



Telecom Regulatory Policy CRTC 2019-354

PDF version

Ottawa, 24 October 2019

Public record: 1011-NOC2017-0450

Review of the reseller registration obligation

The Commission establishes an exemption from the reseller registration obligation in cases where the telecommunications services offered and provided by a reseller meet at least one of the following criteria: (i) the service is offered without an explicit charge, (ii) the service is offered on a temporary basis only to individuals located on the reseller's premises, or (iii) the service does not allow individuals to engage autonomously in two-way voice telecommunications or to access the Internet autonomously. This avoids placing an unnecessary burden on the Commission, carriers, and resellers, while achieving the Commission's objectives to enhance and protect the rights of consumers and enable innovation with respect to telecommunications services.

Background

1. In Telecom Regulatory Policy 2017-11, the Commission directed non-carriers, also known as resellers, to abide by all applicable existing consumer safeguard obligations set out in the Appendix to that decision, including the obligation to register with the Commission, prior to receiving telecommunications services for resale from Canadian carriers and other resellers (hereafter, the registration obligation).
2. The Commission also determined that all resellers offering and providing one or more of the following services must register with the Commission: Internet access services, local telephone services, local voice over Internet Protocol (VoIP) services, wireless voice services, interexchange services (e.g. long distance telephone services), and payphone services.
3. To register, resellers must submit certain information to the Commission. Generally, the level of detail required increases according to the size of the entity and the amount of its telecommunications revenues.
4. Without exemptions, the requirements set out in Telecom Regulatory Policy 2017-11 could apply to a wide range of entities, such as hotels/motels, coffee shops, shopping malls, and airports, and could include Internet of Things (IoT) and machine-to-machine (M2M) service providers, since they offer and provide telecommunications services.

Telecom Notice of Consultation 2017-450

5. Following the issuance of Telecom Regulatory Policy 2017-11, the Commission received a large number of inquiries and registration applications from entities seeking clarification on whether the registration obligation applied to them. As a result, the Commission published Telecom Notice of Consultation 2017-450, in which it called for comments on how it should administer the registration obligation to ensure that it is efficient and proportionate to its purpose. Specifically, the Commission asked parties to comment on (i) which entities, if any, should be exempt from the registration obligation and why; and (ii) the factors that the Commission should consider when determining whether a given entity should be exempt from the registration obligation.
6. The Commission received interventions and submissions from a range of entities, including Bell Canada, Cybera Inc. (Cybera), Quebecor Media Inc. on behalf of Videotron Ltd., Rogers Communications Canada Inc., Saskatchewan Telecommunications, and TELUS Communications Inc. (TCI); advocacy groups such as the Public Interest Advocacy Centre (PIAC); resellers such as Colt Technology Services; organizations such as the British Columbia Broadband Association, the Canadian Network Operators Consortium Inc. (CNOC), la Coalition pour le service 9-1-1 au Québec, and the Independent Telecommunications Providers Association; IoT and M2M service providers such as Geotab Inc.; universities such as the University of Alberta and Queen's University (Queen's); and two individuals.

Issues

7. The Commission has identified the following issues to be addressed in this decision:
 - Should the Commission implement exemptions from the registration obligation?
 - If yes, what should the scope of the exemptions be?

Should the Commission implement exemptions from the registration obligation?

Positions of parties

8. There was near unanimity among parties that targeted exemptions from the registration obligation are appropriate, although parties' views varied on the nature of the exemptions and how they should be implemented.
9. Some parties expressed concerns about exemptions, describing registration with the Commission as an important tool for (i) building awareness about the Commission's consumer safeguards and ensuring that they are respected, and (ii) compliance monitoring and promoting reseller compliance with Commission regulations.

