



Telecom Decision CRTC 2013-581

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Ottawa, 31 October 2013

Wireless Code – Request by Saskatchewan Telecommunications for an extension to the deadline to implement data caps

File number: 8638-S22-201310515

Due to SaskTel's unique circumstances, the Commission grants the company an extension from 2 December 2013 to 30 June 2014 to implement the requirement, set out in sections E.2 and E.3 of the Wireless Code, to provide caps on wireless data roaming and overage charges. SaskTel must still meet all the other requirements set out in the Wireless Code by 2 December 2013.

Background

1. The Commission established the Wireless Code, a mandatory code of conduct for wireless service providers, in *The Wireless Code*, Telecom Regulatory Policy CRTC 2013-271, 3 June 2013 (the Wireless Code Decision). The Wireless Code applies to all retail mobile wireless voice and data services (wireless services) provided to residential and small business customers in Canada.
2. The Wireless Code establishes new requirements for wireless service providers that will (a) ensure that consumers are empowered to make informed decisions about wireless services, and (b) contribute to a more dynamic marketplace by making it easier for consumers to take advantage of competitive offers.
3. Among other things, sections E.2 and E.3 of the Wireless Code require wireless service providers to provide a cap on wireless data roaming and overage charges. Specifically, providers must suspend national and international data roaming charges once they reach \$100 within a single monthly billing cycle, and suspend data overage charges once they reach \$50 within a single monthly billing cycle, unless the customer expressly consents to pay additional charges.
4. The Wireless Code will come into effect on 2 December 2013.
5. In the Wireless Code Decision, the Commission indicated that it would consider applications to extend the implementation deadline, but only in cases where a wireless service provider faced unique barriers that would make implementation technically impossible or financially unreasonable.

The application

6. The Commission received an application from Saskatchewan Telecommunications (SaskTel), dated 16 July 2013, requesting an extension, to 30 June 2014, of the implementation date for the requirement to provide caps on wireless data roaming and overage charges (data caps). SaskTel submitted that it faces unique barriers that would make it technically impossible to implement the requirement to provide data caps by the 2 December 2013 deadline set out in the Wireless Code Decision.
7. SaskTel indicated that its current billing system cannot provide data caps and that it would take at least a year to implement that capability, regardless of how many resources it used to upgrade the system. However, the company is in the process of changing its billing system to one that will be able to provide data caps, but only after June 2014, once the new system is fully implemented. SaskTel submitted that its situation is unique and that it is not aware of any other wireless service provider that is currently transitioning from an obsolete billing platform to a new one.
8. SaskTel offered to provide monthly status reports to the Commission about its implementation of data caps, as well as customer reactions and any complaints it receives.
9. The Commission received interventions with respect to SaskTel's application from the Public Interest Advocacy Centre (PIAC), Rogers Communications Partnership (Rogers), and Vaxination Informatique (Vaxination). The public record of this proceeding, which closed on 3 September 2013, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Should the Commission approve SaskTel's extension request?

10. During the proceeding that led to the Wireless Code Decision, SaskTel submitted that it would be able to implement data caps in its new billing system by December 2014, or one year after the implementation date of the Wireless Code. In its current application, the company indicated that it has made the new billing system its highest priority and has been able to advance implementation by six months, to 30 June 2014.
11. SaskTel submitted that its legacy billing and other back office systems are not technically capable of monitoring data roaming and data overage charges in real time. Without this capability, SaskTel will not be able to implement caps on data usage or roaming charges, nor will it be able to seek customers' express consent to pay charges above the caps or to suspend data services if consent is not given once a cap is reached. SaskTel further submitted that the various components that comprise the billing system, including software, hardware, firmware, and the operating systems, are obsolete and are no longer supported by the vendors, which limits its ability to modify the system. Given the various limitations associated with the legacy

system, SaskTel submitted that modifying it to support caps is risky and would take longer than implementing a new system.

12. SaskTel submitted that if its extension request were denied, it would have to manually review whether each customer with a data plan exceeded the usage cap every month. A specialized group of staff would have to be hired and trained to perform these manual reviews, and this process would also exceed the 2 December 2013 deadline. In addition, SaskTel would have no way of knowing when a customer intentionally chose to exceed the usage cap and would therefore receive no compensation for all data usage that exceeds the cap amount. SaskTel added that if customers were aware that they could get free data above the cap, they might abuse the system by not managing their data consumption.
13. SaskTel indicated that a manual review process would have the following negative impacts for customers:
 - since the review of usage could only occur at the end of each billing cycle, bills would be significantly delayed, which would increase the risk of late payments and late payment charges;
 - there is a potential for unintended errors arising from the process of intercepting bills, adjusting charges if needed, re-issuing bills, and updating other systems to ensure that all systems contain accurate information regarding customers' plans; and
 - customers with data plans who currently receive electronic bills would have to be switched to paper bills.
14. SaskTel submitted that it currently provides tools to customers to prevent data charge bill shock. For instance, the company sends Short Message Service (SMS) notifications to inform customers that they are roaming outside of Canada, what roaming rates apply, and what add-on packages they can purchase to reduce those rates. In addition, SaskTel maintains a web page that allows customers to monitor data usage for their wireless devices and offers customers a smartphone application that permits them to access a wireless data usage report.
15. Finally, SaskTel expressed concern that a lack of data caps could put its customers at a disadvantage and noted that it is crucial for SaskTel to conform to any marketplace pressures created by the Wireless Code.

