



Telecom Decision CRTC 2009-445

Ottawa, 24 July 2009

L'Union des consommateurs – Application with regard to billing of text messages from short codes

File number: 8620-U11-200901951

In this decision, the Commission denies the application by l'Union des consommateurs requesting the Commission to intervene in the wireless services market to regulate billing of text messages from short codes.

Introduction

1. On 21 January 2009, the Commission received an application by l'Union des consommateurs (l'Union) requesting the Commission to intervene in the wireless services market to regulate billing of text messages from short codes.
2. Common short code services allow wireless service subscribers to send text messages of the Short Message Service (SMS) type to an abbreviated number (generally made up of five or six digits, and often including a trademark) in order to subscribe to a variety of interactive programs delivered by means of text messages. The services offered may include games, contests and entertainment, as well as alerts of all kinds. A third-party company (program provider) provides these services. The wireless service provider (WSP) bills and collects for text messages generated by these programs on behalf of the program provider.
3. L'Union stated that it had received complaints from wireless service subscribers that their WSP was billing them for text messages from short codes, for their participation in programs to which some said they had not subscribed.
4. In its application, l'Union asked the Commission:
 - to order WSPs to waive reasonably disputed charges associated with text messages from short code programs, and to task the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) to examine these complaints; and
 - to prohibit WSPs from suspending service to any subscriber who disputes charges associated with short code programs, where the subscriber has made payments covering the costs of his or her subscription to wireless telephone service.

5. The following parties participated in the proceeding: the Canadian Wireless Telecommunications Association (CWTA); Bell Mobility Inc., Rogers Communications Inc. on behalf of Rogers Wireless Inc. and Fido, TELUS Communications Company, and TMG Americas Inc. (TMG) (collectively, the companies).
6. The public record of the proceeding, which closed on 20 April 2009, is available on the Commission's website. It is accessible at www.crtc.gc.ca, under the *Public Proceedings* tab, or through the file number indicated above.

Should the Commission intervene in the wireless services market to regulate billing of text messages from short codes?

7. L'Union's main arguments included the following:
 - existing procedures do not provide for reimbursement of charges disputed by subscribers for short code programs and, do not prohibit WSPs from suspending wireless telephone service for non-payment of these charges;
 - there is no effective way to resolve disputes. There is also no specific investigation procedure in place to allow the application of effective sanctions for violating the rules and conditions for assigning common short codes, including a code of conduct, applicable to program providers (the rules).
8. The CWTA and the companies indicated that the CWTA administers the common short code initiative on behalf of the wireless industry. They added that the rules include consumer safeguards and sanctions for program providers, including the following:
 - users must not receive short code text messages without their express consent;
 - users must confirm their opt-in prior to participating in a program for which they must pay an added charge. This confirmation process must include intentional action by users to indicate that they accept the terms and conditions of the service;¹
 - users may opt out of a program simply by sending the message “Stop” to the short code; and
 - any violation of the rules leads to the application of sanctions for the program provider, which may include the removal of the short code.

¹ Examples: (1) The subscriber sends a text message from his or her wireless telephone to opt into a program offered by a program provider. The subscriber confirms the opt-in by sending a second text message to the short code. (2) The subscriber completes a user opt-in form through a program provider's web page and receives a personal identification number (PIN) on his or her wireless telephone. The user enters this PIN on the web page to confirm the opt-in.

9. The companies argued that WSPs and CWTA processes properly address subscribers' complaints. The companies noted that all the complaints filed by l'Union had been resolved, and that reimbursement agreements had been reached between subscribers who had disputed charges and their WSP or TMG. The companies explained that they had not suspended the complainants' wireless telephone service for non-payment of these charges. The companies also noted that subscribers might turn to the CCTS who may investigate wireless service billing disputes.
10. The Commission notes that industry self-regulation mechanisms, put in place by WSPs and CWTA, include safeguards that serve the interests of consumers, such as voluntary opt-in, mandatory confirmation, and the mechanism to unsubscribe.
11. The Commission notes that the CCTS has a mandate to facilitate the resolution of complaints about telecommunications services, including complaints about billing of text messages from short codes.
12. The Commission considers that the evidence presented by l'Union does not lead to the conclusion that market forces have systematically failed to resolve complaints about billing of text messages from short codes.
13. The Commission is of the view that it can rely on market forces,² including industry self-regulation through the mechanisms put in place by the CWTA and the CCTS, to resolve complaints about billing of text messages from short codes.
14. Accordingly, the Commission **denies** l'Union's application.

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

² As required by *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006