



Telecom Regulatory Policy CRTC 2016-12

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Application of the 9-1-1 regulatory obligations directly to non-carriers offering and providing telecommunications services

*The Commission **directs** non-carriers, as a condition of offering and providing any telecommunications service, including local exchange, wireless voice, local voice over Internet Protocol, and payphone services, to abide by all applicable existing and future obligations with respect to 9-1-1 service.*

As well, the Commission modifies the existing requirement for underlying carriers to include 9-1-1 service provision in their service contracts or other arrangements with non-carriers. Under this modified requirement, underlying carriers are also to report, in a timely manner, any non-compliance with the 9-1-1 obligations. The Commission also imposes these modified requirements on non-carriers that provide services to other non-carriers.

With this decision, the Commission strengthens the regulatory obligations that require that Canadians have access to reliable and effective 9-1-1 service.

Background

1. The Commission has mandated telecommunications service providers to provide their customers with 9-1-1 service wherever provincial/territorial and municipal governments have established specialized 9-1-1 call centres known as public safety answering points (PSAPs). As a result, an estimated 98% of Canada's population currently has access to either Basic 9-1-1 or Enhanced 9-1-1 (E9-1-1) service¹ through wireline, wireless, and voice over Internet Protocol (VoIP) telephone services.
2. The Commission has the authority under the *Telecommunications Act* (the Act) to impose conditions on the offering and provision of telecommunications services by Canadian carriers. However, until recently, the Commission did not have the authority to directly impose these conditions on non-carriers (persons offering and providing any telecommunications service other than Canadian carriers, generally

¹ Basic 9-1-1 service enables callers to be connected to call takers in PSAPs, who dispatch the appropriate emergency responders. E9-1-1 service includes Basic 9-1-1, but also automatically provides 9-1-1 call takers with the telephone number and location of the caller.

known as resellers).² Instead, the Commission directed, in various decisions as required, underlying carriers that provide services to non-carriers to ensure through their contractual arrangements that the non-carriers are subject to these conditions. This approach was used to ensure that non-carriers comply with the Commission's 9-1-1 obligations (referred to hereafter as the underlying carrier 9-1-1 requirement).³

3. As a result of the *Economic Action Plan 2014 Act, No. 2*, which came into force on 16 December 2014, a number of amendments were made to the Act. Among other things, new provisions were added to grant the Commission the authority to
 - impose general administrative monetary penalties (AMPs) to promote compliance with the Act;⁴ and
 - directly regulate non-carriers.⁵

Introduction

4. In Telecom Notice of Consultation 2015-369, the Commission initiated a proceeding for parties to show cause why the existing 9-1-1 obligations should not apply directly to non-carriers that provide local exchange, wireless voice, local VoIP, or payphone services. The Commission also invited comments on whether the underlying carriers should continue to be subject to the underlying carrier 9-1-1 requirement.
5. The Commission received interventions from Bell Canada; the Canadian Network Operators Consortium Inc. (CNOOC); la Coalition pour le service 9-1-1 au Québec (la Coalition); Paul Mak; the Public Interest Advocacy Centre (PIAC); Quebecor Media Inc., on behalf of its affiliate Videotron G.P. (Videotron); Rogers Communications Partnership (RCP); Shaw Communications Inc. (Shaw); and TELUS Communications Company (TCC).

² A reseller of telecommunications services sells or leases a telecommunications service provided by a Canadian carrier to the reseller on a wholesale basis.

³ For example, in Telecom Decision 97-8, the Commission noted that resellers would meet certain of the service requirements that the Commission imposes on local exchange carriers (LECs), such as 9-1-1-related obligations, by virtue of the underlying LECs' obligations. In Telecom Decision 2005-21, the Commission required local VoIP service providers to provide 9-1-1 service and imposed related obligations on them. In Telecom Decision 2012-137, the Commission modified a contractual condition for the service contracts of Canadian carriers, such that local VoIP service providers, and any or all of their wholesale customers and subordinate wholesale customers, must comply with the 9-1-1 obligations applicable to local VoIP service providers.

⁴ This is in addition to the AMP regime set out in the Act for violations of the Unsolicited Telecommunications Rules, and to Part 16.1, Division 1 of the *Canada Elections Act*, which gives the Commission the responsibility to administer and enforce statutory requirements with respect to voter contact calling services.

