

**FEDERAL COURT OF APPEAL**

B E T W E E N:

BELL CANADA, BELL MOBILITY INC., MTS INC., NORTHERNTEL,  
LIMITED PARTNERSHIP, ROGERS COMMUNICATIONS PARTNERSHIP,  
SASKATCHEWAN TELECOMMUNICATIONS, TÉLÉBEC, SOCIÉTÉ EN  
COMMANDITE and TELUS COMMUNICATIONS COMPANY

Applicants

- and -

AMTELECOM LIMITED PARTNERSHIP, BRAGG COMMUNICATIONS INC., DATA &  
AUDIO-VISUAL ENTERPRISES WIRELESS INC., GLOBALIVE WIRELESS  
MANAGEMENT CORP., HAY COMMUNICATIONS CO-OPERATIVE LIMITED, HURON  
TELECOMMUNICATIONS CO-OPERATIVE LIMITED, MORNINGTON  
COMMUNICATIONS CO-OPERATIVE LIMITED, NEXICOM MOBILITY INC.,  
NORTHWESTEL INC., PEOPLE'S TEL LIMITED PARTNERSHIP, PUBLIC MOBILE INC.,  
QUADRO COMMUNICATIONS CO-OPERATIVE INC., QUEBECOR MEDIA INC.,  
SOGETEL MOBILITÉ INC., THUNDER BAY TELEPHONE, VAXINATION  
INFORMATIQUE, CONSUMERS' COUNCIL OF CANADA, DIVERSITYCANADA  
FOUNDATION, MEDIA ACCESS CANADA, MOUVEMENT PERSONNE D'ABORD DU  
QUÉBEC, PUBLIC INTEREST ADVOCACY CENTRE, CONSUMERS' ASSOCIATION OF  
CANADA, COUNCIL OF SENIOR CITIZENS' ORGANIZATIONS OF BRITISH  
COLUMBIA, OPENMEDIA.CA, SERVICE DE PROTECTION ET D'INFORMATION DU  
CONSOMMATEUR, UNION DES CONSOMMATEURS, CANADIAN WIRELESS  
TELECOMMUNICATIONS ASSOCIATION, COMMISSIONER FOR COMPLAINTS FOR  
TELECOMMUNICATIONS SERVICES INC., COMPETITION BUREAU OF CANADA,  
GLENN THIBEAULT, HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,  
GOVERNMENT OF MANITOBA, GOVERNMENT OF THE NORTHWEST TERRITORIES,  
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, ATTORNEY GENERAL OF  
QUEBEC, GOVERNMENT OF YUKON, OFFICE OF THE PRIVACY COMMISSIONER OF  
CANADA, CATHERINE MIDDLETON, TAMARA SHEPHERD, LESLIE REGAN SHADE,  
KIM SAWCHUK, BARBARA CROW, SHAW TELECOM INC., TERRY DUNCAN, GLENN  
FULLERTON, TANA GUINDEBA, NASIR KHAN, MICHAEL LANCIONE, ALLAN  
MUNRO, FREDERICK A. NAKOS, RAINER SCHOENEN and DANIEL SOKOLOV

Respondents

**MOTION RECORD**

**(Motion for leave to appeal, to expedite, to authorize service by email  
and to dispense with further service)**

# TABLE OF CONTENTS

## TABLE OF CONTENTS

<b>Tab</b>		<b>Pages</b>
1.	Notice of Motion	1 - 8
	Schedule A - Proposed timetable	9
	Schedule B – Email distribution list (respondents only)	10-11
2.	Telecom Regulatory Policy CRTC 2013-271 – The Wireless Code	12 - 77
	Appendix 1 – Wireless Code	78 - 89
3.	Telecom Decision CRTC 2012-556	90 - 98
4.	Telecom Notice of Consultation CRTC 2012-557	99 - 111
5.	Affidavit of John Meldrum	112 - 118
	Exhibit A - Letter from CWTA to CRTC	119 - 121
	Exhibit B - Letter from CRTC staff to CWTA	122 - 125
	Exhibit C - Printout from CRTC Twitter account	126 - 128
	Exhibit D - Chart listing parties to the Wireless Code proceeding and their email addresses	129 - 141
6.	Applicants' Memorandum of Fact and Law	142 - 166

TAB 1

Court File No.

**FEDERAL COURT OF APPEAL**

B E T W E E N:

BELL CANADA, BELL MOBILITY INC., MTS INC., NORTHERNTEL,  
LIMITED PARTNERSHIP, ROGERS COMMUNICATIONS PARTNERSHIP,  
SASKATCHEWAN TELECOMMUNICATIONS, TÉLÉBEC, SOCIÉTÉ EN  
COMMANDITE and TELUS COMMUNICATIONS COMPANY

Applicants

- and -

AMTELECOM LIMITED PARTNERSHIP, BRAGG COMMUNICATIONS INC., DATA &  
AUDIO-VISUAL ENTERPRISES WIRELESS INC., GLOBALIVE WIRELESS  
MANAGEMENT CORP., HAY COMMUNICATIONS CO-OPERATIVE LIMITED, HURON  
TELECOMMUNICATIONS CO-OPERATIVE LIMITED, MORNINGTON  
COMMUNICATIONS CO-OPERATIVE LIMITED, NEXICOM MOBILITY INC.,  
NORTHWESTEL INC., PEOPLE'S TEL LIMITED PARTNERSHIP, PUBLIC MOBILE INC.,  
QUADRO COMMUNICATIONS CO-OPERATIVE INC., QUEBECOR MEDIA INC.,  
SOGETEL MOBILITÉ INC., THUNDER BAY TELEPHONE, VAXINATION  
INFORMATIQUE, CONSUMERS' COUNCIL OF CANADA, DIVERSITYCANADA  
FOUNDATION, MEDIA ACCESS CANADA, MOUVEMENT PERSONNE D'ABORD DU  
QUÉBEC, PUBLIC INTEREST ADVOCACY CENTRE, CONSUMERS' ASSOCIATION OF  
CANADA, COUNCIL OF SENIOR CITIZENS' ORGANIZATIONS OF BRITISH  
COLUMBIA, OPENMEDIA.CA, SERVICE DE PROTECTION ET D'INFORMATION DU  
CONSOMMATEUR, UNION DES CONSOMMATEURS, CANADIAN WIRELESS  
TELECOMMUNICATIONS ASSOCIATION, COMMISSIONER FOR COMPLAINTS FOR  
TELECOMMUNICATIONS SERVICES INC., COMPETITION BUREAU OF CANADA,  
GLENN THIBEAULT, HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,  
GOVERNMENT OF MANITOBA, GOVERNMENT OF THE NORTHWEST TERRITORIES,  
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, ATTORNEY GENERAL OF  
QUEBEC, GOVERNMENT OF YUKON, OFFICE OF THE PRIVACY COMMISSIONER OF  
CANADA, CATHERINE MIDDLETON, TAMARA SHEPHERD, LESLIE REGAN SHADE,  
KIM SAWCHUK, BARBARA CROW, SHAW TELECOM INC., TERRY DUNCAN, GLENN  
FULLERTON, TANA GUINDEBA, NASIR KHAN, MICHAEL LANCIONE, ALLAN  
MUNRO, FREDERICK A. NAKOS, RAINER SCHOENEN and DANIEL SOKOLOV

Respondents

**NOTICE OF MOTION**

**(Motion for leave to appeal, to expedite, to authorize service by email  
and to dispense with further service)**

TAKE NOTICE THAT the applicants will make a motion in writing to the Court under  
Rules 352 and 369 of the *Federal Courts Rules*.

THE MOTION IS FOR an order

- (a) granting leave to appeal to this Court from Telecom Regulatory Policy CRTC 2013-271, issued by the Canadian Radio-television and Telecommunications Commission (“CRTC”) on 3 June 2013, establishing the Wireless Code (the “Wireless Code decision”), insofar as it purports to give the Wireless Code retrospective application to wireless service contracts entered into between wireless service providers and their customers before the Wireless Code comes into force;
- (b) expediting the disposition of this motion in writing and, if leave to appeal is granted, expediting the hearing of the appeal by setting it down for the earliest date available to the Court;
- (c) if the relief requested in paragraphs (a) and (b) is granted, fixing the time for completion of the steps in the appeal in accordance with the timetable at Schedule A;
- (d) directing that the respondents to this motion, and if leave to appeal is granted, to the appeal, be the persons and entities listed as respondents in the style of cause to this notice of motion;
- (e) validating service of the motion record on the respondents by email at the addresses listed at Schedule B to the notice of motion and on the other parties to the CRTC’s *Proceeding to establish a mandatory code for mobile wireless devices*, Telecom Notice of Consultation 2012-557, as amended by Telecom Notices of Consultation 2012-557-1, 2012-557-2, 2012-557-3, 2012-557-4 and 2012-557-5 (the “Wireless Code proceeding”) by email at the addresses listed at Exhibit D to the Meldrum affidavit;
- (f) if leave to appeal is granted, authorizing service of the notice of appeal on the respondents by email at the addresses listed at Schedule B to the notice of motion and on the other parties to the Wireless Code proceeding by email at the addresses listed at Exhibit D to the Meldrum affidavit;
- (g) dispensing with service of the motion record, and if leave to appeal is granted, of the notice of appeal, on any person or entity other than the CRTC, the Attorney

General of Canada and the persons and entities listed in Exhibit D to the Meldrum affidavit who provided their email address to the CRTC;

- (h) granting the applicants their costs of this motion; and
- (i) granting such further relief as this Court may deem just.

THE GROUNDS FOR THE MOTION ARE

**The applicants' participation before the CRTC**

- (a) The applicants are wireless service providers. They were parties in the Wireless Code proceeding.

**The Wireless Code**

- (b) The Wireless Code sets out mandatory requirements applicable to most wireless service contracts.
- (c) These include the requirements that an early cancellation fee must not exceed the value of the device subsidy received by the customer, and that the early cancellation fee be amortized over a maximum of two years such that the early cancellation fee after two years will be zero. In effect, therefore, under the Wireless Code customers may terminate their wireless service contracts after two years without paying any cancellation fee.

**Coming into force of the Wireless Code**

- (d) The Wireless Code decision provides that:
  - (i) “all aspects of the Wireless Code will take effect on 2 December 2013”;
  - and
  - (ii) “the Wireless Code should apply to all contracts, no matter when they were entered into, by no later than 3 June 2015.”
- (e) The CRTC has, through its staff, taken inconsistent positions as to whether the Wireless Code applies on a mandatory basis to contracts entered into before 2 December 2013.

**Retrospective application to pre-existing contracts**

- (a) If the Wireless Code decision applies to all contracts by 3 June 2015, then any contract that was entered into before 2 December 2013 and that terminates after 3 June 2015 will be subject to the Wireless Code.
- (b) The effect of the application of the Wireless Code to pre-existing contracts would be to override significant terms of these pre-existing contracts.
- (c) For example, the majority of wireless service contracts that are entered into by customers have fixed terms of three years. The pricing of services provided under these contracts typically incorporates a subsidy for the provision of a mobile phone device. Under most contracts currently offered by wireless service providers, the device subsidy is forgiven over the term of the contract. In most cases, wireless service providers recover device subsidies either through monthly payments made under fixed-term contracts or through early cancellation fees.
- (d) The retrospective application of the Wireless Code decision to pre-existing contracts, and in particular the requirements that early cancellation fees be limited to the amount of any unpaid device subsidy and that a device subsidy be amortized over a maximum of two years, means that wireless service providers may not be able to recover the full cost of device subsidies provided to customers whose contracts expire after 3 June 2015.

**The test for granting leave to appeal**

- (e) By section 64 of the *Telecommunications Act*, S.C. 1993, c. 38, an appeal lies to this Court from a decision of the CRTC on any question of law or of jurisdiction, with leave of the Court.
- (f) Leave to appeal will be granted when the proposed appeal raises an arguable error of law or jurisdiction.

**The test for granting leave to appeal is met**

- (g) The CRTC has no authority under the *Telecommunications Act* to engage in retrospective rule-making.

- (h) Even where an administrative body has jurisdiction to engage in retrospective rule-making, rules will not be given retrospective effect unless they clearly express that intention.
- (i) The CRTC exceeded its jurisdiction and erred in law by purporting to render the Wireless Code retrospectively applicable to contracts entered into between wireless service providers and their customers before the Wireless Code comes into force on 2 December 2013.

### **Expediting the motion and the appeal**

- (j) It is essential that this motion and, if leave to appeal is granted, the appeal, be heard and determined as expeditiously as possible in order to provide wireless service providers and their customers certainty as to the terms applicable to contracts concluded before 2 December 2013 that terminate after 3 June 2015.
- (k) Since the decision was issued, wireless service providers have continued to enter into contracts with customers, and will continue to do so in the period leading up to the coming into force of the Wireless Code on 2 December 2013, which includes the industry's two busiest sales periods, the back-to-school and pre-holiday periods.
- (l) The application of the Wireless Code to those contracts that terminate after 3 June 2015 is uncertain. This uncertainty has led and will lead to confusion in the marketplace, which will only be resolved once this motion is determined and, if leave to appeal is granted, the appeal is heard and a decision is rendered.
- (m) The proposed appeal raises genuine and serious issues for determination with respect to the CRTC's jurisdiction to render the Wireless Code applicable to contracts concluded before the Code comes into force.
- (n) The respondents will not be prejudiced if this Court grants an order expediting the motion and, if leave to appeal is granted, the appeal.

### **Determining the proper respondents**

- (o) The CRTC received comments from over 5,000 participants as part of its consultation process in its Wireless Code proceeding. 1,055 participants were parties in the proceeding. Of these parties, the CRTC identified 61 in the Wireless

Code decision under the following broad categories: wireless service providers, consumer advocacy groups, governments and other associations and members of the public who appeared at the hearing.

- (p) The applicants have named as respondents to this motion all parties identified in the decision, other than the applicants and their affiliates. The named respondents are all of the parties in the proceeding whose participation was sufficiently meaningful to warrant mention in the decision, including those members of the public who appeared at the hearing. To require that those parties that the CRTC did not identify in the decision be named as respondents to either this motion or, if leave to appeal is granted, the appeal, would be unduly burdensome for the Court and the parties.

