charges, which are often denied to them under the current regulatory regime. The Bell companies added that their proposal would provide an opportunity for the current service provider to counteract and correct any misleading information provided to migrating customers by the new service provider.

Other parties' positions

16. While RCI supported the Bell companies' proposal that the telephony service cancellation process be initiated directly by a customer, it did not support the Bell

³ Local availabilities are periods of time within the programming of non-Canadian services where BDUs may insert announcements or promotions, per negotiated agreements between those BDUs and the programming services in question.

companies' alternative proposal of introducing new rules with respect to customer transfers in the broadcasting distribution market. RCI submitted that the Bell companies have mischaracterized this as a symmetry issue when the rules pertaining to customer transfers are already symmetrical between telecommunications and broadcasting. RCI noted that, whenever a facility or service needs to be transferred in a coordinated fashion, an agency relationship, whereby the new service provider has authority to act on behalf of the customer, has been introduced for both telecommunications and broadcasting. RCI added, however, that whenever coordinated transfers are not required, no agency relationship has been introduced in either telecommunications or broadcasting.

17. Other parties either supported the status quo or advocated adding the authority to act so that it would apply across all telecommunications and broadcasting services. Parties who supported the status quo noted that the Policy Direction does not call for regulatory symmetry between telecommunications and broadcasting distribution markets. They also submitted that competition has flourished in the broadcasting, wireless and Internet markets without the imposition of an authority to act. They further noted that the provision of service provider equipment in the customer's premises in the case of broadcasting and Internet services makes it less efficient for a new service provider to cancel on behalf of the customer.
18. Parties who advocated adding the authority to act across all telecommunications and broadcasting services submitted that, with the increasing prevalence of bundles, it makes sense to have a simple, efficient and consistent approach to customer transfers across all services. In their view, applying the same rules across all services would support customer choice and offer a positive customer experience. They also submitted that, without the authority to act in place, existing service providers could refuse third-party cancellations, thus frustrating customers and impeding competition.

Commission's analysis and determinations

19. The Commission notes that the Policy Direction's requirement that regulatory measures be implemented in a symmetrical manner does not apply to broadcasting but is restricted to the treatment of telecommunications services. Nevertheless, the Commission is of the view that regulatory symmetry with respect to customer transfers would be in the best interests of consumers in light of increasing convergence and the trend toward bundling of services, and would assist in the achievement of the objectives of the *Broadcasting Act*.
20. The Commission agrees with RCI's view that the rules pertaining to customer transfers are already symmetrical between telecommunications and broadcasting. The Commission notes that a new service provider is able to cancel existing services on behalf of a customer in telecommunications sectors and in broadcasting, but only in circumstances where coordination between the new and current service provider must

take place.⁴ If coordination is not needed, then there is no current regulatory requirement for an existing service provider to accept a cancellation request made by a new service provider on a customer's behalf.

21. The Commission considers, however, that in some instances the existing rules could result in customer confusion and inconvenience. A new service provider could, for example, cancel customers' local telephony or wireless service but may have to instruct customers to cancel their own BDU or Internet services where coordination is not required.
22. In Telecom Decision 2009-538, the Commission denied a request by Bell Aliant Regional Communications, Limited Partnership and Bell Canada to remove from TSPs the authority to act on customers' behalf in order to cancel local and long distance services with their current TSPs during the customer transfer process. In that decision, the Commission concluded, among other things, that requiring customers to call their current TSP to cancel their service could be viewed by some customers as a disincentive to switching service providers and could add complexity and delays to a customer transfer. The Commission expressed the view that the current customer transfer process, in comparison to the proposed process, was more appropriate for competition and customers.
23. In the Commission's view, the Bell companies have failed to demonstrate in this proceeding that there has been any change in circumstances that would alter the Commission's conclusion in Telecom Decision 2009-538. The Commission notes that parties made submissions on the agency and mandate relationship that is created as a result of the authority to act. The Commission is of the view that the agency relationship created by the customer transfer process is narrow in scope as its sole purpose is to implement instructions from the customer regarding the transfer. Since the scope of the relationship is narrow, so are the obligations and duties that arise as a result of this relationship. With these considerations in mind, the Commission considers that it is inappropriate to remove a service provider's authority to act on the customer's behalf to cancel services with the current service provider during the customer transfer process.
24. The Commission is of the further view that extending the authority to act to cancel services on behalf of a customer where it is currently not required would result in a transfer process that provides customers with the most choice and convenience in a converged environment. The Commission considers that such an approach would simplify customers' experience when switching service providers as their new service provider would be able to handle the changeover. This minimizes the difficulties that might arise due to any steps in the changeover process that customers have inadvertently omitted.

