



**REPORT ON**  
**MISLEADING OR AGGRESSIVE**  
**COMMUNICATIONS RETAIL**  
**SALES PRACTICES**



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# REPORT ON MISLEADING OR AGGRESSIVE COMMUNICATIONS RETAIL SALES PRACTICES

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## EXECUTIVE SUMMARY

Canadians deserve a world-class, modern, and competitive communications system that enriches their lives. Central to achieving this goal is a market in which consumers are empowered with information and tools to easily purchase the telecommunications and broadcasting services that meet their needs and fulfill their wants.

The Canadian Radio-television and Telecommunications Commission (CRTC) is the independent organization that regulates Canada's communications system in the public interest. As such, it is dedicated to ensuring that Canadians are treated fairly by all service providers.

This report is the result of the public process the CRTC held in response to Order in Council P.C. 2018-0685 (the Order in Council), in which the Governor in Council directed the CRTC to make a report on the use of misleading or aggressive retail sales practices by Canada's large telecommunications carriers (the Service Providers). The Order in Council set out many issues for the CRTC to report on, including

- the prevalence of such practices;
- existing consumer protection measures to address them; and
- ways to strengthen these measures to empower consumers to make informed decisions about telecommunications services and to promote fair treatment of consumers by the Service Providers.

In the public process, the CRTC received a wide range of views from hundreds of individual Canadians, as well as from past and present sales representatives of the Service Providers, the Commission for Complaints for Telecom-television Services (CCTS), consumer and public advocacy groups, researchers, unions, government bodies, and the Service Providers themselves.

The CRTC also hired Ipsos Public Affairs (Ipsos) to produce a survey report (the Ipsos Report) to help the CRTC further understand the experiences of Canadians with misleading or aggressive sales practices.

**Having considered the matter in depth, the CRTC finds that it is apparent that misleading or aggressive retail sales practices are present in the telecommunications service provider market in Canada and, to some extent, in the television service provider market.<sup>1</sup> These practices exist in all types of sales channels, including in store, online, over the telephone, and door to door. They occur to an unacceptable degree; they are harming Canadian consumers, in particular vulnerable Canadians; and they are a serious concern for the CRTC.** The following summary sets out the issues that the CRTC examined and its findings and conclusions with respect to these issues. The CRTC will take action where appropriate and conduct further public processes where needed.

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<sup>1</sup> Television service providers, also known as broadcasting distribution undertakings, provide subscription television services to Canadians. They include cable, Internet Protocol television (IPTV), and national satellite direct-to-home service providers.

**(a) Are Canadians experiencing misleading or aggressive sales practices?**

Many Canadians stated that they have been subjected to misleading or aggressive sales practices by the Service Providers, with many of them reporting that these instances occurred recently. Such sales practices reduce Canadians' ability to make informed choices when purchasing services. Canadians who may be more vulnerable due to their age, a disability, or a language barrier already face obstacles to making informed choices or to obtaining services that meet their needs. Misleading or aggressive sales practices have a compound effect on already vulnerable Canadians, and therefore a more harmful impact on them than on other Canadians.

The CRTC heard from Canadians about aggressive sales practices, such as when sales agents do not accept a clear "no, thank you" as an answer and do not leave the property, or when the Service Providers make it very difficult for customers to cancel services. The CRTC also heard from many Canadians about misleading practices, such as sales agents omitting to mention key contractual terms or even providing inaccurate information to consumers through carelessness or malicious behaviour. Some of the Service Providers' sales forces appear to engage in such practices more than others. The CRTC finds these types of sales behaviours to be completely unacceptable and harmful to Canadians.

**(b) What are the Service Providers doing to identify, monitor, and reduce the risk of misleading or aggressive sales practices?**

The Service Providers have in place internal measures that are supposed to identify, monitor, and prevent misleading or aggressive retail sales practices. These measures differ among the Service Providers, which have stated that addressing misleading or aggressive sales practices by their sales forces is an ongoing concern for them.

Some of the Service Providers recognized that there are clearly opportunities for them to do better to address concerns related to these sales practices, and several of them identified additional measures that they put in place recently or that they intend to put in place soon.

In theory, the internal measures that the Service Providers use, which they discussed on the record, should address concerns related to misleading or aggressive sales practices. In reality, there is a clear gap between those measures and Canadians' experiences with misleading or aggressive sales practices. The evidence received in this proceeding shows that Canadians report experiencing high levels of such sales practices. Canadians noted that using the Service Providers' internal complaint processes requires a significant amount of time and involves speaking to multiple representatives or departments, which ultimately leads to frustration. **Therefore, the CRTC considers that some of the Service Providers' measures have not been effectively put in place and are not fully achieving their stated goals of addressing misleading or aggressive sales practices and complaints related to those practices.**

**(c) What consumer protections exist to promote fair treatment by the Service Providers and to empower consumers to make informed decisions?**

There are numerous consumer protections put in place by various organizations at federal, provincial, territorial, and municipal levels, through statutes, regulatory policies, and mandatory or

voluntary codes of conduct for the Service Providers. Many of these protections can be used to prevent and redress misleading or aggressive sales practices. The evidence received in this proceeding shows that many Canadians are unaware of their options for getting help with their complaints, such as through the CCTS. Moreover, certain avenues for resolving complaints, such as going to court, can be difficult to navigate or expensive. While existing consumer protections are extensive, there are gaps in terms of Canadians' awareness of them and their effectiveness in addressing individual customer complaints about sales practices. The CRTC considers that improvements must be made in relation to consumer protection and empowerment.

**(d) What should be done to empower consumers, promote their fair treatment, and prevent misleading or aggressive sales practices?**

The CRTC believes that (a) there are many effective ways to strengthen existing consumer protections to prevent Canadians from being subject to misleading or aggressive retail sales practices, and (b) there must be effective, fair, and easy-to-access recourses available to consumers. In this report, the CRTC sets out an expectation regarding best practices for service offerings affecting Canadians with disabilities, lays out the actions it intends to pursue, suggests best practices for service providers, and identifies areas that need further investigation and action.

First, the CRTC sets out an expectation on an issue raised during the public process by the community of Canadians with disabilities that is of concern to the CRTC. There were reports that some service providers offer mobile wireless service packages designed to meet the needs of Canadians with disabilities at special rates that are not known by salespersons and that cannot be combined, or are inconsistently combined, with other general promotions and offers. Canadians with disabilities commented on the record that this practice is unfair. **The CRTC finds that offering these types of packages at reduced prices is a best practice that is in the public interest, and it expects these discounts to be offered in addition to any other offer or promotion, not instead of it.**

**The CRTC has found that misleading or aggressive sales practices have a more serious effect on vulnerable Canadians.** To better protect vulnerable Canadians, the CRTC will consider:

- the creation of a new, mandatory Internet Code for Internet service providers, which could potentially expand some of the protections that currently exist for wireless and television customers to Internet customers;
- requiring service providers to provide pre-sales quotes that better inform customers and/or trial periods that would allow customers to cancel a service that does not match what they were offered;
- expanding the CCTS's mandate to include handling complaints about misleading or aggressive retail sales practices, and improving consumers' awareness of the CCTS as part of the next review of the CCTS; and
- creating a "suitability standard," which would require service providers to ensure that their offers and promotions match the customer's needs and means.

**The CRTC has found that the internal measures put in place by the Service Providers to address misleading or aggressive sales practices are not always effective.** In order to test these measures on an ongoing basis, the CRTC will consider:

- monitoring all service providers' retail sales practices through research initiatives such as a nationwide secret shopper program overseen by the CRTC, the results of which will be published, and through increased data collection by the CCTS on consumer complaints;
- requiring service providers to publicly report on complaints related to misleading or aggressive retail sales practices as defined by the CRTC;
- reviewing the CRTC's approach to compliance and enforcement regarding existing protections to ensure that these protections are effective and efficient, such as the yearly compliance assessment used under the Wireless Code; and
- imposing additional mandatory measures on service providers with poor sales practices.

**The CRTC has found that there are gaps in the awareness and effectiveness of existing consumer protections.** In order to address these gaps, the CRTC will consider:

- creating new sources of information for consumers, such as checklists or information bulletins, to be posted on the CRTC website – a practice that would empower Canadians with information and tips on dealing with service providers, what their rights are, and where to go when they have a complaint; and
- consolidating the CRTC's various codes of conduct for service providers (such as the Wireless Code, the Television Service Provider Code, and any future Internet Code that may be created).

**The CRTC is suggesting a set of best practices for service providers,** including:

- ensuring that Canadians can obtain free recordings or transcripts of their interactions (calls and chats) with customer sales representatives in a timely manner and that they are made aware of this option;
- conducting regular reviews to determine where failures occur in their internal measures' ability to address misleading or aggressive sales practices and addressing those failures with regard to the sales force's compensation schemes, use of third-party sales agents, use of door-to-door sales, and all sales force policies and training materials, and then taking concrete actions to properly train sales force members, including third-party sales agents, to improve their effectiveness in minimizing occurrences of misleading or aggressive retail sales practices; and
- considering how Canadians who may be more vulnerable due to their age, a disability, or a language barrier could be better empowered to make informed decisions about the services they purchase through the approaches used by service providers. This best practice may include solutions such as service providers ensuring that their store fronts and kiosks are

equipped with tablets preloaded with sign language videos that explain key concepts, and/or providing training to their sales staff about how to better serve these customers.

**The CRTC considers that more research by the appropriate governing bodies is necessary** to properly assess certain ideas that were presented as part of this public process, including:

- whether it would be useful to create a national, independent, funded Telecommunication Consumer Organization, which could play multiple roles such as advocating on behalf of Canadians, helping Canadians resolve complaints, and undertaking research; and
- the possibility of enhancing the CRTC's enforcement powers, through new or amended laws, to create easier-to-use enforcement tools to address non-compliance, such as a streamlined administrative monetary penalty (AMP) regime.

This report to the Governor in Council is an important step in empowering consumers and promoting the fair treatment of Canadians. The CRTC will keep the public and the Government up to date on its progress in improving Canadians' experiences with their service providers.

## INTRODUCTION

The CRTC is presenting this report in response to a direction it received from the Governor in Council, through the [Order in Council](#), to make a report regarding the retail sales practices of Canada's large telecommunications carriers by 28 February 2019.

