



## Telecom Regulatory Policy CRTC 2015-546

PDF version

Reference: Telecom Notice of Consultation 2015-67

Ottawa, 10 December 2015

*File number: 8650-C12-201501825*

### **Consumer safeguards for payphones – Notification of rates for non-cash payphone calls**

*The Commission finds that the current notification requirements for local non-cash payphone calls, whose rates are regulated, are sufficient. However, the Commission finds that the current notification requirements for long distance non-cash payphone calls are not sufficient. Non-cash calls are often made using credit cards, prepaid long distance cards, and other telephone cards. Consumers generally only become aware of the rates to be paid for their calls when they receive their billing statement, potentially leading to bill shock.*

*To ensure consumers can obtain the necessary rate information to make an informed decision about their long distance non-cash payphone calls, the Commission **directs** specific payphone providers, namely the incumbent local exchange carriers (ILECs), to make detailed rate information available to consumers. The Commission further **directs** the ILECs to file, no later than **six months** from the date of this decision, information on the means they intend to use to meet this requirement.*

*As a result of the enhanced safeguards introduced in this decision, Canadians will be empowered to make informed choices concerning their use of payphones to make long distance non-cash calls.*

### **Background**

#### **Current notification requirements for non-cash calls**

1. The current consumer safeguards with respect to notification of rates for non-cash payphone calls, which were established in Telecom Order [95-316](#) and Telecom Decision [98-8](#), are as follows:
  - At each payphone they operate, competitive payphone service providers (CPSPs) must prominently display rates for local calls and any surcharge, markup, or location charges not included in the price of the call.
  - For operator-handled payphone calls, the incumbent local exchange carriers (ILECs) and CPSPs are to provide, when requested by the consumer, the rates and charges for a call and alternative billing methods available to consumers.

## Telecom Decision 2013-327 and subsequent Commission releases

2. On 5 June 2013, the Commission determined, in Telecom Decision [2013-327](#),<sup>1</sup> that it would initiate a proceeding to review whether the existing consumer safeguards are sufficient to ensure that consumers are in a position to make informed decisions regarding the use of payphones for non-cash calls.<sup>2</sup>
3. On 26 February 2015, the Commission released a fact-finding report concerning the current role of payphones in the Canadian communications system.<sup>3</sup> The Commission also issued Telecom Notice of Consultation 2015-67, inviting parties to file comments, with supporting rationale, on the following questions:
  - Are the current notification requirements in relation to non-cash calls from payphones imposed on ILECs and CPSPs sufficient and appropriate?
  - If not, what should these requirements be?
4. The Commission received interventions regarding the Telecom Notice of Consultation 2015-67 proceeding from Bell Canada, on behalf of itself, Bell Aliant Regional Communications, Limited Partnership, Northwestel Inc., and Télébec, Limited Partnership (collectively, Bell Canada et al.); the Canadian Independent Telephone Company Joint Task Force (JTF); the Consumers' Association of Canada and the Public Interest Advocacy Centre (collectively, CAC/PIAC); TBayTel; TELUS Communications Company (TCC); l'Union des consommateurs (l'Union); and about 15 individuals.
5. The public record of this proceeding, which closed on 8 May 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.

## Issues

6. The Commission has identified the following issues to be addressed in this decision:
  - Do the current notification requirements for non-cash payphone calls remain sufficient and appropriate?
  - What changes should be made to the current notification requirements for non-cash payphone calls?

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<sup>1</sup> Telecom Decision [2013-327](#) was issued as a result of the Commission's consideration of an application filed in November 2012 by the Public Interest Advocacy Centre, on behalf of itself and Canada Without Poverty.

<sup>2</sup> Non-cash payphone calls include calls paid for using third-party billing, credit cards, and telephone cards (including calling cards, collect cards, prepaid long distance cards, and other telephone cards).

<sup>3</sup> The Commission's report, entitled *Results of the fact-finding process on the role of payphones in the Canadian communications system* (the Report), was placed on the Commission's website on 26 February 2015. The Report was prepared based on the results of the fact-finding process initiated by Telecom Notice of Consultation 2013-337. See <http://crtc.gc.ca/eng/publications/reports/rp150226a.htm>

- How should the notification requirements for non-cash payphone calls be applied to CPSPs?

