



Broadcasting and Telecom Decision CRTC 2014-24

PDF version

Ottawa, 28 January 2014

Wightman Telecom Ltd. and Bragg Communications Inc., operating as EastLink – Applications regarding the implementation of an interim customer transfer process

File number: 8621-W4-201312826

In this decision, the Commission approves Wightman's request to require EastLink to accept its manual customer transfer requests, as an interim measure pending the 23 May 2014 deadline for the implementation of a modified mechanized customer transfer process. Further, the Commission denies EastLink's request that the Commission confirm that service providers should not be forced to establish an interim customer transfer process. The Commission therefore directs EastLink to accept manual requests from Wightman for the transfer of customer broadcast and Internet services as of the date of this decision and until the modified mechanized customer transfer process is in place. The purpose of the customer transfer process is to facilitate Canadians' participation in a competitive marketplace.

Background

1. In Broadcasting and Telecom Regulatory Policy 2011-191, the Commission took steps to simplify the process for customers who wished to change service providers for both telecommunications and broadcasting services.
2. In particular, the Commission required, pursuant to section 24 of the *Telecommunications Act* (the Act), Canadian carriers, Internet service providers, and resellers to accept customer cancellation requests from other service providers acting on behalf of customers.
3. In addition, the Commission subsequently amended the *Broadcasting Distribution Regulations* (the Regulations) by adding section 15.4 to require that broadcasting distribution undertakings (BDUs) accept cancellation requests from other BDUs acting on behalf of customers and complete customer transfers within two business days after the day on which the cancellation request is made.
4. The CRTC Interconnection Steering Committee Business Process Working Group (the BPWG) has been working on developing solutions to implement changes to the existing customer transfer process, consistent with the Commission's determinations set out in Broadcasting and Telecom Regulatory Policy 2011-191. The BPWG has submitted two reports to the Commission in this respect: a consensus report¹ outlining

¹ The consensus report is BPRE083a – *Customer Transfer Process*.

its proposal and a non-consensus report² seeking the Commission's assistance in setting an associated implementation date.

5. In Broadcasting and Telecom Decision 2013-261, the Commission approved, among other things, most of the BPWG's proposed recommendations regarding the customer transfer process, and determined that the associated process and system modifications be implemented industry-wide by 23 May 2014.

Applications

6. The Commission received an application from Wightman Telecom Ltd. (Wightman), dated 13 September 2013, in which the company requested that the Commission direct Bragg Communications Inc., operating as EastLink (EastLink), to temporarily accept manual requests from Wightman for the transfer of customer broadcast and Internet services until a modified, mechanized, general industry approach is finalized. Wightman also requested that the Commission address its application on an expedited basis.³
7. The Commission also received an application from EastLink, dated 13 September 2013, in which the company requested that the Commission confirm that its approval of the BPWG's consensus report in Broadcasting and Telecom Decision 2013-261 included agreement with the industry's position that service providers should not be forced to establish an interim customer transfer process. EastLink also requested that the Commission direct Wightman to cease sending manual requests while this matter was before the Commission.⁴
8. The Commission received interventions regarding Wightman's and EastLink's applications from the Canadian Network Operators Consortium Inc. (CNO), EastLink, Quebecor Media Inc., on behalf of its affiliate Videotron G.P. (Videotron), Rogers Communications Partnership (RCP), and Wightman. The public record of this proceeding, which closed on 16 October 2013, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

² The non-consensus report is BPRE083b – *Implementation Date for Customer Transfer Process*.

³ In a letter addressed to both Wightman and EastLink, dated 20 September 2013, Commission staff set out an expedited procedure, as had been requested by Wightman.

⁴ In the above-mentioned letter, Commission staff indicated that EastLink's request that the Commission direct Wightman to cease sending manual customer transfer requests would require a Commission determination on the matters before it.

Should EastLink be required to implement an interim process to accept manual customer transfer requests from Wightman pending the implementation of the modified mechanized customer transfer process?

9. Wightman had previously proposed a temporary process whereby the company would contact EastLink's business office to request transfers of customer broadcast and Internet services. In its current application, Wightman stated that in Broadcasting and Telecom Decision 2013-261, the Commission mandated service providers to work together to use temporary customer transfer processes. Wightman submitted that these processes would not need to be established industry-wide. The company began sending its customer transfer requests to EastLink via email on 3 September 2013.
10. EastLink stated that the Commission correctly determined in Broadcasting and Telecom Decision 2013-261 that it would not direct service providers to establish interim customer transfer processes. The company indicated that in that decision, the Commission approved the BPWG's consensus report (BPRE083a), in which the BPWG had expressly cautioned against implementing interim customer transfer processes.
11. EastLink submitted that while a couple of service providers in western Canada had established bilateral interim customer transfer processes before Broadcasting and Telecom Regulatory Policy 2011-191 was published, to its knowledge, no other service provider in Canada has established interim customer transfer processes.
12. EastLink further submitted that customer transfer processes are complex, interim or otherwise, and that since Wightman chose not to participate in related CISC discussions, Wightman was not familiar with this level of complexity. EastLink argued that establishing an interim process would divert money and human resources to a system that would be in place for only a brief period of time.
13. CNOC supported Wightman, arguing that the Commission's intent in Broadcasting and Telecom Decision 2013-261 was to encourage service providers to negotiate, cooperate, and implement temporary customer transfer processes. CNOC submitted that all service providers should be required to implement temporary customer transfer processes for broadcast and Internet services as necessary.
14. Videotron and RCP supported EastLink, arguing that it would not be wise to divert resources currently involved in implementing the modified mechanized customer transfer process for the May 2014 deadline in order to implement an interim solution.

Commission's analysis and determinations

15. The Commission notes that pursuant to section 24 of the Act and section 15.4 of the Regulations, respectively, telecommunications service providers and BDUs have a regulatory obligation to accept customer transfer requests from prospective new service providers. The above-noted provisions do not specify whether customer transfer requests must be manual or mechanized. Consequently, pending the implementation of the modified mechanized customer transfer process, telecommunications service providers and BDUs are obligated to accept manual requests.
16. Furthermore, while the BPWG cautioned against implementing interim customer transfer processes in consensus report BPRE083a, it did not recommend that the Commission deny all requests to implement such processes. In this regard, in Broadcasting and Telecom Decision 2013-261, the Commission stated that service providers that were using temporary customer transfer measures were to continue that practice. Moreover, the Commission did not relieve service providers of their obligation to accept customer transfer requests in cases where no temporary measures are in place.
17. Accordingly, the Commission considers that by refusing to accept manual requests from Wightman for the transfer of customer broadcast and Internet services, EastLink is not complying with the regulatory requirements set out in Broadcasting and Telecom Regulatory Policy 2011-191 and section 15.4 of the Regulations.
18. In light of the above, the Commission **approves** Wightman's application, and **denies** EastLink's application. Accordingly, the Commission directs EastLink to accept manual requests from Wightman for the transfer of customer broadcast and Internet services as of the date of this decision and until the modified mechanized customer transfer process is in place.

Secretary General

Related documents

- *CISC Business Process Working Group – Consensus report BPRE083a and non-consensus report BPRE083b regarding the customer transfer process*, Broadcasting and Telecom Decision CRTC 2013-261, 23 May 2013
- *The customer transfer process and related competitive issues*, Broadcasting and Telecom Regulatory Policy CRTC 2011-191, 18 March 2011