The Order in Council noted that Canadians have expressed substantial concern regarding the use of misleading or aggressive sales practices. Such practices can cause stress, confusion, and frustration, and can lead to the price paid by Canadians for telecommunications services being sometimes unfair, unpredictable, or higher than they expected. Canadians deserve a competitive marketplace where consumers are treated fairly and are empowered to make informed decisions with respect to their telecommunications services.

In particular, the Order in Council required the CRTC to report on four issues:

**(a) Are Canadians experiencing misleading or aggressive sales practices?**

The Order in Council asked “whether the large telecommunications carriers offer their telecommunications services for sale by engaging, either through their employees or third parties, in misleading or aggressive sales practices, such as providing consumers with incomplete, unclear or misleading information regarding service terms and conditions or selling them telecommunications services that are unsuitable for them, and, if so, the prevalence of those practices.”

**(b) What are service providers doing to identify, monitor, and reduce the risk of misleading or aggressive sales practices?**

The Order in Council asked about “the measures or controls that those carriers have in place to monitor, identify and mitigate the risks that consumers are subject to misleading or aggressive sales practices.”

**(c) What consumer protections exist to promote fair treatment from service providers and to empower consumers to make informed decisions?**

The Order in Council asked about “the consumer protections respecting retail sales practices and contracts for telecommunications services that are currently in place to empower consumers to make informed decisions with respect to their telecommunications services and promote the fair treatment of consumers in their relationships with telecommunications carriers.”

**(d) What should be done to empower consumers, promote their fair treatment, and prevent misleading or aggressive sales practices?**

The Order in Council asked about “the most feasible and effective ways to strengthen or expand the scope of existing consumer protections such as those contained in the CRTC's codes of conduct, or to create new consumer protections, including codes of conduct relating to new subjects, in order to further empower consumers to make informed decisions with respect to their telecommunications services and to further promote the fair treatment of consumers in their relationships with telecommunications carriers.”

In response to the Order in Council, the CRTC held a public process including a public hearing. This report summarizes what the CRTC heard from Canadians and telecommunications service providers, as well as other parties, like the CCTS. The report addresses the four issues set out in the

Order in Council by identifying potential gaps in consumer protection measures and potential solutions to address those gaps, including ways to strengthen or expand the scope of existing measures.

## THE PROCEEDING

On 16 July 2018, the CRTC published *Report regarding the retail sales practices of Canada's large telecommunications carriers*, Telecom and Broadcasting Notice of Consultation CRTC 2018-246. It invited comments on the issues identified in the Order in Council related to the retail sales practices of Canada's large telecommunications carriers, as well as on the sale of bundled television and telecommunications services. It sought comments from Canadians, public interest groups, research groups, 12 service providers identified as Canada's large telecommunications carriers (referred to in this report as the Service Providers), and current and past employees of the Service Providers. The CRTC also asked the Service Providers to answer specific questions related to the various sales channels they use, including in store, online, over the telephone, and door to door, and on the measures they have put in place to address misleading or aggressive sales practices.

During the week of 22 October 2018, the CRTC held a public hearing in which parties provided further comments. Comments from the public were submitted on the record of the proceeding using the dedicated hashtag [#CRTCforum](#) during the hearing. The CRTC received comments from over 2,300 individuals, including more than 65 current or past employees of the Service Providers or of third parties offering the Service Providers' services for sale; the CCTS; consumer and public advocacy groups; researchers; unions representing employees; government agencies and departments; and the 12 Service Providers it identified. [All of the submissions](#) and [transcripts](#) of the hearing are publicly available on the CRTC's [website](#).

The CRTC hired Ipsos Public Affairs (Ipsos) to produce a report, based on multiple public opinion research methods, that is representative of views from across Canada. The resulting report, entitled [Consultation on Canada's large telecommunications carriers' sales practices](#) (the Ipsos Report), was added to the public record of the proceeding on 16 October 2018.<sup>2</sup> The public opinion research methods included a survey with a representative panel of over 1,600 Canadians; a voluntary public survey that reached over 7,000 Canadians; 10 in-depth interviews with individuals with a disability; and 10 focus groups with seniors, residents of rural communities, Canadians who use a language other than French or English at home, and residents of official language minority communities.

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<sup>2</sup> See *Report regarding the retail sales practices of Canada's large telecommunications carriers – Report added to the record of this proceeding*, Telecom and Broadcasting Notice of Consultation CRTC 2018-246-1.

## CANADIANS' EXPERIENCES WITH MISLEADING OR AGGRESSIVE SALES PRACTICES

*"Is it right for a senior in his eighties who does not own a computer, a tablet, or a Smartphone to be sold an expensive home Internet plan?" – Ageing + Communications + Technologies (ACT)*

The record of this proceeding indicates that **a significant portion of Canadians are experiencing misleading or aggressive sales practices by the Service Providers** when they are being offered or sold services through all types of sales channels, including in store, online, over the telephone, and door to door. Canadians shared their personal stories, parties explained the results of their experience or research, and the Ipsos Report detailed the occurrence of such practices.

Canadians who may be more vulnerable due to their age, a disability, or a language barrier are already facing barriers to making informed decisions on services that meet their needs and means. **These vulnerabilities are a compounding factor that increases the harmful impact of misleading or aggressive sales practices for those Canadians.**

**Canadians experience misleading or aggressive sales practices to an unacceptable degree.**

People's experiences with misleading or aggressive sales practices differ, in both number and nature, depending on the Service Provider. Some Service Providers have a disproportionate number of complaints about their sales practices compared to their share of the market. In addition, some of the behaviours reported by customers and by past and current employees of the Service Providers are unacceptable. There appears to be a relationship between the prevalence of misleading or aggressive practices and the use of certain sales channels, like door-to-door visits or outbound marketing telephone calls, which may explain why many Canadians prefer to have a choice about how and when to engage in sales interactions.

### ARE CANADIANS EXPERIENCING MISLEADING OR AGGRESSIVE SALES PRACTICES BY THE SERVICE PROVIDERS?

*"There exists a continuum of inappropriate sales practices, which include misleading and aggressive sales." – The Manitoba Coalition*

The Order in Council noted that "misleading sales practices include failing to provide the information that is necessary for consumers to make informed decisions to enter into contracts for telecommunications services, including by providing incomplete, vague or misleading information."

For the purpose of this Report, the CRTC adopts the description of misleading sales practices provided in the Order in Council. In the CRTC's view, misleading sales practices can also include information that is ambiguous or omitted on purpose, and any other information that is likely to mislead consumers. In addition, the CRTC considers that misleading sales practices occur when the

information conveyed verbally does not represent the actual offer, contract, or subsequent billed amount.

The Order in Council noted that “aggressive sales practices include offering for sale to consumers telecommunication services that are unsuitable for them.”

For the purpose of this Report, the CRTC adopts the description of aggressive sales practices provided in the Order in Council. The CRTC also considers that aggressive sales practices occur when a Service Provider does not respect a consumer’s expressed wish not to engage in a sales transaction (“no means no”), when a consumer faces unexpected or uninvited sales interactions (for example, during calls to customer support on unrelated matters), and when a Service Provider makes it difficult for a consumer to cancel their service.

**The CRTC determines that Canadians are experiencing misleading or aggressive sales practices by some Service Providers, on the basis of examples provided on the record by Canadians and advocacy groups, as well as the findings of the Ipsos Report.**

## **ARE CANADIANS HARMED BY MISLEADING OR AGGRESSIVE SALES PRACTICES?**

The record of the proceeding showed that misleading or aggressive sales practices can lead subscribers to waste money by subscribing to services that do not meet their needs and means, and to waste time trying to address complaints and errors with their service provider. This type of situation can inflict both financial hardship and mental stress on some consumers, and the process of seeking recourse can be time-consuming and frustrating, which in some instances leads Canadians to give up on using these recourses. As discussed in this report, these effects are amplified for vulnerable Canadians. In addition, past and current employees of the Service Providers reported that, in some instances, they were pressured to use those practices, which caused them stress as well.

**The CRTC recognizes the significant negative impact and harm that misleading or aggressive sales practices can have on Canadians and on their ability to make informed choices about the services they subscribe to and to take full advantage of the benefits offered by modern communications services, including Internet services.**

## ARE CANADIANS WHO ARE OLDER, WHO HAVE A DISABILITY, OR WHO HAVE A LANGUAGE BARRIER MORE SEVERELY IMPACTED?

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### SENIORS

*“Here’s another story we heard: an 82-year-old woman was approached by a sales representative at a Bell booth in Montreal. ‘I am having a terrible day’ she was told, and ‘I need just one more signature to end my shift...’ He assured this woman that a signature was not a contractual obligation, but simply confirmation of their conversation. Within a few days, Bell called this 82-year-old woman to secure payment. She had been manipulated by someone she thought she could trust.” – ACT*

Consumer and disability advocacy groups, on the basis of their research, told the CRTC that a senior’s digital skills and ability to deal with high-pressure sales tactics may be connected to levels of income and education. Individual Canadians made similar comments. Misleading or aggressive sales practices can have a disproportionately negative impact on seniors with low digital literacy or low income. This impact includes such customers being more vulnerable to (a) sales of services that do not meet their needs and means and (b) door-to-door sales visits, as well as being more likely to feel uncomfortable when attempting to end a conversation with a persistent and aggressive salesperson.

ACT’s research, based on in-depth interviews and focus groups with 53 Canadians between the ages of 60 and 87, indicated that 75% of seniors interviewed report having experienced misleading or aggressive sales practices, a much higher percentage than that reported in the Ipsos Report (40%). ACT stated that many respondents initially indicated that they had not experienced misleading or aggressive sales practices, in large part because they were not aware the practices they experienced could be considered misleading or aggressive.

On the basis of the record, **the CRTC finds that seniors are more vulnerable to misleading or aggressive sales practices.**

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### PERSONS WITH DISABILITIES

*“I am #ActuallyAutistic. Both during sales and support, providers refused to write down or otherwise provide ways for me to reference their promises. They could see I have difficulty in verbal interaction and took advantage.” #CRTCforum – @theAutistech*

Consumer and disability advocacy groups, as well as individual Canadians, told the CRTC how misleading or aggressive sales practices can have a disproportionately negative impact on Canadians with disabilities, who can experience barriers to accessible information and accessible sales interactions. Such sales practices have a compounded effect on Canadians with disabilities, as they may already face existing barriers in obtaining accessible products, services, and information.

