



Telecom Notice of Consultation CRTC 2012-206

PDF version

Ottawa, 4 April 2012

Call for comments

Proceeding to consider whether the conditions in the Canadian wireless market have changed sufficiently to warrant Commission intervention with respect to retail wireless services

File numbers: 8661-C12-201204057; 8620-R28-201202598; 8661-P8-201116807

Background

1. The Public Interest Advocacy Centre, on behalf of itself and the Consumers' Association of Canada (collectively, PIAC/CAC), submitted an application, dated 22 December 2011, requesting that the Commission prohibit wireless service providers from charging customers for services after they have ported to another wireless provider. PIAC/CAC argued that these billing practices are contrary to subsection 27(2) of the *Telecommunications Act* (the Act), several of the Canadian telecommunications policy objectives, as well as the Policy Direction¹ and several Commission determinations.
2. Rogers Communications Partnership (RCP) submitted an application, dated 8 March 2012, in which it requested that the Commission establish a CRTC Interconnection Steering Committee process to develop and implement a national wireless services consumer code.
3. In the context of the above-noted applications by PIAC/CAC and RCP, the Commission received comments from TELUS Communications Company, the Canadian Wireless Telecommunications Association, and Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic, all of whom requested that the Commission create a national code.
4. Many of those who requested a national wireless consumer code noted that several provinces have recently introduced amendments to consumer protection legislation that directly or indirectly impact wireless services. These interveners submitted that this was a clear indication of a demand by Canadian wireless consumers for a national code for wireless services.

¹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

5. The Commission is of the view that before it can consider what form of intervention, if any, may be appropriate with respect to retail wireless services, it must first determine whether there is evidence that Commission intervention in this matter is necessary and appropriate in light of the Commission's forbearance from regulation of the wireless industry and the Policy Direction.

Reliance on market forces

6. In the mid-1990s, the Commission determined that it would forbear from further regulation of the Canadian wireless industry and would allow market forces to guide the industry's growth. The Commission cited sufficient levels of competition in the Canadian wireless industry as the rationale for its determination.²
7. The Policy Direction requires, among other things, that the Commission rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives set out in the Act. The Policy Direction also requires the Commission to regulate, where there is still a need to do so, in a manner that interferes with market forces to the minimum extent necessary to meet these policy objectives.
8. In 2007, the Governor in Council issued *Order requiring the CRTC to report to the Governor in Council on consumer complaints*, P.C. 2007-533, 4 April 2007 (the Order), in which it stated that an independent consumer agency with a mandate to resolve complaints from individual and small business retail customers should be an integral component of a deregulated telecommunications market. In Telecom Decision 2007-130, the Commission approved the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc. (CCTS), an independent telecommunications consumer agency, established in response to the Order.³ The CCTS's mandate includes the development or approval of industry codes of conduct and standards.⁴

² The forbearance framework was first established in Telecom Decision 94-15, and was refined in Telecom Decision 96-14. In a number of follow-up company-specific decisions and orders, such as Telecom Decision 98-19, Telecom Order 99-991, Order 2001-501, and Telecom Decision 2004-84, the framework was extended to the wireless services provided by Canadian carriers that were not captured by Telecom Decisions 94-15 and 96-14. The Commission retained its regulatory powers under section 24 and subsections 27(2) and 27(4) of the *Telecommunications Act* for mobile voice services. In Telecom Decision 2010-445, the Commission amended the forbearance regime for mobile wireless data services to be consistent with the forbearance regime applicable to mobile voice services.

³ The mandate and structure of the CCTS was recently reviewed by the Commission in Telecom Regulatory Policy 2011-46.

⁴ The CCTS currently administers one voluntary code, the Canadian Wireless Telecommunications Association's Code of Conduct for Wireless Service Providers. In Telecom Regulatory Policy 2011-46, the Commission considered that it was appropriate to distinguish between voluntary and mandatory codes. The Commission considered that the appropriate mechanism for the development of mandatory codes was a CRTC Interconnection Steering Committee working group that includes the CCTS as a participant.

