



Broadcasting and Telecom Regulatory Policy CRTC 2011-512

PDF version

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Ottawa, 19 August 2011

Issues related to customer/carrier services groups

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In this decision, the Commission eliminates the requirement for a customer/carrier services group (CSG) or CSG function not to disclose end-user information to the internal sales and marketing group when there is a third-party cancellation. The Commission considers that all other CSG and CSG function requirements remain appropriate. The Commission reminds all service providers of the requirements of the Terms of Service regarding confidentiality of customer records as well as the rules of the National Do Not Call List, service providers' own internal do not call list rules, the Personal Information Protection and Electronic Documents Act, and the relevant provincial privacy legislation.

Background

1. In Broadcasting and Telecom Notice of Consultation 2011-192, the Commission called for comments on whether the existing functions of, and relevant regulations related to, customer/carrier services groups (CSGs)¹ are still in the best interests of consumers. In particular, the Commission sought comments on whether the CSG's role in isolating customer information from sales and marketing groups, while processing a customer transfer, limits a customer's ability to receive favourable service offers from a service provider. The Commission also called for comments on whether and in what manner any regulation pertaining to CSGs can and/or should be applied symmetrically to different types of service providers. The Commission further called for suggestions on the possible alternative approaches that could be implemented to mitigate any potential harmful impacts on customers or competitors, and to ensure consumer privacy is protected if any CSG regulatory requirements are to be eliminated or modified.
2. The Commission received comments from Axia SuperNet Ltd. (Axia); Bragg Communications Inc., carrying on business as EastLink (EastLink); Bell Aliant Regional Communications, Limited Partnership, Bell Canada, and Télébec, Limited Partnership (collectively, Bell Canada et al.); Canadian Cable Systems Alliance Inc.

¹ The term "Customer Services Group" is used in the broadcasting sector. The word "customer" in this context refers to competing companies acting as customers. The term "Carrier Services Group" is used in the telecommunications sector. For the purposes of this proceeding, both terms are interchangeable.

(CCSA); Canadian Independent Telephone Company Joint Task Force (JTF);² Canadian Network Operators Consortium Inc. (CNOOC); Cogeco Cable Inc. (Cogeco); MTS Allstream Inc. (MTS Allstream); the Public Interest Advocacy Centre and Canada Without Poverty (collectively, the Consumer Groups); Public Mobile Inc. (Public Mobile); Quebecor Media inc., on behalf of itself and its subsidiary Videotron Ltd. (collectively, Videotron); Rogers Communications Partnership (RCP); Saskatchewan Telecommunications (SaskTel); Shaw Communications Inc. (Shaw); TBayTel; TELUS Communications Company (TCC); and two individuals.

3. The public record of this proceeding, which closed on 5 May 2011, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Issues

4. Based on its review of the responses to the questions posed in Broadcasting and Telecom Notice of Consultation 2011-192, the Commission has identified the following issues to be addressed in this decision:
 - I. Are the CSG's requirements still appropriate in today's marketplace?
 - II. Are the requests to extend or modify current requirements for a CSG appropriate?

I. Are the CSG's requirements still appropriate in today's marketplace?

Positions of parties

5. Bell Canada et al., EastLink, RCP, SaskTel, and TCC (subject to certain pre-conditions) were of the view that, in today's competitive marketplace, it is no longer appropriate that CSGs be required to isolate the fact that a customer has cancelled his or her services from their retail sales and marketing groups. In these parties' view, their retail sales and marketing groups should have access to the same information whether the customer cancels directly with the current service provider or the prospective service provider cancels on behalf of the customer (third-party cancellation).
6. Bell Canada et al. submitted that the Canadian markets for telephony, Internet, wireless, and television services are characterized by intense competition. In their view, service providers, whether classified as large or small, a telecommunications service provider, a wireless service provider, or a cable company, should be subject to the same rules.
7. Bell Canada et al. and SaskTel submitted that a requirement that certain service providers maintain a dedicated CSG is no longer necessary to protect confidential

² The Appendix identifies the small incumbent local exchange carriers (small ILECs) represented by the JTF in this proceeding.

information relating to the ordering and provisioning of wholesale products and services. In their view, confidentiality provisions in a non-disclosure agreement (NDA) are sufficient to ensure that consumer and competitor confidential information is adequately protected. Bell Canada et al. further argued that service providers should have the discretion to choose whether or not to implement a CSG structure.