Commission's analysis and determinations

10. While the burden on resellers resulting from the registration obligation is not significant, the expected volume of new registrants currently captured by the registration obligation would be burdensome for the Commission and for carriers that remain responsible for monitoring resellers, without a proportionate benefit to the achievement of the Commission's objectives.
11. The Commission considers that the implementation of targeted exemptions from the registration obligation would enable it to continue to monitor the market without imposing an unnecessary regulatory burden. This is in line with subparagraph 1(a)(ii) of the 2006 Policy Direction¹ that the Commission, when relying on regulation, should use measures that are efficient and proportionate to their purpose. This is also in line with subparagraphs 1(a)(iv) and (vi) of the 2019 Policy Direction,² which require that the Commission enhance and protect the rights of consumers and enable innovation with respect to telecommunications services.
12. Exemptions from the registration obligation would not exempt resellers from abiding by the Commission's regulations in general and the consumer safeguards in particular. Underlying carriers must continue to abide by the consumer safeguards, which flow through resellers to end-users. Finally, notwithstanding the exemptions, the Commission may request a reseller to register with the Commission, for example, if there are concerns about regulatory compliance with the consumer safeguards, or if the Commission wishes to assess whether the contribution obligation should apply to the reseller.
13. Accordingly, the Commission determines that exemptions from the registration obligation are appropriate.

What should the scope of the exemptions be?

Positions of parties

14. Many parties supported an exemption for telecommunications services provided on a temporary basis within a limited area, for example, Wi-Fi offered in coffee shops, airports, public transportation, shopping malls, universities/colleges, hospitals, and hotels/motels. Parties also generally supported an exemption for IoT/M2M service providers, with some parties noting that those providers are predominantly users and not actual resellers of telecommunications services (i.e. they provide or offer a service that relies on telecommunications services, but the end-user cannot use the telecommunications service autonomously).

¹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

² *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227, 17 June 2019

15. A few parties, notably Bell Canada, CNOC, PIAC, Queen's, and TCI, proposed specific frameworks for determining cases where an exemption is appropriate. Some parties recommended naming specific entities that would be eligible for an exemption, such as universities/colleges. Other parties, including Bell Canada, Queen's, and TCI, proposed an exemption based on business models (i.e. an exemption in cases where the telecommunications service being provided is ancillary to the primary business activity).
16. There was widespread support for an exemption from the registration obligation on the basis that registration would be disproportionate, unnecessary, and possibly impractical in the following cases: (i) telecommunications services provided temporarily on a reseller's premises (e.g. Wi-Fi in a coffee shop), particularly if there is no explicit charge for those services to the end-user; and (ii) IoT/M2M services that do not support autonomous Internet or voice connectivity by end-users.
17. Specifically, Queen's proposed that only resellers that provide basic telecommunications services to the public for compensation should be required to register with the Commission. Queen's stated that this would provide symmetry with the definition of "telecommunications common carrier" set out in the *Telecommunications Act* (the Act).³ Many parties agreed with Queen's. Bell Canada added that the definition of "Canadian carrier" in the Act⁴ contemplates only the provision of services for compensation and suggested that this criterion should apply to resellers regarding the application of the registration obligation.
18. Several parties, such as CNOC, Cybera, and TCI, proposed a variety of multi-stage tests involving subjective elements and complex criteria applied either by registrants' own self-assessment or by the Commission.
19. PIAC proposed exemptions for (i) IoT/M2M devices and services that are industrial or infrastructure-related and that generate less than \$10 million in connectivity-related revenues annually, and (ii) free private Wi-Fi services that do not involve the collection of personal information or Internet traffic management practices (ITMPs). PIAC indicated that these exemptions should apply only in cases where the Commission's contribution regime does not apply.
20. Bell Canada proposed modifying paragraph 32 of Telecom Regulatory Policy 2017-11 so that it does not apply to (i) a device, service, or application that uses a telecommunications service in an ancillary manner; and (ii) access to private telecommunications services that can only be used while on specific premises.

³ A telecommunications common carrier is defined in the Act as a person who owns or operates a transmission facility used by that person or another person to provide telecommunications services to the public for compensation.

⁴ A Canadian carrier is defined in the Act as a telecommunications common carrier that is subject to the legislative authority of Parliament.

Commission's analysis and determinations

Overview

21. The Commission considers that any exemptions from the registration obligation must be simple, clear, applicable over a wide range of circumstances, principle based, and technology neutral.
22. The Commission does not consider that a subjective, complex test would be effective. Also, as noted by Queen's, many of the consumer safeguards are relevant only if the reseller seeks compensation for its services. If no compensation is involved, fewer consumer safeguard issues arise, and there would be insufficient telecommunications revenues to trigger the contribution regime.

