



Telecom Information Bulletin CRTC 2011-609

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Internet traffic management practices – Guidelines for responding to complaints and enforcing framework compliance by Internet service providers

In this bulletin, the Commission describes how it will respond to complaints from individual customers, telecommunications service providers, consumer advocacy groups, and industry associations about the Internet traffic management practices (ITMPs) used by Internet service providers (ISPs). The Commission also sets out the steps it will take to enforce ISPs' compliance with the ITMP framework for retail and wholesale Internet services.

Introduction

1. According to the Commission's 2011 *Communications Monitoring Report*, in 2010 approximately 70 percent of Canadian households had broadband Internet service (i.e. high-speed access service faster than 1.5 megabits per second (Mbps)). During 2010, residential broadband users in Canada each downloaded, on average, close to 15 gigabytes of data per month, which is equivalent to viewing more than 20 movies.
2. The Commission does not regulate the price or most of the terms and conditions of retail Internet services. However, the Commission has established conditions under which Internet service providers (ISPs) may use Internet traffic management practices (ITMPs) to control the flow of traffic on their networks. ITMPs may include technical¹ approaches, which ISPs use to manage traffic to prevent or respond to network congestion, and economic² approaches, which link Internet service rates to how much the customer uses the Internet.
3. This bulletin sets out
 - I. Summary of the framework that applies to ISPs that use ITMPs³
 - II. Classification of ITMP complaints
 - III. Process for responding to complaints initiated by individual retail customers
 - IV. Process for responding to complaints initiated by telecommunications service providers, consumer advocacy groups, or industry associations

¹ Technical ITMPs can include slowing down a user's traffic, prioritizing traffic, and detecting heavy users in order to limit their bandwidth.

² Economic ITMPs can include monthly bandwidth capacity limits, where customers who exceed a predefined threshold must pay more for the amount of bandwidth they use.

³ This bulletin provides a summary of the framework that applies to ISPs for ease of reference. It does not modify the framework as set out in the Commission's ITMP policy, which is contained in Telecom Regulatory Policy 2009-657.

I. Summary of the framework that applies to ISPs that use ITMPs

4. In Telecom Regulatory Policy 2009-657 (the ITMP policy), the Commission set out the framework it uses to assess an ISP's ITMPs. The framework that applies to ISPs' use of ITMPs for their retail and wholesale Internet services is summarized below (for greater detail, see the ITMP policy).

Retail Internet services

5. ISPs do not need Commission approval to apply ITMPs to their retail Internet services, but they must follow the framework set out in the ITMP policy. When the Commission receives credible complaints⁴ from customers that ISPs are not following the framework, it reviews the ISPs' practices based on the ITMP policy.
6. The ITMP policy requires ISPs to disclose
 - the following information about their ITMPs to their retail customers:
 - pricing information about their economic ITMPs; and
 - whether or not technical ITMPs are being used and, if so, what effect they have on the ISP's retail Internet services;
 - the following information about their technical ITMPs clearly and prominently on their websites, and in customer contracts and terms of service:
 - why the ITMP is being introduced;
 - who is affected by the ITMP;
 - when the ISP will apply the ITMP;
 - what type of Internet traffic is subject to management – for example, upstream peer-to-peer file sharing applications; and
 - how the ITMP will affect a user's Internet experience, including the specific effect on speeds; and
 - information about their technical ITMPs on their websites at least 30 days before introducing a new technical ITMP or changing an existing one, unless the changes make the ITMP less restrictive.
7. ISPs' website disclosures must be accessible to persons with disabilities.⁵

⁴ A credible complaint is a complaint about an ISP's ITMP that contains sufficient information for the Commission to investigate. See paragraph 14 of this bulletin for the evidence that a complainant should provide, at a minimum.

⁵ For more information on accessibility requirements, see paragraph 66 of Broadcasting and Telecom Regulatory Policy 2009-430.

Wholesale Internet services

8. A primary ISP is a Canadian carrier that generally offers both retail and wholesale Internet services, while a secondary ISP uses wholesale services from a primary ISP to provide, among other things, its own retail Internet services. Primary ISPs must receive Commission approval before applying ITMPs to their wholesale services that are more restrictive than those they apply to their own retail services.

Control of content or influence on the meaning or purpose of telecommunications

9. Unless an ISP has received prior Commission approval under section 36 of the *Telecommunications Act* (the Act), it cannot use ITMPs that
 - lead to blocking the delivery of content to an end-user;
 - result in the noticeable degradation of time-sensitive Internet traffic;⁶ or
 - slow down non-time-sensitive traffic to the extent that it amounts to blocking content and therefore controlling the content and influencing the meaning and purpose of the telecommunication.
10. Complaints related to these issues will be assessed based on section 36 of the Act rather than the ITMP policy.

II. Classification of ITMP complaints

11. Complaints initiated by telecommunications service providers, consumer advocacy groups, or industry associations about wholesale or retail services are subject to Part 1 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (Rules of Procedure).⁷
12. Individual customer complaints about retail ITMPs are subject to Part 2 of the Rules of Procedure.