**Service by email and dispensing with further service**

- (q) During the Wireless Code proceeding, the CRTC communicated with parties by way of an e-mail distribution list. For the applicants to effect personal service of the motion record and, if leave to appeal is granted, of the notice of appeal, on all the parties would be unduly burdensome. In the case of the members of the public who submitted comments on the Internet, personal service would likely be impossible in many cases where a home address was not provided.
- (r) Service on the participants by email using the distribution list used by the CRTC would serve the interest of justice by ensuring that every party who participated meaningfully in the Wireless Code proceeding receives notice of this motion and, if leave to appeal is granted, of the appeal.

**Statutes and regulations relied on**

- (s) Sections 24 and 64 of the *Telecommunications Act*, S.C. 1993, c. 38.
- (t) Rules 3, 4, 8, 55, 136, 147, 338, 339, 352 and 369 of the *Federal Courts Rules*, SOR 98/106.
- (u) Such further grounds as may be advised.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Wireless Code decision.
- (b) Telecom Decision CRTC 2012-556.
- (c) Telecom Notice of Consultation CRTC 2012-557.
- (d) The affidavit of John Meldrum and attached exhibits.
- (e) Such further evidence as may be advised and the Court may permit.

July 2, 2013

---

**Torys LLP**

79 Wellington St. W., Suite 3000  
Box 270, TD Centre  
Toronto, ON M5K 1N2  
Fax: 416.865.7380

John B. Laskin  
Tel: 416.865.7317  
jlaskin@torys.com

Myriam Seers  
Tel: 416.865.7535  
mseers@torys.com

Lawyers for the Applicants

TO: **The Administrator**  
Federal Court of Appeal  
180 Queen Street West  
Suite 200  
Toronto, Ontario M5V 3L6

AND TO: **Attorney General of Canada**  
c/o The Administrator  
Federal Court of Appeal  
180 Queen Street West  
Suite 200  
Toronto, Ontario M5V 3L6

AND TO: **Canadian Radio-television and Telecommunications  
Commission**  
55 St. Clair Avenue East  
Suite 624  
Toronto, Ontario M4T 1M2

AND TO: **Parties in the Wireless Code Proceeding**  
(By Email)

**Schedule A**

**PROPOSED TIMETABLE**

<b>Step</b>	<b>Date</b>
<i>Motion for leave to appeal</i>	
Respondents serve and file their memorandum of fact and law and any supporting affidavits	15 days after service of the motion record
Applicants serve and file their reply to the memorandum of fact and law of the respondents	5 days after service of the respondents' memorandum of fact and law
<i>Appeal (if leave to appeal is granted)</i>	
Applicants issue and serve notice of appeal	5 days after decision granting leave
Respondents serve and file notices of appearance	5 days after service of notice of appeal
Parties serve and file joint appeal book	20 days after notice of appeal, and no later than 30 days before the hearing date
Applicants serve and file memorandum of fact and law	25 days after notice of appeal, and no later than 20 days before the hearing date
Respondents serve and file memorandum of fact and law	15 days after service of applicants' memorandum of fact and law, and no later than 10 days before the hearing date
Parties serve and file joint book of authorities	5 days after service of applicants' memorandum of fact and law, and no later than 5 days before the hearing date

**Schedule B****RESPONDENTS' EMAIL ADDRESSES**

<b>Respondent</b>	<b>Email Address</b>
Amtelecom Limited Partnership	regulatory.matters@corp.eastlink.ca
Bragg Communications Inc., operating as EastLink	regulatory.matters@corp.eastlink.ca
Data & Audio-Visual Enterprises Wireless Inc., operating as Mobilicity	gary.wong@mobility.ca
Globalive Wireless Management Corp., operating as WIND Mobile	ljackson@windmobile.ca
Hay Communications Co-operative Limited	hay@hay.net
Huron Telecommunications Co-operative Limited	grubb@hurontel.on.ca
Mornington Communications Co-operative Limited	rbanks@mornington.ca
Nexicom Mobility Inc.	pdowns@nexicomgroup.net
Northwestel Inc.	dallas.yeuett@nwtel.ca
People's Tel Limited Partnership	regulatory.matters@corp.eastlink.ca
Public Mobile Inc.	jamie.greenberg@publicmobile.ca
Quadro Communications Co-operative Inc.	barry.stone@quadro.net
Quebecor Media Inc.	dennis.beland@quebecor.com
Sogetel Mobilité inc.	sylvain.bellerive@sogetel.com
Thunder Bay Telephone	david.wilkie@tbaytel.com
Vaxination Informatique	jfmezei@vaxination.ca
Consumers Council of Canada	whitehurst@consumerscouncil.com
DiversityCanada Foundation	celiasankar@bellgiveourmoneyback.com
Media Access Canada on behalf of the Access 2020 Group of Accessibility Stakeholders	bmilligan@mediac.ca
Mouvement Personne d'Abord du Québec	mpdaqm@videotron.ca
Public Interest Advocacy Centre	lawford@piac.ca
Consumers' Association of Canada	lawford@piac.ca
Council of Senior Citizens' Organizations of British Columbia	aakube@telus.net
OpenMedia.ca	tisrael@cippic.ca
Service de protection et d'information du consommateur	sylvie@serviceconsommateur.org
Union des consommateurs	slambert-racine@uniondesconsommateurs.ca
Commissioner for Complaints for Telecommunications Services Inc.	howard.maker@ccts-cprst.ca
Competition Bureau of Canada	compbureau@cb-bc.gc.ca
Glenn Thibeault, Member of Parliament for Sudbury (New Democratic Party)	glenn.thibeault@parl.gc
Attorney General of Alberta	denise.perret@gov.ab.ca
Minister of Service Alberta	calgary.montrose@assembly.ab.ca

<b>Respondent</b>	<b>Email Address</b>
Manitoba Department of Healthy Living, Seniors and Consumers Affairs	dmhliv@leg.gov.mb.ca
Government of the Northwest Territories	linda_maljan@gov.nt.ca
Attorney General of Ontario	attorneygeneral@ontario.ca
Ontario Ministry of Consumer Services	giles.gherson@ontario.ca
Attorney General of Quebec	ministre@justice.gouv.qc.ca
Ministère de la Culture et des Communications, Gouvernement du Québec	andre.labrie@mcc.gouv.qc.ca
Attorney General of Yukon	lisa.badenhorst@gov.yk.ca
Office of the Privacy Commissioner of Canada	arun.bauri@priv.gc.ca
Catherine Middleton	catherine.middleton@ryerson.ca
Tamara Shepherd	tamara.shepherd@ryerson.ca
Leslie Regan Shade	leslie.shade@utoronto.ca
Kim Sawchuk	kim.sawchuk@sympatico.ca
Barbara Crow	bacrow@yorku.ca
Shaw Telecom Inc.	Regulatory@sjrb.ca
Terry Duncan	terryd@nucleus.com
Glenn Fullerton	gf999111@gmail.com
Tana Guindeba	tguindeba@yahoo.fr
Nasir Khan	kehbidona@yahoo.com
Michael Lancione	michaellancione@hotmail.com
Allan Munro	mail@allanmunro.com
Frederick A. Nakos	[No contact information provided]
Rainer Schoenen	rs@sce.carleton.ca
Daniel Sokolov	daniel@falco.ca

TAB 2



## Telecom Regulatory Policy CRTC 2013-271

PDF version

Route references: Telecom Notices of Consultation 2012-557, 2012-557-1, 2012-557-2, 2012-557-3, 2012-557-4, and 2012-557-5

Ottawa, 3 June 2013

### The Wireless Code

File number: 8665-C12-201212448

*In this decision, the Commission establishes the Wireless Code, a mandatory code of conduct for providers of retail mobile wireless voice and data services.*

*The Wireless Code will make it easier for individual and small business consumers to get information about their contracts with wireless service providers and about their associated rights and responsibilities, establish standards for industry behaviour, and contribute to a more dynamic marketplace.*

*The Wireless Code significantly limits the early cancellation fees that are currently sought by retail wireless service providers, which will enable consumers to take advantage of competitive offers at least every two years. Among other things, the Wireless Code requires service providers to unlock wireless devices, to offer a trial period for wireless contracts, and to set default caps on data overage charges and data roaming charges.*

*The Wireless Code will take effect on **2 December 2013**, and will apply to all new or amended wireless service contracts from that day forward.*

### Introduction

1. In this decision, the Commission establishes the Wireless Code (or the Code), a mandatory code of conduct for all providers of retail mobile wireless voice and data services (wireless services).
2. The Wireless Code establishes new requirements for wireless service providers (WSPs) to (i) ensure that consumers are empowered to make informed decisions about wireless services; and (ii) contribute to a more dynamic marketplace by making it easier for consumers to take advantage of competitive offers.
3. The **Wireless Code** is set out in **Appendix 1** to this decision.
4. **Your Rights as a Wireless Consumer**, a checklist that highlights the most important aspects of the Wireless Code for consumers, is set out in **Appendix 2** to this decision.

## Overview of the public proceeding

5. In Telecom Decision 2012-556, the Commission determined that it was necessary to establish a mandatory code of conduct for WSPs. The Wireless Code would address the clarity and content of contracts<sup>1</sup> for wireless services and related issues to ensure that consumers are empowered to make informed choices in the competitive market.
6. In Telecom Notice of Consultation 2012-557, the Commission initiated a proceeding to develop the Wireless Code (the proceeding). The Commission asked for comments on (i) the content of the Wireless Code; (ii) to whom the Wireless Code should apply; (iii) how the Wireless Code should be enforced and promoted; and (iv) how the Wireless Code's effectiveness should be assessed and reviewed.
7. The Commission stated its preliminary view that the Wireless Code should address (i) the clarity of WSPs' contract terms and conditions; (ii) changes to these terms and conditions; (iii) contract cancellation, expiry, and renewal; (iv) the clarity of advertised prices; (v) the application of the Code to bundles of telecommunications services; (vi) customer notifications of additional fees; (vii) privacy policies; (viii) hardware warranties and related issues; (ix) loss or theft of hardware; (x) security deposits; and (xi) disconnections. The Commission also called for comments on any other provisions that would enable consumers to better understand their rights with respect to mobile wireless services.
8. The proceeding included a two-phase online consultation to enable individual Canadians to participate easily in the development of the Code. In Telecom Notice of Consultation 2012-557-3, the Commission published the "Wireless Code Working Document" (the Draft Code) to stimulate discussion and debate. The proceeding also included a public hearing, which took place from 11 to 15 February 2013.
9. The Commission received comments from over 5,000 participants, including hundreds of individual Canadians, as part of the online consultation and interventions in the proceeding.
10. The following WSPs participated in the proceeding: Amtelecom Limited Partnership; Bell Aliant Regional Communications, Limited Partnership, Bell Canada, KMTS, and NorthernTel, Limited Partnership (collectively, Bell Canada et al.); Bell Mobility Inc., on behalf of itself, Solo, and Virgin Mobile; Bragg Communications Inc., operating as EastLink (EastLink); Data & Audio-Visual Enterprises Wireless Inc., operating as Mobilicity (Mobilicity); Globalive Wireless Management Corp., operating as WIND Mobile (WIND); Hay Communications Co-operative Limited; Huron Telecommunications Co-operative Limited; Mornington Communications Co-operative Limited; MTS Inc. and Allstream Inc. (collectively, MTS Allstream); Nexicom Mobility Inc.; Northwestel Inc.; People's Tel Limited Partnership; Public Mobile Inc. (Public Mobile); Quadro Communications Co-operative Inc.;

---

<sup>1</sup> In the context of this decision, a "contract" is the contractual relationship between the WSP and the customer. It includes terms and conditions, including rates. A "written contract" is a written instrument that expresses the content of the contract.

Quebecor Media Inc. on behalf of Videotron G.P. (Videotron); Rogers Communications Partnership (RCP); Saskatchewan Telecommunications (SaskTel); Sogetel Mobilité inc.; TBayTel; TELUS Communications Company (TCC); and Vaxination Informatique (Vaxination).

11. The following consumer advocacy groups participated in the proceeding: the Consumers Council of Canada (CCC); DiversityCanada Foundation (Diversity); Media Access Canada (MAC) on behalf of the Access 2020 Group of Accessibility Stakeholders; the Mouvement Personne d'Abord du Québec; the Public Interest Advocacy Centre, as well as the Consumers' Association of Canada, and the Council of Senior Citizens' Organizations of British Columbia (collectively, PIAC et al.); the Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic on behalf of its client, OpenMedia.ca (OpenMedia); the Service de protection et d'information du consommateur (SPIC); and l'Union des consommateurs (l'Union).
12. Other participants included the following: the Canadian Wireless Telecommunications Association (CWTA); the Commissioner for Complaints for Telecommunications Services Inc. (CCTS); the Competition Bureau of Canada; Glenn Thibeault, Sudbury, Member of Parliament; the Government of Alberta; the Government of Manitoba's department of Healthy Living, Seniors and Consumers Affairs; the Government of the Northwest Territories; the Government of Ontario; the Government of Quebec through the ministère de la Culture et des Communications and the Office de la protection du consommateur; the Government of Yukon; the Office of the Privacy Commissioner of Canada; Drs. Catherine Middleton, Tamara Shepherd, Leslie Regan Shade, Kim Sawchuk, and Barbara Crow, professors and researchers of Communications studies (collectively, Middleton et al.); and Shaw Telecom Inc.
13. The following individuals appeared at the public hearing: Mr. Terry Duncan; Mr. Glenn Fullerton; Mr. Tana Guindeba; Mr. Nasir Khan; Mr. Michael Lancione; Mr. Allan Munro; Mr. Frederick A. Nakos; Mr. Rainer Schoenen; and Mr. Daniel Sokolov.
14. The public record of this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file number provided above.

## **Issues**

15. The Commission has taken into consideration all comments made during the proceeding and determines that the following are the key issues to be addressed in this decision:

### **A. Application of the Wireless Code**

### **B. Content of the Wireless Code**

1. Content and clarity of contracts
2. Critical Information Summary

3. Changes to contracts and related documents
4. Caps, notifications, and usage monitoring tools
5. Unsolicited wireless services and mobile premium services
6. Unlocking mobile devices
7. Warranties
8. Repairs
9. Lost and stolen mobile devices
10. Contract length and early cancellation fees
11. Trial period
12. Effective date of cancellation
13. Contract extension
14. Security deposits
15. Disconnection
16. Privacy policies
17. Unlimited services and advertised prices
18. Accommodations for people with disabilities
19. Expiration of prepaid cards

**C. Implementation of the Wireless Code**

**D. Enforcement and administration of the Wireless Code**

**E. Promotion of the Wireless Code**

**F. Measuring and reviewing the effectiveness of the Wireless Code**

**A. Application of the Wireless Code**

***Positions of parties***

16. Consumers who participated in this proceeding were primarily concerned with describing the problems they have encountered with their WSPs and the solutions they wanted the Commission to impose. The experiences they described varied by WSP or type of service arrangement. However, consumers generally agreed that the Code should address their concerns, irrespective of their location or how they got their wireless services.
17. Most consumer groups and WSPs agreed that the Wireless Code should apply to (i) all WSPs, including resellers; (ii) wireless services included in bundles of communications services; and (iii) wireless contracts, whether they are agreed to

in person, over the phone, or over the Internet. None of the parties objected to the application of the Wireless Code as a condition under section 24 of the *Telecommunications Act* (the Act).

