



Telecom Notice of Consultation CRTC 2017-259

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Call for comments

Reconsideration of Telecom Decision 2017-56 regarding final terms and conditions for wholesale mobile wireless roaming service

Deadline for submission of interventions: 8 September 2017

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Background

1. Wholesale mobile wireless roaming service (wholesale roaming) enables the subscribers (also referred to as “end-users”) of a wireless carrier (i.e. the home network carrier), and any end-customers of a mobile virtual network operator (MVNO)¹ that has an arrangement with a wireless carrier, to automatically access voice, text, and data services using a visited wireless carrier’s network (also referred to as “the host network”), including its radio access network (RAN), when they travel outside their home carrier’s network footprint.
2. In Telecom Regulatory Policy 2015-177, the Commission determined that it was necessary to regulate the domestic Global System for Mobile communications (GSM)-based wholesale roaming services that Bell Mobility Inc., Rogers Communications Partnership (RCP),² and TELUS Communications Company (collectively, the national wireless carriers) provide to other wireless carriers. The Commission directed the national wireless carriers to provide these services subject to rates, terms, and conditions established by the Commission, in light of its findings that (i) to refrain from such regulation would not be consistent with the policy objectives set out in section 7 of the *Telecommunications Act* (the Act), and (ii) wholesale roaming by the national wireless carriers is not subject to a sufficient level of competition to protect the interests of users. The Commission directed the national wireless carriers to file proposed wholesale roaming tariffs for approval. At the same time, the Commission determined that its framework would remain in place

¹ An MVNO is a wireless service provider that does not own spectrum or operate its own radio access network (RAN); instead, it relies on the spectrum and RAN of a wireless carrier and, in some cases, other facilities and/or services, to provide mobile wireless services to consumers.

² RCP ceased to exist on 1 January 2016. All of RCP’s business activities, including its assets and liabilities, are now held by Rogers Communications Canada Inc.

for a minimum of five years, during which time it would monitor competitive conditions in the mobile wireless market.

3. In Telecom Decision 2017-56, the Commission directed the national wireless carriers to make changes to the terms and conditions they had proposed in these tariffs and to file the revised tariffs for final approval. The Commission also confirmed that the wholesale roaming service mandated by the Commission was intended to provide the end-users of other wireless carriers with only incidental access to the national wireless carriers' networks.
4. The Commission also clarified that public Wi-Fi does not form part of a home network for the purpose of establishing what constitutes incidental use of an incumbent's network under the wholesale roaming tariffs. The Commission noted that public Wi-Fi is provided over facilities that are not owned or operated by wireless service providers, and that there are not necessarily any contractual or other arrangements between the owners and operators of Wi-Fi networks and the service providers that use them to deliver telecommunications services to retail end-users. Accordingly, the Commission considered that the availability, quality, and reliability of such facilities could not be assured in any meaningful way. Further, including public Wi-Fi in the definition of "home network" would undermine the policy objectives of mandated wholesale roaming, since it would discourage wholesale roaming customers from investing in their facilities.
5. On 1 June 2017, in Order in Council P.C. 2017-0557 (the Order in Council),³ the Governor in Council referred Telecom Decision 2017-56 back to the Commission for reconsideration. The Governor in Council stated that it is material to the reconsideration that the Commission consider whether
 - (a) broadening the definition of "home network" to consider other forms of connectivity, such as Wi-Fi, would have a positive impact on the affordability of retail mobile wireless services to consumers in Canada;
 - (b) the evidence demonstrates in a sufficiently clear and significant manner that the potential negative impact on investment in wireless infrastructure from the inclusion of Wi-Fi connectivity in the definition of "home network" outweighs the potential positive impact on the affordability of retail mobile wireless services to consumers from that inclusion; and
 - (c) impact on investment could be mitigated by imposing conditions on mandated wholesale roaming services, such as ensuring that roaming by customers of providers who offer service primarily over Wi-Fi would be incidental rather than permanent by, for example, limiting roaming in amount, subjecting roaming services to a different tariffed wholesale rate, or both.