III. Process for responding to complaints initiated by individual retail customers

How to file a complaint

13. The complainant should first contact the ISP about his or her ITMP concerns and attempt to resolve the complaint with the ISP. If the complainant's concerns are not addressed by the ISP, then he or she may submit an ITMP complaint to the Commission via the "Consumers" section of the Commission's website (www.crtc.gc.ca) or by other means listed on the website. A complaint would be appropriate if the complainant believes that
 - the ISP has not met the disclosure requirements⁸ of the ITMP policy;

⁶ A voice over Internet Protocol (VoIP) call is an example of time-sensitive Internet traffic.

⁷ For more information about the Rules of Procedure, see Broadcasting and Telecom Information Bulletin 2010-959.

⁸ See paragraph 6 of this bulletin for more information on disclosure requirements.

- the ISP’s ITMP adversely affects his or her ability to access certain applications (for example, if he or she is continuously disconnected from an application, resulting in the application becoming unusable);
 - the ISP has changed an ITMP to make it more restrictive or has introduced a new ITMP without providing 30 days’ notice;
 - the ISP has otherwise failed to comply with the requirements of the ITMP policy; or
 - the ISP’s ITMP violates the Act.
14. In addition, the complainant should provide evidence and rationale about why the ITMP does not meet the requirements of the framework set out in the ITMP policy. At a minimum, the complainant’s evidence should clearly describe
- what part of the ITMP framework the complainant believes the ISP has not followed (see the list above for examples of circumstances that would warrant a complaint);
 - when the problem occurred and whether it is a recurring problem;
 - what application was affected;
 - how the application was affected;⁹ and
 - any steps taken to resolve the complaint directly with the ISP, including the ISP’s response(s).
15. Upon receiving a complaint about an ISP’s use of retail ITMPs, staff in the Commission’s Telecommunications branch will review the evidence submitted by the complainant based on the framework set out in the ITMP policy to determine if the complaint warrants investigation.

Complaint resolution process

16. If the Telecommunications branch concludes that the complaint raises potential compliance issues, it will forward the complaint to the ISP in question within 15 calendar days of the date the Commission receives the complaint. The ISP will be expected to file a response with the Commission, serving a response on the complainant, within 20 calendar days of the date on which it receives a copy of the complaint. Failure by the ISP to respond to the complaint will be considered non-compliance with the ITMP policy.

⁹ It is not necessary for the complainant to provide full technical details about the problem, but Commission staff must receive enough information to understand the nature of the problem.

17. The complainant may file a reply to the ISP's response, serving a copy on the ISP, within 10 calendar days of the date on which the ISP response is filed with the Commission.
18. The Telecommunications branch will review the ISP's response and the complainant's reply, if applicable. If the Telecommunications branch considers that the ISP's ITMP complies with the ITMP policy and with the Act, it will close the complaint and notify the complainant as soon as possible, and no later than 15 calendar days from the date of receiving the ISP's response.
19. If the Telecommunications branch considers that the ITMP is not compliant with the ITMP policy and/or with the Act, based on either its review of individual complaints or its observation of statistical patterns among individual complaints of a similar nature about a specific ISP, the Commission's Compliance and Enforcement branch may take one or more of the following actions:
 - request more information from either the ISP or the complainant;
 - request a compliance meeting with the ISP to discuss the complaint in more detail;
 - send a letter to the ISP outlining corrective measures if it considers that the ISP's ITMP does not comply with the ITMP policy and/or with the Act;
 - initiate an on-site inspection or independent third-party audit to obtain additional information;
 - initiate the issuance of a notice of consultation;¹⁰ and/or
 - initiate a hearing¹¹ at which the ISP would have to show cause as to why the Commission should not issue a mandatory order, which the Commission could register with the Federal Court
 - the mandatory order would direct the ISP to take corrective actions under section 51 of the Act, and could include partial reimbursement to the customer.
20. Any Commission findings of non-compliance will be published on the Commission's website and will include the ISP's name and the nature of the complaint. In addition, the Commission will publish on its website, on a quarterly basis, a summary of the number and types of complaints it has received, including the number of active and resolved complaints.

¹⁰ With Commission authorization.

¹¹ With Commission authorization.

IV. Process for responding to complaints initiated by telecommunications service providers, consumer advocacy groups, or industry associations

21. As noted above, complaints initiated by telecommunications service providers, consumer advocacy groups, or industry associations about wholesale or retail services are subject to Part 1 of the Rules of Procedure.
22. All Part 1 applications will be posted on the Commission's website. The ISP that is the object of the complaint may file an answer with the Commission within 30 calendar days after the day the application was posted on the Commission's website. Any interested person may intervene in writing within this 30-day time frame.
23. The applicant may file a reply to an ISP's answer or to the document of an intervener within 10 calendar days after the deadline for filing the answer or the deadline for intervening in the proceeding.
24. The Commission has adopted a service objective to publish decisions on Part 1 applications within four months of the close of record in the associated proceeding.

Secretary General

Related documents

- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010
- *Review of the Internet traffic management practices of Internet service providers*, Telecom Regulatory Policy CRTC 2009-657, 21 October 2009
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009