⁴ For instance, this ability is contained in the Commission-approved *Canadian Local Ordering Guidelines*, which specify the process and procedures. The latest version of this document was approved in Telecom Decision 2008-61.

25. At the same time, customers may still cancel service on their own, if they prefer, and receive new service offers from their former service provider at that time. This means that customers control the transfer process by determining how much they want to be involved in it, while at the same time being in a position to always take advantage of the best deal that the service providers offer.
26. Accordingly, the Commission intends to amend the *Broadcasting Distribution Regulations*, in accordance with the procedure set out in section 10(3) of the *Broadcasting Act*, in order to require that BDUs accept a customer cancellation request from a prospective BDU where the customer requests that this BDU act on his or her behalf.
27. Additionally, the Commission imposes a condition of service pursuant to section 24 of the *Telecommunications Act* to the offering and provision of telecommunications services by Canadian carriers, including wireless carriers, to accept a customer cancellation request from a prospective new service provider, on behalf of a customer.
28. Further, the Commission directs Canadian carriers, as a condition of offering and providing telecommunications services to any TSPs, Internet service providers and resellers, to include in all current and new service contracts and other arrangements the requirement that they abide by customer transfer and service cancellation requests from a prospective new service provider acting on behalf of a customer.
29. The requirements set out in paragraphs 26 to 28, above, to accept cancellations and transfer requests apply even in circumstances where no coordination is necessary between the service providers. These requirements will be subject to the prospective new service provider having confirmed its authority to act in accordance with paragraph 31 of the present regulatory policy.

Implementation issues

Confirmation of authority to act

30. When a new service provider acts on a customer's behalf to cancel services, the new service provider must be able to provide proof that the customer has authorized the transfer of service to ensure accuracy of information and to prevent unauthorized transfers. The Commission notes that, while order confirmation procedures have been established in telecommunications for coordinated transfers, no formal procedures have been established in broadcasting.
31. In Telecom Decision 2005-15, the Commission set out the acceptable methods for Canadian carriers to obtain express customer consent for the disclosure of confidential customer information. The telecommunications industry has since adopted these methods for customer order confirmation, which have been set out in Section C of Schedule H (Customer Transfer Procedures) of the Master Agreement

for Local Interconnection.⁵ The Commission considers that these procedures are appropriate to govern all customer transfers by third parties. It therefore requires that customer confirmation be obtained through one of the following methods:

- written order confirmation;
- oral order confirmation verified through an independent third party;
- electronic order confirmation by the use of a toll-free number;
- electronic order confirmation via the Internet;
- oral order confirmation where an audio recording of the consent is retained by the new service provider; or
- order confirmation obtained through other methods, as long as an objective documented record of customer consent is created by the customer or by an independent third party.

Completion of transfers

32. In order to facilitate timely processing of service cancellation requests by service providers, the Commission considers it necessary to impose a time limit within which the current service provider must complete the transfer. In its comments, TELUS proposed that transfers of broadcasting services be completed within 48 hours of receipt of the request. However, Shaw characterized the imposition of such a time limit as a proposal to regulate the term and termination provisions of BDU customer service contracts.