18. While all parties agreed that the Wireless Code should protect individual consumers, parties were divided on whether it should apply to small business consumers.
19. Parties were also divided on the Code's application in provinces where similar consumer protection legislation exists. Certain parties, notably Bell Canada et al., the CWTA, PIAC et al., RCP, and TCC, submitted that the Commission has exclusive jurisdiction over wireless services and that, as such, provincial legislation claiming to regulate contracts for these services is invalid. They argued that one national code would lower the costs of compliance and avoid confusion for consumers. Videotron argued that the Code should be suspended in provinces where the Commission determines that provincial legislation provides sufficient consumer protection. Other parties, including Mobilicity, MTS Allstream, OpenMedia, SaskTel, l'Union, and WIND, favoured an approach based on the co-existence of a federal code and provincial legislation. Provinces and territories that participated in the proceeding generally did not believe that suspension of the Code is necessary in provinces where it offers the same or better protections than existing provincial legislation. However, the Province of Quebec submitted that it has exclusive jurisdiction over consumer protection and would continue to apply its provincial law regardless of the outcome of the proceeding.
20. Consumer groups and WSPs agreed that the Code should apply in its entirety to postpaid wireless services, but disagreed on how the Code should apply to prepaid wireless services.<sup>2</sup> Consumer groups supported a symmetrical application of the Code to both prepaid and postpaid services, arguing that all consumers deserve equal protection. The CCC, Diversity, and PIAC et al. argued that consumers with low incomes are more likely to use prepaid services and that these consumers are more easily disadvantaged by WSPs' behaviour.
21. Most WSPs supported a limited application of the Wireless Code to prepaid services. WSPs proposed that prepaid services should be exempt from the application of some or all of the Code. Mobilicity and Public Mobile argued that application of the Wireless Code to their services would unnecessarily jeopardize their business models and threaten the existence of the new entrants. In contrast, WSPs whose business offerings include both prepaid and postpaid models (Bell Canada et al., MTS Allstream, RCP, SaskTel, and TCC) generally supported a more expansive application of the Wireless Code to prepaid consumers.

---

<sup>2</sup> Prepaid and postpaid wireless services differ on when the consumer pays for the service. With prepaid services, the consumer purchases the services before using them, and with postpaid services, the consumer purchases the services after using them, usually upon receipt of a monthly bill. Prepaid services include prepaid cards, which offer limited usage with per-minute or per-usage rates, as well as pay-in-advance services, which provide similar functionality to postpaid services.

22. WSPs submitted that there are important differences between prepaid and postpaid services. WSPs argued that consumers of prepaid services require less protection than consumers of postpaid services. The WSPs stated that since consumers using prepaid services pay before use, they cannot experience bill shock.<sup>3</sup> Most WSPs opposed the application to prepaid services of provisions in the Wireless Code related to (i) the content and delivery of written contracts; (ii) bill shock, such as notifications, caps, and monitoring tools; and (iii) service cancellation, security deposits, and disconnection.

### ***Commission's analysis***

23. The Commission is required by the Act to exercise its powers to ensure that the policy objectives set out in the Act are fulfilled. Since 1994, the Commission has not regulated wireless services in as much detail as it does some other telecommunications services, having found that there is sufficient competition to protect the interests of users of wireless services.<sup>4</sup>
24. However, the Commission has retained its powers under section 24 and subsection 27(2) of the Act regarding wireless services to ensure that it has the tools necessary to address instances when market forces alone are not ensuring that the policy objectives in the Act are being met.
25. In Telecom Decision 2012-556, the Commission found that, although it is appropriate to continue to decline to regulate certain aspects of wireless services, including rates and the competitiveness of the marketplace, it is necessary at this time to impose additional measures for consumers, using its powers under section 24 of the Act.
26. In light of this regulatory context and based on the record of this proceeding, the Commission considers that the Wireless Code should apply to all individual Canadian consumers of wireless services equally wherever they reside. The Commission notes that where the Wireless Code is in direct conflict with a valid provincial law, the Wireless Code takes precedence. The Commission considers that such conflicts are minor under current provincial legislation.

---

<sup>3</sup> Bill shock occurs when a consumer receives a monthly bill that significantly and unexpectedly exceeds their minimum monthly charge due to overage charges, roaming charges, or other additional fees.

<sup>4</sup> The Commission has the duty under the Act to forbear, in whole or in part, from the regulation of certain types of telecommunications services. It has the power to do so conditionally or unconditionally. The Commission's forbearance framework for retail mobile wireless services was first established in Telecom Decision 94-15, and was refined in Telecom Decision 96-14. In a number of follow-up company-specific decisions and orders, such as Telecom Decision 98-19, Telecom Order 99-991, Order 2001-501, and Telecom Decision 2004-84, the framework was extended to the mobile wireless services provided by Canadian carriers that were not captured by Telecom Decisions 94-15 and 96-14. The Commission retained its regulatory powers under section 24 and subsections 27(2) and 27(4) of the Act for mobile voice services. In Telecom Decision 2010-445, the Commission amended the forbearance framework for mobile wireless data services to be consistent with the forbearance framework for mobile voice services.

27. The Commission also considers that small businesses, given their size and purchasing power, face the same issues as individual consumers with respect to wireless services.<sup>5</sup>
28. With respect to the proposals by some parties to exempt prepaid services from the Wireless Code, the Commission notes that consumers with low incomes are more likely to use prepaid services and that failure to apply the Wireless Code to prepaid services would have an undue impact on these users. The Commission notes that business models can change at any time, and accordingly, considers that it would not be appropriate to exempt specific WSPs from provisions in the Code.
29. Many of the requirements set out in the Wireless Code are necessary to inform and empower consumers of both postpaid and prepaid services. However, the Commission considers that, based on the nature of prepaid services, certain requirements are not necessary to empower consumers of prepaid services.

### ***Commission's determinations***

30. The Commission decides that the Wireless Code will apply to wireless services provided to individual and small business consumers in all provinces and territories regardless of the status and business models of the WSP and whether the wireless services are purchased (i) independently from other services or as part of a bundle of services; and (ii) in person, over the phone, or over the Internet.
31. To address the unique nature of prepaid services, the Commission will exempt prepaid services from the sections of the Wireless Code in which the requirements are not necessary to empower consumers of prepaid services. The Commission will also impose certain unique requirements related to prepaid services designed to achieve an appropriate balance between promoting the interests of Canadians who choose prepaid services and avoiding placing an undue burden on WSPs. These exemptions and unique requirements will be addressed in each section below, and are identified in the Wireless Code itself.

## **B. Content of the Wireless Code**

### **1. Content and clarity of contracts**

#### ***Positions of parties***

32. Consumers were concerned that written contracts related to wireless services were overly long, complex, and difficult to understand, and that important information was hard to find or hidden in the fine print.

---

<sup>5</sup> The Commission notes that the CCTS already resolves complaints about wireless services from small businesses and defines a "small business" as a business whose average monthly telecommunications bill is under \$2,500. The CCTS's definition effectively excludes corporate and commercial accounts, since these account holders are already able, through size and purchasing power, to better negotiate agreements.

33. Consumers submitted that they needed clearer information about specific aspects of their wireless services, such as which services might cause them to incur additional charges, how early cancellation fees apply, and what impact upgrading their device would have on their wireless contract.
34. Consumer groups and WSPs generally agreed that written contracts should be clear, use plain language, and contain all the information necessary for consumers to understand the associated terms and conditions of their contracts.
35. Parties generally agreed that contracts should include clear information relating to (i) the service being provided, including associated limitations; (ii) charges, including the minimum monthly charge for a plan; (iii) additional charges and how they may be incurred; (iv) the mobile device; and (v) the ability of either party to cancel or change the terms and conditions of the contract.
36. Parties also generally agreed that written contracts should include an explanation of which aspects of the contract are the key terms and conditions of the contract (i.e. those that a WSP cannot change without the express consent of the customer). Parties generally agreed that the key terms and conditions of the contract should include (i) the services included in the minimum monthly contract price; (ii) the minimum monthly price; and (iii) the commitment period (the duration of the contract term).
37. Some WSPs such as MTS Allstream submitted that there needs to be a distinction between key or core services and optional services. These WSPs argued that this distinction would enable customers to be aware of the material and core services provided under the contract, and any flexibility to change optional services over the commitment period. Most parties agreed that rates for pay-per-use services not included in the monthly contract price were not key terms and conditions of the contract. The CCC and PIAC et al. argued that optional services, such as voicemail and call display, should be included in the key terms and conditions of the contract both for clarity, and because they form part of the agreement between the customer and the WSP.
38. Parties generally agreed that the Commission should require WSPs to ensure that written contracts and policies governing the terms and conditions or use of wireless services, such as privacy and fair use policies (related documents), use plain language and are presented in a clear and easy-to-read format. Parties also generally agreed that, for contracts agreed to in person, WSPs should be required to provide written contracts to customers at the time of entry into the contract. Parties also generally agreed that, for contracts agreed to over the phone or online, WSPs should be required to provide written contracts to customers within 15 days of the customer agreeing to the contract.
39. Parties disagreed about whether the Commission should require WSPs to provide customers with a paper copy of the contract. Several parties submitted that WSPs should be required to provide a paper copy of the contract to customers upon

request, at no charge. Other parties submitted that it should be sufficient to provide a PDF copy (or a similar permanent electronic format) of the contract via e-mail. They argued that a requirement to provide paper copies was not necessary and would increase WSPs' costs.

40. Some parties proposed that the Commission should require WSPs to provide contracts in alternative formats for people with disabilities upon request, at no charge.
41. Other parties proposed that the Commission should require WSPs to keep a permanent copy of the contract on file to assist with enforcement.
42. With respect to prepaid services, parties agreed that contracts and related documents should be written in plain, easy-to-understand language. Parties did not agree on which items must be addressed in written contracts for prepaid services. WIND argued that instead of being required to provide written contracts listing terms and conditions for wireless services, WSPs should be required to provide a list of the terms of service with every prepaid SIM card.<sup>6</sup> Other WSPs that provide prepaid services, including Mobilicity and Public Mobile, submitted that most of the contract terms and conditions should not apply to prepaid services. Regarding the use of a written contract with prepaid services, some WSPs that provide prepaid services argued that their customers often activate their service online, so there is often no signed contract. These WSPs disputed the relevance of such requirements to their customers. However, parties supported a separate provision in the Wireless Code that would address the information that must be included when prepaid cards are provided.

### ***Commission's analysis***

43. The Commission notes that confusion around contract terms and conditions has been a significant source of consumer frustration. Consumers submitted 2,162 complaints to the CCTS relating to wireless contract disputes in 2011-2012.
44. The evidence from this proceeding shows that despite improvements to the form of contracts by several WSPs, customers continue to be surprised by elements of their contract that they were unaware of, either because the information was hidden in small print, contained in a separate document, or otherwise not brought to their attention.
45. The Commission considers that, even though consumers have a duty to inform themselves about their rights and obligations and have the responsibility to ensure that they protect their economic interests in the wireless marketplace, all contracts should be easy for consumers to read and understand. The Commission further considers that, in order to facilitate consumers' understanding of their contracts with WSPs, certain information should be required to be included in all written wireless

---

<sup>6</sup> The SIM (subscriber identification module) card enables a mobile device to connect to a Global System for Mobile communications network.

service contracts. The Commission considers that this minimal information should include (i) how and when the customer can incur additional charges; (ii) what limitations may exist on their services; (iii) how changes to their services will be handled; (iv) how disputes will be handled; and (v) what avenues are available to them if they are not satisfied with their service.

46. Given the different business model for prepaid services, including the decreased risk of bill shock and the transactional nature of the services, the Commission considers that the above-mentioned information can be conveyed through a much shorter and less formal manner than for postpaid services. The Commission notes, however, that if a device is provided as part of the prepaid service, the information WSPs provide customers should be closer to that necessary for postpaid services.
47. The Commission notes that some prepaid services include devices as part of the contract and considers that written contracts for such services must also include information related to (i) the early cancellation fee; (ii) the device provided as part of the contract; (iii) device upgrades; and (iv) the manufacturer's warranty.
48. The Commission considers that all WSPs should indicate in written contracts whether or not the prices include taxes.
49. The Commission notes the important role that a copy of the contract plays in providing a customer proof of the content of their contract as it was agreed to, should a dispute arise. The Commission also notes the evidence on the record of the proceeding that WSPs may not be retaining copies of customer contracts in all cases. Rules requiring WSPs to retain a permanent copy of the contract and provide it to the customer upon request will ensure that customers have the information they need to properly understand their contracts and to make their case should there be a dispute about their service. It is necessary for WSPs to retain a copy of their customers' written contracts for the duration of the commitment period, so that the contract can be produced for the customer or the CCTS in the event of a dispute.
50. When a contract is made in person, providing the written contract to customers is as simple as handing it to them. However, if a contract is not made in person (e.g. over the phone or the Internet), the WSP may need a number of days to send the written contract to the customer.
51. Many consumers maintain electronic records and conduct much of their business online. For these consumers, an electronic copy of the written contract and related documents may be more convenient, as long as the copy still acts as a permanent record and does not rely on links to websites that can be changed by the WSP. The Commission considers that a permanent copy can be a paper copy or an electronic copy, as long as the electronic copy cannot be altered and can be easily read by the customer.

52. However, not all Canadians will be able to use an electronic version of the written contract and related documents. Some consumers may require a paper copy, while Canadians with disabilities may need a copy in an alternative format. While providing these format options may impose some costs on WSPs, the Commission considers that this burden is not undue given the central importance to Canadians of understanding their wireless service contracts. It is important that Canadians have equal access to their contract documents and it would therefore be inappropriate for them to face any additional charges to obtain the documents in these formats. Due to the nature of prepaid card services, it is not necessary to require WSPs to provide a paper copy of the prepaid card contract upon request.