Consumer and disability advocacy organizations explained how many consumers struggle with comparison shopping for telecommunications services. They described how this difficulty is exacerbated for people with disabilities who may (a) be limited in the specific sales channels they can readily access (for example, in store, online, or over the telephone) in order to discuss the accessibility of products and services with a knowledgeable representative or (b) need to take additional, time-consuming steps to obtain accessible information, which may not be available in all sales channels. These factors can limit their ability to obtain time-sensitive promotional offers.

The Deaf Wireless Canada Consultative Committee, the Canadian Association of the Deaf, the Canadian National Society of the Deaf-Blind, and Deafness Access Advocacy Nova Scotia (DAANS), collectively referred to as DWCC et al., is a group representing Deaf, Deaf-Blind, and Hard of Hearing Canadians. DWCC et al. conducted a survey that found that where in-store sign language services are not obviously available, Canadians who are Deaf, Deaf-Blind, or Hard of Hearing have difficulty obtaining clear information about plans designed to meet their needs (for example, an accessibility plan) or other information about plans that may interest them in a relevant, accessible, and timely manner (for example, limited-time promotions).

DWCC et al. raised further concerns, which were echoed in part by other parties, that mobile wireless service packages at discounted prices that meet the needs of Canadians with disabilities are infrequently offered, poorly promoted, and inconsistently applied. They testified that some sales agents stated that they do not stack the accessibility plan rates with additional discounts or promotional prices otherwise offered or advertised, meaning that Canadians with a disability are not able to take advantage of offers made to other Canadians. They also expressed concerns regarding salespersons who were not aware of, or not authorized to sell, the packages designed for Canadians with disabilities.

On the basis of the record, **the CRTC finds that Canadians with disabilities are more vulnerable to misleading or aggressive sales practices.**

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## LANGUAGE BARRIER

*“My parents are Korean immigrants[...]. [T]hey always found the English language a bit difficult and as I was growing up I was always there to help translate things for them. My parents are proud, and they would never let it show that they don't have a situation under control. [...]We have been getting undercut in data, and overcharged for the past 10+ years. I know that plans change and update, but never once when I went in store with my family, have we ever been notified or have been told of this.” – Intervener #150*

Consumer and disability advocacy groups, as well as individual Canadians, told the CRTC how misleading or aggressive sales practices can have a disproportionately negative impact on Canadians with a language barrier. While such practices can affect any consumer, they can be even more challenging for a consumer who is communicating with a service provider in a language other than their first language. For example, an offer that is described in either English or French may not provide them with sufficient information to make an informed decision.

On the basis of the record, **the CRTC finds that Canadians whose first language is neither English nor French are more vulnerable to misleading or aggressive sales practices.**

## ARE MISLEADING OR AGGRESSIVE SALES PRACTICES PREVALENT?

*“Overall, four in ten (40%) Canadians who responded to the online panel survey report having experienced sales practices by telecommunications companies in Canada that they consider to be aggressive or misleading, the majority of which report their most recent experience took place within the past year (60% of those who experienced these tactics or 24% of all Canadians).” – Ipsos Report*

Canadians detailed their own personal experiences of being subjected to misleading or aggressive sales practices. Consumer and public advocacy groups, researchers, and unions representing employees corroborated Canadians’ experiences, affirming that those practices do take place; some of them argued that the record of this proceeding is only the tip of the iceberg. The Ipsos Report demonstrated to the CRTC that a significant portion of Canadians have experienced misleading or aggressive sales practices.

The CCTS indicated that it receives complaints from customers of telecommunications and television services who are not satisfied with their service providers’ resolution processes. The [2017-2018 CCTS Annual Report](#) indicates that “Non-disclosure of terms/Misleading information about terms” is the most common issue raised by customers (4,543 times, or 14.8% of all issues), while “Incorrect charge” is the second most common issue raised (4,370 times, or 14.2% of all issues). These two issues alone, which in the CRTC’s view could be partly attributed to misleading or aggressive sales practices, represent 29% of all the issues raised by customers with the CCTS.

<i>Issue</i>	<a href="#">CCTS Annual Report 2017-2018</a>	<a href="#">CCTS Annual Report 2016-2017</a>	<a href="#">CCTS Annual Report 2015-2016</a>
<i>Non-disclosure of terms/Misleading information about terms</i>	4,543 14.8% of total	2,016 10.9% of total	1,891 12% of total
<i>Incorrect charge</i>	4,370 14.2% of total	2,333 12.6% of total	1,358 8.6% of total
<i>Intermittent/Inadequate quality of service (third-largest issue, for comparison purposes)</i>	2,573 8.4% of total	1,413 7.7% of total	1,213 7.7% of total

The Service Providers noted that the number of interventions by Canadians in this proceeding and the number of complaints they receive about misleading or aggressive sales practices may appear large in isolation. However, they argued that those numbers are actually quite small when compared to the number of customers of telecommunications services, and even more so when compared to the number of interactions they have with consumers every year.

The CRTC acknowledges that many factors affect the information gathered about the prevalence of misleading or aggressive sales practices, including:

- **Lack of awareness of recourses:** As noted by many parties, Canadians may not be aware of the recourses available to them when they experience misleading or aggressive sales practices. In particular, the CRTC notes with concern that the CCTS is not as well-known by Canadians as it should be. While the information provided by the CCTS in this proceeding was useful, Canadians' general lack of awareness of the recourses available to resolve complaints leads to gaps in the information submitted by the CCTS, particularly as it relates to the overall prevalence of the issue. As well, the record does not establish how aware Canadians are of options for recourse through provincial or territorial oversight bodies, other federal organizations (such as the Competition Bureau), the courts, or even the recourse mechanisms offered by the Service Providers themselves.
- **Definitions are personal:** There are many interpretations of what can be considered a misleading or aggressive sales practice. What may be misleading or aggressive to one person may not be to another. The Ipsos Report did not independently define the terms "misleading" and "aggressive," choosing instead to reflect Canadians' perceptions of these practices.
- **You don't know until you're told:** Parties stated that when customers were queried on these issues, many did not initially think they had been subjected to misleading or aggressive sales practices, until they heard specific examples of behaviours that others consider misleading or aggressive.
- **Reliability of the Ipsos Report:** Some Service Providers raised concerns with the Ipsos Report, calling into question the accuracy of some of its findings in evaluating the occurrence and prevalence of misleading or aggressive sales practices. In particular, some Service Providers pointed out that the survey results do not fully link Canadians' reported experiences with specific Service Providers. The CRTC recognizes that any survey will have its methodological limitations and considers that the Ipsos Report, while not conclusive, overall provides important and valid insights into the experiences of Canadians. The Ipsos Report was based on a variety of survey methods used to engage with many Canadians nationwide, and reflected the issues described in the Order in Council.

Canadians' experiences with misleading or aggressive sales practices differ, in both number and nature, depending on the Service Provider. Some Service Providers have a disproportionate number of complaints compared to their share of the market. The CRTC considers that some of the behaviours reported on the record by customers and by past and current employees of the Service Providers are unacceptable. The CRTC has noted an apparent relationship between the prevalence of misleading or aggressive practices and the use of certain sales channels, like door-to-door visits or outbound marketing calls. The evidence demonstrates that many Canadians prefer to initiate sales interactions at a time and place of their own choosing.

Overall, the record demonstrates that **Canadians experience misleading or aggressive retail sales practices to an unacceptable degree.**

## WHAT ARE SERVICE PROVIDERS DOING TO IDENTIFY, MONITOR, AND REDUCE THE RISK OF MISLEADING OR AGGRESSIVE SALES PRACTICES?

*“The record of this proceeding demonstrates that the leading cause of customer frustration with retail sales practices is, as succinctly summarized by the CCTS, the result of a mismatch between what customers think they are going to get and what they actually get. There has been no evidence that carriers condone or encourage such “mismatches” through misleading sales practices. In fact, all communications providers seem to have extensive and reasonable measures in place to prevent misleading and aggressive sales practices.” – Bell Canada*

The CRTC acknowledges that the Service Providers currently have internal measures in place to identify, monitor, and prevent the occurrence and impacts of misleading or aggressive sales practices by their internal sales forces and third-party sales agents. These measures vary from one Service Provider to the next. The Service Providers stated that addressing misleading or aggressive sales practices is an ongoing concern for them. Certain Service Providers have recently put in place new measures that could provide additional protection against misleading or aggressive sales practices, or have stated their intention to do so soon. This report outlines both the current and the upcoming measures in the following sections.

**The CRTC finds that there is a gap between the internal measures that the Service Providers stated they have in place to identify, monitor, and prevent misleading or aggressive sales practices and the behaviours reported by Canadians on the record in relation to some Service Providers.** In some cases, the Service Providers failed to make their policies and processes effective in day-to-day sales activities and to adequately monitor their sales agents’ ongoing compliance with these policies.

### CURRENT INTERNAL MEASURES

Certain Service Providers have put in place internal measures to identify, monitor, and prevent potential misleading or aggressive sales practices. These measures are described below.

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### MITIGATING MISLEADING OR AGGRESSIVE SALES PRACTICES

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#### PLAIN LANGUAGE CONTRACTS

Clearly and plainly presented information helps consumers make informed decisions.

Some Service Providers noted specific efforts they have undertaken that go further than imposed requirements to ensure that their contracts and other sales materials use language that their customers can understand. For example:

- Quebecor Media Inc., on behalf of Videotron G.P. (Quebecor) worked with [Éducaloi](#), an organization that helps inform individuals, in everyday language, about their legal rights and

responsibilities. Éducaloi assisted in reviewing Quebecor's customer contracts to ensure they are clear and understandable.

- TekSavvy Solutions Inc. (TekSavvy) noted that it has complied with the spirit of the Wireless Code and the Television Service Provider Code when it comes to clarity and information provided to its customers, even though it does not offer services to which those codes apply.

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#### BUYER'S REMORSE, TRIAL, AND COOLING-OFF PERIODS

Service providers may offer buyer's remorse, trial, and cooling-off periods to empower consumers to change their mind, within a specific time frame, about the purchase of a service, equipment, or package if they feel it does not match their expectations.

Many of the Service Providers noted that they offer a variety of buyer's remorse, trial, and cooling-off periods, over and above those required by provincial or territorial laws and the trial periods required by the CRTC. The Service Providers' chosen approaches differ in their implementation; for example, providers may offer a different number of days within which a customer may cancel a contract.