8. Shaw submitted that a dedicated CSG is not required for wholesale services in most instances, and that confidentiality obligations for these services can be addressed by expanding confidentiality provisions in tariff descriptions and service agreements. Shaw submitted, however, that CSG requirements should be maintained for local, long distance, and wireless services because coordination between competitors is required for the transfer of telephone numbers.
9. Further, Shaw submitted that coordination is rarely required between existing and new service providers for the transfer of broadcasting distribution undertaking (BDU) or Internet services, thus there is no demonstrated need to require BDUs or Internet service providers to make process requests through a CSG.
10. SaskTel added that, if the Commission determines that a CSG is a necessary regulatory measure, a CSG should be required for all carriers, regardless of market segment, to avoid confusion for both carriers and customers as to when a CSG must be involved in a transaction.
11. Axia submitted that the obligation to isolate wholesale customer information from retail operations should be extended to all carriers and wholesale services.
12. Several parties, including CNOC, the Consumer Groups, MTS Allstream, Public Mobile, and Videotron, shared the view that when there is a third-party cancellation, the CSG's role of isolating the customer's information from the current service provider's internal sales and marketing groups continued to be appropriate.
13. A number of parties, including the CCSA, CNOC, Cogeco, the JTF, MTS Allstream, TBayTel, and Videotron, as well as EastLink, Shaw, and TCC, were of the view that other aspects of a CSG remain appropriate in today's marketplace. Several of these parties were of the view that the CSG is an important mechanism to ensure a smooth, transparent, practical, and seamless transfer process for consumers and competitors, where coordination is required. Others were of the view that the CSG is required for wholesale activities such as carrier-to-carrier transactions. Some of these parties, however, had different views as to the services and functions for which a CSG should be maintained.
14. The Consumer Groups submitted that the continued isolation of customer information when there is a third-party cancellation would ensure that a larger number of customers have a more level playing field upon which to make the crucial decision of whether to try a new service provider, without interference from the current service provider. The Consumer Groups argued that altering the requirements associated with isolating customer transfer information would create an unfair leveraging of customer

confidential information to offer highly targeted offers only to certain customers and would favour the incumbents and decrease effective competition.

15. In the Consumer Groups' view, if customer information is not isolated when there is a third-party cancellation, customers and competitors will be negatively impacted in that the existing service provider could try to delay the transfer while attempting to negotiate a retention offer. Further, such negotiations with the existing service provider may be unwelcome or fatiguing for the customer. In addition, customers may be under a false impression that their original transfer will not go through if they receive a retention offer when the new service provider has been given the authorization to act on their behalf with respect to the transfer.
16. The Consumer Groups indicated that they did not take a position on whether the CSG was the method to ensure the isolation of the customer transfer information.

Commission's analysis and determinations

CSG requirement not to disclose end-user information

17. In Broadcasting and Telecom Regulatory Policy 2011-191, the Commission established the regulatory measure for third-party cancellation. The Commission established this measure because in situations where coordination was not needed, there was no regulatory requirement for an existing service provider to accept a cancellation request made by a new service provider on a customer's behalf. Further, this regulatory measure applies in a symmetrical manner to broadcasting and telecommunications services.
18. The Commission notes that, notwithstanding the regulatory measure noted above, end-users³ may still cancel service by contacting their service provider directly. In this case, end-users would be able to receive service offers from their original service provider.
19. The Commission notes that when a third-party cancellation is conducted through a CSG, that CSG is required to ensure that information received is not communicated to the sales and marketing group. This requirement precludes the end-user from receiving an improved service offer from the existing service provider.
20. The Commission considers that, while the regulatory measure established in Broadcasting and Telecom Regulatory Policy 2011-191 will be implemented in a symmetrical manner to broadcasting⁴ and telecommunications services, all end-users are not treated in a symmetrical manner with respect to receiving improved service offers.

³ End-users are the ultimate users of services (telephone, cable, or Internet) offered on a retail basis.

⁴ The Commission intends to amend the *Broadcasting Distribution Regulations*, in accordance with the procedure set out in subsection 10(3) of the *Broadcasting Act*.

21. In the Commission's view, regardless of whether they receive broadcasting or telecommunications services and regardless of how their service is cancelled, end-users should have as much information as possible, when choosing their service provider. The Commission considers that an important component of such information includes improved service offers from their existing service provider, which the end-user has decided to replace.
22. With respect to concerns expressed by the Consumer Groups, the Commission notes that while end-users could receive unwanted telephone calls with offers if the CSG is permitted to communicate end-user information to the sales and marketing group, end-users always have the choice of refusing such calls. Further, the Commission notes that a service provider cannot delay transfer to a new service provider by making service offers due to mandated time frames for transfers.⁵
23. Accordingly, the Commission considers that it would be appropriate for the CSG of the current service provider to be able to communicate end-user information to their internal sales and marketing group, when there is a third-party cancellation through its CSG.

Other requirements of the CSG

24. The Commission considers, however, that all other requirements of the CSG are still appropriate in today's marketplace. In this regard, the Commission notes that through the CSGs, incumbents receive from competitors requests for network services which include wholesale services. Incumbents act as suppliers of facilities and compete with service providers that use those facilities.
25. The Commission notes that CSGs also receive highly sensitive business plan information from competitors, which could be used to competitively harm competitors in the marketplace.

⁵ The following are examples where the Commission has mandated time frames related to transfers for both telecommunications and broadcasting services:

- in Public Notice 2000-81, the Commission directed that all licensees are required to accommodate requests by other distributors for access to customer service enclosures or distribution panels within 24 hours of receiving such a request and to provide them with a 2-hour appointment window;
- in Telecom Decision 2002-14, the Commission directed that the ILECs make service available to competitive local exchange carriers within two business days for migrated Type A and Type B loops, including all sub-types;
- in Telecom Decision 2003-48, the Commission directed that the service interval for the provision of stand-alone ports be two days;
- for wireless-to-wireless number porting, a time period of 2.5 business hours has been mandated by the Commission in Telecom Decision 2005-72; and
- the Commission intends to amend the *Broadcasting Distribution Regulations* to require BDUs to complete customer transfers within two business days of the receipt of a third-party cancellation request where no coordination is required (see Broadcasting and Telecom Regulatory Policy 2011-191).

