



Broadcasting Regulatory Policy CRTC 2012-260

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Route reference: 2011-654

Ottawa, 1 May 2012

Amendments to the *Broadcasting Distribution Regulations* to simplify the customer transfer process

The Commission announces that it has made amendments to the Broadcasting Distribution Regulations (the Regulations). These amendments work in conjunction with Broadcasting and Telecom Regulatory Policy 2011-191 to simplify the process for customers to change their telecommunications and/or broadcasting service provider. The amendments came into force on 5 March 2012.

The amended Regulations were registered on 5 March 2012 and published in the Canada Gazette, Part II, Vol. 146, No. 7 on 28 March 2012 (SOR/2012-37). A copy of the amended Regulations is attached to this regulatory policy.

Introduction

1. In Broadcasting and Telecom Regulatory Policy 2011-191 (the Policy), the Commission set out measures to simplify the process for customers to change their telecommunications and/or broadcasting service provider. Specifically, the Commission proposed to amend the *Broadcasting Distribution Regulations* (the Regulations) to require that broadcasting distribution undertakings (BDUs) accept a customer cancellation request from a prospective BDU if the customer requests that this BDU act on his or her behalf.
2. In Broadcasting Notice of Consultation 2011-654, the Commission called for comments on the wording of a proposed amendment to the above effect. It also proposed that the current and prospective service providers coordinate with each other to cancel and replace the programming services with a view to avoiding any service disruption. Finally, it specified that unless the service providers agree otherwise, the cancellation and replacement would occur within two business days following the cancellation request.

Comments

3. The Commission received comments from the following parties: Rogers Communications Partnership; Shaw Communications Inc. (Shaw); Quebecor Media Inc. on behalf of itself and Videotron General Partnership; MTS Allstream Inc.; Saskatchewan Telecommunications; Bragg Communications Incorporated, carrying on business as EastLink (Eastlink); Bell Aliant and Bell Canada (Bell); TELUS Communications Company; FreeHD Canada Inc.; and the Public Interest Advocacy

Centre (PIAC). The Commission also received a comment from an individual. The complete record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

4. Several of the parties submitted that the reference to avoiding service disruption in the proposed amendments was not appropriate as this was not technically possible unless customers pay for overlapping services. Parties also submitted that minimal service disruptions were part of the existing customer transfer process because the existing and prospective service providers do not coordinate their visits to disconnect and reconnect services.
5. PIAC recommended that the proposed amendments include a provision stating that following a coordinated transfer, a customer will remain responsible for termination penalties and that coordination and transfer should not be conditional upon the mandatory payment of fees owed to the current service provider.
6. Shaw and Eastlink added that the phrase "coordinate with each other" in the proposed amendment was contrary to the Policy, which states that the requirements will apply even in circumstances where no coordination between service providers is necessary.
7. Finally, Bell submitted that the proposed amendment should be revised to reflect Broadcasting Regulatory Policy 2011-601, in which the Commission adopted a commercially reasonable standard to assess commercial arrangements between distributors and programmers.

Commission's analysis and decision

8. The Commission agrees with those parties who submitted that the reference to avoiding service disruption in the proposed amendment was not appropriate. Accordingly, the Commission has revised this wording to refer to minimizing any service disruption to the subscriber, thereby adopting an attainable standard.
9. With respect to the proposed addition of a provision to address termination penalties, the Commission is of the view that the Policy addresses this point. Specifically, the Policy states that customers will remain responsible for any termination penalties or other terms that have been agreed to by contract with their current service provider. Further, in Telecom Decision 2009-538, the Commission stated that service providers should inform customers of termination penalties at the outset of any contract.
10. Regarding the submission that the phrase "coordinate with each other" within the proposed amendment is contrary to the Policy, the Commission notes that the Policy addresses situations where current licensees may be reluctant to accept a cancellation request made by a new service provider on behalf of a customer. As such, it requires telecommunications service providers (TSPs) to work together to coordinate the transfer of facilities and resources, such as local loops and telephone numbers. However, the Commission notes that regardless of whether physical or technical coordination between service providers is necessary, TSPs must complete customer

transfers within two business days of the receipt of a third-party customer cancellation request. By requiring BDUs to work together to complete customer transfers efficiently and in the same timeframe as established for TSPs, the Commission finds that the amendment crystallizes the intent of the Policy.

11. With respect to Broadcasting Regulatory Policy 2011-601, the Commission notes the importance of this policy and reminds BDUs and programming undertakings that it expects the industry to follow commercially reasonable practices, consistent with its determinations in Broadcasting Regulatory Policy 2011-601, as amended by Broadcasting Regulatory Policy 2011-601-1.
12. The Commission considers that other concerns raised by parties in the context of this proceeding have either already been addressed in the Policy or fall outside of the scope of what was contemplated therein.
13. In light of the above, the Commission has adopted the proposed amendment to section 15.4 of the Regulations as published in Broadcasting Notice of Consultation 2011-654, with the change noted at paragraph 8. The amended Regulations were registered on 5 March 2012 and published in the *Canada Gazette*, Part II, Vol. 146, No. 7 on 28 March 2012 (SOR/2012-37). A copy of the amended Regulations is attached to this regulatory policy.

Secretary General

Related documents

- *Call for comments on amendments to the Broadcasting Distribution Regulations*, Broadcasting Notice of Consultation CRTC 2011-654, 19 October 2011
- *Regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011, as amended by Broadcasting Regulatory Policy CRTC 2011-601-1, 14 October 2011
- *The customer transfer process and related competitive issues*, Broadcasting and Telecom Regulatory Policy CRTC 2011-191, 18 March 2011
- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to remove authority to act from the customer transfer process*, Telecom Decision CRTC 2009-538, 28 August 2009

Appendix to Broadcasting Regulatory Policy CRTC 2012-260

REGULATIONS AMENDING THE BROADCASTING DISTRIBUTION REGULATIONS

AMENDMENT

1. The *Broadcasting Distribution Regulations*¹ are amended by adding the following after section 15.3:

CANCELLATION REQUEST

15.4 (1) The following definitions apply in this section.

“business day” means a day other than a Saturday or a holiday. (*jour ouvrable*)

“cancellation request” means a request to cancel the programming services of one licensee and replace them with the programming services of another licensee. (*demande d’annulation*)

(2) The current licensee of a subscriber shall accept a cancellation request that is made to it by the subscriber or by a prospective licensee on behalf of the subscriber.

(3) The current licensee and the prospective licensee shall coordinate with each other to cancel and replace the programming services with a view to minimizing any service disruption to the subscriber.

(4) Unless the licensees otherwise agree, cancellation and replacement of the programming services shall occur within two business days after the day on which the cancellation request is made.

COMING INTO FORCE

2. These Regulations come into force on the day on which they are registered.

¹ SOR/97-555.