



Telecom Decision CRTC 2009-538

Ottawa, 28 August 2009

Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to remove authority to act from the customer transfer process

File number: 8657-B54-200903478

In this decision, the Commission denies an application by Bell Aliant and Bell Canada to remove from telecommunications service providers (TSPs) the authority to act on the customer's behalf in order to cancel local and long-distance services with their existing TSP during the customer transfer process.

Introduction

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) and Bell Canada (collectively, the Bell companies), dated 11 February 2009. In their application, the Bell companies requested that the Commission remove from telecommunications service providers (TSPs) the authority to act on the customer's behalf in order to cancel local and long-distance services with their existing TSP during the customer transfer process.¹
2. The Bell companies proposed a new process that would require customers to contact their existing TSP to cancel services prior to moving to a new TSP.
3. The Commission received submissions supporting the Bell companies' application from Rogers Communications Inc. and submissions opposing the application from BluArc Communications Inc.; Bragg Communications Inc.; the Canadian Cable Systems Alliance Inc.; the Canadian Independent Telephone Company Joint Task Force; Cogeco Cable Inc.; Comwave Telecommunications Inc.; Distributel Communications Limited; Execulink Telecom Inc.; Managed Network Systems, Inc.; MTS Allstream Inc.; Primus Telecommunications Canada Inc.; the Public Interest Advocacy Centre, on behalf of the Consumers' Association of Canada and the National Anti-Poverty Organization; Quebecor Media Inc.; Russell Collier; Shaw Communications Inc.; Xittel Telecommunications Inc.; l'Union des consommateurs; and Vonage Canada Corp. (collectively, the opposing parties).
4. The public record of this proceeding, which closed on 13 May 2009, is available on the Commission's website at www.crtc.gc.ca under “Public Proceedings” or by using the file number provided above.

¹ Under the current customer transfer process, the new TSP acts on behalf of the customer, providing that it has the authorization to do so, and contacts the existing TSP to coordinate cancellation and transfer of services.

Which customer transfer process is more appropriate for competition and for customers?

The Bell companies' position

5. The Bell companies submitted that the telecommunications landscape is highly competitive and has undergone significant transformation since the customer transfer process was developed. The Bell companies also submitted that the authority to act is no longer warranted given the current competitive state of the telecommunications industry.
6. The Bell companies noted that the Policy Direction² requires the Commission to use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives set out in the *Telecommunications Act*. They argued that the current customer transfer process interferes with market forces and denies customers the benefits of winback offers by preventing existing TSPs from making such offers until after a customer transfer has occurred.
7. The Bell companies submitted that there is a growing trend to adopt long-term contracts and service bundles, which generally include termination charges. They submitted, however, that some customers are unaware of those termination charges. The Bell companies argued that because the authority to act prevents customers from contacting their existing TSPs, those TSPs cannot inform their customers of the termination charges and retention offers.

The opposing parties' position

8. The opposing parties submitted that the current customer transfer process has proven very effective in the development of competition. They were of the view that the authority to act facilitates efficient transfer of service, minimizes service disruption and disputes, and is competitively neutral and symmetrical. The opposing parties were also of the view that the Bell companies' proposed customer transfer process would block new and small TSPs from establishing a market presence. The opposing parties submitted that for these reasons the current customer transfer process, and not the Bell companies' proposed customer transfer process, is consistent with the Policy Direction.
9. The opposing parties submitted that the current customer transfer process does not prevent customers from contacting their existing TSP for a final pitch or counter-offer. They also submitted that under the current customer transfer process, an existing TSP could make a winback offer to an ex-customer after the customer transfer has occurred. The opposing parties further submitted that the current customer transfer process encourages TSPs to design offers and pricing strategies in order to retain customers, rather than to merely offer discounted pricing to that proportion of customers that attempts to terminate their services.

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

10. The opposing parties submitted that termination penalties are not an issue in the current customer transfer process. They also submitted that there is no evidence on the record of this proceeding that customers are unaware of termination charges or penalties in their contracts.

Commission's analysis and determinations

11. The Commission notes that the current customer transfer process was created to provide convenience and ease of transfer of telecommunications services for customers and the telecommunications industry. The Commission considers that this process, which was developed by the industry, is competitively neutral and benefits all competitors equally by providing a transparent, predictable, and seamless customer transfer process.
12. The Commission notes that in the current customer transfer process, customers can contact their existing TSP in order to solicit a better or last offer when considering switching service providers. The Commission notes that the current customer transfer process does not prevent the existing TSP from contacting a customer prior to a customer transfer request or after a transfer.
13. The Commission considers that TSPs should inform their customers of termination penalties, if any, at the outset of any contract. Further, the Commission notes that under the current customer transfer process, customers can contact their existing TSP at any time to inquire whether penalties would apply if they terminated their services. Accordingly, the Commission considers that customers currently have sufficient means to determine whether penalties will apply if they terminate their service.
14. The Commission considers that requiring customers to call their existing TSP in order to cancel their service, as proposed by the Bell companies, could be viewed by some customers as a disincentive to switching service providers. Further, the Commission considers that the proposed customer transfer process could add complexity to a customer transfer, which could result in a delay in the transfer of service or service interruption. The Commission also considers that additional delays in customer transfers, as compared to the current customer transfer process, could affect a customer's decision to switch TSPs and, therefore, could impede a competitor's ability to win a customer from an existing TSP.
15. Accordingly, the Commission considers that the current customer transfer process, in comparison to the proposed customer transfer process, is more appropriate for competition and customers.
16. The Commission considers that the current customer transfer process advances the policy objectives set out in paragraphs 7(a), (c), (f), and (h)³ of the *Telecommunications Act* in a way that relies on market forces to the greatest extent possible, is efficient and proportionate to its

³ The cited objectives of the *Telecommunications Act* are as follows:

7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;

7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;

7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and

7(h) to respond to the economic and social requirements of users of telecommunications services.

purpose, and interferes with the operation of competitive market forces to the minimum extent necessary. As such, the Commission finds that the current customer transfer process is consistent with the Policy Direction.

17. In light of the above, the Commission **denies** the Bell companies' application.

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