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#### EMPLOYEE CODES OF CONDUCT, EMPLOYEE HIRING, AND TRAINING

Consumers interact directly with salespersons. As such, a thorough approach to selecting and training salespersons to reinforce positive behaviours is essential.

Many Service Providers noted that they have well-established approaches to selecting and training employees, to ensure that their employees comply with their policies that are intended to promote good sales practices and prevent misleading or aggressive sales practices.

Such approaches include the creation and review of internal codes of conduct that employees must read and agree to periodically, the integration of new employees and the provision of ongoing multi-day training, and specific employee selection criteria.

The CRTC notes that any such measures will be effective only if their application is consistently reinforced and applied throughout the organization.

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#### SALES INCENTIVES

Recognizing that the manner in which salespersons are compensated influences how they behave, well-designed sales incentives are essential to ensuring that misleading or aggressive sales practices are limited.

Parties argued that there is a strong link between compensation that is tied to sales performance and the use of misleading or aggressive sales practices. The greater the portion of pay (including bonuses) that is tied to sales performance, the more likely aggressive and misleading sales practices are to occur.

Most Service Providers submitted that the majority of their employees have a salary that is fixed, meaning that it is not entirely tied to sales performance – in other words, the number of completed sales. However, some Service Providers, notably the largest ones, indicated that they do offer their sales agents monetary sales incentives in addition to a fixed base pay, including bonuses and commissions, to reward sales performance. Therefore, there is some variability among the Service Providers in terms of the overall compensation of sales agents. To the extent that a portion of an employee’s take-home pay is variable, it can be tied to sales incentives, but not exclusively. For example, some Service Providers noted that a portion of their employees’ variable salary is based, at least in part, on customer satisfaction metrics that are measured post-sale, and not purely on sales performance. As a result, most Service Providers argued, they structure their compensation such that variable salaries do not motivate bad behaviours on the part of their sales force.

A few Service Providers stated that they do not offer any monetary incentive tied to sales performance, as they want to empower employees to address consumers’ requests or concerns without being motivated to sell new or additional services.

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### SALES COMMISSION CLAWBACKS

Clawback policies allow the Service Provider to take back a sales commission from a salesperson if the customer ends up cancelling their service within a specific time frame.

Recognizing that salary tied to sales performance has some inherent risks, some Service Providers have implemented clawback policies for sales commissions. The intent is that salespersons would self-regulate their sales behaviours and refrain from using misleading or aggressive sales practices since a customer could simply cancel the service after the fact, for instance if they felt that they had not made an informed decision, and the salesperson would lose their commission.

Some parties on the record, including unions representing employees, noted that these policies can also create the unintended adverse effect that salespersons may be reluctant to cancel a service in response to a customer request because cancellation could negatively impact them or another salesperson in terms of their commission or their performance evaluation by management.

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### DISCIPLINARY ACTION

Disciplinary action includes any action by the Service Provider to address and correct employee behaviour, from providing training to job termination.

Many Service Providers noted that their management conduct sales force monitoring and that employees who do not adhere to the provider’s values can face disciplinary action. Some Service Providers said that salespersons can be fired if they are found to be deliberately engaging in misleading or aggressive sales practices.

The impact of disciplinary action on the reduction of misleading or aggressive sales practices is highly dependent on appropriate monitoring on the part of the Service Providers, which is covered below.

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## USE OF THIRD-PARTY SALES AGENTS OR DOOR-TO-DOOR SALES

*“When a kiosk bears an incumbent’s logo and employees wear incumbent badges, the consumer must trust that they represent the incumbent, whether they are a franchise or actual incumbent employees. Incumbent is responsible to ensure they uphold incumbent’s values.” – @jfmezei*

Some parties submitted that some Service Providers’ use of third parties, rather than direct employees, for sales functions left customers more vulnerable due to lack of oversight, particularly in instances where sales commissions compose 100% of a sales agent’s remuneration. The Service Providers that use third-party sales agents generally disagreed with this assessment, noting that they monitor those third parties closely and impose rules to ensure that their behaviour is in line with what the Service Providers expect of their own direct employees. In some instances, the sales incentive models for third parties differ from the ones that apply to direct employees, which could have an impact on the behaviour of the third-party sales force.

Some parties expressed the belief that door-to-door sales may be more likely to lead to aggressive or misleading sales practices by their very nature. According to this viewpoint, a door-to-door sales visit is a face-to-face interaction in which Canadians may feel “put on the spot” to make a decision that they have not researched and are not fully informed about – and this is more likely to lead to aggressive or misleading sales practices. On the other hand, Service Providers that use door-to-door sales submitted that such methods are essential to their business practices and that internal measures are in place to reduce the risk of misleading or aggressive sales practices.

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## IDENTIFYING AND MONITORING MISLEADING OR AGGRESSIVE SALES PRACTICES

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### CALL MONITORING AND AUDITING

Call monitoring and auditing allow the Service Provider to ensure that its salespersons adhere to its values and exhibit expected behaviours, and to take corrective action if they do not.

Most Service Providers record their sales force calls and online chat exchanges with customers. Many monitor and audit those calls and chat logs, in some cases even when the functions are outsourced to a third party.

Most Service Providers make recorded calls or chat logs available to consumers upon request at no charge. Some parties told the CRTC that customers may not be aware that they can request those recordings or logs, and that recordings may not be made available upon request in all instances. The CCTS noted that access to recordings and logs is often an essential component of its investigations; this access allows for a better understanding of the mismatch between a customer’s expectation and the service they received.

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## SECRET SHOPPER PROGRAMS

In a secret shopper program, individuals pose as customers and contact salespersons to evaluate how customers are treated and whether the expected behaviours are exhibited by the salespersons.

Rogers Communications Canada Inc. (Rogers) and Shaw Communications Inc. (Shaw) reported using secret shopper programs (also called mystery shopper programs) to (a) evaluate their retail sales forces in terms of compliance with their own internal measures and with regulatory requirements with which they have to comply and (b) identify salespersons who fail to meet targets and need coaching or further training. Rogers noted the importance of regularly undertaking secret shopping initiatives as a way to stay on top of the customer experience.

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## COMPLAINT MECHANISMS AND ACTIVE CUSTOMER FEEDBACK

Customer feedback helps service providers know what their customers think about their services and sales interactions. Service providers can obtain feedback passively, by relying on customers to reach out to share their concerns and complaints, or actively, by reaching out to customers to get their feedback on a particular interaction or to get a general idea of their perceptions.

Most Service Providers noted that they have detailed internal processes and teams to manage customer complaints from reception to solution. Rogers noted that it has created an Office of the Ombudsman to impartially review customers' complaints about its services.

Many Service Providers noted that their employees who receive complaints are empowered to make decisions and to take action to help customers with any issues they have, the intention being that a customer complaint is resolved at the first contact.

Some Service Providers actively solicit feedback from customers about their sales interactions, by way of a survey following a sales transaction to measure whether the customer was satisfied with the sales experience and what could be improved. It should be noted that the effectiveness of such feedback, in terms of helping the Service Provider determine whether a customer feels "misled," may depend on when in the billing cycle the survey is conducted.

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## WHISTLEBLOWER PROTECTIONS

Whistleblower protections enable employees to raise concerns without fear of reprisal, or to raise concerns anonymously to a third party designated to address them.

Many of the Service Providers indicated that they have whistleblower policies for their sales forces to adhere to, which take on various forms. Some of the Service Providers have implemented internal complaint mechanisms to enable employees to anonymously raise concerns about practices they are witnessing by other sales agents or management that they think do not match with the values or policies of the Service Provider; others have designated a third party to receive anonymous complaints from employees.

In addition to formal whistleblower mechanisms, various Service Providers indicated that they seek to create a work environment in which employees can speak to other employees, supervisors or managers, and even executives openly about their concerns with bad practices. For instance, Bragg Communications Inc., carrying on business as Eastlink, indicated that its employees can speak to their supervisors or managers, use an intranet site where they can raise concerns between themselves, or take advantage of a direct link to the office of the president, where weekly input or concerns from employees are welcome. Xplornet Communications Inc. stated that it makes use of mailboxes, telephone lines, and computer programs that receive anonymous internal complaints, which are reported on a quarterly basis to the Board of Directors and addressed impartially by another department.

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## ONGOING COMPLIANCE PROGRAMS

Policies, once put in place, must be monitored to ensure that they continue to be followed and that they are achieving their stated objective, which in this instance is to prevent misleading or aggressive sales practices.

Current and past employees of the Service Providers, as well as unions representing employees, raised concerns that employees may not be engaging in misleading or aggressive sales practices of their own volition. In particular, some feel pressured to engage in such practices because of corporate policies or because of directions they receive from their management team.

The Service Providers disagreed, noting that they have put in place measures that aim to prevent misleading or aggressive sales practices, including management training on how to train front-line employees. Moreover, the Service Providers stated that they communicate values encouraging good sales practices and make considerable efforts to ensure that these values are shared throughout their organizations.

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## MEASURES SPECIFICALLY DESIGNED TO HELP VULNERABLE CANADIANS

The internal measures described above are implemented generally, for services offered to all consumers. However, certain Service Providers indicated that they employ internal measures to address the needs of customers who may be more vulnerable due to their age, a disability, or a language barrier. These measures attempt to aid salespersons' communications with vulnerable Canadians, which in theory should prevent any misleading or aggressive sales practices.

For instance, where available and appropriate, salespersons with third-language abilities (that is, fluency in a language that is not French or English) can communicate in the preferred language of the consumer. Certain Service Providers, such as Bell Canada and TekSavvy, indicated that they have hired employees in dedicated accessibility teams, in order to understand and meet the specific needs of their customers who have a disability. TELUS Communications Inc. (TELUS) indicated that it has worked actively with stakeholder groups like the Canadian Association of the Deaf, the Neil Squire Society, and the Rick Hansen Foundation to understand and reimagine what the sales experience for Canadians with disabilities is, and what it could be. The Service Providers generally

stated that they try to approach each customer individually, ask probing questions, and then take into account their specific needs and realities.