### ***Commission's determinations***

#### *All wireless services*

53. In light of the above, the Commission determines that WSPs must communicate with consumers using plain language. Accordingly, WSPs must ensure that written contracts and related documents present information in a way that is clear and easy for consumers to read and understand, including using an easy-to-read font.
54. The Commission requires WSPs to indicate in all contracts whether or not the prices for services include taxes.
55. WSPs must give customers a copy of the contract in an alternative format for people with disabilities upon request and at no charge at any time during the commitment period.

#### *Postpaid wireless services*

56. The Commission requires WSPs to provide customers with a permanent copy of the contract and all related documents at no charge. If the contract is agreed to in person, these documents must be provided to the customer immediately after the customer agrees to the contract. If the contract is not agreed to in person, these documents must be sent to the customer within 15 calendar days of the customer agreeing to the contract. If a WSP does not give a customer a permanent copy of these documents within these deadlines, or if the terms and conditions of the contract that is sent to the customer conflict with the terms and conditions that the customer agreed to, the customer may, within 30 calendar days of receiving the permanent copy of the contract, cancel the contract without paying an early cancellation fee or any other penalty.
57. WSPs must provide customers with a paper copy of the contract and related documents, unless the customer expressly and knowingly decides that an electronic copy is acceptable.
58. The Commission requires WSPs to ensure that written contracts for postpaid services set out all of the information listed below in a clear manner:

**Key contract terms and conditions:**

- a) (i) the services included in the contract; and (ii) the limits on the use of those services that could trigger overage charges or additional fees;
- b) the minimum monthly charge for services included in the contract;
- c) the commitment period, including the end date of the contract;
- d) if applicable, (i) the total early cancellation fee; (ii) the amount by which the early cancellation fee will decrease each month; and (iii) the date on which the customer will no longer be subject to the early cancellation fee;
- e) if a subsidized device is provided as part of the contract, (i) the retail price of the device, which is the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the WSP without a contract; (ii) the amount that the customer paid for the device; and (iii) the fee to unlock the device, if any.

**Other aspects of the contract:**

- f) an explanation of all related documents, including privacy policies and fair use policies;
- g) all one-time costs, itemized separately;
- h) the trial period for the contract, including the associated limits on use;
- i) rates for optional services selected by the customer at the time the contract is agreed to;
- j) whether the contract will be extended automatically on a month-to-month basis when it expires, and if so, starting on what date;
- k) whether upgrading the mobile device or otherwise amending a contract term or condition would extend the customer's commitment period or change any other aspect of the contract;
- l) if applicable, the amount of any security deposit and any applicable conditions, including the conditions for return of the deposit; and
- m) where customers can find information about (i) rates for optional and pay-per-use services; (ii) the device manufacturer's warranty; (iii) tools to help customers manage their bills, including notifications on data usage and roaming, data caps, and usage monitoring tools; (iv) the WSP's service coverage area, including how to access complete service coverage maps; (v) how to contact the WSP's customer service department; (vi) how to make a complaint about wireless services, including contact information for the CCTS; and (vii) the Wireless Code.

59. The Commission determines that WSPs must provide their customers with a permanent copy of the contract at no additional charge (i) at the time that the contract is agreed to; and (ii) at any other time, upon request.

*Prepaid wireless services*

60. The Commission also requires WSPs to inform their customers of all conditions and fees that apply to the prepaid balance. WSPs must explain to their customers how they can (i) check their usage balance; (ii) contact the WSP's customer service department; and (iii) complain about the service, including how to contact the CCTS. WSPs must provide this information separately if it does not appear on a prepaid card or in the written contract.
61. The Commission requires WSPs that provide a device as part of a prepaid service contract to also include information about the following in the written contract:
- a) the total early cancellation fee; the amount by which the early cancellation fee will decrease each month; and the date on which the customer will no longer be subject to the early cancellation fee;
  - b) the retail price of the device, which is the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the WSP without a contract;
  - c) the amount the consumer paid for the device;
  - d) the fee to unlock the device, if any; and
  - e) where customers can find information about device upgrades, and the manufacturer's warranty.

**2. Critical Information Summary**

***Positions of parties***

62. Some consumers and consumer groups, including the CCC and PIAC et al., submitted that, in addition to ensuring that written contracts contain all the necessary information for consumers, the Commission should require WSPs to provide a one- or two-page summary of the most important contract terms and conditions for the consumer. These parties submitted that the summary should be structured as a table so that the information is easy to read and understand quickly. These parties generally considered that the summary should explain (i) the commitment period; (ii) the minimum monthly charge and the total monthly charge; (iii) the services included in the plan; (iv) how additional fees could be incurred; (v) how much it would cost to cancel services after one and two years, with clear examples; and (vi) what happens at the end of the contract.

63. Parties disagreed about when WSPs should be required to provide the contract summary, whether WSPs should be able to customize this document, and whether WSPs that provide prepaid services should be required to provide this document at all.
64. The CCC, PIAC et al., and l'Union argued that consumers should be able to request the contract summary at the time of offer so that consumers could compare WSPs' key contract terms and conditions when shopping for wireless services. Consumer groups requested that the Commission impose a specific structure for, and determine the content of, the contract summary.
65. Bell Canada et al., RCP, TCC, and Videotron submitted that significant time and financial investments would be required to implement the contract summary. These parties submitted that the contract summary should be made available only once the contract has been agreed to. WSPs generally submitted that they should be able to personalize the structure and content of the document, and have flexibility in terms of the layout and presentation of the information. MTS Allstream argued that the Code should not be overly prescriptive.
66. Mobilicity and WIND submitted that the requirement to provide a contract summary should not apply to WSPs that provide prepaid services. Public Mobile submitted that most of the information that parties proposed to be included in the contract summary would not apply to prepaid service customers. Mobilicity and WIND both stated that it would simply not be practical to require the provision of a contract summary for prepaid services since these services are sold as packaged goods at non-wireless retail outlets. Mobilicity also submitted that it would be costly for WSPs to generate this document.

### ***Commission's analysis***

67. The record of this proceeding clearly demonstrates that there are certain elements of a wireless service contract that are consistent sources of confusion for consumers and, as a result, consistent sources of disputes between the customer and the WSP.
68. The requirements set out in paragraphs 53 to 61 regarding the content and clarity of contracts are necessary but not sufficient to ensure that consumers have clear and concise information about important aspects of their wireless services.
69. A requirement to provide a Critical Information Summary – a one- or two-page summary of a contract – would greatly help consumers to quickly understand the fundamental aspects of their contracts. However, the contract delivery model of many prepaid services limits the benefits of a Critical Information Summary to consumers, and much of the Summary's content would not apply to prepaid services.
70. The Commission considers that the Critical Information Summary should use plain language and contain, at a minimum, (i) a complete description of all key contract terms, as listed in sections a) to e) in paragraph 58 above; (ii) the total monthly charge for the services; (iii) information on all one-time charges and additional fees; and (iv) information on how to contact the WSP's customer service department and the CCTS with a complaint.

71. The Commission considers that the Critical Information Summary should be provided to customers when the permanent copy of the contract is provided, taking into account contracts agreed to at a distance, described in paragraph 56. The proposal to require WSPs to provide the Summary before a contract has been entered into would involve a significant burden, from both a financial and a resource perspective, and the Commission considers that it is not necessary to require this. However, WSPs may provide the Summary at this stage if they so choose.
72. The Commission considers it reasonable for WSPs to be able to customize the Summary document to reflect other key aspects of their wireless services, as long as all the information required by the Commission is clearly and prominently included. Given the diversity of wireless service offerings, template or standard language cannot capture the specific content of each contract and may in fact impair innovative offerings in the future. The Commission also considers that WSPs should have the flexibility to determine whether the Critical Information Summary will either be a separate document from the written contract or included prominently on the first two pages of the written contract.

### ***Commission's determinations***

73. In light of the above, the Commission requires WSPs to provide a Critical Information Summary to all customers when they provide a permanent copy of the contract for postpaid wireless services.
74. WSPs must ensure that the Critical Information Summary (i) accurately reflects the content of the contract; (ii) does not exceed two pages; (iii) is either a separate document from the written contract or included prominently on the first two pages of the written contract; (iv) is clear and concise, uses plain language, and is in an easily readable font.
75. The Commission determines that WSPs must also ensure that the Critical Information Summary accurately reflects the content of the contract and clearly and prominently contains all of the following: (i) a complete description of all key contract terms and conditions, as listed in sections a) to e) in paragraph 58; (ii) the total monthly charge, including rates for optional services selected by the customer at the time the contract is agreed to; (iii) information on all one-time charges and additional fees; (iv) information on how to complain about the WSP's wireless services, including how to contact the WSP's customer service department and the CCTS.
76. The Commission encourages WSPs to provide a Critical Information Summary for prepaid services where possible, in particular, for contracts made in person.

### **3. Changes to contracts and related documents**

#### ***Positions of parties***

77. Consumers expressed considerable frustration over WSPs' ability to unilaterally change contract terms and conditions, including rates, while consumers are bound by three-year contracts with significant early cancellation fees.

78. Consumers considered that WSPs should not be allowed to unilaterally change contract terms and conditions, and should not change contract terms and conditions without providing prior notice. Consumers also considered that WSPs should allow customers' services to be grandfathered or should allow customers to opt out of contract changes without paying a penalty.
79. Consumer groups and WSPs generally considered that the provisions in the Wireless Code dealing with the WSPs' ability to modify contract terms and conditions during a commitment period should treat "key" contract terms and conditions and "other" contract terms and conditions differently.
80. PIAC et al. argued that changes to key contract terms and conditions to which the consumer does not expressly consent should be prohibited. OpenMedia and PIAC et al. submitted that when customers do not give their consent, the contract should remain unchanged. PIAC et al. added that customers should not have to resort to cancelling a contract to get out of a proposed change.
81. Most WSPs argued that they should be able to change at least some contract terms and conditions without requiring the customer's consent. WSPs' positions varied on whether (i) WSPs should be required to notify customers before changing the contract; (ii) customers should have the right to refuse a change or cancel service as a result of a change; and (iii) indeterminate and fixed-term contracts should be treated differently with respect to whether WSPs can change the contract.
82. WSPs generally submitted that if customers disagree with a change that a WSP proposes, customers should be able to cancel their contract, but not refuse the change. SaskTel and Videotron opposed allowing customers to refuse changes to contract terms and conditions on the basis that this would effectively grandfather all contracts, which would represent a burden for smaller WSPs and add inefficiency to their billing systems.
83. RCP submitted that key contract terms and conditions should be fixed for the commitment period. However, the company argued that some flexibility is needed for optional monthly and pay-per-use services, such as roaming services, that customers can add and remove at their convenience, and for which no customer commitment is made for the contract term.
84. Some parties proposed that the Commission permit unilateral contract changes that benefit the customer, or that do not add to the customer's obligations or take away from the WSPs' obligations.
85. Large WSPs that provide both prepaid and postpaid services generally submitted that requirements related to changing contract terms and conditions should apply to all services. However, other WSPs argued that these requirements should not apply to prepaid services, since there is no customer expectation that the associated contract terms and conditions will remain fixed from month to month.

***Commission's analysis***

86. The Commission considers that consumers need certainty that key contract terms and conditions will not change without their express consent during the commitment period. However, the Commission also considers that both consumers and WSPs would benefit from having the flexibility to change key contract terms and conditions when the customer knowingly and expressly finds it acceptable.
87. The Commission notes that for prepaid service contracts, the customer is accepting the key terms and conditions of the contract each time they reactivate their service or top up their account. As such, it is not necessary to prohibit changes to key terms and conditions of such contracts. The Commission expects WSPs that provide prepaid wireless services to clearly publicize any change to their services.
88. However, the Commission considers it necessary to prohibit WSPs from changing the key terms and conditions of postpaid contracts during the commitment period unless a customer expressly consents to the change. The Commission considers that if a WSP seeks to change the key terms and conditions of a postpaid contract, it is essential that customers have available to them as many choices as possible regarding how they can respond to the suggested change. The Commission considers that requiring the customer to either accept the change or cancel the contract, which may involve the customer incurring an early cancellation fee, is insufficient to address consumer concerns. Customers should have the right to refuse a change to key terms and conditions of the contract. The Commission considers that requiring customers to cancel their contract to avoid a contract change would place an undue burden on customers. In addition, limiting customer options to either cancelling their contract or accepting a contract change with which they may disagree would simply perpetuate the imbalance of rights and responsibilities between WSPs and customers that was discussed at length during the proceeding.
89. Regarding whether unilateral contract changes should be permitted if they benefit the customer, or do not add to the customer's obligations or take away from the WSP's obligations, the Commission considers that determining whether a contract change fits these criteria is highly subjective and could vary from one consumer to another. As a result, such a requirement could lead to a number of disputes between customers and WSPs, as well as interpretation issues. Permitting such unilateral changes at the discretion of WSPs could reduce certainty for consumers as to their rights and obligations under the contract. However, the Commission considers that permitting unilateral changes in certain well-defined and limited circumstances could benefit consumers and encourage innovation. The Commission therefore considers it appropriate to permit unilateral changes by WSPs to specific services if there is either (i) a reduction in a service rate; or (ii) an increase in the customer's usage allowance for the service. To ensure clarity for consumers and to avoid consumers being subject to a combination of changes, some of which could be considered disadvantageous on their own, such changes can only be made to a single key term or condition of the contract at one time.

90. The Commission notes that, unlike with key contract terms and conditions, customers do not commit to the other contract terms and conditions for the entire contract term. The Commission considers that it is not reasonable that non-key contract terms and conditions, including rates for pay-per-use and optional services, would remain static during the commitment period when the customer has not committed to taking these services for the entire contract term. For example, requiring express consent from each individual customer for changes to roaming rates or a WSP's privacy policy would be excessively burdensome and would prevent WSPs from innovating in the services they offer. The Commission considers that the above-mentioned principles applicable to contract terms and conditions also apply to the related documents.
91. However, customers need to understand what changes are being made to pay-per-use services, optional services, other non-key contract terms and conditions, and related documents in order to make informed decisions about their wireless services. The Commission considers it appropriate to require that WSPs provide notice to customers before seeking to change non-key terms and conditions of a postpaid contract and related documents. The Commission considers that this notice is a relatively small and appropriate burden on WSPs.

