



Telecom Decision CRTC 2016-171

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Quebecor Media Inc. – Prohibition of 30-day cancellation policies – Application regarding pro-rated refunds for cancelled services

*The Commission **denies** a request by Quebecor Media Inc. (QMI), on behalf of Videotron G.P., to direct Bell Canada and its subsidiaries to give individual and small business customers pro-rated refunds when those customers cancel retail wireless services, retail local voice services (including voice over Internet Protocol [VoIP] services) or Internet services, for which some or all of the monthly service fees are billed in advance. Since this issue affects all customers of all service providers, QMI's focus on a single service provider makes the scope of its application too narrow.*

*However, in line with its prohibition of 30-day cancellation policies, the Commission **clarifies** that service providers must not charge for a service that is not, and cannot be, provided following cancellation. Moreover, all service providers must provide refunds for retail wireless, local voice (including VoIP), and Internet services following cancellation of such services when some or all of the monthly service fees are billed in advance. The refunds must be pro-rated, based on the number of days left in the last monthly billing cycle after cancellation.*

The Commission will continue to monitor complaints by consumers and stakeholders regarding 30-day cancellation policies, as well as relevant changes in the marketplace, to ensure that customers benefit from the safeguards that were intended by both the 30-day cancellation policy and the Wireless Code.

Background

1. In Telecom Regulatory Policy 2013-271, the Commission set out the Wireless Code, a mandatory code of conduct for providers of retail mobile wireless voice and data services (wireless services). In the Wireless Code, the Commission prohibited policies that require consumers to provide at least 30 days' notice to their wireless service providers prior to cancelling postpaid wireless services.¹ Consumers can thus cancel their service at any time by notifying their wireless service provider. Further,

¹ In the Wireless Code, the Commission defined postpaid services as wireless services that are paid for after use, usually upon receipt of a monthly bill, whereas it defined prepaid services as wireless services that are purchased in advance of use (for example, prepaid cards and pay-as-you-go services). It did not consider the effective cancellation date to be a significant issue for prepaid services, since customers for those services must actively choose to renew their services and can cancel them at any time.

cancellation takes effect on the date on which the wireless service provider receives the notice.

2. In Broadcasting and Telecom Regulatory Policy 2014-576 (the 30-day cancellation policy), the Commission, in response to an application by Bragg Communications Incorporated, operating as Eastlink (Eastlink), similarly prohibited 30-day cancellation policies for retail local voice services (including voice over Internet Protocol [VoIP] services), Internet services, and broadcasting distribution services (i.e., cable and satellite television services). Customers of such services can thus cancel their contracts at any time by notifying their service provider, with cancellation taking effect on the day that the service provider receives notice of the cancellation.
3. The prohibitions set out in the Wireless Code and the 30-day cancellation policy make it easier for consumers to switch service providers and help consumers avoid double-billing when they do switch. By removing unnecessary barriers to consumer choice, the prohibitions also contribute to a more dynamic marketplace.
4. In Broadcasting Regulatory Policy 2015-495, the Commission announced amendments to the *Broadcasting Distribution Regulations* (the Regulations) prohibiting 30-day cancellation policies by broadcasting distribution undertakings (BDUs). In the proceeding that led to the issuance of that regulatory policy,² Eastlink and the Public Interest Advocacy Centre (PIAC) suggested that the Regulations should explicitly state that the original BDU is not permitted to charge a customer for a cancelled service (i.e., charging for the service after the cancellation date or retaining any fees paid in advance for that time period). The Commission addressed that suggestion by stating in Broadcasting Regulatory Policy 2015-495 that its prohibition on 30-day cancellation policies clearly sets out that no charges are to be imposed for a cancelled service, and that all charges for that cancelled service are to cease immediately. The Commission added that the practice of requiring customers to pay for both a cancelled service and a new service is counter to the policy objectives set out in the *Broadcasting Act*.

Application

5. The Commission received an application from Quebecor Media Inc. (QMI), on behalf of Videotron Ltd. and 9227-2590 Québec inc., partners in a general partnership carrying on business as Videotron G.P., dated 3 July 2015, in which QMI requested that the Commission direct Bell Canada and its subsidiaries (Bell Canada et al.) to give individual and small business customers pro-rated refunds when those customers cancel retail local voice (including VoIP) services, Internet services and wireless services. QMI proposed that the pro-rated refunds be based on the number of days in the period during which service was received (which is its current approach). Further, it requested that the requirement to give pro-rated refunds be imposed by no later than 60 days from the date of the present decision.

² See Broadcasting Notice of Consultation 2015-191.

6. QMI noted that the amendments proposed in Broadcasting Notice of Consultation 2015-191 and adopted in Broadcasting Regulatory Policy 2015-495 specify that cancellation occurs once a request for cancellation is received by the service provider. It stated that all charges for that service must therefore cease immediately.
7. In line with the above, QMI submitted that service providers must provide pro-rated refunds for monthly fees that are paid in advance of cancellation for the period during which service is not provided, at least for BDUs. In QMI's view, Bell Canada et al.'s practice of not providing pro-rated refunds in that context runs counter to the spirit of the Wireless Code and the 30-day cancellation policy. QMI acknowledged that those policies do not specifically address pro-rated refunds, but argued that they are clear in their intent to make it easier for consumers to switch service providers, and to prevent customers from being double billed. It added that symmetry in this regard between BDUs and telecommunications service providers would avoid any incoherence between them.
8. QMI noted that some clients who switched to its service from Bell Canada et al.'s service expressed surprise and frustration when they learned that Bell Canada et al. would not offer them a pro-rated refund for the portion of the month that they had not received service. It stated that Bell Canada et al.'s customer service representatives informed customers that they should seek relief from QMI, not Bell Canada et al. In QMI's view, it is not reasonable to require the new service provider to offer a credit to offset the period during which the original service provider did not provide service. It further submitted that it is not the new service provider's responsibility to inform customers that they may not receive a pro-rated refund from their old service provider.
9. The Commission received interventions regarding QMI's application from Bell Canada on behalf of its subsidiaries, the Consumers Association of Canada and PIAC (collectively, CAC/PIAC), Eastlink, and TELUS Communications Company (TCC). QMI replied to the interventions. The public record of this proceeding, which closed on 30 November 2015, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Do the Wireless Code and the 30-day cancellation policy require service providers to offer pro-rated refunds for cancelled services?