⁵ Specifically, new section 24.1 of the Act states that the offering and provision of any telecommunications service by any person other than a Canadian carrier are subject to any conditions imposed by the Commission, including those relating to (a) service terms and conditions in contracts with users of telecommunications services; (b) protection of the privacy of those users; (c) access to emergency services; and (d) access to telecommunications services by persons with disabilities.

Issues

6. Based on its review of the record of this proceeding, the Commission has identified the following issues to be addressed in this decision:

- Should the 9-1-1 obligations apply directly to non-carriers that provide local exchange, wireless voice, local VoIP, or payphone services?
- Should underlying carriers continue to be subject to the underlying carrier 9-1-1 requirement?

Should the 9-1-1 obligations apply directly to non-carriers that provide local exchange, wireless voice, local VoIP, or payphone services?

7. All of the parties that commented on this issue agreed that the 9-1-1 obligations should apply directly to non-carriers that provide local exchange, wireless voice, local VoIP, or payphone services.

Commission's analysis and determinations

8. Application of the 9-1-1 obligations directly to the above-mentioned non-carriers would be consistent with the Commission's regulation of carriers, which are subject to these obligations.⁶ Further, this application would provide the Commission with greater flexibility regarding the investigation and enforcement of compliance with the 9-1-1 obligations for non-carriers.

9. In light of the above, and pursuant to section 24.1 of the Act, the Commission **directs** persons offering and providing any telecommunications service other than Canadian carriers, as a condition of providing local exchange, wireless voice, local VoIP, or payphone services, to abide by all existing and future obligations with respect to 9-1-1 service, particularly the obligations applicable to non-carriers set out in the Appendix to this decision.

Should underlying carriers continue to be subject to the underlying carrier 9-1-1 requirement?

10. Bell Canada, CNOC, RCP, Shaw, and TCC argued that underlying carriers should no longer be subject to the underlying carrier 9-1-1 requirement. These parties considered that once the 9-1-1 obligations apply directly to non-carriers, it would be unnecessary and inefficient for underlying carriers to continue to be obligated to comply with the underlying carrier 9-1-1 requirement. Bell Canada and CNOC submitted that removal of the underlying carrier 9-1-1 requirement in light of the

⁶ For example, in Telecom Decision 97-8, the Commission required competitive local exchange carriers to provide 9-1-1 service and meet certain 9-1-1 obligations. In Telecom Decision 98-8, the Commission required local payphone service providers to provide 9-1-1 service and meet certain 9-1-1 obligations.

Commission's new authority to directly regulate non-carriers would be consistent with the Policy Direction.⁷

11. La Coalition and PIAC submitted that underlying carriers should continue to be subject to the underlying carrier 9-1-1 requirement. La Coalition argued that maintaining the requirement would involve no additional cost and would represent an added safeguard. PIAC argued that underlying carriers are likely to provide the most efficient means to track non-carriers and ensure their compliance with the 9-1-1 obligations. PIAC added that if the Commission were required to police all such compliance, significant Commission effort and resources could be required.

Commission's analysis and determinations

12. Under the existing underlying carrier 9-1-1 requirement, underlying carriers are required to
 - communicate to non-carriers that they must comply with the 9-1-1 obligations;
 - monitor non-carriers to which they provide service to ensure that they are complying with the 9-1-1 obligations; and
 - enforce compliance (e.g. threaten or implement termination of service) when a non-carrier is not complying with the 9-1-1 obligations.
13. The existing underlying carrier 9-1-1 requirement has been very useful to the Commission and to Canadians as a means of ensuring that non-carriers comply with the 9-1-1 obligations. However, with the Commission's new powers to directly regulate non-carriers and to impose mandatory orders and AMPs to promote compliance with the Act, it is expected that the Commission will need to rely less on underlying carriers with respect to the enforcement of compliance by non-carriers with the 9-1-1 obligations.
14. Given the importance of 9-1-1 services to the security of Canadians, 9-1-1 service providers must be aware of their obligations, and these obligations must be effectively enforced. In this regard, the underlying carrier 9-1-1 requirement provides a useful opportunity for the 9-1-1 obligations to be communicated directly to non-carriers, including non-carriers that have not registered with the Commission.⁸ It also enables underlying carriers to assist the Commission in identifying non-compliance by non-carriers.

⁷ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

⁸ Telecom Decision 95-2 states that all resellers and sharing groups must register with the Commission, regardless of the services being resold, with the exception of resellers that resell only toll services and sharing groups that share only toll services.