#### ***Commission's determinations***

92. In light of the above, the Commission determines that WSPs must not change the key terms and conditions of postpaid contracts, as defined in sections a) to e) in paragraph 58 above, during the commitment period without the customer's informed and express consent.<sup>7</sup>
93. When a WSP notifies a customer that it intends to change a key contract term or condition during the commitment period, the customer may refuse the change. However, a WSP can change a key contract term or condition without the customer's express consent if it clearly benefits the customer by either (i) reducing the rate for a single service; or (ii) increasing the customer's usage allowance for a single service.
94. The Commission determines that WSPs may change other terms and conditions of the contract and related documents. However, WSPs must provide customers at least 30 calendar days' notice before making such changes. The notice must clearly explain the change and when it will occur.

---

<sup>7</sup> In the context of this decision, the Commission uses the term "express consent" to capture the well-established rules around obtaining clear customer consent, including the fact that such consent or agreement cannot be obtained through a default provision or by requiring the customer to "opt out" (also known as a "negative option").

#### 4. Caps, notifications, and usage monitoring tools

##### *Positions of parties*

95. Consumers noted that they may be charged fees over and above the minimum monthly charge for their wireless services for a variety of reasons, such as exceeding the usage limits of services that may or may not be included in a wireless service plan (e.g. limits on local voice minutes, long distance minutes, roaming, text messaging, and data usage) or purchasing services or making payments that are not generally included in wireless service plans, such as mobile premium services and mobile donations, respectively.
96. Consumers submitted that bill shock is a serious and widespread problem. They indicated that data charges are the most common source of bill shock because it can be difficult to estimate the quantity of data that various applications consume. Consumers submitted that they can incur data roaming and overage charges unintentionally because of applications that run in the background or by accidentally switching from a wireless Wi-Fi connection to a WSP's network. Consumers also submitted that data overage charges can be incurred rapidly, such as when streaming video content or using other data-intensive applications.
97. Consumers and consumer groups generally submitted that WSPs should be required to (i) provide usage monitoring tools; (ii) notify customers when they are near or at their included usage limits; (iii) inform customers about the costs of additional usage, especially for international roaming; and (iv) set a cap on additional fees.

##### *International roaming notification*

98. Consumers and consumer groups generally agreed that WSPs should be required to notify consumers when they are roaming internationally and that this notice should inform consumers of the rates for voice, text, and data services while roaming.
99. WSPs generally supported the inclusion of such a requirement in the Wireless Code.

##### *Usage notifications and usage monitoring tools*

100. Consumers submitted that WSPs should send their customers usage notifications to help them manage their wireless service usage. Consumer groups submitted that notifications should be required before overage charges are incurred for all services, including calling and text messaging services, to maximize consumer control over their usage and associated charges.
101. Some consumers submitted that they should also be given tools to monitor their usage. L'Union submitted that WSPs should be required to install real-time usage-monitoring applications onto devices. In contrast, the Ontario Ministry of Consumer Services submitted that consumers should be notified of potential overage charges, rather than be expected to use monitoring tools on their own initiative. The CCC

submitted that most consumers believe that WSPs are responsible for notifying their customers of excess usage, and that few consumers believe that they should monitor their own usage.

102. Most WSPs agreed that usage notifications would benefit consumers, but submitted that it would be a significant burden on many WSPs to provide real-time usage notifications at this time. WSPs submitted that it would be particularly difficult to provide real-time notifications for international roaming usage, since usage details may not be delivered until several hours after the usage has occurred. WSPs submitted that notifications regarding any national usage would be delivered to customers in near real-time.
103. WSPs submitted that notification requirements should be limited to cases of excess data usage and the triggering of international roaming. WSPs submitted that notifications related to excess usage of calling and text messaging services are not necessary since the amount of usage for these services is intuitively understood. The WSPs argued that calling and text messaging plans have abundant allowances and that exceeding these allowances is not likely to cause bill shock.
104. WSPs submitted that if usage notifications are required, WSPs should be permitted to decide when and how they notify their customers of potential overage charges.
105. Many larger WSPs submitted that they offer usage monitoring tools, and agreed that these tools should be required by the Wireless Code. However, some smaller WSPs submitted that imposing a requirement to develop such tools would be a significant burden for them and that these tools would offer little or no benefit to their customers. Videotron submitted that these tools should reside on the customer's device rather than in the network, and could take the form of applications or other innovative on-device software.
106. WSPs expressed concern about requiring notifications or monitoring tools to work in real-time, especially for international roaming usage. MTS Allstream submitted that any provisions or requirements in the Wireless Code regarding notifications should be less prescriptive to minimize the burden on WSPs.
107. WSPs that provide prepaid services, including Mobilicity, argued that bill shock exists only in the postpaid environment, because prepaid service customers cannot incur unanticipated charges. Mobilicity and Public Mobile submitted that they should not be required to implement notifications given that their customers are not charged overage charges. Mobilicity also argued that the provision of notifications would represent a significant burden for small WSPs to implement.

#### *Caps on service charges*

108. Consumers argued that imposing a cap on data roaming charges and overage charges is necessary to help them manage their wireless service charges, and would be particularly helpful for people with limited incomes. Consumers considered that they should be able to customize the amount of the caps.

109. Consumer groups submitted that the Commission should require a customizable cap on all wireless services, set at \$50 by default, to provide consumers with greater control over their wireless service charges.
110. WSPs submitted that they should not be required to cap usage charges because this could result in an undesirable suspension of consumers' wireless services and that usage notifications are sufficient to meet consumers' needs. Some WSPs submitted that if a cap were required by the Wireless Code, it should (i) apply to data charges only; (ii) be higher than \$50; and (iii) require that consumers opt in to the cap. Mobilicity and Public Mobile submitted that they should not be required to implement a cap on overage charges given that their customers cannot incur these charges.
111. WSPs submitted that if the amount of the cap were determined by the consumer or set at a default of \$50 and would apply to all wireless services combined, this would represent an undue burden for them. Specifically, they argued that enabling consumers to individually determine the amount of their own cap would pose serious challenges for billing systems. WSPs also expressed concern that grouping multiple types of services (i.e. texting, calling, and data services) together into one cap would be difficult and costly to implement.
112. WSPs that provide prepaid services, including Mobilicity, argued that since prepaid service customers cannot incur bill shock, prepaid service providers should not be required to provide data caps. Mobilicity also argued that notification requirements would represent a significant burden for small WSPs to implement.

### ***Commission's analysis***

113. The Commission recognizes that bill shock is a serious problem for all consumers. When a consumer receives a bill that is unexpectedly many times greater than their normal monthly bill, it can be a source of considerable concern.
114. The record of the proceeding indicates that data usage is less intuitive for consumers than voice and text usage. The complexity of data usage is illustrated by the variability in bandwidth requirements for a number of commonly accessed online services.<sup>8</sup> The Commission considers that, at this time, the average consumer may not be able to fully understand the implications of their use of online services on the amount of data they are using and how these services relate to the data limits of their wireless service plan.
115. The Commission considers that requiring WSPs to clearly inform consumers of the usage allowances of their voice and text messaging services in their written contracts and the Critical Information Summary is sufficient to help consumers manage their voice and text messaging usage. The cost of voice and text messages has, over time, become more intuitive to consumers.

---

<sup>8</sup> See Table 4.5.2 Bandwidth used by online video and audio services, CRTC Communications Monitoring Report 2012.

116. However, the Commission considers that consumers need additional tools that will notify them when they are roaming internationally, and that will help them manage their domestic data overage charges and their international data roaming charges.

*International roaming notification*

117. When entering another country, a consumer is unlikely to have their wireless service contract information available to them. As such, a notification from the WSP explaining the rates for voice, text, and data roaming services would greatly increase consumers' understanding and ability to manage their usage of these services while abroad.
118. The Commission considers it necessary to require WSPs to provide notifications when the customer enters an international roaming area, including information on the rates that will be charged for voice, text, and data services.
119. Many prepaid services do not allow access to international roaming services. However, the Commission considers that where prepaid customers are able to use their device internationally, the WSP should be required to provide this notification.

*Usage notifications and usage monitoring tools*

120. The Commission notes that consumers want to monitor their wireless service usage to avoid excessive overage charges.
121. The Commission considers that usage monitoring tools could help consumers manage their bills and prevent bill shock. Many, but not all, WSPs provide usage notifications or monitoring tools, and other companies also provide usage monitoring tools. Innovation is also leading to the availability of usage monitoring applications on smartphones.
122. Both usage notifications and usage monitoring tools require action and active monitoring from consumers to prevent bill shock. As well, due to current technological limitations, usage notifications, such as text messages, may not always reach the customer, and usage monitoring tools may report a usage level that is several hours behind the real-time usage level, during which time the customer may have incurred significant additional charges. As a result, receipt of usage notifications or the availability of usage monitoring tools, while useful for consumers, does not target the fundamental solution to bill shock, namely providing consumers with cost certainty when using data services.
123. WSPs that do not provide real-time notifications or monitoring tools submitted that it would be a significant burden for them to provide such tools. These WSPs submitted that it would take up to two years and significant financial investments for them to provide such real-time information to customers.

124. Accordingly, while the Commission considers that such tools would be beneficial to consumers, it considers that a requirement to provide usage notifications or usage monitoring tools is not the best solution to prevent bill shock.
125. However, the Commission expects WSPs to offer usage notifications and usage monitoring tools in the future to respond to consumer concerns. The Commission considers that allowing WSPs to determine how and when they provide usage notifications will enable them to respond to technological changes and to determine when these notifications are most useful for their customers.

#### *Caps on service charges*

126. The Commission notes that, unlike usage notifications or usage monitoring tools, a cap that prevents consumers from inadvertently incurring additional charges over a set amount in a billing cycle would ensure cost certainty for consumers.
127. It is not necessary to cap voice or text messaging service charges since the use of these services is generally well understood and managed by consumers.
128. However, the record of the proceeding indicates that excess usage of data services, which can result in data overage charges or data roaming charges, are the most significant source of bill shock for consumers. The Commission considers that consumers need new tools to manage their monthly bills regarding excess usage charges for data services. The Commission considers it necessary for WSPs to offer consumers the ability to limit their data charges in cases where they could incur data overage charges or data roaming charges. In this regard, the Commission notes that while customers using postpaid services could incur such charges, customers using prepaid services could not, due to the nature of the business model.
129. The Commission considers that WSPs should provide a cap on data charges by default. The Commission also considers that if a consumer reaches a data cap, they should have the option to expressly consent to pay additional charges in that monthly billing cycle. The Commission notes that under such a requirement, WSPs would not be required to suspend data services once a cap is reached.
130. Although WSPs argued that it would be a significant burden for them to implement a cap on data charges, the Commission considers that imposing a requirement for WSPs to provide a cap on data roaming charges and a cap on data overage charges is the most appropriate way to prevent bill shock. The Commission also considers that it would not be an undue burden for WSPs to cap charges for such services. The evidence provided by the WSPs in the proceeding regarding the burden of imposing a cap was related mainly to the problems involved in (i) imposing a cap across the entire bill; (ii) customizing the cap for individual customers; and (iii) applying a cap to services such as text messaging and voice services, for which the benefits to consumers would be minimal. The caps imposed in the Wireless Code (i) are much more narrow and focused than those proposed by some parties; (ii) constitute less of a burden for WSPs; and (iii) represent a proportionate and minimally intrusive means of addressing bill shock. Preventing bill shock benefits both customers and WSPs.

131. The Commission notes the WSPs' concern that an industry-wide requirement to combine multiple services into one cap or enable each customer to have a customizable cap would be overly complex to implement and may not be feasible. Accordingly, the Commission considers it appropriate to require WSPs to provide a distinct cap with a predetermined limit for (i) data charges that are incurred on the network of the carrier to which the customer is subscribed (a data overage cap); and (ii) domestic and international data roaming charges that are caused by data usage on another carrier's network (a data roaming cap).
132. In evaluating appropriate levels for these caps, the Commission has considered prevailing market conditions, including roaming and data overage rates, the average monthly bill amount for wireless service customers, as well as the evidence filed on the record of the proceeding. The Commission considers that a monthly \$50 cap on data overage charges will enable consumers to use a moderate amount of data over and above what they are subscribed to, while empowering them to prevent significant unintentional charges.
133. The Commission notes that data roaming rates tend to be significantly higher than data overage rates. As such, it is reasonable that the data roaming cap be higher than the data overage cap. The Commission considers that a monthly data roaming cap of \$100 strikes an appropriate balance between the need for consumers to have cost certainty and their desire to have continuous service while travelling.
134. The Commission notes WSPs' arguments that certain customers regularly and purposefully use services that result in data overage charges or data roaming charges, and that a cap would be an undue burden on these customers. In order to address this situation, the Commission considers that for both data roaming and data overage caps, WSPs may choose to provide additional options for these consumers, such as suitable data packages or the ability to knowingly and expressly opt out of such a cap.
135. The Commission notes that the lack of unanticipated charges is one of the main reasons that consumers choose prepaid services. Prepaid service customers cannot generally be charged overage charges or have the ability to self-select a cap on their service since they carry a limited balance. As such, these data cap requirements do not apply to prepaid services. However, the Commission notes that pay-in-advance models are widely used and do allow for potential data overage charges and data roaming charges. Accordingly, the Commission expects that for these prepaid services, WSPs should provide their customers with bill management tools.

### ***Commission's determinations***

136. In light of the above, the Commission requires WSPs to suspend national and international data roaming charges once they reach \$100 within a single monthly billing cycle, unless the customer explicitly and knowingly consents to pay additional charges.

137. The Commission also requires WSPs to suspend data overage charges once they reach \$50 within a single billing cycle, unless the customer explicitly and knowingly agrees to pay additional charges.
138. The Commission requires WSPs to provide these caps at no additional charge.
139. The requirement to provide these caps applies to postpaid services.
140. The Commission determines that WSPs must notify customers when their device is roaming in another country. The notification must clearly explain the associated rates for voice, text messaging, and data services. WSPs must provide this notification at no additional charge. Customers should be able to opt out of these notifications at any time. The Commission also determines that these notifications must be provided to all prepaid and postpaid customers whose devices are able to roam internationally.
141. The Commission will not impose a requirement to provide usage notifications or usage monitoring tools. In cases where customers could incur data overage charges or data roaming charges, the Commission expects WSPs to offer these customers tools to monitor their usage. The Commission will monitor the availability of such tools going forward.