## HAVE FURTHER MEASURES BEEN PUT IN PLACE RECENTLY, OR WILL THEY BE SOON?

Some Service Providers have recently put new measures in place or plan to do so in the near future. For example, some Service Providers:

- have added a section specifically on **sales practices** to their internal codes of conduct to address concerns related to misleading or aggressive sales practices;
- have recently begun to give customers written **pre-purchase quotes** or are intending to do so in the near future, which gives customers time to consider an offer before agreeing to it;
- have begun including **complaint data** in the design of their business operations, to ensure that any business process they design can reflect information received from customers;
- have done an **internal audit of their complaint processes** to ensure that they are effective and efficient and can address customers' concerns regarding sales practices;
- are considering the creation of a designated **accessibility-specific department, team, or centre** (in those cases where one does not already exist); and
- have considered or will consider ways to provide information in **sign language (American Sign Language, or ASL, and Langue des signes québécoise, or LSQ)**.

## ARE EXISTING MEASURES PUT IN PLACE BY THE SERVICE PROVIDERS SUFFICIENT?

The CRTC recognizes that the Service Providers have put in place internal measures intended to prevent misleading or aggressive sales practices from occurring. The recent or planned changes to these internal measures indicate that the Service Providers are monitoring the concerns raised by Canadians to some degree and are taking them seriously. The CRTC considers that these measures are promising in that they could directly tackle specific concerns raised in this proceeding. For example, as mentioned on the record by some interveners, pre-purchase quotes were part of a solution that would allow customers to consider an offer at their own pace instead of being pressured to make a decision immediately.

However, these measures are effective only if they are being properly implemented by the Service Providers and their sales forces, and if there is regular training and reinforcement of the measures. Moreover, the CRTC is concerned about the lack of clear and enforceable consequences in cases of employees' non-compliance with the measures. In this regard, the CRTC is concerned that the Service Providers are not fully implementing and respecting their own internal measures as effectively as they could be.

The record of this proceeding shows that some internal complaint-handling measures appear to be designed to be difficult to access and navigate, and that recourse is not readily available. **The CRTC finds that the lack of a fast, efficient, and easy-to-use mechanism by which a customer can seek**

**redress is a continuing issue**, both during and after the sales interaction. Customers should be able to obtain redress from the Service Providers quickly and efficiently.

The CRTC recognizes that the Service Providers' internal measures are insufficient for certain customers, particularly those who may be more vulnerable due to their age, a disability, or a language barrier. Specifically, when it comes to providing services for persons with disabilities, there appears to be a lack of internal coordination and communication with the sales forces of many of the Service Providers. Salespersons do not always know about the packages, offers, and promotions designed for persons with disabilities, and these packages, offers, and promotions sometimes cannot be combined, or are inconsistently combined, with other offers or promotions. **The CRTC finds that improvements can and must be made on this issue.**

## WHAT CONSUMER PROTECTIONS EMPOWER CONSUMERS TO MAKE INFORMED DECISIONS?

There are numerous consumer protections put in place by various governing bodies at federal, provincial/territorial, and municipal levels, through statutes, regulatory policies, and mandatory or voluntary codes of conduct for service providers. Many of these protections can be used to prevent the occurrence of misleading or aggressive sales practices and to redress such practices employed by the Service Providers after they occur. Consumers should not have to resort to redress or remedial measures after the fact; sales practices should be fair and transparent from the beginning, to prevent misleading or aggressive sales practices from occurring. More must be done to prevent their occurrence. Further, the evidence shows that many Canadians are unaware of their options for getting help with their complaints, such as through the CCTS. Moreover, certain avenues for resolving complaints, like going to court, can be difficult to navigate or expensive. Lastly, there is no central repository or directory of consumers' rights at the federal, provincial, territorial, or municipal level that could help ordinary Canadians navigate the system to find the appropriate complaint or recourse mechanisms.

**The CRTC finds that while existing consumer protections are extensive, there are gaps in terms of Canadians' awareness of them and their effectiveness in terms of prevention and redress. The CRTC considers that improvements must be made in relation to consumer protection and empowerment.**

## WHAT EXISTING CONSUMER PROTECTIONS REDUCE MISLEADING OR AGGRESSIVE SALES PRACTICES?

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### THE CRTC

The CRTC is an independent, federal administrative tribunal that is tasked, under the *Telecommunications Act* and the *Broadcasting Act*, with regulating service providers and broadcasting undertakings, such as television service providers, in Canada. The CRTC has adopted rules that address potentially misleading or aggressive retail sales practices. Recent consumer

protections put in place by the CRTC that help address misleading or aggressive sales practices are explained below.

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### THE WIRELESS CODE AND THE TELEVISION SERVICE PROVIDER CODE

The CRTC created the [Wireless Code in 2013](#) and [reviewed it in 2017](#), maintaining certain consumer protections and updating others. The CRTC also created the [Television Service Provider Code in 2016](#). Both of these codes aim to empower consumers in their relationships with their wireless and television service providers. They contain rules that address some of the concerns raised by Canadians about misleading or aggressive sales practices, including:

- limits on early cancellation fees, trial periods for new contracts with potentially high cancellation fees, and limits on automatic contract renewals aim to **reduce barriers for consumers when it comes to cancelling or switching services**;
- requirements for service providers to give a customer a written agreement within a certain time frame and a trial period to allow the customer to exit the contract without penalty if it does not match the verbal agreement aim to **ensure that verbal agreements match written agreements**;
- requirements for contracts to (a) be written clearly and in plain language, (b) include specific information about rates and services, and (c) include a critical information summary that highlights key contract terms important to the consumer aim to **ensure that consumers have the information they need, presented in a way that is clear and simple to understand**; and
- rules prohibiting changes to key contract terms (including rates) for certain contract types and requiring service providers to give customers notice prior to changing other contract terms aim to **prevent unexpected changes to contract terms**.

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### PROPOSAL TO CREATE AN INTERNET CODE

As noted, the Wireless Code and the Television Service Provider Code provide protections for consumers against being billed for unexpected charges, or bill shock, and include measures regarding contract clarity and enhanced ability to switch service providers. To date, these types of protections have not been in place for Internet customers.

In light of the increasing importance of Internet services for consumers and the increasing number of consumer complaints about these services received by the CCTS, the CRTC issued Telecom Notice of Consultation CRTC 2018-422, [Call for comments – Proceeding to establish a mandatory code for Internet services](#), on 9 November 2018.

In that notice, the CRTC set out its preliminary view that a mandatory code of conduct to address consumer contracts and related issues is necessary. In the CRTC's preliminary view, the mandatory code would cover contract clarity, bill shock, and barriers to switching service providers for retail fixed Internet access services provided to individuals and small businesses<sup>3</sup> by large facilities-based Internet service providers.

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<sup>3</sup> A small business is defined, for the purpose of administering complaints by the CCTS, as one whose average monthly telecommunications bill is under \$2,500.

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## MEASURING INTERNET SPEEDS: ADVERTISED AND DELIVERED

The CRTC notes that many Canadians mentioned issues related to the speed of their connection as a misleading or aggressive sales practice they experienced. While some felt they were oversold compared to their actual needs, most commented about their perception that they were not getting the service they signed up for. This issue therefore touches both potentially misleading advertising and the need for clear customer understanding of the services they are agreeing to.

In partnership with Internet service providers, the CRTC launched the [Broadband Measurement Project](#) in 2015 to objectively measure broadband Internet performance, including actual connection speeds, in Canadian homes. The project measures Internet speeds provided by Internet service providers to the customer's "doorstep."

The CRTC published its [initial report](#) on the project in September 2016, indicating that most measured Internet service provider offerings, regardless of the access technology, met or exceeded advertised speeds, with some exceptions. Future phases of this project are planned.

The Competition Bureau is the agency tasked with investigating issues related to misleading advertising. Canadians who are concerned that they are not getting the service speed they were sold can contact the Competition Bureau.

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## THE NATIONAL DO NOT CALL LIST AND CANADA'S ANTI-SPAM LEGISLATION

One aspect of aggressive sales can be unwanted telemarketing and commercial calls, texts, and emails. In accordance with the *Telecommunications Act*, the CRTC created the [National Do Not Call List](#), which came into effect on 30 September 2008, to enable Canadians to reduce the number of telemarketing calls they receive by registering their residential, wireless, fax, or voice over Internet Protocol (VoIP) telephone number on the list.

[Canada's Anti-Spam Legislation](#), which came into effect on 1 July 2014, requires that service providers (a) obtain express consent from consumers before sending them commercial electronic messages and (b) offer an unsubscribe mechanism for these types of messages.

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## THE CCTS

The CCTS is an impartial and independent organization, founded in 2007, that helps customers resolve disputes with their telecommunications and television service providers arising from complaints they have made about their telephone, wireless, Internet, and television services. The CCTS addresses complaints made about existing contractual relationships. It provides a fairly simple, quick service at no cost to the consumer, often making it the most practical place for a consumer to take their complaint and obtain a remedy, where appropriate. The CRTC periodically [reviews the structure and mandate of the CCTS](#).

The CCTS is responsible for administering the codes of conduct created by the CRTC, which includes (a) resolving any complaints related to the codes, (b) monitoring trends in complaints, and (c) reporting on both complaints and trends in its annual report.

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## THE COMPETITION BUREAU

The [Competition Bureau](#) (or the Bureau) is an independent, federal law enforcement agency responsible for enforcing the *Competition Act*. The *Competition Act* contains civil and criminal requirements prohibiting the use of deceptive marketing practices to promote products, services, or any business interest, as well as penalties for not following those requirements. The requirements include prohibitions on sending false or misleading electronic messages, unsubstantiated performance claims, and false or misleading representations related to ordinary selling prices. The Bureau seeks to ensure that consumers receive accurate information so they can make informed decisions.

The Bureau is often made aware of potential contraventions of the *Competition Act* through complaints from the public. In its intervention in this proceeding, the Bureau explained that it receives hundreds of complaints annually from consumers and industry participants alleging incidents of false or misleading representations in the telecommunications industry. Historically, the Bureau has taken enforcement action in a number of these cases.<sup>4</sup>

While the Bureau has an important role to play in preventing harm to consumers, it cannot prevent or redress all instances of misleading or aggressive retail sales practices by telecommunications service providers that are within the scope of this report. Certain parties noted that the Bureau's enforcement power is limited, as it targets systemic problems within a service provider's sales practices (such as in mass media advertisements) or practices common to multiple service providers that affect the competitive market, rather than resolving individual complaints. Further, the Bureau stated that some practices that may be considered "misleading or aggressive retail sales practices" would not fall within the *Competition Act's* prohibitions against deceptive marketing practices. For instance, purely "aggressive" retail sales practices do not fall within the prohibition of false or misleading sales practices.