15. Therefore, it is in the public interest that underlying carriers continue to be subject to the underlying carrier 9-1-1 requirement. However, this requirement should be modified to make it clear that the underlying carriers are to assist the Commission in monitoring non-carriers by reporting to the Commission actual or suspected instances of violation of the 9-1-1 obligations by non-carriers.

16. Accordingly, the underlying carrier 9-1-1 requirement shall be modified

- to change the role of underlying carriers from a primary to a supportive role with respect to the enforcement of compliance by non-carriers with the 9-1-1 obligations;
- to formalize the reporting of non-carriers that are known or suspected to be failing to comply with the 9-1-1 obligations; and
- to apply to non-carriers that provide services to other non-carriers.

17. In light of the above, the Commission modifies the underlying carrier 9-1-1 requirement, pursuant to section 24 of the Act, to state the following:

The Commission directs Canadian carriers, as a condition of offering and providing telecommunications services to persons who offer and provide any telecommunications service, including local exchange services, wireless voice services, local voice over Internet Protocol services, and payphone services, that are not Canadian carriers (hereafter, “non-carriers”), as the case may be, (1) to include in their service contracts or other arrangements with these service providers, the requirement that the latter, and any or all of their wholesale customers and subordinate wholesale customers, abide by all existing and future obligations with respect to 9-1-1 service, particularly the obligations applicable to non-carriers set out in the Appendix to this decision; and (2) to report, in a timely manner, non-compliance by non-carriers with these obligations, whether actual or suspected, by letter addressed to the Secretary General, including the name and contact information of the non-carrier, as well as any details regarding the alleged non-compliant behaviour, and to implement any remedial directions from the Commission.

18. The Commission also imposes a 9-1-1 service requirement, pursuant to section 24.1 of the Act, that is applicable to non-carriers that provide services to other non-carriers:

The Commission directs persons who offer and provide any telecommunications service, including local exchange services, wireless voice services, local voice over Internet Protocol services, and payphone services, that are not Canadian carriers (hereafter, “non-carriers”), as the case may be, as a condition of providing telecommunications services to other non-carriers, (1) to include in their service contracts or other arrangements with these service providers, the requirement that the latter, and any or all of their wholesale

customers and subordinate wholesale customers, abide by all existing and future obligations with respect to 9-1-1 service, particularly the obligations applicable to non-carriers set out in the Appendix to this decision; and (2) to report, in a timely manner, non-compliance by non-carriers with these obligations, whether actual or suspected, by letter addressed to the Secretary General, including the name and contact information of the non-carrier, as well as any details regarding the alleged non-compliant behaviour, and to implement any remedial directions from the Commission.

Policy Direction

19. The Policy Direction states that the Commission, in exercising its powers and performing its duties under 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.
20. Given the importance of 9-1-1 service, market forces cannot be solely relied upon for its provision; therefore, regulation is necessary. The policy objectives set out in paragraphs 7(a), (b), and (h) of the Act⁹ are advanced by the regulatory measures established in this decision.
21. Consistent with subparagraph 1(a)(ii) of the Policy Direction,¹⁰ the regulatory measures established in this decision are efficient and proportionate to their purpose. Specifically, the regulatory measures applied to underlying carriers and non-carriers in this proceeding are tailored to the importance of Canadians having access to reliable and effective emergency services.

Other matter – new 9-1-1 obligations

22. Several parties proposed that the Commission should impose new 9-1-1 obligations on non-carriers. La Coalition submitted that non-carriers should be required to collect and remit all duties and taxes applicable to funding for 9-1-1 service. Paul Mak proposed that non-carriers should either provide 9-1-1 service to their customers as underlying carriers do, or have the option to pay the underlying carrier to offer 9-1-1 service on their behalf on a customer-by-customer basis. RCP submitted that wireless resellers should be made liable for the accuracy of their subscriber database.

⁹ 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; (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; and (h) to respond to the economic and social requirements of users of telecommunications services.

¹⁰ Subparagraph 1(a)(ii) 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.

Commission's analysis and determinations

23. In Telecom Notice of Consultation 2015-369, the Commission specifically limited the scope of the proceeding to examining whether the existing 9-1-1 obligations should be imposed on non-carriers. Accordingly, the issue of whether new obligations should be imposed is out of the scope of the proceeding and has not been considered.

