



Telecom Decision CRTC 2018-432

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Public record: 8663-J64-201806019 and 8663-T66-201805722

Iris Technologies Inc. and TELUS Communications Inc. – Applications for interim relief regarding the termination of traffic to certain 867 numbering plan area telephone numbers

Background

1. In *Rogers Communications Canada Inc. – Allegation of traffic stimulation by Iris Technologies Inc. and Iristel Inc.*, Telecom Decision CRTC 2017-456, 20 December 2017 (Telecom Decision 2017-456), the Commission found that Iris Technologies Inc. and Iristel Inc. were in violation of subsection 27(2) of the *Telecommunications Act* by engaging in regulatory arbitrage activities involving 867 numbering plan area (NPA) telephone numbers. Particularly, the Commission considered the following:
 - calls from Rogers Communications Canada Inc.'s customers destined to AudioNow's Call-to-Listen service¹ were being routed extremely inefficiently to the United States via the 867 NPA;²
 - there was no clear reason for the use of the 867 NPA telephone numbers, absent the revenue-sharing arrangements that were in place between Iris Technologies Inc. and Iristel Inc. and Free Conference Call Global (FCCG),³ and between Yakfree LLC and AudioNow; and
 - the parties involved in the revenue-sharing arrangements had an incentive to stimulate traffic to AudioNow's Call-to-Listen service simply for the higher revenues that could be garnered from call termination.
2. The Commission directed Iris Technologies Inc. and Iristel Inc. and any of their affiliates to (i) terminate any agreement that assigns to FCCG any 867 NPA telephone numbers that are ultimately used by AudioNow, and not re-enter into provisions of such an agreement with FCCG or any of its affiliates; and (ii) file a report with the Commission confirming compliance with this directive.

¹ The Call-to-Listen service provides free, real-time access to international and other radio services.

² Some 867 NPA telephone numbers were assigned for use by the company AudioNow, which provides listeners with access to audio broadcasts via its Call-to-Listen platform. That platform is based in Virginia and enables listeners to connect to the broadcaster of their choice through a telephone call.

³ FCCG offers domestic and international audio, web, and video recording and conferencing services, live chat and voicemail services, voice broadcasting services, and other voice and messaging services.

3. The Commission received a letter from Iristel Inc., dated 19 January 2018, in which the company submitted that it had met the requirements set out in Telecom Decision 2017-456. Specifically, Iristel Inc. indicated that it had informed FCCG that (i) by 19 January 2018, FCCG must cease supplying AudioNow with any 867 NPA telephone numbers that might ultimately confer undue preference on Iristel Inc. or any other party; and (ii) effective 19 January 2018, revenue sharing associated with 867 NPA telephone numbers would be terminated. Iristel Inc. added that FCCG acknowledged receipt of the aforementioned letter and indicated its intention to immediately comply with Telecom Decision 2017-456.

Applications

4. The Commission received a Part 1 application from TELUS Communications Inc. (TCI) dated 3 August 2018, in which TCI requested relief regarding alleged new traffic stimulation activities involving Iristel Inc.'s 867 NPA telephone numbers in the incumbent serving territory of Northwestel Inc. TCI argued that the traffic stimulation activities that led to Telecom Decision 2017-456 stopped only briefly after the issuance of that decision, and that the new traffic stimulation activities in question conferred an undue preference upon Iristel Inc. and subjected TCI to a corresponding undue disadvantage.
5. TCI requested that the Commission (i) initiate a public proceeding to review the new traffic stimulation activities involving Iristel Inc.'s 867 NPA telephone numbers, and (ii) direct Iristel Inc. to file a tariff application to establish a rate for long distance call termination for its customers in the North. TCI submitted that it was migrating the traffic destined to Iristel Inc.'s 867 NPA telephone numbers to tariffed interconnections. In the interim, TCI requested that the Commission make interim Iristel Inc.'s current tariffed rate for long distance call termination in the North.
6. The Commission subsequently received a Part 1 application dated 7 August 2018 from Iris Technologies Inc., on behalf of itself and its affiliate Ice Wireless Inc. (The Commission received submissions from Iris Technologies Inc. and Iristel Inc. For ease of reference, "Iristel" will be used to refer to Iris Technologies Inc., Ice Wireless Inc., or Iristel Inc. where applicable.), regarding TCI's reduced capacity on certain toll transit circuits that carry TCI's traffic to Iristel's 867 NPA telephone numbers. Iristel argued that the reduced capacity was causing congestion, such that calls from TCI's end-users to certain Iristel end-users could not be completed.
7. Iristel requested that the Commission (i) confirm that TCI must maintain its network so that calls to Iristel's customers are consistently terminated, and (ii) direct TCI to maintain an adequate capacity on its network to properly terminate calls that originate from TCI's end-users, or that transit through TCI's network, and terminate on Iristel's network. In the interim, Iristel requested that the Commission order TCI to restore its network capacity to the state it was in before 29 May 2018 and to take whatever measures are necessary to ensure that calls from TCI's end-users to Iristel's end-users are terminated correctly.