In addition, it was noted throughout the proceeding that the Bureau typically does not act in instances where the CRTC regulates telecommunications services through tariffs. The CRTC notes that it is not necessarily clear to an average consumer whether a specific complaint would fall under the purview of the CRTC, the Competition Bureau, or another body.

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## PROVINCIAL/TERRITORIAL LAWS

The provinces and territories in Canada have generally adopted consumer protection laws that relate to how goods and services can be offered, sold, renewed, and cancelled, and the form of contracts for different types of goods and services. Some provinces and territories have also adopted consumer protection laws directed specifically at contracts for telecommunications services. Overall, these laws typically include requirements regarding mandatory cooling-off periods for consumers to reconsider their purchases; limits or prohibitions on early cancellation fees; the requirement to provide copies of written contracts to consumers within a specific time frame; special rules for sales or contracts concluded directly, remotely, online, and door to door; and unfair

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<sup>4</sup> These cases were summarized in the Bureau's intervention in this proceeding, [Intervention 1216](#).

business practices. In addition, some provinces and territories have created provincial offices of consumer affairs, which are tasked with enforcing these laws.

The interventions received regarding these laws expressed differing views on the role, if any, that they play in addressing the use of misleading or aggressive sales practices by the Service Providers. For instance, Quebec's Ministère de la culture et des communications et de l'office de la protection du consommateur stated that the Quebec *Loi sur la protection du consommateur* contains provisions that govern the sale of telecommunications and television services. Under the Quebec law, a contract is not valid until both parties have signed it and a copy is provided to the customer. The law also prohibits false or misleading representations.

Quebecor stated that this provincial law is more rigorous than similar federal laws. By contrast, the Union des consommateurs argued that provincial/territorial consumer protection laws that prohibit false and misleading representations are an impractical solution for consumers. In its view, these laws lack positive obligations for service providers to clearly inform customers of the key terms of their offers or contracts. It submitted that provincial/territorial bodies do not conduct targeted enforcement on the sales practices of service providers, either because of resource constraints or because the burden of proof is too high.

The numerous comments received on this topic did not address each provincial or territorial consumer protection law, nor did they provide a comprehensive comparative analysis of existing federal, provincial, and territorial laws and regulatory schemes. Any perceived or actual gaps, conflicts, or overlaps between these laws were discussed only generally. While it is clear that these provincial/territorial laws are useful tools, it is also clear that misleading or aggressive sales practices continue to be a problem for consumers and that more must be done to address this issue.

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## COURTS

Numerous parties commented that the courts are an existing consumer protection mechanism that can provide opportunities to resolve complaints by consumers who experience misleading or aggressive sales practices. In particular, individuals can initiate lawsuits in provincial and territorial small claims and superior courts if they think a service provider has contravened the applicable consumer protection law or common law in areas such as fraud. Groups of individuals may launch class action suits where permitted. In its intervention, Quebec's Ministère de la culture et des communications et de l'office de la protection du consommateur stated that class action suits in court, in particular, give consumers an opportunity to resolve complaints and also provide a general deterrent against misleading or aggressive sales practices. Individuals and officials, such as provincial/territorial consumer protection bodies, can obtain court injunctions in order to prevent certain actions.

A Canadian on the #CRTCforum (#145) cited an instance in which a customer successfully took a service provider to a Toronto small claims court in a private lawsuit on issues related to failure to

deliver verbally guaranteed prices. The deputy judge ruled that the service provider could not unilaterally change the terms of the verbal contract by delivering a different written contract.<sup>5</sup>

Despite this success, some parties argued that access to the courts can be complicated, time-consuming, and expensive, and that legal jargon is difficult to understand. Further, they argued that the option for private parties to launch a lawsuit might be unavailable due to limitation periods or because the facts arose in the absence of a contract (such as pre-contractual promises), and that the problems with misleading or aggressive sales practices may be difficult to define as a common issue, therefore precluding class action suits. The CRTC considers that the courts may not be an effective way for all consumers to resolve complaints about misleading or aggressive sales practices.

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## **PUBLIC INTEREST ORGANIZATIONS**

Public interest organizations across Canada are involved in consumer advocacy, education, and protection. They advocate for the interests of consumers, make consumers aware of their rights and benefits, and bring forward complaints to regulators. They also, in some cases, conduct unique research into specific issues that may lead to a better understanding of the underlying causes of those issues.

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## **COMPETITIVE MARKETPLACES AND REPUTATION**

Competitive marketplaces, combined with rules ensuring that consumers can leave a service provider when they are no longer satisfied with the service they are receiving, can help consumers reduce the impact of misleading or aggressive sales practices. In this environment, consumers are empowered to make their purchasing decisions with service providers that do not engage in practices the consumer disapproves of.

In a connected age, the potential reputational harm to a brand that can be done when a service provider is perceived as a bad actor should lead the Service Providers to create and enforce internal policies aimed at eliminating practices that would be seen in a negative light by consumers. It should be noted that there is a debate as to the effectiveness of market discipline in an industry such as it exists in Canada where a few larger service providers offer extensive bundles of communications services and have a large share of the market.

## **ARE EXISTING CONSUMER PROTECTIONS SUFFICIENT?**

The CRTC recognizes that consumer protections that address misleading or aggressive sales practices already exist to varying degrees: laws, regulatory policies, and mandatory or voluntary codes of conduct for service providers. They are created and overseen by bodies at the federal, provincial or territorial, and municipal levels that have authority over some areas affecting retail sales practices. However, Canadians may not know about such protections, and the avenues for resolving complaints may be too onerous or complicated for them to use efficiently.

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<sup>5</sup> Erica Johnson, *Customer takes Bell to court and wins, as judge agrees telecom giant can't promise a price, then change it*, <https://www.cbc.ca/news/business/bell-customer-wins-court-battle-over-contract-1.4635118>

It is apparent from the record of this proceeding that consumers experience misleading or aggressive sales practices to an unacceptable degree and that there are additional measures that can be put in place to prevent and address such practices. In addition, the CRTC recognizes that it has an important role to play in ensuring that sales interactions that occur in the retail communications marketplace are free of misleading or aggressive sales practices to the greatest extent possible.

## WHAT COULD AND SHOULD BE DONE TO PROMOTE THE FAIR TREATMENT OF CONSUMERS?

*"It is integral that Canadians have protections in place to ensure that they are not being taken advantage of in sales transactions for telecommunications products and services. Telecommunications services are a critical component of Canadian society today. [...] As a fundamental service, all Canadians must be able to trust that providers are fully disclosing all the necessary information required for them to make an informed purchase about a telecommunications product or service." – Fair Communications Sales Coalition*

**In the CRTC's view, consumer protections should be strengthened to address the occurrence of misleading or aggressive sales practices and to ensure that Canadians are empowered to make informed decisions and are treated fairly.**

## DO CONSUMER PROTECTIONS NEED TO BE STRENGTHENED TO EMPOWER CONSUMERS TO MAKE INFORMED DECISIONS AND TO ENSURE THEY ARE TREATED FAIRLY?

*"Nevertheless, even a single complaint about sales practices is one complaint too many, which is why TELUS proposes a system to resolve complaints in an efficient and cost-effective manner." – TELUS*

As discussed in the previous sections, the CRTC is concerned that, even with the internal measures put in place by the Service Providers and the consumer protections implemented by various governing bodies, many Canadians are still subject to misleading or aggressive sales practices. **The CRTC considers that consumer protections should be strengthened to address these occurrences.**

## WHAT EFFECTIVE AND FEASIBLE WAYS TO STRENGTHEN CONSUMER PROTECTIONS SHOULD BE CONSIDERED?

This report makes factual findings on certain problems and identifies paths to solutions.

In the sections below, the CRTC sets out an expectation on one issue and proposes various actions that it will consider undertaking, that service providers could voluntarily undertake, and that other stakeholders could consider further.

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## EXPECTATION REGARDING VULNERABLE CANADIANS

*“DYK? Telecoms offer accessibility plans—discounts or terms specifically designed to meet deaf, blind customers’ needs. However #CRTCforum is now hearing that more often than not accessibility customers are not informed of these offers or are told that the plans are not available.” – @BenKlass*

The CRTC strongly encourages service providers to review the record of this proceeding for instances where a customer’s situation made that person particularly vulnerable to misleading or aggressive sales practices, and to consider such instances in any review they may undertake of their sales practices and training documents.

Canadians who may be more vulnerable due to their age, a disability, or a language barrier would benefit from additional measures aimed at ensuring that consumers fully understand an offer and have sufficient time to consider their decision, including by reaching out to friends, family, or their service provider to discuss the details of the offer.

The CRTC is particularly concerned by comments, received from Canadians with disabilities and their advocates, that some of the Service Providers’ mobile wireless service packages offered at special rates to meet the needs of Canadians with disabilities are not known by sales personnel and cannot be combined, or are inconsistently combined, with their other general promotions and offers. These comments decried this practice as unfair and possibly misleading or aggressive, depending on the circumstances. **The CRTC considers that it is a best practice in the public interest for accessibility-related discounts to be offered in addition to any general offer or promotion, and expects this to be the case. This issue may be considered in a future proceeding.**

The CRTC notes that, as of the drafting of this report, Bill C-81, [An Act to ensure a barrier-free Canada](#), has passed the House of Commons and is before the Senate. Service providers would be required to comply with that Act if and when it comes into force. That Act may impose on service providers new obligations that could address issues related to accessibility more broadly and that may address issues raised by parties on the record of this proceeding regarding the experiences of Canadians with a disability with misleading or aggressive sales practices.

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## PROTECTING CANADIANS

**The CRTC has found that misleading or aggressive sales practices have a more serious effect on vulnerable Canadians.** To better protect vulnerable Canadians, the CRTC will consider:

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### CREATION OF AN INTERNET CODE OF CONDUCT

**The CRTC has launched a proceeding to consider the creation of an [Internet Code](#), independently from this report,** in light of the increasing importance of Internet services and the rising number of consumer complaints about them. This Code could potentially extend some of the protections that currently exist for wireless and television customers to Internet customers.

