



# Broadcasting and Telecom Regulatory Policy

## CRTC 2014-576

PDF version

Route reference: 2014-190

Additional references: 2014-190-1, 2014-190-2, 2014-190-3, and 2014-190-4

Ottawa, 6 November 2014

*File number: 8665-E17-201312389*

### Prohibition of 30-day cancellation policies

*The Commission determines that 30-day cancellation policies for local voice services, Internet services, and broadcasting distribution services (e.g. cable and satellite television services) will be prohibited as of **23 January 2015**.*

*This prohibition will make it easier for consumers to switch service providers, especially for subscribers to bundles of telecommunications and broadcasting distribution services. It will also contribute to a more dynamic marketplace and remove unnecessary barriers to consumer choice. Subscribers will avoid double-billing when they cancel their service and move to a different service provider.*

*This approach is consistent with the Commission's prohibition of 30-day cancellation policies for wireless services set out in the Wireless Code.*

### Background

1. It has been a common business practice for providers of local voice services including voice over Internet Protocol (VoIP) services (referred to hereafter as “local voice services”), wireless services, and Internet services, as well as for broadcasting distribution undertakings (BDUs) to require customers to provide 30 days’ notice prior to bringing into effect the cancellation of their contract, even after the end of a contract term. These policies are referred to as “30-day cancellation policies.”
2. In the Wireless Code, set out in Telecom Regulatory Policy 2013-271 (the Wireless Code policy), the Commission prohibited 30-day cancellation policies for wireless services.<sup>1</sup> In the Wireless Code proceeding, consumers expressed concern that 30-day cancellation policies were unfair and resulted in double-billing when consumers cancelled their service and moved to a different service provider. In the Wireless Code policy, the Commission determined that the requirements set out in the

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<sup>1</sup> Section G.5. of the Wireless Code states that “(i) Customers may cancel their contract at any time by notifying their service provider, and (ii) Cancellation takes effect on the day that the service provider receives notice of the cancellation.”

Wireless Code, including the prohibition of 30-day cancellation policies, would empower consumers to make informed decisions about wireless services and would contribute to a more dynamic marketplace by making it easier for consumers to take advantage of competitive offers.

### **Eastlink's application**

3. The Commission received an application from Bragg Communications Incorporated, operating as Eastlink (Eastlink), in which the company requested that the Commission prohibit service providers from requiring that their customers provide 30 days' notice before terminating the following services: regulated and forborne retail local voice, Internet, and BDU services provided to residential and small-business customers. Eastlink requested that this take effect as of the date of the Commission's decision regarding its application.
4. Specifically, Eastlink submitted that 30-day cancellation policies force customers to either (i) wait out the 30-day period and pay for service they do not want with their existing service provider, or (ii) move their services to their new provider but pay one month's service fees to their old provider for service they will not receive.
5. Eastlink submitted that, consistent with the Commission's findings in the Wireless Code policy, 30-day cancellation policies are a significant source of consumer frustration, result in double-billing, and make it difficult for consumers to switch service providers, and thus do not contribute to a more dynamic marketplace. Eastlink argued that the only way to avoid unwanted fees and confusion for consumers in the customer transfer process is to prohibit 30-day cancellation policies across all telecommunications and broadcasting services.
6. Eastlink further submitted that 30-day cancellation policies are a barrier to the Commission's customer transfer policy, set out in Broadcasting and Telecom Regulatory Policy 2011-191, which was created to enable a smooth transition of customers' services from one service provider to another. Eastlink added that regulatory symmetry in telecommunications and broadcasting services regarding customer transfers would be consistent with the customer transfer policy.
7. Eastlink argued that competitors are losing potential revenues from consumers who decide to remain with their current service provider after being informed that they must provide 30 days' notice before switching providers.
8. The Commission received interventions in support of Eastlink's application from the following parties: 21 individuals; the Canadian Network Operators Consortium Inc. (CNOOC); the DiversityCanada Foundation, on behalf of itself and the National Pensioners and Senior Citizens Federation<sup>2</sup> (collectively, DiversityCanada); the Public Interest Advocacy Centre (PIAC);<sup>3</sup> Quebecor Media Inc., on behalf of its affiliate Videotron G.P. (Videotron); and Vaxination Informatique (Vaxination).

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<sup>2</sup> Now called the National Pensioners Federation.