Exemption for services provided temporarily on the reseller's premises

23. Many public and private entities offer free telecommunications services to individuals and organizations, including government organizations and charitable organizations. While these services may engage many of the consumer safeguards that the Commission has placed on resellers, the services are being provided as a convenience in most cases. These telecommunications services (most commonly, Wi-Fi) are also tangential to the service provider's core business and are not usually the end-user's primary source of connectivity.
24. The Commission considers that an exemption from the registration obligation for resellers that provide telecommunications services on a temporary basis on their premises, whether or not they charge for those services, would be appropriate. This would limit the burdens discussed in paragraph 10 above.
25. To provide certainty and clarity, for the purpose of the registration obligation, the Commission defines "temporary" in the context of telecommunications service offerings as less than 270 consecutive days. Such an approach will help to ensure that resellers that provide telecommunications services to individuals as a primary source of connectivity register with the Commission.
26. In addition, the telecommunications service must be offered only on the reseller's premises, which end-users normally occupy for only a limited period of time. The Commission defines "premises" as the land and the building(s) of the reseller, to the extent of the coverage area of the telecommunications services provided by the reseller.

Exemption for services offered without an explicit charge

27. Many of the consumer safeguards are relevant only if the reseller charges for its services, i.e. seeks compensation. If there is no compensation, consumer safeguards such as those related to bill content and format are not applicable. Similarly, there would be insufficient telecommunications revenues to trigger the contribution regime. Accordingly, the Commission considers that an exemption from registration should

be allowed for resellers that offer and provide telecommunications services without compensation. For the purpose of the exemption, the Commission defines compensation as an explicit charge.

Exemption for services that do not enable end-users to connect autonomously with the voice network or the Internet

28. The Commission considers that an exemption from the registration obligation for services that do not enable end-users to connect autonomously with telecommunications networks is also appropriate. This exemption is technology neutral and applies to some IoT/M2M devices and services. There was near-unanimous support from parties for such an exemption, on the basis that few, if any, of the Commission's consumer safeguards are engaged by such services, and the Commission can obtain the industry and monitoring data it requires through other sources.
29. The interactivity between end-users of IoT/M2M devices and services and telecommunications networks ranges across a broad spectrum. Some IoT/M2M devices and services (i) do not enable end-users to interact autonomously with the voice network or the Internet, and (ii) do not engage the consumer safeguards. Examples include IoT devices that enable the automatic monitoring of the location or status of a piece of equipment. A requirement to register with the Commission for resellers that do not provide autonomous voice or Internet connectivity to end-users, such as certain IoT/M2M service providers, would trigger a large volume of registrations. As mentioned above, this would be burdensome and would not have a proportionate benefit to the achievement of the Commission's objectives. As well, any exemption from the registration obligation does not exempt resellers from other applicable obligations imposed by the Commission.

Other obligations

30. To ensure that the exemptions from the registration obligation remain effective in balancing the associated benefits and burdens, the Commission notes that all Commission-mandated obligations on resellers (other than the registration obligation) continue to apply to resellers that are exempt from registration. As well, the Commission considers that in cases where, for example, (i) the Commission is concerned about compliance with the other obligations set out in Telecom Regulatory Policy 2017-11, or (ii) a reseller's telecommunications revenues are approaching \$10 million, the Commission will retain the discretion to require a reseller to register with it, even if the reseller may otherwise qualify for an exemption.
31. In Telecom Regulatory Policy 2017-11, the Commission indicated that it expected Canadian carriers to actively monitor and enforce compliance with the registration obligation. To do so, carriers use the Commission's registration lists as a reference. However, resellers may be removed from the registration lists due to non-compliance. Therefore, to assist the industry in tracking entities that have been removed from the lists, the Commission will publish a list of entities that have been removed as a complement to its current lists.

Conclusion

32. In light of all the above, the Commission hereby establishes an exemption from the registration obligation in cases where the telecommunications services offered and provided by a reseller meet at least one of the following criteria:

- the service is offered without an explicit charge;
- the service is offered on a temporary basis only to individuals located on the reseller's premises; or
- the service does not allow individuals to engage autonomously in two-way voice telecommunications or to access the Internet autonomously.

Secretary General

Related documents

- *Review of the reseller registration obligation*, Telecom Notice of Consultation CRTC 2017-450, 15 December 2017
- *Application of regulatory obligations directly to non-carriers offering and providing telecommunications services*, Telecom Regulatory Policy CRTC 2017-11, 17 January 2017; as amended by Telecom Regulatory Policies CRTC 2017-11-1, 10 July 2017; and 2017-11-2, 17 July 2018