Positions of parties

16. Rogers supported SaskTel's application and indicated that it also might have to request an extension if technical issues arise as it updates its systems to meet the requirements of the Wireless Code. Rogers added that the Commission should require ongoing updates in association with any extension it grants.
17. PIAC and Vaxination opposed SaskTel's application, arguing that SaskTel could develop an interim or alternative solution regarding data caps. They noted that the Wireless Code does not specify how data caps are to be implemented, nor does it require customer notification or disconnection.
18. PIAC submitted that SaskTel had failed to demonstrate (a) that it could not implement the data caps within the deadline, and (b) that its circumstances are unique and that the burden it faces is exceptionally unreasonable. PIAC also submitted that SaskTel's application did not add anything new to the record of the proceeding that led to the Wireless Code Decision. It argued that SaskTel's circumstances are not unique since other wireless service providers must also make significant changes to their billing or other systems to implement the Wireless Code.
19. Vaxination argued that SaskTel should not be granted an extension because other carriers would request regulatory symmetry. It also argued that the implementation of data caps does not require restructuring bill generating programs.
20. Vaxination submitted that SaskTel should implement one of the following interim solutions:
 - add a message to all bills asking customers to call for manual invoice adjustments if roaming or data charges are above the limits;
 - disable data roaming by default and request that all customers who require roaming call to authorize it, which would exempt the customer from the cap; or
 - run a nightly batch program that will scan usage records to detect customers who have gone over their limits and print a report; the next morning a staff member can read the report and contact customers to obtain consent or cut off access.

Commission's analysis and determinations

21. As noted above, in the Wireless Code Decision the Commission indicated that it would consider extension requests for the implementation of specific provisions of the Wireless Code. Any service provider making such a request must provide evidence to demonstrate that its circumstances are unique and that the burden it faces is exceptionally unreasonable.

22. The Commission notes that the circumstances underlying SaskTel's extension request are limited to SaskTel alone. The Commission considers that SaskTel's billing system issue is unique, as no other wireless service provider has indicated that it is the process of replacing an obsolete billing system. Furthermore, no other provider submitted a Part 1 application requesting an extension to the implementation date to provide data caps.
23. The Commission considers that, based on SaskTel's description of its legacy billing system, the company has demonstrated that it is not reasonable or technically possible to modify that system in order to implement data caps by 2 December 2013. The Commission acknowledges that there are limitations as to how far the implementation date of a system can be advanced that cannot be resolved with additional funding or resources.
24. Furthermore, the Commission acknowledges that a manual workaround could be error-prone and might have a negative impact on consumers. The Commission considers that such a solution would be an inefficient use of resources given that the company's new billing system will be implemented by June 2014.
25. The Commission also acknowledges that requiring SaskTel to forgive all charges in excess of the data caps would not take into account customers who knowingly incur data roaming or usage charges in excess of the cap and could lead to abuse. The Commission notes that in the case of international data roaming, SaskTel would remain liable to pay the carriers in the foreign jurisdictions. The Commission considers that it would not be reasonable to require SaskTel to forgive all charges in excess of the data caps at this time.
26. With regard to the options suggested by Vaxination, the Commission is not persuaded that they are reasonable solutions for the following reasons:
 - Disabling roaming until a customer specifically authorizes it would be disruptive to customers who are accustomed to roaming and would place additional burden on SaskTel's client services.
 - Based on SaskTel's description of the limitations of its current billing system, the creation of a nightly batch program to detect customers who have exceeded the cap would involve significant effort, and the company may not be able to implement it by 2 December 2013. Such a solution would also divert some of SaskTel's system development resources from focusing on the timely implementation of its new billing system. In addition, the manual component of Vaxination's proposed solution has the potential for unintended errors and disruption to customers.
27. In light of all the above, the Commission considers that SaskTel has demonstrated that it is faced with unique barriers that would make implementation technically impossible and financially unreasonable. Accordingly, the Commission **approves** SaskTel's request for an extension, until 30 June 2014, to the date by which it is

required, as a condition of providing wireless services to individuals or small business customers, to implement caps on wireless data roaming and overage charges, as set out in the Wireless Code. In addition, the Commission directs SaskTel to submit monthly status reports to the Commission about its implementation of data caps, as well as customer reactions and any complaints it receives.

28. To ensure that SaskTel's customers are informed of the implementation extension granted in this decision, the Commission requires SaskTel to undertake the following measures between 2 December 2013 and 30 June 2014:
 - notify all its wireless customers that it will not be able to implement data caps until 30 June 2014, through a prominent notice both on its website and in customers' monthly wireless service bills;
 - highlight the existing tools that customers can use to manage their usage; and
 - advise all new wireless customers of the delayed implementation of data caps at the time of signing the contract.
29. Although an extension has been granted until 30 June 2014, the Commission encourages SaskTel to further accelerate the implementation of its new system in order to provide data caps to its customers as soon as possible. The Commission reminds SaskTel that it must still meet all the other requirements set out in the Wireless Code by 2 December 2013.

Secretary General