**Do the current notification requirements for non-cash payphone calls remain sufficient and appropriate?**

7. Bell Canada et al., the JTF, TBayTel, and TCC generally were of the view that the current notification requirements for both local and long distance non-cash payphone calls were sufficient and appropriate. On the other hand, CAC/PIAC and l'Union argued that the current notification requirements for non-cash payphone calls are insufficient and do not protect consumers from bill shock.
8. L'Union noted that in some instances, such as long distance non-cash payphone calls, consumers can incur charges in addition to the rate incurred for the call itself, such as "connections fees," which CAC/PIAC noted could be more than \$10 per call, and that consumers are not sufficiently notified of that fact. CAC/PIAC noted in this regard that consumer complaints concerning the notification of charges for non-cash payphone call requirements led, in part, to the issuance of Telecom Decision 2013-327.
9. Bell Canada et al. and TCC noted that a consumer can readily call the operator at no charge to obtain a quote and that the option is available through their Interactive Voice Response (IVR) system. CAC/PIAC and l'Union argued that the "obtain a quote" option is not effective as a means of consumer notification as it is often presented after the option to complete the call in the IVR system. L'Union argued that if consumers were fully aware of all costs prior to making a call, many would not proceed.
10. CAC/PIAC noted their concern that consumers may not have any recourse in relation to complaints they may have regarding their experience of bill shock for non-cash payphone calls.

**Commission's analysis and determinations**

11. The main concern of the consumer groups in this proceeding is that the current regime may not be robust enough to prevent bill shock for some users of long distance non-cash payphone calls who were not made aware of the various one-time fees and per-minute rates.
12. As rates for local non-cash calls on payphones operated by ILECs are regulated, the Commission finds that the current consumer safeguards for such calls are sufficient to prevent bill shock for payphone users and, as such, remain sufficient and appropriate.
13. Rates for long distance non-cash calls on payphones operated by ILECs, however, are not regulated. While this can lead to a more competitive market, it may also lead to situations in which the rates and charges incurred in order to complete a call are not made sufficiently clear to Canadians. This, in turn, may lead to bill shock when the sum of the fees is higher than expected. The Commission is not satisfied that the notification methods currently being used to meet the existing requirement are

resulting in effective notification of the full scale of the rates and charges that consumers may incur in completing their long distance non-cash payphone calls. Based on the above, the Commission finds that the current safeguards for long distance non-cash payphone calls are not sufficient.

**What changes should be made to the current notification requirements for non-cash payphone calls**

14. Payphone providers generally argued that users are sufficiently aware that they have the option to reach the operator by dialing 0 at any time to obtain rate information. The JTF and TCC noted that further requirements could make the business proposition of some payphones even less appealing, with TCC noting that in some instances the imposition of further requirements could accelerate the removal of payphones.
15. CAC/PIAC and l'Union argued that payphone users are often under pressure to complete a call quickly, citing examples like completing a call in a busy airport or due to a personal emergency, and, as such, new requirements should be put in place so that information is quickly and easily available.
16. Interveners to this proceeding suggested alternative means to convey the information related to long distance non-cash payphone calls to consumers, including (a) making detailed rate information available by posting it on or around the payphone itself, (b) modifying the IVR system so that the option to obtain a quote comes first, and (c) maintaining the current practice of using the operator services by dialing 0. Payphone providers generally argued that implementing the various proposals, above and beyond their current practices, would be unworkable, not necessary, and onerous, but did not provide details regarding the specific costs that would be incurred as a result.
17. Bell Canada et al. submitted that posting the rates for non-cash calls on payphones would diminish their flexibility to respond to market forces, and that it would be expensive to continually update this information on every payphone. CAC/PIAC recognized that posting all possible rates may not be reasonable, but argued that the posting of rate bands should be feasible. TCC argued that, should this proposal be required by the Commission, it should only apply to payphone providers who charge rates in excess of a pre-determined threshold. L'Union submitted that all rate information should be posted on payphones.
18. L'Union suggested that the "obtain a quote" option should be presented before the option to complete the call in the IVR system, in addition to posting the rates on the payphones. CAC/PIAC supported the proposal, particularly in light of the high initial charge to complete a call at certain payphones. Bell Canada et al. argued that the revenues generated from payphones would not justify the costs to modify existing IVR options, while TCC submitted that it is unsure if it would even be possible to modify some of its older payphones. Further, TCC argued that the order in which options are presented to consumers seeking information will not have any bearing on whether a consumer chooses one option over another.