<sup>3</sup> For the purpose of the Eastlink proceeding, PIAC refers to itself and the Consumers' Association of Canada. For the purpose of the Let's Talk TV proceeding, PIAC refers to itself, the Consumers'

9. The Commission received interventions opposing Eastlink's application from the following parties: Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies); Rogers Communications Partnership (Rogers); Saskatchewan Telecommunications (SaskTel); and TELUS Communications Company (TCC).
10. The public record of this proceeding, which closed on 26 February 2014, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the file number provided above.

### **Let's Talk TV proceeding**

11. In Broadcasting Notice of Consultation 2014-190 (which initiated the Let's Talk TV proceeding), the Commission indicated that it might consider the adoption of guidelines for BDU-subscriber relationships, including guidelines on contract clarity and termination of service, to ensure that Canadians are better informed about the services they receive and that they have the flexibility to easily change service providers.
12. The Commission received comments on the issue of BDU-subscriber relationships from several individuals; a number of BDUs, including the Bell companies, Cogeco Cable Inc. (Cogeco), Rogers, Shaw Communications Inc. (Shaw), and Videotron; consumer groups such as PIAC and the Union des consommateurs; the Competition Bureau; and a number of provincial governments. The public record of this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca).

### **Should the Commission prohibit 30-day cancellation policies for local voice, Internet, and broadcasting distribution services?**

#### **Positions of parties**

##### **Eastlink proceeding**

13. Individual consumers generally submitted that 30-day cancellation policies were unfair and made it difficult for consumers to switch service providers and take advantage of competitive offers in the marketplace. For example, one individual submitted that "the policy of providing 30 days' notice or payment in lieu of notice is detrimental to consumer choice in a free and open market. Consumers want to feel valued and feel they have choice. Punishing a consumer for choosing to change providers is leaving a negative experience for all involved." Another individual submitted that since under certain special circumstances, such as following an out-of-province move or the death of an individual, Canadians can forgo the required 30 days' notice, they should be able to do so when there are no special circumstances.<sup>4</sup>

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Association of Canada, the Council of Senior Citizen's Organizations of British Columbia, the National Pensioners Federation, the Canadian Ethnocultural Council, and Option Consommateurs.

<sup>4</sup> Individuals' submissions can be found on the public record of this proceeding.

14. PIAC submitted that it shares Eastlink's views, particularly regarding Eastlink's statement that 30-day cancellation policies undermine existing Commission-approved customer transfer processes. Specifically, PIAC submitted that 30-day cancellation policies render customer transfer processes ineffective and largely meaningless, since one of the key purposes of existing customer transfer processes is to minimize the cost and inconvenience of switching from one service provider to another. PIAC further submitted that lengthy contract terms and burdensome termination charges undermine the dynamism of the marketplace, since they diminish opportunities for consumers to shop for a better deal, and for competitors to solicit and earn consumers' business. PIAC stated that a marketplace in which barriers to switching service providers are minimized promotes innovation and drives prices towards costs. Similarly, DiversityCanada submitted that it supported the elimination of 30-day cancellation policies since they are anti-competitive and anti-consumer.
15. CNOC and Vaxination supported Eastlink's application on the basis that 30-day cancellation policies are often attempts to weaken market forces by (i) interfering with consumer choice, (ii) deterring competition, and (iii) billing the customer for an extra month of services.
16. Videotron supported Eastlink's application on the basis that 30-day cancellation policies, beyond being a source of frustration for consumers, inhibit consumer choice by making it difficult for consumers to switch service providers.
17. In contrast, the Bell companies argued that some consumers prefer the flexibility and assurance of receiving overlapping services from both their current and new service providers during the transition month when they choose to cancel and transfer their service(s).
18. The Bell companies and Rogers, which reported having 30-day cancellation policies in place, submitted in confidence their estimated costs to update their billing systems and contracts, as well as to notify their customers of the change, if the Commission were to prohibit 30-day cancellation policies. Other intervening companies noted that since they do not currently make use of 30-day cancellation policies, no changes would be needed to their billing systems and contracts.
19. Rogers submitted that 30-day cancellation policies are not contrary to the Commission's customer transfer policy, and that the circumstances of the local voice service market warrant that 30-day cancellation policies be permitted. Rogers indicated that unlike wireless services, which are generally provided through term contracts with an early cancellation penalty, local voice services generally tend to be provided on a month-to-month basis, thereby creating a higher risk that service providers will not recuperate upfront and cancellation costs. Rogers added that wireless services generally do not involve installation and set-up costs, and that since the customer invariably owns the mobile phone, there are no risks and costs associated with the recovery of the service provider's equipment.