33. The Commission notes that there are already service standards in place setting out time limits for customer transfers that require coordination between service providers. For example, a time limit of two business days has been established for the disconnection of unbundled loops⁶ or for stand-alone telephone number porting.^{7,8} Further, BDUs must accommodate requests by other distributors for access to customer service enclosures or distribution panels in order to transfer inside wire within 24 hours of receiving such a request. The Commission therefore considers that

⁵ The local exchange carriers use a model agreement that has been approved by the Commission. This model was first approved by the Commission in Telecom Decision 2007-62. Since that time, updates to the document have been posted by the Commission on its website.

⁶ In Telecom Decision 2002-14, the Commission directed that the incumbent local exchange carriers make service available to competitive local exchange carriers within two business days for migrated type A and B loops, including all sub-types.

⁷ In Telecom Decision 2003-48, the Commission directed that the service interval for the provision of all stand-alone ports be two days.

⁸ Except for wireless to wireless number porting, where a time period of 2.5 business hours has been mandated by the Commission in Telecom Decision 2005-72.

it is appropriate to establish a time limit of two business days to complete a customer transfer where no coordination between service providers is necessary.

34. Accordingly, as part of its proposed amendments, the Commission will set out a requirement on BDUs to complete customer transfers in the same timeframe as established by the Commission for TSPs, namely within two business days of the receipt of a third-party customer cancellation request where no coordination between service providers is necessary. The Commission notes, however, that customers will still be responsible for any termination penalties or any other terms that have been agreed to by contract with their current service provider.
35. In this respect, the Commission maintains the view expressed in Telecom Decision 2009-538 that service providers should inform their customers of termination penalties, if any, at the outset of any contract. The Commission continues to consider that customers currently have sufficient means to determine whether penalties will apply if they terminate their service.

Carrier/customer service groups

36. In transfers where coordination is necessary, service providers are required to maintain a CSG or a “CSG function.”⁹ As indicated above, the purpose of the CSG is to permit competitors to exchange competitively sensitive information when customers wish to change service providers. The CSG ensures that the information received from competitors is not communicated to the sales and marketing group, thus avoiding an unfair and ultimately anti-competitive advantage for incumbents. Such information would include the customer name and address, services taken, date of the request and date of the customer transfer.
37. Parties that supported retaining the requirement that a BDU maintain a CSG argued that the absence of winback rules¹⁰ does not eliminate the need to isolate competitively sensitive information from the sales and marketing group during the customer transfer process. They submitted that the CSG is the best way to safeguard this information, which could otherwise be used by existing service providers to prevent customer transfers or cause unreasonable delays.
38. Parties that opposed maintaining the requirement for a CSG for BDUs submitted that the isolation of customer transfer information limits a customer’s ability to benefit from information relating, for example, to better pricing options or better deals, as well as contractual obligations such as contract termination fees or penalties.

⁹ A CSG function could, for example, include entering into a non-disclosure agreement with other service providers.

¹⁰ In the past, the Commission has placed restrictions on certain TSPs and BDUs that prohibit them from attempting to repatriate customers who had elected to subscribe to a competing service provider for a certain period of time.

39. In Public Notice 2000-81, the Commission required RCI, Shaw, Vidéotron ltée (Videotron) and Cogeco to each establish a CSG. All other incumbent cable licensees were required to develop non-disclosure agreements to be entered into with all competing licensees in respect of the handling of confidential competitive information. The Commission did not eliminate the requirement for BDUs to maintain a CSG when it eliminated the winback rules for BDUs in Broadcasting Public Notice 2007-111. Accordingly, the Commission confirms that there continues to be a requirement for the four largest incumbent BDUs (RCI, Shaw, Videotron and Cogeco) to handle third-party cancellation requests through a CSG.
40. Nevertheless, the Commission acknowledges the views of parties that argued that the requirement for a CSG prevents customers from benefitting from retention offers and from being properly informed of contractual obligations by their current service providers. Consequently, the Commission is prepared to consider whether the continued requirement for CSGs in both telecommunications and broadcasting is in the best interests of consumers. The Commission notes, however, that the scope of Broadcasting and Telecom Notice of Consultation 2010-406 was limited to the question of whether there was a requirement for BDUs to handle third-party cancellation requests through a CSG. Accordingly, in Broadcasting and Telecom Notice of Consultation 2011-192, also issued today, the Commission has announced a proceeding to consider the ongoing need for BDUs and telecommunications carriers to maintain CSGs, or CSG functions, and whether and in what manner regulatory measures pertaining to CSGs can be applied symmetrically to both industries.