19. CAC/PIAC voiced concerns that consumers are not notified that a third-party service provider may be billing for payphone service, arguing that a consumer should be notified that this could be a possibility.

**Commission's analysis and determinations**

20. The intent of notification requirements for non-cash payphone calls is to empower consumers by giving them the tools to make informed decisions. By providing consumers with the opportunity to get information that could affect their decision making, the possibility of bill shock is lowered. In order to achieve this goal, rate information must be available to consumers as early and as clearly as possible in the process of making a long distance non-cash payphone call.
21. Posting rates or rate bands on or around payphones would achieve the goal of notifying consumers, but may be impractical and may hinder payphone providers' flexibility to react to market forces. As for the suggestion of only applying such a requirement when fees surpass a certain threshold, as submitted by TCC, considering that rates for long distance non-cash payphone calls are not regulated, a requirement that only applies on the basis of the fees charged would not be appropriate in the circumstances.
22. If a payphone provider's IVR system is modified to ensure that the "obtain a quote" option is presented to consumers earlier in the menu, this too could provide greater notice. The order in which options are presented to consumers is likely to have an impact on the choices consumers make, especially in instances where the consumer is under pressure to quickly complete their call. A consumer who is offered the option of completing a call before being offered the option of receiving rate information is less likely to receive that rate information. However, modifying IVRs may not be cost-effective or, in some cases, technologically possible.
23. While operator services, which can be reached by dialing 0, may be an efficient means for consumers to obtain detailed rate information, the current notification requirements only apply when a consumer requests the information in the course of an operator-handled call. Consumers may not be aware that the operator can provide this information, and may not even be aware that they may be subject to additional charges, such as connection fees, nor of their scale, and thus may not think to inquire about them.
24. On the matter raised by CAC/PIAC that consumers should be made aware that the entity billing their long distance non-cash payphone call may be a third party, the name on their statement should not affect whether consumers experience bill shock.
25. Based on the record of the proceeding, consumer safeguards for long distance non-cash payphone calls need to be strengthened; however, the record of this proceeding shows that a "one size fits all" solution to address the issue is not appropriate and, while an enhanced notification requirement is necessary, payphone providers need some flexibility in the means they use to effect notification of rates for long distance non-cash payphone calls. In so doing, payphone providers should keep in mind the

ultimate goal of notification, which is to ensure consumers are empowered to obtain the necessary information and make an informed decision about their long distance non-cash payphone calls.

26. Accordingly, pursuant to its powers under section 24 of the *Telecommunications Act* (the Act), the Commission **directs** that as a condition of providing payphone services, all ILECs must make detailed information available to consumers regarding the rates and other fees charged by or on behalf of the ILEC with respect to long distance non-cash payphone calls. Detailed rate information includes connection fees, per-minute rates, and any other charges that would be charged to the consumer by or on behalf of the ILEC for a long distance non-cash payphone call.
27. The Commission **directs** all ILECs to file, within **six months** of the date of this decision, (a) the means they intend to use to ensure the above requirement is met, (b) how this approach will ensure that all potential users have an opportunity to obtain information about detailed rate information necessary to make an informed decision, and (c) the timeline for the implementation of the selected approach.
28. The Commission provides the following non-exhaustive list of examples of means that would be considered as meeting the above requirement:
  - posting, on or around the payphone, detailed rate information to common destinations, including destinations in Canada, the U.S., and abroad;
  - modifying the IVR system so that the first option presented to consumers making a long distance non-cash payphone call is the option to “obtain a quote;” or
  - posting, on or around the payphone, that detailed rate information, including all fees, can be obtained by dialing 0 to reach an operator. The operator would have to disclose detailed information if asked about rates, including rates and additional charges and any difference between IVR- and operator-completed calls.

**How should the notification requirements for non-cash payphone calls be applied to CPSPs?**

29. Conditions of service - such as the notification requirements for non-cash payphone calls - can be imposed on Canadian carriers, such as ILECs, by virtue of section 24 of the Act. However, CPSPs are considered resellers of telecommunications services rather than Canadian carriers. Accordingly, the current notification obligations were imposed on CPSPs indirectly. In Telecom Decision 98-8, the Commission directed Canadian carriers doing business with these resellers to include the obligations in their tariffs and contracts with CPSPs. In December 2014, Parliament amended the Act by adding section 24.1, which allows the Commission to impose conditions of service on resellers directly. However, no CPSPs participated in the present proceeding and there is no evidence on the record addressing the question of how the new obligations should be imposed in their case.