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## PROVISION OF SALES QUOTES

*“Ex post approach to complaints resolution can solve problems after they’ve happened; but isn’t an ounce of prevention worth a pound of cure? #CRTCforum For starters, how about forcing telco’s to show prospective customers the contract terms before being asked to sign?”*  
– @BenKlass

Some Service Providers noted that they are already providing or are planning to provide written sales quotes to customers to allow them to consider an offer at their own pace. These sales quotes have a predetermined expiration date to reflect the fact that rebates and offers change quickly.

**The CRTC finds that providing written, time-limited sales quotes is an efficient and feasible way to limit misleading or aggressive sales practices; it considers that service providers should provide such quotes to consumers.**

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## PROVISION OF A TRIAL PERIOD

Some parties suggested that all services should be subject to a trial period. Some Service Providers noted that they already offer trial periods, in part due to provincial laws requiring them to do so, while others argued that they should not be required to do so.

The CRTC notes that the Wireless Code and the Television Service Provider Code have some rules related to trial periods and early cancellation fees. The reasons underlying the creation of those rules could be applicable to other services. As noted above, a proceeding regarding the creation of an Internet Code has been launched, and a trial period has been proposed in the context of that proceeding.

**The CRTC finds that trial periods are an important tool to allow consumers to determine whether a service truly meets their needs.**

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## CCTS

Parties raised many suggestions and concerns relating to the CCTS, most of which would be more appropriately explored in a future CRTC review of the CCTS. The CRTC has announced that it will next review the CCTS in the 2022-2023 fiscal year, or earlier if deemed necessary. Here are some issues raised on the record of this proceeding that could be part of the considerations in that process:

- **The CCTS mandate.** As noted by many parties, including the CCTS, its mandate is to help Canadians with an existing business relationship with a service provider. In the case of misleading or aggressive sales practices, the CCTS cannot help a customer before they enter into a contract.
- **The challenge of evidence.** The CCTS noted that in helping customers with their complaints, it often faces situations where a customer has kept personal notes of what they were told, while service providers have their own internal documents, such as contracts, which may be considered more reliable but are not necessarily representative of the understanding of both parties.

- **Awareness of the CCTS.** The Ipsos Report noted that 30% of Canadians are aware of the CCTS. Some parties argued that this is insufficient, while the CCTS noted that it believes this is a high level of awareness for an ombudsman-type organization. This topic was discussed during the [last review of the CCTS](#) in 2016.

To have better data to assess any changes in Canadians' experiences with misleading or aggressive sales practices and whether an early review of the CCTS is necessary, the CRTC expects the CCTS to track information related to these types of complaints and to reflect that information in its annual report, including instances where a Canadian who is not a customer reaches out to the CCTS on this topic.

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## CREATION OF A SUITABILITY STANDARD

*"I don't want Canada's major telcomedia companies selling me what they want to sell me....I want them to sell me what I want from them, no matter how odd it may be." – @RaginRonic*

*"Replying to @cbcgopublic I am happy that this work is underway. I have seen my patients (older adults), many of them frail, cognitively impaired and socially isolated, pay for services such as internet that they did not even have." – @vellani\_shirin*

The record of the proceeding includes several examples of consumers being sold expensive telecommunications services that appear unsuited to their needs or financial means. Several parties, notably the Fair Communications Sales Coalition, argued that some form of suitability test is necessary, possibly modelled on the "Know Your Client" rules in the investment industry.

Several of the Service Providers stated that a suitability assessment is already part of their sales process. They argued that it is in their interest for consumers to be sold the right services and services they can afford, in order to promote sales and customer satisfaction. These Service Providers criticized the investment industry's "Know Your Client" model as being cumbersome, invasive of consumer privacy, and disproportionate given the relative importance of major investments and telecommunications purchases. Further, they claimed that it is difficult to define what is suitable for a given consumer and what is not. According to the Service Providers, upselling is a normal part of the sales process, and consumers should be free to buy premium packages that exceed their minimum needs, if that is what they want to do with their money.

On the basis of the record, the CRTC is of the view that a streamlined suitability test would require sales representatives to turn their minds to the needs of a consumer and the affordability of the products and services being sold to that consumer. Any such test should have a minimal impact on the sales process, permit reasonable upselling, and result in a record that could be reviewed by the customer. It would be reasonable to expect that the Service Providers could consider implementing such a measure as part of their internal measures aimed at minimizing occurrences of misleading or aggressive sales practices, particularly when it comes to selling to consumers who may be more vulnerable.

The CRTC will consider investigating the necessity of a mandatory suitability test and what would be included in such a test, either in the context of a proceeding to implement a code of conduct or as part of a stand-alone process.

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## TESTING THE MEASURES PUT IN PLACE BY SERVICE PROVIDERS ON AN ONGOING BASIS

The CRTC has found that the internal measures put in place by the Service Providers to address misleading or aggressive sales practices are not always effective. In order to test these measures on an ongoing basis, the CRTC will consider:

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### SECRET SHOPPER RESEARCH

The CRTC considers that secret shopper programs are an effective and feasible way to monitor the activities of service providers and to gather information on what issues are facing Canadians when they interact with service providers' salespersons.

The usefulness of first-hand secret shopper research was clearly demonstrated in the intervention by Dr. Mary Cavanagh, Kristianne Anor, Sean Grassie, and Tara Hristov from the University of Ottawa (referred collectively to as Cavanagh *et al.*), who submitted the results of their research using their own first-hand secret shopper program to evaluate the exchange of information in the purchase of wireless services. They found that there were barriers to consumers being provided the information they needed (such as pricing, offers, terms and conditions, limitations, and clarifications) to make informed decisions in the pre-purchase stage in that market. Such barriers included salespersons' reluctance to provide, or denial of requests for, written information the customer could take away with them; little use of follow-up questions by salespersons; uneven levels of salespersons' knowledge of products or services; and salespersons providing information that was incomplete or difficult to contextualize. Rogers and Shaw indicated that they carry out their own secret shopper programs. In at least one case, a service provider's secret shopper program appeared to have some results that were different from those of the research conducted by Cavanagh *et al.* The Service Providers did not file their secret shopper results or provide details on how their results varied from those of Cavanagh *et al.*'s study.

Given the importance of monitoring all service providers' retail sales practices through research and reporting initiatives, and the impartial evidence that secret shopper programs can provide for that purpose, **the CRTC will develop its own secret shopper program in the future, periodically targeting specific sales channels or locations across Canada.** This program will provide insights into Canadians' experiences with communications service providers. **The CRTC intends to publish the results of the secret shopper program for consumers to use as another piece of information when making decisions about their communications services.**

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### REPORTING ON COMPLAINTS

Some parties suggested that the CRTC should require service providers to provide, within a year of this report, an updated report on the complaints they have received regarding misleading or aggressive sales practices.

Clear definitions and reliable data on complaints will assist the CRTC in assessing the prevalence of misleading or aggressive sales practices and better identifying problematic service providers or sales channels. Such complaint data could help the CRTC to more clearly identify where it should target its efforts to reduce misleading or aggressive sales practices and other areas of consumer concern.

**The CRTC will consider what data should be submitted, if any, and on what basis.**

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#### ONGOING COMPLIANCE AND ENFORCEMENT

The CRTC recognizes that enforcement of policies is paramount to ensuring that expected results are achieved. The CRTC notes that in the [Review of the Wireless Code](#), it directed service providers to submit compliance reports on an annual basis, by 31 March of each year, to support its role in monitoring service providers for systemic non-compliance and enforcing the Wireless Code. The first cycle of the CRTC's review of these compliance reports is currently underway.

**The CRTC will closely monitor the effectiveness of ongoing compliance and enforcement efforts relating to the Wireless Code. Those measures that best promote compliance and better customer experiences will be considered for use in relation to misleading or aggressive sales practices.**

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#### MANDATORY COMPLIANCE MEASURES

The CRTC will consider imposing mandatory compliance measures and enhanced public reporting measures on service providers that fall below a predetermined threshold of acceptable behaviour with respect to misleading or aggressive sales practices. These measures would remain in place until the service provider demonstrates a consistent ability to stay above the threshold.

The CRTC believes a targeted compliance effort would be an efficient and proportionate response to problematic sales behaviours exhibited by specific service providers. While all the Service Providers have internal measures to prevent misleading or aggressive sales practices, it appears that a few of them are not implementing those measures effectively on the front lines and are failing to adequately monitor compliance. There is a gap between these measures and Canadians' experiences with misleading or aggressive sales practices. A targeted approach would allow the CRTC to deal with problems without penalizing service providers that demonstrate good practices and that are not the subject of complaints from consumers.

The threshold that would trigger mandatory compliance measures for a service provider could be linked to the elements of the CRTC's consumer codes and other consumer protection measures that the CRTC identifies as key to ethical sales practices. The test of whether a service provider falls below any established threshold would be designed to allow for exceptions where an unexpected or unavoidable event (such as a major billing software failure or a natural disaster) causes a service provider to temporarily fall below the threshold.

For service providers that fall below the threshold of acceptable sales practices, the mandatory measures could include:

- public reporting of the service provider’s failure to meet the threshold of acceptable sales practices;
- third-party auditing of the sales practices process;
- filing of a sales practices improvement plan with the CRTC, including an auditable compliance program covering areas such as training, sales force monitoring, pre- and post-sale disclosures, suitability tests, pricing and rebate transparency, clarity in billing and contracts, etc.;
- requiring service providers to create an independent committee of the Board of Directors that would be responsible for monitoring ethical sales practices;
- quarterly reporting by this independent committee on the status of the service provider’s sales practices improvement plan;
- annual public reporting to the CRTC on the progress of implementing the sales practices improvement plan; and
- imposing administrative monetary penalties (AMPs) for failure to meet the minimum threshold of acceptable sales practices within a reasonable period.

In the CRTC’s view, the creation of a sales practices improvement plan and public reporting on a service provider’s progress in implementing that plan would create an incentive for improvement and a road map to success. Public reporting would better enable consumers to make informed choices about the service providers they choose to do business with.

Some parties suggested that the CRTC should consider the regimes set out in the Financial Consumer Agency of Canada’s report entitled “Domestic Bank Retail Sales Practices Review” and proposed in [Bill C-86](#) when considering an appropriate compliance regime. The mandatory compliance measures outlined above build on that suggestion.