Secretary General

Related documents

- *Application of the 9-1-1 regulatory obligations directly to non-carriers*, Telecom Notice of Consultation CRTC 2015-369, 12 August 2015
- *CISC Emergency Services Working Group – Consensus report regarding Text Messaging with 9-1-1 trial and service implementation*, Telecom Decision CRTC 2013-22, 24 January 2013
- *VoIP 9-1-1 service – Modified contractual condition*, Telecom Decision CRTC 2012-137, 7 March 2012
- *Provision of a 9-1-1 caller's telephone number to nomadic and fixed/non-native VoIP service providers' 9-1-1 operators*, Telecom Regulatory Policy CRTC 2011-426, 14 July 2011
- *CISC consensus report – Wireless E9-1-1 Phase II Stage 2 Feature Analysis*, Telecom Decision CRTC 2011-177, 11 March 2011
- *Viability of proposals for the provision of E9-1-1 service for nomadic and fixed/non-native VoIP subscribers*, Telecom Decision CRTC 2010-387, 17 June 2010
- *Emergency service obligations of nomadic local VoIP service providers related to determining the location of a 9-1-1 caller*, Telecom Circular CRTC 2008-2, 28 July 2008
- *Routing of fixed/non-native and nomadic VoIP 9-1-1 calls to public safety answering points*, Telecom Decision CRTC 2007-44, 15 June 2007
- *Follow-up to Emergency service obligations for local VoIP service providers, Decision 2005-21 - Customer notification requirements*, Telecom Decision CRTC 2005-61, 20 October 2005
- *Emergency service obligations for local VoIP service providers*, Telecom Decision CRTC 2005-21, 4 April 2005

- *Part VII application to revise Article 11 of the Terms of Service*, Telecom Decision CRTC 2005-15, 17 March 2005
- *Conditions of service for wireless competitive local exchange carriers and for emergency services offered by wireless service providers*, Telecom Decision CRTC 2003-53, 12 August 2003; as amended by Telecom Decision CRTC 2003-53-1, 25 September 2003
- *Local pay telephone competition*, Telecom Decision CRTC 98-8, 30 June 1998
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997
- *Hotel and Motel Commission plans*, Telecom Decision CRTC 95-2, 3 February 1995

Appendix to Telecom Regulatory Policy 2016-12

Main 9-1-1 obligations applicable to non-carriers

Any person offering or providing the following telecommunications services who is not a Canadian carrier must provide 9-1-1 services to its end-customers where a local PSAP has been established, and must abide by the obligations listed below. The 9-1-1 services must be the same as those provided by the PSAP (e.g. E9-1-1 or, where that is not available, Basic 9-1-1), except as noted below. The source of each obligation is also provided.

Local exchange services

- Provide 9-1-1 service to end-customers (see paragraph 286 of Telecom Decision 97-8).
- Ensure, to the extent technically feasible, that the appropriate end-user information is provided to the Automatic Location Identification (ALI) database to the same extent as that provided by the incumbent local exchange carrier (ILEC) [see paragraph 286 of Telecom Decision 97-8].
- Provide customers with information about 9-1-1 service, including customer charges, if any, before contracting for service (see paragraph 293 of Telecom Decision 97-8).

Wireless voice services

- Provide wireless E9-1-1 service to subscribers in communities where wireless E9-1-1 network access service is available from an ILEC (see paragraph 94 of Telecom Decision 2003-53).
- Establish and maintain toll-free telephone access to and continuous staffing of at least one operation centre, in order to promptly assist authorized PSAP personnel seeking subscriber information in emergency situations (see paragraph 94 of Telecom Decision 2003-53).
- Provide subscribers with initial and periodic notification of the availability, characteristics, and limitations of the 9-1-1 service offered (see paragraph 94 of Telecom Decision 2003-53).
- Adhere to the standard format of non-dialable callback numbers for particular call types that could be delivered to PSAPs (see paragraph 1 of Telecom Decision 2011-177).
- Make changes in networks, systems, and processes required to support the provision of Text Messaging with 9-1-1 (T9-1-1) service for hearing- or speech-impaired persons, with the expectation that the service will immediately be made available to hearing- or speech-impaired persons in a particular area

when all T9-1-1 stakeholders (wireless carriers, ILECs, and PSAPs) are ready to support the T9-1-1 service in that area (see the summary and paragraph 16 of Telecom Decision 2013-22).