Call for comments

9. The Commission is seeking comments on whether the conditions for forbearance have changed sufficiently to warrant Commission intervention in the development of a national retail wireless services consumer code. In their interventions, interested persons should provide evidence as to the need for Commission intervention.
10. In light of the above, the Commission will suspend consideration of the above-noted applications by PIAC/CAC and RCP until such time as it makes a determination on the issue raised in this Notice of Consultation. However, the records of both proceedings have been added to the record of this proceeding, since they provide context regarding the issues that parties have proposed to be covered by a national code for wireless services.

Procedure

11. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure), which came into force on 1 April 2011, apply to this proceeding.⁵
12. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues, by **3 May 2012**. In accordance with section 26 of the Rules of Procedure, this intervention must explicitly state that the person wishes to be considered an intervener.
13. Shortly thereafter, the Commission will post the interventions on its website. All documents required to be served on a party or parties to the proceeding must be served using the contact information contained in the interventions.
14. All parties may file reply comments with the Commission, serving copies on all other parties, by **14 May 2012**.
15. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.
16. The Commission will not formally acknowledge interventions or replies. It will, however, fully consider all submissions, which will form part of the public record of the proceeding.

⁵ The Rules of Procedure set out, among other things, the rules for the filing, content, format, and service of interventions and interrogatories; the procedure for filing confidential information and requesting its disclosure; and the conduct of the public hearing. Accordingly, the procedure set out in this notice must be read in conjunction with the Rules of Procedure and their accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."

17. Parties are reminded that, in accordance with the Rules of Procedure, if a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date. A document must be filed with the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due.
18. Parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary.
19. Electronic submissions should be in HTML format. Alternatively, Microsoft Word may be used for text and Microsoft Excel for spreadsheets.
20. Each paragraph of all submissions should be numbered. In addition, the line ***End of document*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
21. The Commission encourages interested persons and parties to monitor the record of this proceeding and/or the Commission's website for additional information that they may find useful when preparing their submissions.

Important notice

22. All information provided as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information provided.
23. The personal information provided will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
24. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
25. The information provided to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not link directly to the information provided as part of this public process.

Location of CRTC offices

26. Submissions may be examined or will be made available promptly upon request at Commission offices during normal business hours.

Toll-free telephone: 1-877-249-2782
Toll-free TDD: 1-877-909-2782

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Regional offices

Metropolitan Place
99 Wyse Road, Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

205 Viger Avenue West, Suite 504
Montréal, Quebec H2Z 1G2
Tel.: 514-283-6607

55 St. Clair Avenue East, Suite 624
Toronto, Ontario M4T 1M2
Tel.: 416-952-9096

360 Main Street, Suite 970
Winnipeg, Manitoba R3C 3Z3
Tel.: 204-983-6306
Fax: 204-983-6317

2220 – 12th Avenue, Suite 620
Regina, Saskatchewan S4P 0M8
Tel.: 306-780-3422

100 – 4th Avenue SW, Suite 403
Calgary, Alberta T2P 3N2
Tel.: 403-292-6660
Fax: 403-292-6686

858 Beatty Street, Suite 290
Vancouver, British Columbia V6B 1C1
Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Related documents

- *Review of the Commissioner for Complaints for Telecommunications Services*, Telecom Regulatory Policy CRTC 2011-46, 26 January 2011
- *Modifications to forbearance framework for mobile wireless data services*, Telecom Decision CRTC 2010-445, 30 June 2010
- *Establishment of an independent telecommunications consumer agency*, Telecom Decision CRTC 2007-130, 20 December 2007
- *Prince Rupert City Telephones – Cellular service forbearance*, Telecom Decision CRTC 2004-84, 21 December 2004
- *CRTC refrains from regulating O.N.Telcom's delivery of mobile wireless services*, Order CRTC 2001-501, 29 June 2001
- Telecom Order CRTC 99-991, 13 October 1999
- *Forbearance from Regulation of Mobile Wireless Services Provided by Municipally Owned Telephone Companies*, Telecom Decision CRTC 98-19, 9 October 1998
- *Regulation of mobile wireless telecommunications services*, Telecom Decision CRTC 96-14, 23 December 1996
- *Regulation of wireless services*, Telecom Decision CRTC 94-15, 12 August 1994