**Determining whether such a regime is necessary, and if so, what it would look like will require a future CRTC proceeding.**

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## **ADDRESSING GAPS IN THE AWARENESS AND EFFECTIVENESS OF EXISTING CONSUMER PROTECTIONS**

**The CRTC has found that there are gaps in the awareness and effectiveness of existing consumer protections.** In order to address these gaps, the CRTC will consider:

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### **PROVIDING GUIDANCE TO CANADIANS ON WHO CAN HELP**

Multiple levels of government, regulators, and organizations have rules relating to misleading or aggressive sales practices, each with different avenues for resolving complaints. Some parties argued that some consumer protection measures overlap such that it is not clear what rules and governing bodies apply. Furthermore, some raised concerns that the onus is on customers to know what the consumer protection rules are and who can help them when they have experienced

misleading or aggressive sales practices. Every consumer protection organization has a responsibility to improve consumer awareness of its mandate and services.

When a consumer brings a complaint to the wrong consumer protection organization, there is an informal practice that may be applied to redirect the complaint to the appropriate body. For example, Bell Canada noted that when consumers complain to the “wrong body” (such as a provincial department or the CRTC), they will generally be redirected to the CCTS.

While this informal approach does result in positive outcomes on a case-by-case basis, the CRTC finds that there is an overall need for greater awareness so that consumers can better understand where to direct their consumer protection concerns and how the various government bodies, and non-governmental bodies such as the CCTS, can help.

**The CRTC intends to create new consumer tools, such as a checklist that would be available on its website, to inform Canadians of the rules that apply and the organizations to which it would be appropriate to address a specific type of complaint.** These tools would provide a road map of rights and remedies for Canadians who believe they have experienced misleading or aggressive retail sales practices by the Service Providers.

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#### CREATION OF NEW CODES OF CONDUCT

The CRTC recognizes that many communications services are now sold as bundles. In light of this trend, the CRTC considers that the consumer protections set out in its various codes may be more efficient and effective if the codes were harmonized and applied consistently to all services in a bundle. **The CRTC will consider whether harmonizing its existing codes is warranted after the Internet Code proceeding is finished and any resulting code comes into force.**

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#### SHARING CONSUMER PROTECTION BEST PRACTICES ACROSS CANADA

There is a valuable opportunity for agencies and regulators at various levels of government that have a consumer protection mandate to learn from each other about the best methods for addressing misleading or aggressive sales practices. By sharing information about processes and policies, they could improve their practices, deliver better results for Canadians, and develop more consistent and predictable approaches to misleading or aggressive sales practices. Sharing analysis of emerging trends in misleading or aggressive sales practices could allow all agencies to react more quickly to practices of concern.

Over the long term, the sharing of best practices among consumer protection agencies and regulators could lead to changes in consumer protection laws, making it easier for Canadian consumers to understand those laws when they have a problem and reducing perceived gaps in protection or barriers to getting complaints resolved.

**The CRTC intends to reach out to other consumer protection agencies and regulators at the federal and provincial or territorial levels so that engaged and willing agencies can share information and develop best practices related to combatting misleading or aggressive sales practices.**

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## BEST PRACTICES FOR SERVICE PROVIDERS

In addition to the actions the CRTC can undertake (as outlined above), there are best practices that build upon the many different internal measures proposed by the Service Providers and other parties that are aimed at minimizing occurrences of misleading or aggressive sales practices. Some Service Providers submitted that they are going beyond what is required of them and that they have already implemented some of these best practices. **The CRTC considers that many of the proposed internal measures could be considered best practices and suggests that service providers consider implementing these measures to address concerns about misleading or aggressive sales practices.**

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## AVAILABILITY OF RECORDED CALLS OR CHAT LOGS

Customers need to be able to verify that the service they are receiving matches the service they were sold; an efficient way to achieve this is for them to have access to a recording or transcript of their calls or chat sessions in a timely manner. Many Service Providers noted that this is already the case. However, some Canadians noted that they were not aware of this option.

**The CRTC considers that customers should have access to the recordings or transcripts of their interactions with a service provider at no cost and within a reasonable time frame, and they need to be made aware that those recordings or transcripts are available.** The CRTC further considers that service providers should evaluate whether their practices regarding recordings or transcripts are sufficient to reduce misleading or aggressive sales practices and to ensure that they review consumers' calls promptly when assessing a complaint.

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## REGULAR REVIEWS OF INTERNAL MEASURES

Some parties raised concerns about some of the practices and internal measures used by the Service Providers. The CRTC considers that the Service Providers should (a) conduct regular reviews to determine where failures occur in their internal measures' mitigation of misleading or aggressive sales practices and (b) address those failures with regard to their sales force's compensation scheme, their use of third-party sales agents, and all sales force policies and training materials, to ensure their effectiveness in minimizing occurrences of misleading or aggressive sales practices as intended.

The CRTC reminds the Service Providers of the Ipsos Report finding that instances where the customer feels they don't have a choice about engaging in a sales interaction are the most frustrating. The CRTC notes that while customers may like in-home service, they may prefer it to take place based upon an appointment, rather than through a door-to-door interaction.

**The CRTC considers that the voluntary implementation of a "do not knock" list, as discussed during the hearing, is a concrete action that the industry could take to show that it is taking Canadians' concerns seriously.**

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## ENSURING SALES INTERACTIONS MEET THE ACCESSIBILITY NEEDS OF CANADIANS

The Service Providers should consider how Canadians who may be more vulnerable due to their age, a disability, or a language barrier could be better empowered to make informed decisions about their services through the approaches used by the Service Providers. These approaches could include solutions such as tablets preloaded with sign language videos explaining key concepts being available in store fronts and kiosks, or training for sales staff about how to better serve these customers.

The CRTC considers that such efforts should be made through consultation with representatives of these segments of the population to ensure that the internal measures being developed are effective and appropriate.

Additionally, **the CRTC finds that it is a best practice for service providers to offer accessibility plans in addition to general promotions and other offers. The CRTC expects service providers to adopt such an approach consistently for consumers requesting accessibility services and to ensure their salespersons are trained appropriately to implement these plans.**

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There were a number of other proposals made in the proceeding; however, **the CRTC considers that more research by the appropriate governing bodies is necessary to properly assess whether or not these proposals would be effective or necessary.**

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## CREATION OF A TELECOMMUNICATION CONSUMER ORGANIZATION

Several parties suggested that there needs to be a greater role for advocates on behalf of consumers. Impartial bodies with objectives such as handling complaints (CCTS) or adjudication and policy development (CRTC) cannot act as consumer advocates. Consumer interests may be better served by broad-based advocacy groups with stable funding to promote research and expertise.

Democracy Watch submitted that a Telecommunication Consumer Organization could be created based on the Citizen Utility Board model that exists in four U.S. states. It would be a federally chartered, non-profit organization designed to represent and educate consumers on telecommunications industry issues. It would advocate before industry regulators, the Government, and the courts for fair service from telecommunications service providers, and it would educate consumers on issues such as services, charges, and fees. This proposal was supported by some parties representing consumer interests.

Other parties submitted that the funding of existing consumer advocacy groups working on these issues would also be beneficial.

While the CRTC sees potential benefits to Democracy Watch's proposal, the creation of such an organization does not fall within the CRTC's mandate. The appropriate government bodies should gather further information to ensure that this proposal would be effective and to avoid overlap with the CCTS's consumer complaints handling activities. These bodies could then determine whether

the creation of such an organization is an effective means to address concerns about sales practices.

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## ADMINISTRATIVE MONETARY PENALTIES (AMPS)

Many parties suggested that the CRTC should consider applying enforcement mechanisms, up to and including AMPS, for instances of repeated non-compliance with existing consumer protections. The CRTC always considers AMPS on a case-by-case basis for non-compliance with service providers' regulatory requirements, and it intends to maintain this approach. If the CRTC develops further regulations and tools to address misleading or aggressive sales practices (such as mandatory compliance measures), AMPS could be used to promote future compliance by service providers.

The CRTC notes that the *Broadcasting Act* does not currently contemplate the imposition of AMPS in cases of non-compliance with requirements under that Act, but that such a tool in the domain of broadcasting would make managing compliance more effective and targeted.

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## WHOLESALE CONCERNS

Canadians may buy retail telecommunications services from service providers that purchase access to networks from wholesale service providers. Some of the retail Service Providers expressed concerns about the misleading or aggressive sales practices used by wholesale service providers (or their third-party agents) in interactions with their wholesale customers' end-users. Some also expressed concern that salespersons may misrepresent another service provider's offering – in other words, they accused the wholesale service providers' representatives of trying to steer customers to their company's own associated retail service. This concern was echoed by some Canadians who filed interventions or participated in the #CRTCforum during the proceeding, including the reporting of an alleged instance the week before the oral public hearing phase of the proceeding.

Other Service Providers submitted that they have seen these alleged actions over the years, but such actions are spoken about only in generalities during CRTC hearings. They also submitted that they have rules in place that should prevent these types of behaviours from happening. One Service Provider noted being aware of a single instance when misrepresentation may have happened.

The record of this proceeding is not sufficient to determine whether this issue is founded at this time.

## CONCLUSION

Misleading or aggressive retail sales practices are present in the telecommunications service market in Canada and, to some extent, in the television service market. The effects of these practices are harmful to Canadian consumers, in particular those who may be vulnerable due to their age, a disability, or a language barrier. This is a problem of serious concern to the CRTC.

The CRTC has conducted an in-depth examination of the Service Providers' internal measures and the laws or regulations designed to protect consumers from misleading or aggressive retail sales practices. As a result, the CRTC considers that there are effective ways to strengthen existing consumer protections to ensure that Canadians are not subject to misleading or aggressive sales practices and can obtain redress when necessary.

The CRTC will consider implementing new consumer protections as outlined in this report. It also encourages the Service Providers to learn from the matters discussed on the record of this proceeding, whether it be examples of misleading or aggressive sales practices cited by Canadians or examples of best practices cited by other Service Providers. In some cases, improvements in this area will rely on the Service Providers' own initiatives and on the research and work of other persons such as research groups or other government bodies.

This report to the Governor in Council is an important step in empowering consumers and promoting fair treatment of Canadians. The CRTC will further investigate the effective and feasible ways of strengthening consumer protections that are presented in this report and will keep the Government and the public informed of its progress on the actions it undertakes to address misleading or aggressive sales practices in the communications market.