20. Regarding Eastlink's argument that 30-day cancellation policies make it difficult for consumers to switch service providers, Rogers argued that since local voice service customers were easily moving from one carrier to another and back, there was no evidence that current levels of competitive activity were insufficient enough to warrant the type of regulatory intervention that Eastlink was seeking.
21. SaskTel submitted that the prohibition of 30-day cancellation policies would result in the removal of a potential tool for service providers to manage "unhealthy levels of churn." However, SaskTel noted that it does not, at this time, make use of 30-day cancellation policies.
22. TCC argued that advance notice to cancel service is not an unusual requirement, and is in fact standard in other industries. TCC stated that advance-notice requirements have been reviewed and permitted by the Commission in the past, provided that the notice periods are reasonable. TCC added that local voice services are generally provided in a forbore environment and that customers are able to inform themselves of their service provider's cancellation policies.

#### **Let's Talk TV proceeding**

23. In its intervention filed in the Let's Talk TV proceeding, PIAC stated that consumer flexibility is limited by 30-day cancellation policies, which effectively require consumers to pay double for their chosen services. The Union des consommateurs noted that, in Quebec, cancellation policies and associated fees are regulated by provincial legislation. The Bell companies and Shaw argued that no barriers to changing service providers exist in the marketplace. The Bell companies added that 30-day cancellation policies are necessary due to the structure of programming contracts and rights agreements, while Rogers suggested that the fees associated with these policies help recoup costs relative to equipment, set-up, and installation.
24. The Competition Bureau stated that it supported increased consumer choice and fair competition between BDUs. The Government of Quebec submitted that consumer protection is under provincial jurisdiction, and noted that its own consumer protection legislation places strict limits on cancellation policies.
25. In the undertakings and the final submissions filed following the hearing, interveners added precision to their positions. PIAC reiterated that 30-day cancellation policies cause needless consumer frustration, and that the elimination of these policies would help to ensure consumer protection. Both Videotron and Cogeco noted that they do not apply 30-day cancellation policies, and Cogeco referenced Quebec provincial legislation as preventing it from doing so.
26. Rogers stated that given the evidence presented at the hearing, it would review its 30-day cancellation policy. The Bell companies also stated that given the evidence presented at the hearing, they would be prepared to remove their 30-day cancellation policy for BDU subscriptions within six months of the date of the Commission's decision on this matter.

## Commission's analysis and determinations

27. After examining the public record for this proceeding, the Commission considers that to determine whether it should prohibit 30-day cancellation policies for local voice, Internet, and BDU services, it must address the following:

- whether consumer complaints indicate that consumers consider that 30-day cancellation policies make it difficult to switch service providers and take advantage of competitive offers, and
- the potential impact on service providers if 30-day cancellation policies were prohibited.

28. For local voice and Internet services, the Commission has also assessed whether the prohibition of 30-day cancellation policies would be consistent with the telecommunications policy objectives set out in sections 7(c), (f), and (h) of the *Telecommunications Act*.<sup>5</sup> For BDU services, the Commission has considered whether the prohibition of 30-day cancellation policies would be consistent with the objective of section 3(1)(t)(ii) of the *Broadcasting Act*.<sup>6</sup> In addition, the Commission has considered whether the prohibition of 30-day cancellation policies would be consistent with the objectives set out for the Let's Talk TV proceeding, particularly to ensure that consumers are given additional flexibility to make informed choices in a competitive market.

29. The Commission's customer transfer policy (Broadcasting and Telecom Regulatory Policy 2011-191) was designed to streamline the cancellation process for customers of bundled telecommunications and broadcasting services. Specifically, in that policy, the Commission found that regulatory symmetry in the customer transfer process would be in the best interest of consumers in light of increasing convergence and the trend toward bundling of services, and would assist in the achievement of the objectives of both the *Broadcasting Act* and the *Telecommunications Act*.

30. In the Wireless Code, the Commission prohibited 30-day cancellation policies for retail wireless services provided to individuals and small businesses<sup>7</sup> to contribute to a more dynamic marketplace by making it easier for consumers to take advantage of

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<sup>5</sup> The cited policy objectives are the following: 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.