Other issues

41. As noted above, the Bell companies also made several requests for further symmetry between broadcasting and telecommunications in areas such as Q of S standards, inside wire charges, publication of building access agreements and the sharing of local availabilities. The Bell companies based these requests on their position that new BDU market entrants face barriers similar to those that confronted telecommunications start-ups, both in establishing a foothold in their marketplace and in continuing to compete effectively on an ongoing basis. The Bell companies noted that most of their proposals were previously adopted by the Commission for the telecommunications market based upon the Commission's assertion that they were required to remove barriers and thus foster the development of what the Commission called "sustainable" competition.
42. Generally, the Bell companies' proposals were supported by other TSPs, who argued for more symmetrical regulatory measures for converged service providers. The Bell companies' proposals were opposed mainly by incumbent BDUs, who argued that competition in the broadcasting distribution market has progressed well beyond the nascent stage and that the Bell companies had failed to demonstrate the necessity of these proposed changes.
43. The Commission considers that competition is well established in the broadcasting distribution market. New entrants to the market, including satellite providers such as

Bell TV and Shaw Direct, and digital subscriber line-based providers such as MTS Allstream and SaskTel, offer competitive distribution undertakings that have proven to be viable alternatives to incumbent cable BDUs. The Commission has received no indication that the existing rules governing inside wire, Q of S standards, access agreements or local availabilities in the broadcasting distribution market have served as an impediment to competition. In this regard, the Commission notes that it recently reviewed its approach to local availabilities and set out its determination in Broadcasting Regulatory Policy 2010-189. Therefore, the Commission is of the view that changes to these regulatory frameworks are not warranted and denies the Bell companies' requests in this regard.

Secretary General

Related documents

- *Call for comments on issues related to customer/carrier service groups*, Broadcasting and Telecom Notice of Consultation CRTC 2011-192, 18 March 2011
- *Call for comments on the customer transfer process and related competitive issues*, Broadcasting and Telecom Notice of Consultation CRTC 2010-406, 23 June 2010, as amended by Broadcasting and Telecom Notices of Consultation CRTC 2010-406-1, 5 July 2010, and 2010-406-2, 23 July 2010
- *Commercial advertising in the local availabilities of non-Canadian services*, Broadcasting Regulatory Policy CRTC 2010-189, 29 March 2010.
- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to remove authority to act from the customer transfer process*, Telecom Decision CRTC 2009-538, 28 August 2009
- *CRTC Interconnection Steering Committee – Consensus items*, Telecom Decision CRTC 2008-61, 4 July 2008
- *Elimination of the winback rules*, Broadcasting Public Notice CRTC 2007-111, 5 October 2007
- *CRTC Interconnection Steering Committee – Consensus items*, Telecom Decision CRTC 2007-62, 1 August 2007
- *Implementation of wireless number portability*, Telecom Decision CRTC 2005-72, 20 December 2005
- *Part VII application to revise Article 11 of the Terms of Service*, Telecom Decision CRTC 2005-15, 17 March 2005
- *Incumbent local exchange carrier service intervals for various competitor services*, Telecom Decision CRTC 2003-48, 18 July 2003

- *Incumbent local exchange carrier service intervals for unbundled local loop orders*, Telecom Decision CRTC 2002-14, 8 March 2002
- *Revised policy concerning inside wire regime; Call for comments on proposed amendments to section 10 of the Broadcasting Distribution Regulations*, Public Notice CRTC 2000-81, 9 June 2000, as amended by Public Notice CRTC 2000-81-1, 17 July 2000