Positions of parties

10. CAC/PIAC and Eastlink concurred with QMI that the disputed practice constitutes double-billing. CAC/PIAC noted that customers only become aware of the practice after switching service providers. In the view of CAC/PIAC and Eastlink, uniform policies for all types of service (i.e., wireless, local phone, Internet, and broadcasting distribution services), regardless of when payment for such services is made, would be beneficial.

11. Both Bell Canada and TCC stated that the Wireless Code and the 30-day cancellation policy do not explicitly require pro-rated refunds to be provided to customers who cancel services for which some or all of the monthly service fees are billed in advance. Bell Canada noted that, for instance, customers may incur unanticipated overage charges or use their monthly data allotment and cancel mid-month. Bell Canada argued that in these cases, it may have to assume that usage would have stayed constant over the period and assess overages accordingly.
12. In the same vein, TCC argued that should a customer use its monthly data allotment within the first two weeks of the month in which it cancels service, it, as the service provider, should not be required to credit half of that customer's payment, given that the customer has already used the data for which it subscribed and paid. TCC noted that following the issuance of the 30-day cancellation policy, Commission staff, in response to questions from Bell Canada and TCC, clarified that refunds of amounts billed and paid in advance for a period beyond the cancellation date were not required. However, should QMI's request be granted, TCC proposed that the Commission establish a reasonable transition period between frameworks, without specifying what would constitute a reasonable period.
13. Bell Canada added that the practices of other telecommunications service providers, including TCC, are similar to its own in this regard. In its view, granting QMI's request would be akin to requiring a service provider to bill on a daily basis, which is not their current practice. Bell Canada further stated that the provision of a pro-rated refund for only some services in a bundle could cause confusion for consumers.
14. In reply, QMI disagreed that Bell Canada et al. would need to significantly change their practices. QMI noted that Bell Canada et al. have offered pro-rated refunds for Internet services, among others services, and that they have a web page describing how pro-rated billing works on a daily basis. In response to questions, Bell Canada et al. indicated that they would be required to implement technological changes if QMI's application were approved, but noted that such changes should be relatively straightforward.

Commission's analysis and determinations

15. Under some service providers' current billing approaches, the bills that a customer receives may be composed of regular monthly charges for the upcoming month and incurred overage charges from the previous month. As a result, a customer who cancels service in the middle of a billing cycle may have already paid the regular monthly charges for that month in their previous monthly bill. If a pro-rated refund is not provided, the customer could end up making a payment to its new service provider and to its former service provider for a period for which only the new provider provided service.
16. Although neither the Wireless Code nor the 30-day cancellation policy explicitly addresses refunds for cancelled services, the practice of consumers paying for both the cancelled service and the new service is counter to the objectives set out in subparagraph 3(1)(t)(ii) of the *Broadcasting Act* and paragraphs 7(c), (f), and (h) of the *Telecommunications Act*.

17. Accordingly, the Commission **clarifies** that, in line with its prohibitions of 30-day cancellation policies, service providers must not charge for a service that is not, and cannot be, provided following cancellation. Moreover, all service providers must provide refunds for retail wireless, local voice (including VoIP), Internet, and broadcasting distribution services following cancellation of such services when some or all of the monthly service fees are billed in advance. The refunds must be pro-rated, based on the number of days left in the last monthly billing cycle after cancellation.
18. Given that the issue in question affects all customers of all service providers, the scope of the present application, pertaining to a single service provider's business practices, is too narrow to make a broad finding regarding all service providers. Consequently, the Commission **denies** QMI's application.
19. The Commission reminds service providers, stakeholders and consumers that the Wireless Code and the 30-day cancellation policy should be read as being consistent with the amendments to the Regulations prohibiting 30-day cancellation policies by BDUs. Specifically, for retail wireless, local voice (including VoIP), Internet, and broadcasting distribution services:
- no charges are to be imposed for a cancelled service;
 - the practice of requiring customers to pay for both a cancelled service and a new service is counter to the policy objectives set out in the *Broadcasting Act* and the *Telecommunications Act*; and
 - all charges for a cancelled service are to cease immediately upon the service provider receiving notice of cancellation of the service.
20. To ensure adherence to the above, the Commission will continue to monitor complaints by consumers and stakeholders regarding 30-day cancellation policies, as well as relevant changes in the marketplace.

Secretary General

Related documents

- *Amendments to the Broadcasting Distribution Regulations prohibiting 30-day cancellation policies*, Broadcasting Regulatory Policy CRTC 2015-495, 6 November 2015
- *Call for comments on proposed amendments to the Broadcasting Distribution Regulations to implement a prohibition on 30-day cancellation policies*, Broadcasting Notice of Consultation CRTC 2015-191, 13 May 2015
- *Prohibition of 30-day cancellation policies*, Broadcasting and Telecom Regulatory Policy CRTC 2014-576, 6 November 2014
- *The Wireless Code*, Telecom Regulatory Policy CRTC 2013-271, 3 June 2013