## **5. Unsolicited wireless services and mobile premium services**

### ***Positions of parties***

142. Some consumers submitted that they had been charged for mobile premium services (MPS) without their consent and raised concerns about a lack of clarity surrounding these services. MPS are text messaging services charged at a premium rate, usually on a per-message basis. Some of the most common MPS include jokes, horoscopes, chat, sports and weather updates, trivia games, and contests.
143. Parties generally agreed that the Wireless Code should require that WSPs not charge consumers for any device or service that the consumer has not expressly purchased.
144. Mr. Sokolov submitted that MPS should be disabled by default for all consumers. PIAC et al. submitted a number of proposals on how to address issues surrounding MPS, including requiring WSPs to (i) immediately cancel any MPS subscription upon a customer's request; (ii) waive charges for first-time customer disputes; and (iii) provide detailed billing and contact information regarding all MPS-related charges. The Competition Bureau submitted that it initiated legal proceedings related to the disclosure and transparency of MPS pricing in September 2012.
145. WSPs submitted that they cannot cancel MPS subscriptions but can inform customers of how to unsubscribe from MPS. RCP submitted that the wireless service industry has introduced several measures to reduce the number of complaints related to MPS.

### ***Commission's analysis***

146. The Commission agrees that WSPs must not charge consumers for any device or service that the consumer has not expressly purchased.
147. MPS-related issues were a major source of consumer complaints to the CCTS last year. The Commission considers that consumers need clear and accurate information about the pricing, terms, and conditions of MPS to avoid unwanted related charges.
148. The wireless service industry has recently introduced measures to reduce the number of MPS-related complaints. The legal proceedings initiated by the Competition Bureau aim to seek corrective action related to MPS, which the Commission expects will address any remaining concerns. The Commission intends to monitor the outcome of the above-mentioned legal proceedings and the volume of MPS-related complaints to the CCTS to determine whether future Commission action is necessary.
149. However, the record of the proceeding shows that customers often do not understand how MPS work or how to unsubscribe from these services. Since WSPs are the ones that bill customers for MPS, WSPs are often the first point of contact for customers who are charged for these services. WSPs therefore play an important role in educating their customers about MPS so that customers can avoid unwanted charges in the future. The Commission notes that this education role for WSPs would impose a very small incremental burden on them while providing a clear benefit to consumers.

### ***Commission's determinations***

150. In light of the above, the Commission determines that WSPs must not charge consumers for any device or service that the consumer has not expressly purchased.
151. The Commission requires WSPs to explain to customers how to unsubscribe from MPS upon receiving an inquiry from a customer about MPS-related charges.

## **6. Unlocking mobile devices**

### ***Positions of parties***

152. The provision of locked devices was one of the most significant sources of consumer frustration with wireless services.
153. Consumers noted that most devices sold by WSPs are locked, whether the devices are purchased at full price or subsidized as part of a wireless contract. Consumers also noted that they cannot use locked devices to subscribe to the services of another WSP, in Canada or internationally, unless they purchase an unlocking service from the WSP or a third party.

154. Consumers submitted that device locking makes it difficult to take advantage of competitive offers available in the Canadian marketplace and limits their ability to avoid roaming charges while travelling abroad because it prevents them from using another WSP's services.
155. Consumers submitted that WSPs should be required to either (i) sell all devices unlocked; or (ii) unlock devices under reasonable terms and conditions, and for a reasonable price. Consumers further submitted that although third-party unlocking services are widely available, they can void the manufacturer's warranty on the device. Consumers argued that devices purchased at full price from a WSP should be sold unlocked.
156. The Competition Bureau, Mr. Sokolov, OpenMedia, l'Union, and Vaxination submitted that WSPs should be required to sell all devices unlocked. The Competition Bureau submitted that locked devices are an obstacle to consumers who wish to switch WSPs and that unlocking fees create switching costs for consumers.
157. The CCC, OpenMedia, and PIAC et al. submitted that consumers should be able to use their devices unlocked from the day they receive them, and that the fee for unlocking should be reasonable. PIAC et al. submitted that WSPs should not be permitted to void warranties on unlocked devices.
158. Most WSPs submitted that devices must be locked to reduce the risks of subscription fraud. WSPs submitted that they provide substantial subsidies for devices they offer under contract, and that locking helps to ensure that WSPs are able to recover the device subsidy over the term of a contract. WSPs also submitted that locking helps to ensure that highly desirable devices intended for Canadian consumers are not sold to consumers in other countries by third parties.
159. Most WSPs submitted that they offer unlocking services to their customers, which vary in their rates, terms, and conditions. For example, WIND submitted that it charges \$10 for its unlocking service while Bell Canada et al. submitted that they charge \$75. TCC submitted that it allows unlocking after 90 days, while Bell Canada et al. submitted that they unlock devices once the contract term has elapsed. Videotron submitted that it does not offer an unlocking service.
160. Most WSPs agreed that it would be reasonable for the Commission to require WSPs to make an unlocking service available to their customers after a 90-day trial period at a rate specified in the contract and the Critical Information Summary, provided that the customer's account is in good standing. Conversely, Videotron submitted that WSPs should not be required to provide unlocking services since this would be costly to implement and unnecessary given that these services are already available from third parties.
161. Mobilicity argued that the requirement to provide unlocking services should only apply in cases where the WSP has provided a locked device to the customer.

***Commission's analysis***

162. The Commission considers that locked devices can be a barrier for customers who want to migrate to a competing WSP or subscribe to services from a foreign WSP while travelling abroad. Locked devices do not, therefore, contribute to a more dynamic marketplace. However, WSPs have provided evidence that locking may be necessary at the start of the customer's contract to limit subscription fraud, in some circumstances.
163. The Commission considers that requiring WSPs to make an unlocking service available once a customer relationship has been established and maintained for a reasonable amount of time will, technology permitting, enable consumers to use their device with services from the WSP of their choice and enable WSPs to mitigate any risks associated with unlocked devices.
164. The Commission therefore considers that WSPs should make an unlocking service available to customers who have been subscribed to their services for 90 days, at a rate specified in the contract and Critical Information Summary.
165. The Commission also considers that unsubsidized devices, which are fully paid for, should be unlocked immediately upon request, given that the risk of subscription fraud is not relevant in these circumstances.
166. The Commission considers that the evidence on the record of the proceeding does not show any relevant difference between prepaid and postpaid services with respect to unlocking and therefore considers that the above-mentioned requirements should apply to prepaid services that include the provision of a device to customers.
167. The rates charged for unlocking a device vary among WSPs. Requiring WSPs to disclose their unlocking service charge in the Critical Information Summary will enable consumers to make fully informed decisions and allow WSPs to keep unlocking service rates a point of competitive differentiation. Further, the Commission notes that it is necessary to require that all WSPs provide unlocking services, given that unlocking services provided by third parties may void a manufacturer's warranty.

***Commission's determinations***

168. In light of the above, the Commission finds that a WSP that provides a locked device to a customer as part of a wireless service contract must, (i) if the device is subsidized, unlock the device, or give the customer the means to unlock the device, upon request, at the rate specified by the WSP, no later than 90 calendar days after the contract start date; and (ii) if the device is unsubsidized, unlock the device, or give the customer the means to unlock the device, upon request, at the rate specified by the WSP at any time during the contract. The rate for the WSP's unlocking service must be clearly stated in the written contract and the Critical Information Summary.

169. The Commission determines that this requirement applies to prepaid services in cases where a device is provided by the WSP.

## **7. Warranties**

### ***Positions of parties***

170. Consumers expressed concern that WSPs were promoting their own service plans and warranties without first clearly informing customers of existing manufacturers' warranties on their mobile device. Consumer groups submitted that warranty information should be disclosed in WSPs' contracts and that unlocking a device should not void the device's warranty. Consumers also submitted that device warranties should be required to last for the duration of the contract.
171. Parties generally agreed that the Commission should require WSPs to inform their customers of any manufacturer's warranty on devices before offering an extended warranty.
172. WSPs submitted that they should not be required to include manufacturer's warranty information in their wireless service contracts because this would duplicate the information that is already provided with the device. WSPs also submitted that they should not be required to provide warranties for the duration of the contract because manufacturers' warranties are not provided by WSPs, but by manufacturers.

### ***Commission's analysis***

173. The Commission considers that consumers who are not properly informed of existing manufacturers' warranties may be persuaded to buy unnecessary additional warranties from WSPs.
174. The Commission considers that requiring WSPs to disclose manufacturers' warranties before offering extended warranties or other related insurance will enhance clarity for consumers. WSPs should explain, in the contract, how consumers can obtain information on WSPs' extended warranties and other related insurance.
175. The Commission considers that imposing any requirements on device manufacturers' warranties is outside the scope of the proceeding. Further, extended warranties and insurance are available from many WSPs. The competitive marketplace is appropriately responding to consumer demand for such extended warranties and insurance.

### ***Commission's determinations***

176. In light of the above, the Commission requires WSPs to notify customers of the existence and duration of a manufacturer's warranty on a device before offering an extended warranty or other related insurance on that device. The Commission also requires WSPs to explain, in the written contract, where their customers can find information on the WSPs' extended warranties or other related insurance. This requirement applies equally to prepaid and postpaid services.

## **8. Repairs**

### ***Positions of parties***

177. Consumers submitted that they should not be billed for wireless services while their device is being repaired and they are not able to use the service.
178. Parties generally agreed that the Commission should require WSPs to suspend wireless service charges while devices are being repaired, provided that (i) the device is returned to the WSP for repair; (ii) the device is covered by a warranty from the manufacturer or the WSP; (iii) the WSP did not provide a free replacement device; and (iv) the damage is covered under the warranty.
179. The CCC submitted that any temporary replacement devices offered while a customer's device is being repaired should be comparable or superior to the device being repaired. RCP submitted that device repairs typically take two weeks and that such a requirement would be a burden on WSPs and would provide little benefit to consumers.
180. Mobilicity and Public Mobile submitted that they should not be required to suspend wireless service charges during device repairs because their customers can unsubscribe from their services at any time without incurring an early cancellation fee.

### ***Commission's analysis***

181. Consumers are concerned about being charged for wireless services they cannot use while their devices are being repaired.
182. The Commission considers that the option to cancel service with a requirement to pay an early cancellation fee is not a sufficient remedy for a customer whose device is temporarily unavailable due to valid repairs. The Commission also considers that suspension of charges during repairs when it is not possible for the customer to use the service is not unduly burdensome.
183. A requirement to suspend a customer's services while their device is being repaired is reasonable on the conditions that (i) the device is covered by a warranty; (ii) the device is returned to the WSP for repair; and (iii) the WSP did not provide a free replacement device for use during the repair.
184. The Commission notes that some customers can cancel their wireless service without paying an early cancellation fee. These customers have the option to cancel their wireless services if they don't have access to a functioning device. The Commission considers that the requirement to suspend wireless service charges should apply to both prepaid and postpaid service customers in cases where the customer would incur an early cancellation fee if they were to cancel their service. Prepaid service customers face the same potential harm as postpaid service customers. The conditions for suspending wireless service charges are limited enough to minimize the burden on WSPs that provide prepaid services.

185. Due to the temporary nature of device repairs, requiring specific replacement devices would result in a burden for WSPs that is not proportionate to the benefits for consumers.

***Commission's determinations***

186. In light of the above, WSPs must suspend wireless service charges while their customers' devices are being repaired, provided that the following four conditions are met:

- a) the device was provided as part of a contract with the WSP and is returned to the WSP for repair;
- b) the device is under the manufacturer's or WSP's warranty;
- c) the WSP did not provide a free replacement device for use during the repair; and
- d) the customer would incur an early cancellation fee if they were to cancel their wireless services.

**9. Lost and stolen mobile devices**

***Positions of parties***

187. Consumers submitted that the loss or theft of a mobile device is a significant concern. Specifically, consumers expressed concern about their liability for potential unauthorized charges while their mobile device was lost or stolen and potential privacy violations due to unauthorized access to personal information that is stored on the mobile device.

188. Consumers also sought clarity about their options to continue with or cancel their contracts if their phone is lost or stolen, given that they cannot use their wireless services until they find or replace their device. The CCC, PIAC et al., SPIC, and I'Union submitted that the Wireless Code should require WSPs to clearly set out any charges imposed when mobile devices are lost or stolen in a customer's written contract.

189. Parties generally agreed that if a mobile device is lost or stolen, the WSP should suspend the services associated with that device, provided the customer gives notice of the loss or theft.

190. WSPs argued that for customers under fixed-term contracts, minimum monthly charges should continue unless the customer cancels the contract. PIAC et al. submitted that there should be a cap on any fees charged when a mobile device is lost or stolen, and that consumers should not be liable for any charges incurred after the device has been stolen.

191. Some WSPs that provide prepaid services, including Mobilicity, argued that if customers purchase their device separately from the contract, the WSP should not be responsible for suspending charges for a device that is lost or stolen.
192. The CWTA submitted that over 400,000 mobile devices were lost or stolen in 2011, and that the majority of those were lost. The CWTA indicated that the number of reports of lost or stolen mobile devices has been declining, and that CWTA members are in the process of joining an international database to track lost and stolen mobile devices to help deter theft.

### ***Commission's analysis***

193. The Commission notes that most parties agreed that the Code should address consumers' rights and responsibilities when their mobile device is lost or stolen, but there was no consensus on the appropriate limit on consumers' liability in these situations.
194. The loss or theft of a mobile device is a significant inconvenience for consumers. It can be a considerable expense for consumers to purchase a replacement smartphone or other mobile device, and not all consumers are able to do so immediately. In addition, because of the wide-ranging functionality of mobile devices, if a mobile device is lost or stolen, there is a significant risk that charges could be authorized by someone other than the customer. These charges, whether for data usage, roaming, long distance, or premium services, could be substantial and therefore extremely harmful for consumers. Consumers should have the ability to suspend the services associated with a lost or stolen mobile device while they are unable to use these services and to reactivate the suspended services at no additional charge. Service suspension would enable customers to avoid charges incurred without their authorization and permit the customer to restart service should their device be located. The Commission notes that some WSPs already offer their customers the ability to suspend and reactivate wireless services at no charge, upon receipt of notification that a device has been lost or stolen.
195. While their wireless services are suspended, customers should be required to pay either the minimum monthly charge if they continue with the contract or the early cancellation fee if they cancel the contract. The Commission considers that customers are liable to pay all charges incurred before they notify the WSP that their device was lost or stolen. The Commission also considers that responsibility rests with consumers to notify WSPs when their device has been lost or stolen. The ability of consumers to cancel their contract or maintain their services does not change when a mobile device is lost or stolen. As such, the Commission considers that the increased clarity provided by the Code with respect to contract cancellation and early cancellation fees is sufficient to enable consumers to make informed choices.
196. The risks related to lost and stolen devices exist for both prepaid and postpaid service customers. Regardless of the type of contract, consumers can lose access to services if their device is lost or stolen. There can be a significant financial impact on prepaid

service customers, whether due to depletion of their account balance or the unauthorized use of their wireless services. As a result, the requirements related to lost or stolen mobile devices should apply equally to prepaid and postpaid services.

