



Broadcasting Regulatory Policy CRTC 2015-495

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Reference: 2015-191

Ottawa, 6 November 2015

Amendments to the *Broadcasting Distribution Regulations* prohibiting 30-day cancellation policies

The Commission announces amendments to the Broadcasting Distribution Regulations prohibiting broadcasting distribution undertakings (BDUs), such as cable and satellite providers, from requiring customers to give 30 days' notice when cancelling their services.

This will make it easier for consumers to switch BDUs and thus contribute to a more dynamic marketplace.

The amendments will be published in the Canada Gazette, Part II, and will take effect on the day they are registered.

Introduction

1. In Broadcasting and Telecom Regulatory Policy 2014-576 (the Policy), the Commission determined that 30-day cancellation policies for local voice services, Internet services and broadcasting distribution undertakings (BDUs) should be prohibited.
2. Specifically, the Commission found that in light of the changing, dynamic marketplace, the practice of requiring consumers to pay for both a cancelled and a new service is counter to the objective of providing efficient delivery of programming at affordable rates set out in section 3(1)(t)(ii) of the *Broadcasting Act* (the Act). The Commission also considered that prohibiting 30-day cancellation policies for all contracts between providers of wireless, local voice, Internet or BDU services and their customers would make it easier for consumers to switch providers and contribute to a more dynamic marketplace. As a result, the Commission determined that the impact on telecommunications service providers and BDUs of prohibiting 30-day cancellation policies was offset by the benefit to consumers.
3. Accordingly, in Broadcasting Notice of Consultation 2015-191, the Commission proposed amendments to the *Broadcasting Distribution Regulations* (the Regulations) applicable to licensed BDUs to the following effect:
 - a customer's BDU must accept a request for the cancellation of programming services made to it by the customer;

- cancellation must occur on the day the request is received by the BDU; and
 - these two requirements do not apply to cancellation requests made by a customer who is also a subscriber as defined in the Regulations.¹
4. The Commission received comments from Bragg Communications Incorporated, carrying on business as Eastlink (Eastlink), the Public Interest Advocacy Centre (PIAC), Rogers Communications Partnership (Rogers), Shaw Communications Inc. (Shaw), TekSavvy Solutions Inc. and Hastings Cable Vision Ltd. (collectively TekSavvy), as well as an individual. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca.

Issues raised by interveners

Charging of fees

5. Eastlink was concerned that the amendments as currently worded would only prohibit 30-day cancellation policies where the consumer is cancelling a service, but not where the consumer is switching BDUs. As a result, consumers switching providers could still be made subject to 30-day cancellation policies and fees.
6. Both Eastlink and PIAC suggested that the Regulations explicitly state that the original BDU is not permitted to charge a customer for the cancelled service (i.e. either by charging for the service after the cancellation date or by retaining any fees paid in advance for that time period). They submitted that this would more accurately reflect the Commission's policy that all charges cease when a request for cancellation is received by the service provider.

Commission's analysis and decision

7. The Commission's prohibition on the use of 30-day cancellation policies, which enables customers to cancel their services without being required to provide advance notice and without being billed for services after cancellation occurs, applies where a customer is switching BDUs or is cancelling BDU services entirely, and nothing in the proposed regulations indicates the contrary. Section 15.4 of the Regulations, which allows a new BDU service provider to act on a customer's behalf when switching BDUs and ensures that customer transfers are completed in a timely fashion, is designed to work with the proposed amendments.

¹ As defined in the Regulations, "customer" means a person who is liable for payment for programming services that are distributed by a licensee and that are received directly or indirectly by one or more subscribers. It does not include the owner or operator of a hotel, hospital, nursing home or other commercial or institutional premises. A "subscriber" means (a) a household of one or more persons, whether occupying a single-unit dwelling or a unit in a multiple-unit dwelling, to which service is provided directly or indirectly by a licensee, or (b) the owner or operator of a hotel, hospital, nursing home or other commercial or institutional premises to which service is provided by a licensee. Section 15.4 of the Regulations sets out the provisions regarding cancellations requested by subscribers.

8. Further, the Policy is clear that no charges are to be imposed for a cancelled service. As noted above and in the Policy, the Commission considers that the practice of requiring customers to pay for both a cancelled and a new service is counter to the policy objectives set out in the Act. In Broadcasting Notice of Consultation 2015-191, the Commission explicitly noted that the prohibition of 30-day cancellation fees means that all charges for that cancelled service are to cease immediately.
9. In light of the above, the Commission considers that no changes to the proposed regulations are needed to address these comments.
10. Moreover, should BDUs charge any fees for early termination of a contract, the draft Television Service Provider Code of Conduct (see Broadcasting Notice of Consultation 2015-105) proposes that an agreement between a BDU and a customer must clearly set out any additional charges or early termination fees. A determination following that consultation process will be issued in due course.