<sup>6</sup> This section states that distribution undertakings should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost.

<sup>7</sup> The telecommunications industry ombudsman, the Commissioner for Complaints for Telecommunications Services (CCTS), defines a "small business" as a business whose average monthly telecommunications bill is under \$2,500. The CCTS's definition effectively excludes corporate and commercial accounts, since these account holders are already able, through size and purchasing power, to better negotiate agreements.

competitive offers. In the Wireless Code policy, the Commission determined that the requirements set out in the Wireless Code, including the prohibition of 30-day cancellation policies for wireless services, were consistent with the Policy Direction.<sup>8</sup>

31. The Commission notes that some telecommunications companies and BDUs opposed to the prohibition of 30-day cancellation policies submitted that such policies are commonplace and reasonable, do not inhibit competition, and mitigate churn. The Commission further notes the submissions by some telecommunications companies and BDUs that these policies generate revenues that offset the companies' upfront and acquisition costs. The Commission also notes that some companies stated that they do not use 30-day cancellation policies, or that they would review or eliminate their 30-day cancellation policies.
32. The Commission notes that for telecommunications services, 30-day cancellation policies have been the second most common consumer complaint issue reported to the telecommunications industry ombudsman, the Commissioner for Complaints for Telecommunications Services (CCTS), for the last two years. In its 2012-2013 Annual Report, the CCTS noted that 1,835 consumer complaints related to 30-day cancellation policies, which represents over 9.5% of all complaints to the CCTS in that year. Of the 30-day cancellation policy complaints, 1,426 related to wireless services, 211 related to Internet services, 190 related to local voice and VoIP services (combined), and 8 related to long distance services.
33. In Broadcasting Notice of Consultation 2014-190, the Commission noted that it had received 124 complaints in 2013 from cable and satellite subscribers who indicated that they were not aware that they had to give 30 days' notice to their service provider when they terminate their account. As a result, these subscribers had to pay an extra month's subscription to their current service provider even though they had already switched to another provider.
34. Also as part of the Let's Talk TV proceeding, results from a [public opinion survey](#) conducted by Harris/Decima show that only 54% of respondents were satisfied with the flexibility they had to modify or cancel their BDU services. As well, respondents to a [survey](#) undertaken by the Province of Manitoba expressed concern that their knowledge of the fees associated with the cancellation of their BDU services was limited.
35. In addition to considering the potential impact of the prohibition of 30-day cancellation policies on consumers, the Commission has considered the effects of the prohibition of these policies on the existing business models of providers of telecommunications and BDU services. These effects may include the costs for the companies to change their billing systems and contracts, and to communicate these changes to their customers. However, the Commission considers that, consistent with

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<sup>8</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

its decision on this issue with respect to wireless services, the prohibition of 30-day cancellation policies would contribute to a more dynamic marketplace.

36. The Commission considers that the records of the Eastlink proceeding and the Let's Talk TV proceeding, as well as the numerous complaints to the Commission and the CCTS about 30-day cancellation policies demonstrate that such policies (i) are a source of consumer frustration regarding local voice, Internet, wireless, and BDU services; and (ii) make it difficult for consumers to switch service providers, since consumers are often required to pay two service providers for one month of service when they switch providers.
37. The Commission considers that, in light of the changing, dynamic marketplace, the practice of consumers paying for both the cancelled service and the new service is counter to the objectives outlined in section 3(1)(t)(ii) of the *Broadcasting Act* and sections 7(c), (f), and (h) of the *Telecommunications Act*.
38. The Commission considers that the prohibition of 30-day cancellation policies for all contracts between providers of wireless, local voice, Internet, or BDU services, and their customers would (i) ensure regulatory symmetry; (ii) make the process of switching BDUs and telecommunications service providers easier for consumers, especially for consumers with bundles of services; and (iii) contribute to a more dynamic marketplace. The Commission therefore considers that the impact of the prohibition of 30-day cancellation policies on telecommunications service providers and BDUs are offset by the associated benefits afforded to consumers.