197. The Commission considers that the actions taken by WSPs to join an international database to track lost and stolen mobile devices will help address consumer concerns relating to lost and stolen devices.

***Commission's determinations***

198. In light of the above, the Commission requires WSPs to suspend the service at the customer's request and at no charge upon receiving notice from the customer that their device has been lost or stolen.
199. The Commission determines that while the service is suspended, the terms and conditions of the contract will continue to apply, including the customer's obligation to pay (i) all charges up until the WSP received notice that the device was lost or stolen; and (ii) either the minimum monthly charge, if the customer continues with the contract, or the applicable early cancellation fee, if the customer cancels the contract.
200. The Commission further determines that upon receiving a request from the consumer to restore the service, the WSP must do so at no charge.

**10. Contract length and cancellation fees**

***Positions of parties***

201. Consumers' most significant concerns in this proceeding related to the length of wireless service contracts and the early cancellation fees that consumers may be required to pay if they want to cancel their contract before the end of the commitment period.

***Contract length***

202. Many consumers submitted that three-year contracts (i) prevent them from taking advantage of the competitive market; (ii) are a barrier to keeping pace with technological progress; and (iii) are not consistent with the two-year contracts that are generally found in other countries. Consumers also expressed concern that device performance often degrades rapidly after two years, and that manufacturers' warranties often last only one year. Consumers submitted that the Commission should ban three-year contracts and limit the maximum length of all wireless contracts to two years. Consumer groups, Mobilicity, and WIND also supported limiting contract duration for the reasons described above.
203. Most WSPs submitted that the Wireless Code should not limit contract duration primarily because three-year contracts allow for low device pricing. Bell Canada et al., RCP, SaskTel, and TCC, submitted that limiting the duration of

contracts would raise prices and limit consumer choice. These WSPs argued that it was not necessary to limit contract length because customers can cancel their contracts at any time by paying early cancellation fees.

204. Bell Canada et al. submitted evidence showing that devices older than two years are active on its network. Bell Canada et al. also submitted that the duration of contract terms is not within the scope of this proceeding and that Canadians replace devices every 2.5 to 2.75 years, which confirms that three-year contracts are not a barrier to Canadians having access to new and innovative technology. MTS Allstream submitted that three-year contracts are the most popular option with their customers despite the fact that the company offers competitive one- and two-year contracts.

*Early cancellation fees*

205. Consumers generally submitted that (i) calculating early cancellation fees is confusing; and (ii) early cancellation fees should only recover the subsidy costs of a mobile device and other small nominal fees. Many consumers submitted that high early cancellation fees lock them into disadvantageous commitments and limit their ability to switch WSPs. The Competition Bureau submitted that high cancellation fees create a significant switching cost for consumers, which in turn harms competition and reduces consumer welfare.
206. Some consumers submitted that monthly bills should indicate the exact date on which the contract term expires and how much it would cost the consumer if they were to cancel their service that month. Consumers also submitted that there should be no hidden fees for cancelling wireless services. In particular, consumers raised concerns about certain WSPs charging additional early cancellation fees for cancelling data packages.
207. Parties generally agreed that the Commission should determine how early cancellation fees should be calculated.
208. Parties also generally agreed that when devices are provided as part of a fixed-term or indeterminate contract, the early cancellation fee should be limited to the outstanding cost of the device pro-rated on a monthly scale.
209. Bell Canada et al., the CWTA, Mobilicity, MTS Allstream, PIAC et al., RCP, TCC, and l'Union generally endorsed the following approach for calculating early cancellation fees, which is mostly consistent with the formulas found in provincial legislation:
- i. For fixed-term service with a subsidized device: early cancellation fees may not exceed the sum of (i) any outstanding amount due for wireless services provided up to the effective cancellation date, plus (ii) any outstanding cost for the device.

- ii. For fixed-term service without a subsidized device: early cancellation fees may not exceed the sum of (i) any outstanding amount due for wireless services provided up to the effective cancellation date, plus (ii) the lesser of \$50 or 10 percent of the monthly rate for the remaining months of the contract term.
  - iii. For indeterminate service with a subsidized device: early cancellation fees may not exceed the sum of (i) any outstanding amount due for wireless services provided up to the effective cancellation date, plus (ii) any outstanding cost for the device. The cost of the device is calculated over a 48-month period.
  - iv. For indeterminate service without a subsidized device: WSPs must not charge an early cancellation fee.
210. The CCC, the Competition Bureau, EastLink, WIND, and Mr. Sokolov submitted that early cancellation fees should be limited to the outstanding cost of the device. The CCC, OpenMedia, PIAC et al., and Mr. Sokolov opposed calculating this fee over 48 months, arguing that this length of time was too long. PIAC et al. also submitted that in many cases, a 48-month period overcompensates WSPs for the cost of the device. OpenMedia submitted that the proposed early cancellation fee calculation would maintain (i) the non-transparent pricing of devices, which impedes informed consumer choice; and (ii) high costs for switching wireless services.
211. TCC submitted that any early cancellation fee formula set by the Commission should be a maximum, which would allow competitors to set lower early cancellation fees if they chose to do so.
212. WSPs generally submitted that prepaid services do not charge early cancellation fees, and that, therefore, this section of the Code should not apply to prepaid services.
213. SaskTel submitted that early cancellation fees should enable WSPs to recover the cost of acquiring the customer, in addition to any costs associated with providing a device at a discounted rate. In contrast, the CCC argued that the early cancellation fee should not be a tool for WSPs to compensate for the cost of acquiring or losing a customer.
214. The Competition Bureau and OpenMedia argued that consumers should be able to continue paying off their devices after switching WSPs. The Competition Bureau also submitted that consumers should have the flexibility to determine their own payment schedule, as is permitted with other forms of credit.

### ***Commission's analysis***

#### ***Contract length***

215. Consumers considered that three-year contracts combined with significant early cancellation fees make it difficult for them to change WSPs and keep pace with technological progress. Many consumers requested that the Commission ban three-year contracts and limit contracts to two years to address this problem.

216. The Commission considers that consumers should be able to switch WSPs, upgrade devices, and take advantage of competitive offers at least every two years, in order to contribute to a more dynamic wireless marketplace and to enable consumers to take advantage of technological advances. In this regard, the Commission notes Bell Canada et al.'s submission that a portion of its customers' devices are at least two years old. However, the record of the proceeding indicates that while such devices may continue to be functional, they are less likely to be supported by their manufacturers, covered by a warranty, or technologically comparable to contemporary mobile devices, given the rapid pace of technological advancement.
217. The Commission considers that the Wireless Code should minimize consumers' barriers to switching WSPs and to keeping pace with technological progress. The Code should also enable consumers to take advantage of competitive offers more frequently. The Commission considers that the fundamental barrier to consumers taking advantage of competitive offers every two years is not the availability of three-year contracts in the marketplace, but rather the high early cancellation fees that many consumers must pay if they wish to upgrade devices or change WSPs.
218. The Commission notes that early cancellation fees are a mechanism by which WSPs enforce wireless contracts and considers it appropriate for WSPs to have the ability to charge limited early cancellation fees in certain circumstances. However, the Commission considers that early cancellation fees must be significantly limited to empower consumers to take advantage of competitive offers and technological advances at least every two years. The record of the proceeding is clear that market forces alone have not appropriately restricted early cancellation fees in a way that responds to consumer concerns.
219. Many parties who opposed limiting contract length proposed that early cancellation fees should be calculated over the length of the contract or, for indeterminate contracts, a maximum of 48 months. If a 48-month period were used, a customer under an indeterminate contract could end up paying an early cancellation fee four years into a contract. However, the evidence in this proceeding demonstrates that permitting WSPs to require early cancellation fees over such long periods is a barrier to consumers taking advantage of competitive offers.
220. The Commission considers it appropriate to limit the maximum number of months over which the early cancellation fee must be reduced to 24 months, so that Canadians will be able to cancel a contract at no cost to them after two years or less. The Commission considers that this will minimize the costs of switching WSPs for consumers, benefit consumers, and ultimately result in a more dynamic marketplace.
221. In all cases, after two years, customers will be able to decide whether or not to continue the relationship with their current WSP or to choose a competitor's service without any early cancellation fees or other burden.

*Early cancellation fees*

222. The Commission considers that a clear, standard, and transparent formula for early cancellation fees will improve clarity for consumers.

223. The Commission also considers that flexibility to provide early cancellation fees that are more advantageous to the customer than those set out in the Commission's formula for calculating the maximum early cancellation fees would permit WSPs to use early cancellation fees as a competitive differentiator. The Commission notes that such flexibility would benefit consumers and the competitive market by allowing for even lower early cancellation fees and therefore lower barriers to switching.
224. The Commission considers that the calculation of maximum early cancellation fees should depend on (i) whether a mobile device is provided at a reduced price as part of the contract; and (ii) the contract term (fixed or indeterminate).
225. WSPs often combine fixed-term contracts with mobile devices that are sold to consumers at a reduced or subsidized price, in exchange for the customer's commitment to a fixed-term contract. Some WSPs also offer subsidized devices with indeterminate contracts whereby consumers "pay down" the amount owing on the device over their commitment period. The Commission considers it appropriate for WSPs to be allowed to recover an early cancellation fee if a customer seeks to exit their contract early and a subsidized device was provided as part of the contract. The Commission notes SaskTel's argument that WSPs should be allowed to recover customer acquisition costs as part of the early cancellation fee. However, the Commission considers that this would not be in the best interest of consumers and that acquisition costs are a cost of doing business for WSPs.
226. For both fixed-term and indeterminate contracts, when a subsidized device is provided, the Commission considers that, consistent with the position of most parties to this proceeding, the early cancellation fee should not exceed the value of the device subsidy. Basing the early cancellation fee on the value of the device subsidy is appropriate given that it ties the incentive that a customer received to enter a contract to the fee they must pay if they cancel their contract before the end of the commitment period. The Commission also considers that the value of the device subsidy should be calculated as the retail price of the device minus the amount that the consumer paid for the device at the time of sale. The Commission considers that, for the purpose of this calculation, the retail price of the device is the *lesser* of the manufacturer's suggested retail price or the price set for the device when it is purchased from the WSP without a contract. The Commission further considers that the early cancellation fee should be limited to the remaining balance of the device, which must decrease by an equal amount each month over a maximum of 24 months.
227. For fixed-term contracts where no device has been provided, WSPs should be able to impose some consequence if a customer seeks to cancel a contract early. In this regard, the Commission considers that WSPs should be encouraged to compete for customers who are willing to sign fixed-term contracts without subsidized devices. The Commission also considers that banning an early cancellation fee in the above-mentioned circumstances could reduce consumer choice by reducing the incentive for WSPs to offer service plans featuring discounts or lower rates in

return for customers signing fixed-term contracts. However, the amount of the early cancellation fee should be limited to ensure that it does not constitute a switching barrier.

228. The Commission considers that customers who provide their own device or pay full price for their device, and who have chosen indeterminate contracts, are in a very different situation than those described above. These customers have not committed to a fixed-term contract, and the WSP has not incurred any expenses in terms of subsidizing a device. In these circumstances, the Commission considers that no early cancellation fee should be charged.
229. The Commission notes that while many WSPs that provide prepaid services do not charge early cancellation fees, some WSPs offer pay-in-advance services with subsidized devices. The Commission considers that if a subsidized device is provided, the WSP should be able to recover the value of the device subsidy, through an early cancellation fee.
230. The Commission further considers that amounts due for services already provided do not form part of an early cancellation fee; instead, the requirement to pay amounts due for services already provided is an existing obligation under the service contract.
231. The Commission notes the Competition Bureau's and OpenMedia's arguments that customers should be able to continue paying off their device after switching WSPs. The Commission considers that it is not appropriate to require WSPs to maintain business relationships with consumers to whom they no longer provide telecommunications services. In addition, the Commission considers that a complete separation of devices from service contracts would represent a disproportionate interference in the marketplace.
232. The Commission considers that the inclusion of a clear description of any early cancellation fees in the written contract and the Critical Information Summary will increase transparency and clarity regarding device pricing. As noted above, the written contract and Critical Information Summary must clearly indicate the retail price of the device and the early cancellation fee, as well as how these relate to the value of the subsidized device provided as part of the contract. The Commission considers that clarifying the application of early cancellation fees will enable consumers to more easily evaluate their options and to better understand the costs for which they are liable.

#### ***Commission's determinations***

233. In light of the above, the Commission determines that the Wireless Code must establish limits on the maximum early cancellation fees that WSPs can charge. Maximum early cancellation fees will depend on (i) whether a mobile device is provided at a reduced price as part of the contract (a subsidized device); and (ii) the contract term (fixed-term or indeterminate).

234. If a customer cancels a contract before the end of the commitment period, a WSP must not charge the customer any fee or penalty other than the early cancellation fee, which must be calculated in the manner set out below:

**(i) When a subsidized device is provided as part of the contract**

**a) for fixed-term contracts:** The early cancellation fee must not exceed the value of the device subsidy. The early cancellation fee must be reduced by an equal amount each month, for the *lesser* of 24 months or the total number of months in the contract term, such that the early cancellation fee is reduced to \$0 by the end of the period.

**b) for indeterminate contracts:** The early cancellation fee must not exceed the value of the device subsidy. The early cancellation fee must be reduced by an equal amount each month, over a maximum of 24 months, such that the early cancellation fee is reduced to \$0 by the end of the period.

**(ii) When the contract does not include a subsidized device**

**a) for fixed-term contracts:** The early cancellation fee must not exceed the *lesser* of \$50 or 10 percent of the minimum monthly charge for the remaining months of the contract, up to a maximum of 24 months. The early cancellation fee must be reduced to \$0 by the end of that period.