30. Accordingly, while the Commission is of the view that the new notification requirement, expressed above, should apply to CPSPs, a follow-up proceeding is necessary in order to determine how this requirement should be imposed on them as well as whether the underlying Canadian carriers who provide facilities to CPSPs should continue to be subject to the conditions of service requiring them to apply the existing notification obligations on CPSPs. Thus, the Commission intends to issue a notice of consultation calling for comments on these issues.

### **Policy Direction**

31. The Commission, in exercising its powers and performing its duties under the Act, is required to implement the policy objectives set out in section 7 of the Act, in accordance with the requirements of the Policy Direction.<sup>4</sup>

32. The Commission considers that its determinations in this decision will advance the policy objectives set out in paragraphs 7(a), (b), (f), and (h)<sup>5</sup> of the Act.

33. Consistent with subparagraph 1(a)(i) of the Policy Direction, in this case, market forces alone cannot be relied upon to ensure that payphone providers adequately notify consumers of the costs of completing long distance non-cash payphone calls, based on the record related to consumer bill shock that has not been prevented by the current requirements.

34. Consistent with subparagraph 1(a)(ii) of the Policy Direction, the regulatory requirement set out above, wherein payphone providers will select the means through which they will comply with the requirement, is efficient and proportionate to its purpose, and minimally interferes with market forces. The burden that will be imposed on payphone providers in complying with this requirement has been considered, as well as the potential impact on these payphone providers' existing business models. However, the requirement will ensure that consumers are provided information on which to base their decision, while not prohibiting current practices by the payphone providers, and giving payphone providers flexibility in determining how to meet the requirement.

35. Consistent with subparagraph 1(b)(iii) of the Policy Direction, the regulatory requirement set out above, once fully implemented, would achieve a symmetrical

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<sup>4</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

<sup>5</sup> The cited policy objectives of the Act are 7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions; 7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; 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.

regulatory regime across all payphone providers, regardless of the technology they use, the geographic market in which they operate, and their size.

## **Other matter**

### **Recourse mechanism for consumers experiencing bill shock with their long distance non-cash payphone calls**

36. As noted above, the current notification requirements do not sufficiently protect consumers from the possibility of bill shock related to long distance non-cash payphone calls. There should be a clear recourse mechanism available to consumers who experience bill shock related to such calls.
37. In general, the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) deals with consumer complaints about forborne telecommunications services, including long distance calls, whereas complaints about regulated services are typically dealt with by the Commission.<sup>6</sup>
38. A review of the structure and mandate of the CCTS was initiated by Broadcasting and Telecom Notice of Consultation [2015-239](#), which included a public hearing that took place from 3 to 6 November 2015. The role of the CCTS in dealing with bill shock related to long distance non-cash payphone calls was commented on by the CCTS during that proceeding. The Commission shall release its determinations in that proceeding in due course.

Secretary General

### **Related documents**

- *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.*, Broadcasting and Telecom Notice of Consultation CRTC 2015-239, 4 June 2015, as amended by Broadcasting and Telecom Notices of Consultation CRTC 2015-239-1, 24 July 2015, and 2015-239-2, 25 September 2015
- *Consumer safeguards for payphones – Notification of rates for non-cash payphone calls*, Telecom Notice of Consultation CRTC 2015-67, 26 February 2015
- *Fact-finding process on the role of payphones in the Canadian communications system*, Telecom Notice of Consultation CRTC 2013-337, 16 July 2013, as amended by Telecom Notice of Consultation CRTC 2013-337-1, 11 September 2013

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<sup>6</sup> For more details about the mandate of the CCTS, see Telecom Regulatory Policy 2011-46.



- *Public Interest Advocacy Centre and Canada Without Poverty – Billing of calls placed from Bell Canada payphones*, Telecom Decision CRTC 2013-327, 5 June 2013, as amended by Telecom Decision CRTC 2013-327-1, 10 July 2013
- *Review of the Commissioner for Complaints for Telecommunications Services*, Telecom Regulatory Policy CRTC 2011-46, 26 January 2011
- *Local pay telephone competition*, Telecom Decision CRTC 98-8, 30 June 1998
- Telecom Order CRTC 95-316, 15 March 1995