Local VoIP services

- Provide 9-1-1/E9-1-1 service, where it is available from the ILEC (see paragraph 52 of Telecom Decision 2005-21).

Fixed/native local VoIP services

- Provide 9-1-1/E9-1-1 service, where it is available from the ILEC, which is to include provisioning end-user information in the ALI database associated with the end-user's serving PSAP, and routing 9-1-1 calls, along with automatic number identification (ANI) and ALI data, to the correct PSAP in a manner that is compatible with the PSAP's systems. Call control features are to be supported to the extent technically feasible (see paragraph 52 of Telecom Decision 2005-21).

Fixed/non-native and nomadic local VoIP services

- Implement an interim solution that provides a level of 9-1-1 service, in areas where 9-1-1/E9-1-1 service is available from the ILEC, that is functionally comparable to Basic 9-1-1 service (see paragraph 68 of Telecom Decision 2005-21).
- The interim solution must connect an emergency call to an intermediary, which in turn transfers the call to the proper PSAP or emergency services agency (see paragraph 61 of Telecom Decision 2005-21). As well, this solution must ensure that a 9-1-1 call originating from a local VoIP service is not routed to a PSAP that does not serve the geographic location from which the call is placed (see paragraph 68 of Telecom Decision 2005-21).
- Regarding the determination of the caller's location using nomadic local VoIP service,
 - the primary means of identifying the location of a 9-1-1 caller is by verbally determining the caller's location;
 - if a 9-1-1 call is disconnected before the operator can verbally determine a caller's location, the operator must attempt to call back in order to determine the caller's location; and
 - the registered service address should be used only when the 9-1-1 caller cannot communicate his or her location or when a 9-1-1 call is disconnected before the 9-1-1 caller's location can be determined, and the operator cannot re-establish contact with the caller (see paragraph 10 of Telecom Circular 2008-2).

- Implement the capability to provide VoIP service provider (VSP) operators with a 9-1-1 caller's telephone number, and require VSP operators to use the provided telephone number as a last resort to re-establish contact with a 9-1-1 caller, when a 9-1-1 call is disconnected before the caller's location has been determined (see paragraph 17 of Telecom Regulatory Policy 2011-426).
- Use zero-dialed emergency call routing service as the interim solution to route fixed/non-native and nomadic VoIP 9-1-1 calls to the PSAPs, pending the development and implementation of a long-term fixed/non-native and nomadic VoIP E9-1-1 solution (see paragraph 60 of Telecom Decision 2007-44).
- Contact customers each time billing address changes are made to confirm the most likely physical address for emergency purposes, and ensure that customers are able to update their most likely physical address online (see paragraph 45 of Telecom Decision 2010-387).
- Provide initial customer notification regarding any limitations that may exist with respect to 9-1-1/E9-1-1 service before service commencement. This information is to be made available through all of the following: marketing material used for television, radio, and printed media, the terms and conditions of service, on-line material, customer service representatives, service contracts, and starter kits. In addition, provide on-going customer notification during service provision through all of the following: marketing material used for television, radio, and printed media, the terms and conditions of service, on-line material, customer service representatives, warning stickers affixed to telephone sets, and billing inserts (see paragraphs 93 and 94 of Telecom Decision 2005-21).
- Submit to the Commission proposed texts for customer notifications, which must adhere to the requirements set out in Telecom Decision 2005-61 (see paragraph 15 of Telecom Decision 2005-61).
- In cases where there are limitations on VoIP 9-1-1/E9-1-1 service, obtain, prior to commencement of service, the customer's express consent, by which the customer acknowledges his/her understanding of the 9-1-1/E9-1-1 service limitations, using one of the methods approved in Telecom Decision 2005-15 (see paragraph 98 of Telecom Decision 2005-21).
- Provide all customer notification and any printed information used to secure express customer consent in alternative formats (e.g. Braille and large print) upon request. Furthermore, explain all customer notification and printed information to customers upon request (see paragraph 98 of Telecom Decision 2005-21).

Payphone services

- Provide coinless and cardless access to 9-1-1, or access to emergency call routing by an operator accessed by dialing 0 at a pay telephone (see heading xi(a) of Telecom Decision 98-8).

- Where required by civic authorities, provide a list of detailed pay telephone locations to the enhanced 9-1-1 administrator (see heading xi(a) of Telecom Decision 98-8).