#### **Telecommunications services**

39. In light of all the above, the Commission **approves** Eastlink's application. The Commission hereby prohibits the use by telecommunications service providers of 30-day cancellation policies for individual and small-business customers<sup>9</sup> of retail telecommunications services. This will empower these consumers to make informed choices in the competitive market, and will contribute to making this market more dynamic.
40. Accordingly, the Commission **directs** Canadian carriers that provide retail local voice services including VoIP, and/or Internet services to individual or small-business customers to adhere to the following requirement, as a condition of providing these services pursuant to section 24 of the *Telecommunications Act*, no later than **23 January 2015**:

#### **Cancellation date**

- Customers may cancel their contract at any time by notifying their service provider.
- Cancellation takes effect on the day that the service provider receives notice of the cancellation.

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<sup>9</sup> See footnote 7 for a definition of "small-business customers."

The Commission notes that pursuant to Broadcasting and Telecom Regulatory Policy 2011-191, Canadian carriers and BDUs must accept a customer cancellation request from a prospective new service provider, on behalf of a customer.

41. The Commission also **directs** Canadian carriers, as a condition of providing retail local voice services including VoIP, and/or Internet services to resellers, which in turn provide these services to their own subordinate wholesale customers and/or end-users, to include in their service contracts or other arrangements with the resellers the requirement that the purchaser of the service, and any or all of their wholesale customers and subordinate wholesale customers, abide by the condition in the previous paragraph no later than **23 January 2015**.
42. Finally, the Commission **directs** Canadian carriers to (i) modify the terms and conditions specified in tariffs (for regulated services) and terms of service (for forborne services) to remove any mention of 30-day (or similar) cancellation policies, and (ii) issue any revisions<sup>10</sup> no later than **23 January 2015**.

#### **Broadcasting distribution services**

43. The Commission **expects** BDUs to adhere to the cancellation date requirement set out in paragraph 40 above in their service agreements with all of their customers, by no later than **23 January 2015**.
44. The Commission will seek to amend the *Broadcasting Distribution Regulations* (the Regulations) to include this requirement at a later date. The Commission will issue for comment a notice of consultation setting out the text of the proposed amendments to the Regulations.
45. With respect to exempt BDUs, the Commission anticipates that market forces will ensure that all Canadians benefit from this prohibition.

#### **Policy Direction (telecommunications services)**

46. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the *Telecommunications Act* (the Act), shall implement the policy objectives set out in section 7 of the Act, in accordance with paragraphs 1(a), (b), and (c) of the Policy Direction.
47. Consistent with subparagraph 1(a)(i)<sup>11</sup> of the Policy Direction, the Commission considers that, in this case, market forces alone cannot be relied upon to ensure that consumers are able to switch service providers to take advantage of competitive offers in the marketplace.

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<sup>10</sup> Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

<sup>11</sup> Subparagraph 1(a)(i) of the Policy Direction states that the Commission should rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives.

48. Consistent with subparagraph 1(a)(ii)<sup>12</sup> of the Policy Direction, the Commission considers that the regulatory requirement set out in paragraph 40 above is efficient and proportionate to its purpose, and that it minimally interferes with market forces. The Commission has considered the burden that will be imposed on telecommunications service providers in complying with this requirement, as well as the potential impact on these providers' existing business models. However, the Commission considers that the requirement offers telecommunications service providers flexibility in determining how best to implement it to meet the needs of their customers.
49. Consistent with subparagraph 1(b)(iii)<sup>13</sup> of the Policy Direction, the Commission considers that the regulatory requirement set out in paragraph 40 above is symmetrical across all telecommunications service providers, regardless of the technology they use, the geographic market in which they operate, and their size.

Secretary General

### **Related documents**

- *Let's Talk TV*, Broadcasting Notice of Consultation CRTC 2014-190, 24 April 2014, as amended by Broadcasting Notices of Consultation CRTC 2014-190-1, 20 June 2014; 2014-190-2, 23 June 2014; 2014-190-3, 21 August 2014; and 2014-190-4, 15 September 2014
- *The Wireless Code*, Telecom Regulatory Policy CRTC 2013-271, 3 June 2013
- *The customer transfer process and related competitive issues*, Broadcasting and Telecom Regulatory Policy CRTC 2011-191, 18 March 2011

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<sup>12</sup> Subparagraph 1(a)(ii) of the Policy Direction states that when relying on regulation, the Commission should 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.

<sup>13</sup> Subparagraph 1(b)(iii) of the Policy Direction states that the Commission, when relying on regulation, should use measures that, if they are not of an economic nature, to the greatest extent possible, are implemented in a symmetrical and competitively neutral manner.