³ The complete text of the Order in Council is reproduced in the Appendix to this notice.

6. The Commission was directed to complete its reconsideration of Telecom Decision 2017-56 by no later than 31 March 2018.

Call for comments

7. Parties are invited to comment, with supporting rationale, on whether a different conclusion than that reached in Telecom Decision 2017-56 is warranted with respect to the issue of how the concept of “home network” should be defined. Specifically, parties are invited to address the following questions:

Q1. What other forms of connectivity could technically constitute a home network?

Q2. Should other forms of connectivity, such as Wi-Fi, be included in the definition of “home network”? If so, which ones should be included?

Q3. How would an expanded definition of “home network” impact the affordability of retail mobile wireless services to Canadian consumers?

Q4. How would an expanded definition of “home network” impact investment in mobile wireless network infrastructure?

Q5. How would an expanded definition of “home network” impact competition in the market for retail mobile wireless services?

Q6. How should the Commission weigh any potential positive impact on affordability against any potential negative impact on investment?

Q7. If an expanded definition of “home network” were to be adopted:

- (a) Should the Commission impose usage limits to ensure that the end-users of any alternative wireless service provider⁴ do not access the national wireless carriers’ networks on a permanent basis? How could such usage limits be established and operationalized?
- (b) Should the Commission subject alternative wireless service providers to a different tariffed wholesale roaming rate for access to the national wireless carriers’ networks? If so, how could such a rate be determined?
- (c) Are there any other regulatory measures that could be imposed to mitigate potential negative impacts of requiring the national wireless carriers to allow roaming by customers of alternative wireless service providers on the carriers’ networks?

⁴ Alternative wireless service providers include, for example, service providers that use Wi-Fi connectivity as the basis for their home networks (Wi-Fi-first providers), and may also include service providers that rely on other forms of connectivity as the basis for their home networks.

- (d) Should there be a requirement for alternative wireless service providers to own or operate home networks?
- (e) To what extent should alternative wireless service providers have to comply with existing regulations (e.g. provision of 9-1-1, registration with the Commission, and consumer safeguards) to qualify for access under the tariff?

Q8. In order to support the Commission's ongoing monitoring of the mobile wireless market as set out in Telecom Regulatory Policy 2015-177, provide your views on the competitiveness of this market. Include supporting data.

- 8. The Commission will review the matters raised in this proceeding in light of the policy objectives set out in section 7 of the Act and taking into consideration the Policy Direction.⁵ Parties should also take these factors into account in their submissions, and in particular should address whether an expanded definition of "home network" would further the policy objectives set out in paragraphs 7(b), (g), and (h) of the Act.

Procedure

- 9. *The Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the content, format, filing, and service of interventions, answers, replies, and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website at www.crtc.gc.ca, under "[Statutes and Regulations](#)." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
- 10. Given the timelines set out in the Order in Council, interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **8 September 2017**. The intervention must be filed in accordance with section 26 of the Rules of Procedure.
- 11. Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a [template](#) for the accompanying cover letter to be filed by parties, can be found in Telecom Information Bulletin 2011-693.

⁵ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

12. The Commission may request information, in the form of interrogatories, from any party to the proceeding.
13. All parties may file final submissions with the Commission on any matter within the scope of this proceeding by **10 November 2017**.
14. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website at www.crtc.gc.ca, for additional information that they may find useful when preparing their submissions.
15. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
16. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that enable text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
17. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax to
819-994-0218

18. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file and serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.

19. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
20. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

Important notice

21. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes all personal information, such as full names, email addresses, postal/street addresses, and telephone and facsimile numbers.
22. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
23. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
24. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

25. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at www.crtc.gc.ca by using the file number provided at the beginning of this notice or by visiting the "Participate" section of the Commission's website, selecting "Submit Ideas and Comments," then selecting "our open processes." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.
26. Documents are also available at the following address, upon request, during normal business hours.