Should the Commission grant the interim relief requests made by both parties?

Commission's analysis and determinations

8. The Commission considers that while addressing the final relief requested in both applications will require further process and a thorough review of the submissions, the issue of calls not being completed needs to be addressed in an expeditious manner.
9. Some evidence submitted by TCI suggests that Iristel may still be involved in traffic stimulation activities. For example, such evidence shows that while the level of traffic to Iristel's 867 NPA telephone numbers decreased significantly following the issuance of Telecom Decision 2017-456, that level may now be comparable to what it was before that decision was issued.⁴ Further, while Iristel may have terminated its relationship with FCCG, as the Commission directed in Telecom Decision 2017-456, it appears that the Call-to-Listen service at issue in the proceeding that led to that decision, and/or other services that would similarly generate high levels of one-way traffic, may still be using Iristel's 867 NPA telephone numbers. Also, TCI's application raises the issue of whether certain costing assumptions underlying Iristel's current tariffed rate for long distance call termination in the North need to be changed.
10. The evidence on the record of this proceeding confirms that TCI has reduced its toll transit circuits' capacity to control the costs incurred for the completion of the traffic that TCI alleged is stimulated and illegal. Given the current flow of traffic, this reduced capacity may result in certain calls not being completed, which may inconvenience or harm consumers.⁵
11. The Commission has yet to determine (i) whether the traffic at issue is stimulated by Iristel and/or inappropriate, and (ii) given the apparent changes in traffic levels, whether Iristel's current tariffed rate for long distance call termination in the North remains just and reasonable. While both applications are being reviewed, the Commission considers that the reduced capacity is not reasonable nor in the public interest. The Commission also notes that, should it find that Iristel's current regulated tariffed rate for long distance call termination in the North needs to be amended, making it interim at this point would allow for compensation related to the charging of that rate to be addressed in the Commission's final rate determination.

⁴ Iristel objected to TCI's application, submitting that the traffic levels from TCI to Iristel's 867 NPA telephone numbers are lower than they were in early 2015.

⁵ Call failures were reported by an individual intervener in the TCI proceeding, as well as through a Canadian Broadcasting Corporation (CBC) story regarding a hospital in Edmonton trying to reach a patient with information about an upcoming surgery.

12. In light of the above, the Commission

- **approves, in part,** Iristel's interim relief request and **directs** TCI to
 - i. take the necessary measures to ensure that, within **10 calendar days** of the date of this decision, calls from TCI's end-users to Iristel's end-users in the 867 NPA, or calls that transit through TCI's network and terminate on Iristel's network in that NPA, reach Iristel's network so that they can be consistently terminated correctly; and
 - ii. file a report with the Commission confirming compliance with this directive and detailing the measures it has taken, within **10 calendar days** of the date of this decision; and
- **approves** TCI's interim relief request and makes interim, as of the date of this decision, the rate applicable to the Northwest Territories, Nunavut, and Yukon in Iristel Inc.'s Access Services Tariff item 302.2.4, Trunk-side Access – Switching and Aggregation.

13. As part of its assessment of these two applications and in its final disposition of them, the Commission will consider the appropriateness of imposing administrative monetary penalties.⁶

Secretary General

⁶ Section 72.001 of the *Telecommunications Act* states that every contravention of a provision of that Act and every contravention of a regulation or decision made by the Commission under that Act constitutes a violation and the person who commits the violation is liable (a) in the case of an individual, to an administrative monetary penalty not exceeding \$25,000 and, for a subsequent contravention, a penalty not exceeding \$50,000; or (b) in any other case, to an administrative monetary penalty not exceeding \$10,000,000 and, for a subsequent contravention, a penalty not exceeding \$15,000,000.