



## Telecom Decision CRTC 2015-462

PDF version

Ottawa, 20 October 2015

*File number: 8665-P8-201400762*

### **Public Interest Advocacy Centre and the Consumers' Association of Canada – Application regarding Bell Mobility Inc., Solo Mobile, and Virgin Mobile Canada's use of customer information**

*The Commission dismisses PIAC/CAC's application on the basis that the application is moot, given that BCE Inc.'s Relevant Advertising Program has been withdrawn.*

#### **Application**

1. The Commission received an application from the Public Interest Advocacy Centre (PIAC) and the Consumers' Association of Canada (CAC) [collectively, PIAC/CAC], dated 27 January 2014, regarding Bell Mobility Inc. (Bell Mobility), Solo Mobile, and Virgin Mobile Canada's (collectively, Bell Mobility et al.) collection and use of customer information for the Relevant Advertising Program (RAP).
2. PIAC/CAC requested that the Commission prohibit Bell Mobility et al. from collecting and using customer information for the advertising and marketing purposes set out in the RAP. It also requested that the Commission initiate a larger follow-up proceeding to examine the data collection, use, and disclosure practices of all other telecommunications service providers (TSPs) and broadcasting distribution undertakings (BDUs).
3. PIAC/CAC requested that, if the Commission were to deny the request to prohibit Bell Mobility et al. from using customer information for advertising and marketing purposes as set out in the RAP, the Commission direct the companies to make the program entirely opt-in.
4. Regardless of the Commission's determination, PIAC/CAC requested that the Commission order Bell Mobility et al. to provide full details on the public record of the operation and nature of the program, including the exact details of what information is being collected and how it is being collected, used, and disclosed by the companies.
5. PIAC/CAC submitted that the Commission is vested with unique authority to regulate and supervise the broadcasting and telecommunications systems in Canada, and has a statutory obligation to protect privacy.

6. The public record of this proceeding, which closed on 21 April 2015, 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.

## **Background**

7. In the fall of 2013, BCE Inc. launched the RAP, a program that facilitated the delivery of targeted advertisements by third-party companies to subscribers of mobile wireless services provided by Bell Mobility et al.
8. The program, which used customer data already collected by Bell Mobility et al. for various purposes (e.g. to connect customers with whom they want to reach; to plan, provision, and manage the network; or to address questions from customers regarding billable activities), was provided on an opt-out basis. As a result, all affected customers were automatically included in the program by default.
9. After Bell Mobility et al. sent a notice to their customers which, among other things, announced the program, the Commission received approximately 100 complaints related to Bell Mobility et al.'s collection and use of customer data. These complaints were referred to the Office of the Privacy Commissioner of Canada (OPC), which is responsible for the oversight of the *Personal Information Protection and Electronic Documents Act* (PIPEDA). PIPEDA sets out ground rules for how private sector organizations, including communications service providers, may collect, use, or disclose personal information in the course of commercial activities. On 23 October 2013, the OPC announced that it would be investigating whether the RAP contravened PIPEDA.

## **OPC findings**

10. On 7 April 2015, the OPC published the findings from its investigation. Among other things, the OPC found that Bell Mobility et al. were not obtaining adequate consent via the opt-out model and that express, opt-in consent was required for the use of customer information in the RAP. The OPC emphasized that customers who pay for a service should be given an express, opt-in choice about the use of their data in online targeted advertising.

## **Withdrawal of the RAP**

11. On 10 April 2015, Bell Canada informed the OPC that the RAP was immediately and completely being withdrawn.

## **Commission's analysis and determinations**

12. Given that the RAP has been withdrawn, PIAC/CAC's request that the Commission prohibit Bell Mobility et al. from using customer information as set out in the RAP, or direct them to make the program opt-in, is moot.
13. Accordingly, the Commission dismisses PIAC/CAC's application.

14. The Commission expects that, consistent with the OPC's conclusions with respect to the RAP, any communications service provider that charges for the provision of services will obtain express, opt-in consent from a customer before using that customer's data for the purposes of targeted advertising. For that consent to be meaningful, it will need to be supported by a detailed explanation that allows the customer to clearly understand the full breadth of the actual information that a company might use to target them for advertising purposes.
15. With regard to PIAC/CAC's request for a follow-up proceeding, no evidence was provided to support the view that such a proceeding is warranted at this time.
16. Privacy remains a significant concern for Canadians, especially as TSPs and BDUs introduce new programs that use customer data. The Commission will continue to actively monitor privacy-related issues as they emerge.

Secretary General