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Toll-free telephone: 1-877-249-2782
Toll-free TDD: 1-877-909-2782

Secretary General

Related documents

- *Wholesale mobile wireless roaming service tariffs – Final terms and conditions*, Telecom Decision CRTC 2017-56, 1 March 2017
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Regulatory framework for wholesale mobile wireless service*, Telecom Regulatory Policy CRTC 2015-177, 5 May 2015
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010

Appendix to Telecom Notice of Consultation CRTC 2017-259

Order of the Governor in Council

P.C. 2017-0557, 1 June 2017

Whereas the Canadian Radio-television and Telecommunications Commission (“the Commission”), rendered Telecom Decision CRTC 2017-56, *Wholesale mobile wireless roaming service tariffs - Final terms and conditions*, on March 1, 2017 (“the Decision”);

Whereas, in the Decision, the Commission confirmed that wholesale roaming, as defined in Telecom Regulatory Policy CRTC 2015-177 – *Regulatory framework for wholesale mobile wireless services*, provides only incidental access to a host network to the customers of a wireless carrier when these customers are outside their home network’s footprint;

Whereas, in the Decision, the Commission defined Public Wi-Fi and excluded it from the definition of “home network” for the purposes of establishing what constitutes incidental use of a host network under the relevant wholesale roaming tariff;

Whereas the Canadian telecommunications policy objectives set out in section 7 of the *Telecommunications Act* (“the Act”) include the objective set out in paragraph 7(b), namely, to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; the objective set out in paragraph 7(g), namely, to stimulate research and development in Canada in the field of telecommunications and to encourage innovation in the provision of telecommunications services; and the objective set out in paragraph 7(h), namely, to respond to the economic and social requirements of users of telecommunications services;

Whereas Canadians continue to pay high rates for mobile wireless telecommunications services;

Whereas Canada has among the lowest adoption rates for mobile wireless telecommunications services among industrialized countries;

Whereas Canadians with low household income in particular face challenges related to the affordability of telecommunications services;

Whereas subsection 12(1) of the Act provides that, within one year after a decision by the Commission, the Governor in Council may on its own motion refer the decision back for reconsideration;

Whereas, in accordance with section 13 of the Act, the Minister of Industry has notified a minister designated by the government of each province of the Minister’s intention to make a recommendation to the Governor in Council for the purposes of an order under section 12 of the Act and has provided an opportunity for each of them to consult with the Minister and has considered their comments;

Whereas the Governor in Council recognizes that the Commission has previously determined that it would not be appropriate to mandate wireless carriers to provide Mobile Virtual Network Operators with wholesale access to their networks, as doing so could negatively impact investment in wireless network infrastructure;

Whereas the Governor in Council considers that innovative business models and technological solutions can result in more meaningful choices for Canadian consumers, especially those with low incomes who are not well served by current market offerings;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Industry, pursuant to subsections 12(1) and (5) of the *Telecommunications Act* hereby refers Telecom Decision CRTC 2017-56 back to the Commission for reconsideration, to be completed by no later than March 31, 2018, and considers that it is material to the reconsideration that the Commission consider whether:

- (a) broadening the definition of “home network” to consider other forms of connectivity, such as Wi-Fi, would have a positive impact on the affordability of retail mobile wireless services to consumers in Canada;
- (b) the evidence demonstrates in a sufficiently clear and significant manner that the potential negative impact on investment in wireless infrastructure from the inclusion of Wi-Fi connectivity in the definition of “home network” outweighs the potential positive impact on the affordability of retail mobile wireless services to consumers from that inclusion; and
- (c) impact on investment could be mitigated by imposing conditions on mandated wholesale roaming services, such as ensuring that roaming by customers of providers who offer service primarily over Wi-Fi would be incidental rather than permanent by, for example, limiting roaming in amount, subjecting such roaming services to a different tariffed wholesale rate, or both.