Cancellation of individual channels

11. Eastlink, Rogers and Shaw expressed concern that as a result of the use of the phrase “cancellation of programming services” in the proposed amendments, the prohibition on 30-day cancellation policies could be interpreted as applying if a customer is simply cancelling a subscription to individual programming services or packages of programming services. These parties argued that this was not the Commission’s intent and could result in customer changes to subscriptions to individual channels on a daily basis, which would create numerous issues for BDUs and programmers. Therefore, they proposed that the draft regulations be amended to clarify that the prohibition only applies where there is a termination of all BDU services.
12. For its part, TekSavvy supported providing customers with the ability to immediately cancel a subscription to any individual channel, but was concerned that BDUs might be prevented from doing so by the terms of their affiliation agreements with programmers. TekSavvy suggested that a proceeding be initiated to address this issue. Alternatively, it submitted that the regulations should be amended to clarify that the prohibition on 30-day cancellation policies applies only to cancellations of the entire BDU subscription.

Commission’s analysis and decision

13. The Commission’s determination on 30-day cancellation policies in the Policy was made in the context of customers terminating their relationship with their BDU, including where customers ultimately switch to a new provider. Consequently, the draft provisions on cancellation requests were meant to apply only to the complete cancellation of a BDU subscription, not to the cancellation of individual programming services or packages of programming services.
14. To better reflect this intent and guard against possible misinterpretation, the Commission has modified the proposed regulations to clarify that the prohibition on

30-day cancellation policies applies only to cancellations of “all programming services.”

Cancellation by telecommunications service providers on behalf of customers

15. At present, the Regulations permit a prospective BDU to cancel the services of a subscriber’s current service provider on the subscriber’s behalf. TekSavvy argued that the Commission should revise the Regulations to permit a customer’s new telecommunications service provider to cancel the current services on the customer’s behalf. It argued that this change was needed because customers may not choose to maintain a television subscription when switching to a new provider.

Commission’s analysis and decision

16. The Commission considers that this proposal goes beyond the scope of the current proceeding, which is focused on the appropriate wording to implement the prohibition on 30-day cancellation fees in the broadcasting context.

Application to small businesses

17. Shaw submitted that the regulations should refer to cancellation requests made by “individual or small business” customers to better align with the Commission’s determination in the Policy that telecommunications service providers would be prohibited from using 30-day cancellation policies for individual and “small business”² customers of retail services.

Commission’s analysis and decision

18. The intent of prohibiting the practice of 30-day cancellation policies was to empower individual residential consumers, not commercial or institutional subscribers, by making the process of switching providers easier. The draft regulations accurately reflect the Commission’s intent in this regard by using the term “customer.” As defined in the Regulations, a “customer” does not include owners or operators of commercial or institutional premises, such as hotels, hospitals and nursing homes, while the term “subscriber” does.

19. Accordingly, the Commission is of the view that the draft regulations should not be amended as proposed by Shaw. However, BDUs may choose on their own not to impose 30-day cancellation policies on their small business subscribers.

Effective date of cancellations

20. Shaw also submitted that customers may wish their cancellation request to be effective on a future date other than the date it is received by the BDU and accordingly proposed that the draft regulations be changed to provide this option.

² “Small business” is a term employed by the Commissioner for Complaints for Telecommunications Services (CCTS) that refers to a business whose average monthly telecommunications bill is under \$2,500.

Commission's analysis and decision

21. The 30-day cancellation provision serves two purposes: first, it eliminates the practice of requiring 30 days' notice prior to cancelling a subscription; and second, it provides that a cancellation request takes effect when the BDU receives it as opposed to when the customer provides it.
22. In the Commission's view, the cancellation of a subscription on a future date as requested by a customer can be accomplished within the bounds of the proposed amendments as currently worded. Specifically, on the date a BDU receives a cancellation request, it should give effect to the customer's instructions as contained in that request.
23. Accordingly, the Commission does not consider that the draft regulations need be amended in this regard.

Conclusion

24. In light of all of the above, the Commission adopts the amendments to the Regulations as set out in the appendix to this regulatory policy. The amended Regulations take effect on the day they are registered and will be published in the *Canada Gazette*, Part II.

Secretary General

Related documents

- *Call for comments on proposed amendments to the Broadcasting Distribution Regulations to implement a prohibition on 30-day cancellation policies*, Broadcasting Notice of Consultation CRTC 2015-191, 13 May 2015
- *Call for comments on a Television Service Provider Code of Conduct working document*, Broadcasting Notice of Consultation CRTC 2015-105, 26 March 2015
- *Prohibition of 30-day cancellation policies*, Broadcasting and Telecom Regulatory Policy CRTC 2014-576, 6 November 2014

Appendix to Broadcasting Regulatory Policy CRTC 2015-495

REGULATIONS AMENDING THE BROADCASTING DISTRIBUTION REGULATIONS

AMENDMENTS

1. The heading before section 15.4 of the *Broadcasting Distribution Regulations*¹ is replaced by the following:

CANCELLATION REQUESTED BY SUBSCRIBER

2. The Regulations are amended by adding the following after section 15.4:

CANCELLATION REQUESTED BY CUSTOMER

15.5 (1) A licensee shall accept a request that is made to it by a customer for the cancellation of all programming services that it provides to the customer.

(2) The cancellation shall occur on the day on which the request is received by the licensee.

(3) Subsections (1) and (2) do not apply to a cancellation request as defined in subsection 15.4 (1) that is made by a customer who is also a member of a household that is provided with the programming services for which the request is made.

COMING INTO FORCE

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

¹ SOR/97-555