26. As a result, the Commission considers that there continues to be an important need for CSGs to safeguard information provided to them by competitors, other than end-user information when there is a third-party cancellation, and to coordinate, where required, transfers between carriers.
27. With respect to the requests for expansion of CSG requirements to other service providers, and the replacement of dedicated CSGs with NDAs, the Commission considers that the current requirements continue to be appropriate. The Commission considers that these requirements are consistent with the Policy Direction⁶ as measures that are efficient and proportionate to their purpose and interfere with the operation of competitive market forces to the minimum extent necessary.

II. Are the requests to extend or modify current requirements for a CSG appropriate?

28. Bell Canada et al. requested that if the Commission determines that the incumbent local exchange carriers (ILECs) and large cable companies must maintain a separate CSG, EastLink be included among the class of large cable companies required to maintain a CSG to handle the broadcast and broadband access service requests of competitor carriers.
29. The JTF noted that, in Telecom Decision 2006-14, the Commission recognized that it may be too costly and inefficient for small ILEC to establish a CSG and allowed for a more flexible approach, such as a joint CSG or a regional CSG. The JTF submitted that even this more flexible approach represents a significant hurdle in terms of human resources and cost. The JTF therefore requested that the Commission eliminate the requirement that small ILECs must form dedicated CSGs and instead rely on the other industry standard NDAs.

Commission's analysis and determinations

30. The Commission notes that Bell Canada et al.'s request was made in reply comments. As such, EastLink did not have an opportunity to respond to this request. Therefore, the Commission finds that there is insufficient record to consider the request made by Bell Canada et al.
31. With respect to the JTF's request, the Commission notes that the regulatory framework established in Telecom Decision 2006-14 permitted a flexible approach to requiring a CSG or CSG function with the implementation of local competition in the small ILECs' territories. Therefore, the consideration of a separate CSG or CSG function should be addressed by each small ILEC in its local competition implementation plan.

⁶ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction)

Conclusion

32. In light of the foregoing, the Commission determines that it is appropriate to maintain the current requirements for a CSG and a CSG function, except for the requirement not to disclose end-user information to the internal sales and marketing group when there is a third-party cancellation through the CSG.
33. In view of the above modification to the current CSG/CSG function, the Commission reminds all service providers of the requirements of the Terms of Service regarding confidentiality of customer records as well as the rules of the National Do Not Call List, service providers' own internal do not call list rules, the *Personal Information Protection and Electronic Documents Act*, and the relevant provincial privacy legislation.

Secretary General

Related documents

- *Call for comments on issues related to customer/carrier services groups*, Broadcasting and Telecom Notice of Consultation CRTC 2011-192, 18 March 2011
- *The customer transfer process and related competitive issues*, Broadcasting and Telecom Regulatory Policy CRTC 2011-191, 18 March 2011
- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006
- *Implementation of wireless number portability*, Telecom Decision CRTC 2005-72, 20 December 2005
- *Incumbent local exchange carrier service intervals for various competitor services*, Telecom Decision CRTC 2003-48, 18 July 2003
- *Incumbent local exchange carrier service intervals for unbundled local loop orders*, Telecom Decision CRTC 2002-14, 8 March 2002
- *Revised policy concerning inside wire regime; Call for comments on proposed amendments to section 10 of the Broadcasting Distribution Regulations*, Public Notice CRTC 2000-81, 9 June 2000, as amended by Public Notice CRTC 2000-81-1, 17 July 2000

Appendix

Association des compagnies de téléphone du Québec inc.

CoopTel
La Cie de Téléphone de Courcelles Inc.
Téléphone Guèvremont inc.
La Compagnie de Téléphone de Lambton Inc.
Téléphone Milot inc.
Le Téléphone de St-Éphrem inc.
La Compagnie de Téléphone de St-Victor
Sogetel inc.
La Compagnie de Téléphone Upton Inc.

Ontario Telecommunications Association

Brooke Telecom Co-operative Ltd.
Bruce Telecom
Cochrane Telecom Services
Dryden Municipal Telephone System
Execulink Telecom Inc.
Gosfield North Communications Co-operative Limited
Hay Communications Co-operative Limited
Huron Telecommunications Co-operative Limited
Lansdowne Rural Telephone Co. Ltd.
Mornington Communications Co-operative Limited
Nexicom Telecommunications Inc.
Nexicom Telephones Inc.
North Frontenac Telephone Corporation Ltd.
NRTC Communications
Ontera
Quadro Communications Co-operative Inc.
Roxborough Telephone Company Limited
Tuckersmith Communications Co-operative Limited
Wightman Telecom Ltd.
WTC Communications

CityWest