**b) for indeterminate contracts:** A WSP must not charge an early cancellation fee.

235. When calculating the early cancellation fee, (i) the value of the device subsidy is the retail price of the mobile device minus the amount that the consumer paid for the device when the contract was agreed to; and (ii) the retail price of the device is the *lesser* of the manufacturer's suggested retail price or the price set for the device when it is purchased from the WSP without a contract.

236. When calculating the time remaining in a contract to determine the early cancellation fee, a month that has partially elapsed at the time of cancellation is deemed to be a month completely elapsed.

237. These limits will apply equally to prepaid and postpaid services. The Commission notes that because many prepaid services, notably prepaid cards, do not include a device provided by the WSP, in many cases, no early cancellation fee will apply.

238. The Commission considers that it is not necessary to limit the length of wireless contracts to two years since, in light of its determinations above, any customer can cancel a wireless service contract after two years, at no cost to them.

## **11. Trial period**

### ***Positions of parties***

239. Many consumers considered that WSPs should be required to provide a limited trial period to allow consumers to determine whether the service coverage, device, or

package they chose meets their needs. Consumers submitted that they should be able to cancel their service during the trial period without being required to pay an early cancellation fee or any other fee.

240. For example, some consumers living in rural areas raised concerns about situations in which they purchase a mobile device and wireless service plan only to realize that they do not receive reception or receive only poor quality reception to the network where they live or work. These consumers were concerned that they would be required to continue paying for the service, even without reception or with poor quality reception, or to pay significant early cancellation fees.
241. MAC submitted that people with disabilities need sufficient time to determine the compatibility of a mobile device with the particular assistive technology the user intends to use and the suitability of the features of the device to meet the specific needs of the person with a disability. MAC submitted that WSPs should be required to offer a 30-day trial period.
242. Bell Canada et al., OpenMedia, PIAC et al., RCP, and l'Union supported including provisions regarding a 15-day trial period in the Code. PIAC et al. noted that a trial period would give consumers the time to review the terms and conditions of their contract, as well as evaluate the quality of service in their home or workplace.
243. Bell Canada et al. noted that the proposed trial period was consistent with the company's policies. RCP noted that it currently has a 15-day trial period, with 30 minutes of voice usage included. Public Mobile noted that it has a 7-day trial period, with 30 minutes of voice usage, and submitted that a longer trial period would reduce the resale value of devices. Public Mobile argued that WSPs that provided prepaid services should be subject to shorter trial periods than WSPs that offer long-term contracts.
244. Public Mobile, RCP, and TCC noted that a requirement to provide a trial period would impose costs on WSPs. These costs include the handling, restocking and depreciation in value of returned mobile devices. RCP further noted that returned devices can no longer be sold as new. Public Mobile submitted that a longer trial period would result in more device value depreciation, which would prevent stores from restocking returned mobile devices for resale.
245. Bell Canada et al. submitted that an extended trial period could be offered to people with disabilities including double the WSPs' regular usage limits. For example, if WSPs were to provide a regular trial period that either lasts 15 days or includes 30 minutes of voice usage, whichever comes first, the extended trial period for persons with disabilities would last 30 days or include 60 minutes of voice usage. In contrast, RCP indicated that the usage limits included in the trial period should be the same for all consumers (i.e. 30 minutes), but did not provide supporting rationale.
246. TCC opposed including a requirement to provide a trial period in the Wireless Code, arguing that mandating such a period is overly prescriptive and limits competitive differentiation. TCC proposed that WSPs should find alternative solutions for persons with disabilities, on a case-by-case basis.

***Commission's analysis***

247. The Commission notes that consumers who purchase a mobile device seek to do so in as timely a manner as possible and considers that consumers may not be able to take in all the details of a wireless service contract prior to the start of service. As well, consumers may not discover certain constraints on their services until after they have started to receive service. For example, service coverage maps provided by WSPs may not be sufficient to determine the adequacy of wireless services in a customer's home, office, or other location where they want to use their device. The Commission considers that a consumer's experience of the device and service coverage in a consumer's home or office cannot be adequately tested at the time of sale. Therefore, some trial of the service in these places is necessary.
248. The Commission considers that for wireless contracts under which a consumer is subject to an early cancellation fee, the consumer needs a trial period to test the service, including a device purchased as part of the contract. However, with prepaid card services and certain other prepaid services, consumers can cancel their contract at any time without being required to pay an early cancellation fee. Accordingly, the Commission considers that it is not necessary to require WSPs to provide a trial period for such services.
249. Requiring a standard trial period for contracts under which a consumer is subject to an early cancellation fee would (i) give consumers the opportunity to properly review the terms and conditions of their contract to ensure that it meets their needs; (ii) ensure reliable service in their home, office, or other location where they want to use their device; and (iii) increase consumer choice. The Commission notes some WSPs' concern that if a trial period were implemented, they would have to absorb the depreciation costs of returned devices. The Commission considers that WSPs should be permitted to require any device returned within the trial period to be returned promptly and in its original working order. The Commission also considers that WSPs should be permitted to determine the usage levels allowed during the trial period.
250. Accordingly, the Commission considers that a requirement to provide a trial period lasting a minimum of 15 calendar days for contracts under which the consumer is subject to an early cancellation fee represents an appropriate balance between the needs of consumers and the burden that such a requirement places on WSPs.
251. The Commission acknowledges that people with disabilities may require additional time to familiarize themselves with and integrate a new mobile device into existing and/or possibly new assistive technology and software. In addition, people with disabilities must often schedule assistive technology support services to further determine the compatibility of their mobile device with accessibility software. Accordingly, the Commission considers that an extended trial period, which doubles the number of days and usage level, is necessary to help people with disabilities find suitable wireless service plans and products.

252. To provide WSPs with flexibility, the requirement to provide a trial period is a minimum standard, which WSPs may choose to exceed by offering longer trial periods.

***Commission's determinations***

253. WSPs must provide a 15-calendar-day (minimum) trial period for contracts where the consumer is subject to an early cancellation fee. During the trial period, customers can cancel their contract without penalty if they have (i) used less than the prescribed usage; and (ii) returned any mobile device provided by the WSP in near-new condition, including original packaging.
254. The Commission also requires that the trial period for customers who self-identify as having a disability be at least 30 calendar days, with a corresponding doubling of the permitted usage.
255. The Commission determines that these requirements apply equally to prepaid and postpaid contracts where the consumer is subject to an early cancellation fee.
256. The trial period must start on the date on which service begins.

**12. Effective date of cancellation**

***Positions of parties***

257. Consumers expressed concern that cancellation practices were unfair and resulted in double-billing for wireless services when a consumer cancelled their service and moved to a different WSP. In particular, consumers submitted that many WSPs required 30 days' notice to cancel wireless services, but did not inform consumers of this until they contacted their WSP to cancel their service.
258. Parties generally agreed that it was inappropriate for WSPs to cancel customers' services 30 days after the date on which the cancellation was requested and that the Wireless Code should require that WSPs cancel service immediately upon the customers' request. However, parties disagreed on whether cancellation should take effect on the date on which notice is provided by the customer or on the date on which notice is received by the WSP.
259. Bell Canada et al., the CWTA, Mobilicity, MTS Allstream, RCP, TCC and Videotron submitted that cancellation should take effect on the date on which notice is received. Bell Canada et al. and RCP submitted that cancellation can only be processed by the WSP once notice has been received. RCP and TCC also submitted that cancellation often comes by means of a number porting request, and that WSPs have no control over when a customer's new WSP makes a number porting request. EastLink submitted that requiring cancellation to take effect when notice is given would eliminate the need for customers to call their current WSP when switching providers, and that this would reduce barriers to switching.

260. In general, WSPs offering prepaid services submitted that because their customers do not enter into fixed-term contracts, there is no need for provisions on effective cancellation dates to apply to prepaid services. Their customers can already choose to cancel their services at any time without any cost or delay.
261. The CCC, PIAC et al., and l'Union argued that cancellation should take effect on the date on which the customer provides the notice. PIAC et al. and l'Union submitted that consumers would be disadvantaged by cancellation taking effect on the date of receipt of notice by WSPs, arguing that consumers have no knowledge of, or control over, WSPs' internal policies and practices. PIAC et al. also argued that the number porting process involves such short time frames that it should occur on the same date as the cancellation request. OpenMedia submitted that cancellation should take effect on the date on which notice is provided, or within five business days if the notice is sent by mail. Mr. Sokolov proposed that cancellation should take effect on the business day following the day on which the consumer could reasonably expect the WSP to have received the notice.

### ***Commission's analysis***

262. The Commission notes that before the proceeding, many WSPs required 30 days' notice before implementing service cancellation, including at the end of a contract term. The record of this proceeding shows that this practice has generally ended due to the many complaints it generated. The Commission agrees with this development to minimize the barriers to switching WSPs.
263. The Commission considers that the effective cancellation date should be standard and easy to understand for both consumers and WSPs. The Commission notes that if notice of cancellation is provided over the phone, the difference between when the notice is sent and received is not significant. However, if the notice of cancellation is sent by mail, or if a technical issue keeps an electronic notice from being received, there could be a delay in WSPs receiving the notice they need to cancel the service. While relying on the date sent would avoid any delay in cancelling service for consumers, the Commission considers that such a rule would be impractical to implement and enforce, given that, in some cases, cancellation would need to occur retroactively.
264. The Commission notes that the introduction of wireless number portability enabled customers to switch WSPs without having to contact their current WSP. There are detailed industry rules regarding notice of cancellation in these circumstances, which reduce the potential risk of cancellation delays.
265. The Commission does not consider that the effective cancellation date is a significant issue for prepaid services, since prepaid service customers must actively choose to renew their services and can cancel their services at any time.

### ***Commission's determinations***

266. In light of the above, the Commission determines that consumers may cancel their wireless services at any time by notifying their WSP, and that cancellation must take effect on the date on which the WSP receives this notice. The Commission determines that this requirement applies only to postpaid services.

### **13. Contract extension**

#### ***Positions of parties***

267. Consumers submitted that clarity around whether a device upgrade could trigger a contract extension is required in the Wireless Code. Many consumers expressed frustration that they had, in some cases, unknowingly extended their contract terms for an additional three years upon changing a feature in their contract or upgrading their mobile device.
268. Parties generally agreed that upon contract expiry, consumers should have the option to continue with the same plan at the same monthly rate on a month-to-month basis.
269. Parties also generally agreed that WSPs should provide notice before extending a customer's contract. PIAC et al. submitted that WSPs should notify their customers of contract expiry 90, 60, and 30 calendar days before the expiry date. Bell Canada et al., the CWTA, TBayTel, and TCC submitted that this notification should occur, at minimum 60 days before the end of the contract term.
270. Certain parties submitted that WSPs should obtain consumers' express consent regarding automatic contract extension and that consumers should be able to opt out of automatic contract extension. Other parties submitted that prohibiting automatic contract extension would be disruptive to consumers because they would lose service at the end of their contract term.
271. Several WSPs submitted that they have recently changed their automatic contract extension practices, or were in the midst of changing these practices in response to customer requests. WSPs also submitted that contracts are never renewed or extended without the customer's consent.
272. WSPs that offer prepaid services, including Public Mobile, argued that requirements related to contract extensions are not applicable to prepaid services. Prepaid services are never automatically extended; the customer can determine whether or not they would like to continue receiving service.

#### ***Commission's analysis***

273. The lack of transparency regarding contract extensions is a key concern for consumers. This lack of transparency can be detrimental to a dynamic market since it acts as a barrier to switching WSPs by locking consumers into another contract term when they may not wish this to happen.

274. The Commission considers that consumers require greater clarity regarding what will trigger contract extensions, particularly, whether device upgrades will trigger a contract extension. The practice of automatically extending a contract for another commitment period at upon contract expiry is an unreasonable barrier for consumers to switching WSPs. However, the Commission considers that automatic contract extension on a month-to-month basis upon contract expiry provides clear benefits to consumers: it limits the possibility of service disruption at the end of the contract while allowing consumers to decide whether to switch WSPs or renew their contract.
275. Therefore, the Commission considers that WSPs should be required to (i) inform their customers about their policy regarding automatic contract extension before customers enter into a contract; and (ii) indicate that customers have the right to opt out of automatic extension at any time.

#### ***Commission's determinations***

276. The Commission determines that upon contract expiry, WSPs may automatically extend their customers' contracts on a month-to-month basis, at the same rates, terms, and conditions.
277. The Commission determines that (i) WSPs must ensure that the written contract and the Critical Information Summary indicate whether the contract will be extended automatically at the end of the commitment period; and (ii) WSPs must clearly inform customers in the written contract if upgrading or otherwise changing their mobile device will extend their commitment period or change any other aspect of their contract. In addition, at the time that a WSP offers a customer a device upgrade, the WSP must clearly explain to the customer any changes to the existing contract terms caused by accepting the new device, including any extension to the commitment period.
278. The Commission further determines that, for fixed-term contracts, WSPs must notify customers of any automatic contract extension at least 90 calendar days before the date on which their contract expires.
279. In light of the different service delivery models available in the market, the Commission determines that these requirements apply only to postpaid services.

#### **14. Security deposits**

##### ***Positions of parties***

280. Some consumers submitted that security deposits were a barrier to obtaining postpaid wireless services and noted a general lack of clarity regarding how security deposits are managed by WSPs.

281. Consumer groups, including 1'Union, submitted that the Wireless Code should establish a maximum amount for security deposits, based on the cost of the device and the wireless services used. Consumer groups submitted that establishing a maximum amount for security deposits would enable greater access to postpaid service for consumers, particularly those with lower incomes.
282. Several WSPs submitted that there should be no limits on security deposit amounts since imposing these limits could lead to some potential customers being refused service. RCP submitted that the provision of wireless services can incur significant fees for WSPs, so flexibility in setting security deposit amounts is necessary. TCC submitted that WSPs should be allowed to apply the security deposit toward any amounts past due, and require the customer to replenish the security deposit after such use. Mobilicity and Public Mobile submitted that WSPs that do not collect security deposits should be exempt from provisions on security deposits in the Wireless Code.

### ***Commission's analysis***

283. WSPs may require security deposits from certain customers to help mitigate the risk of non-payment. The presence of a security deposit can increase access to services, which benefits consumers. The Commission considers it appropriate for WSPs to apply security deposits towards amounts past due, and for customers to replenish the security deposit after such use.
284. The Commission notes that the CCTS currently administers the Deposit and Disconnection Code,<sup>9</sup> which sets out rules for the appropriate treatment of security deposits for wireline services. The Commission considers it reasonable to model policies on security deposits for wireless services on those in place for wireline services, to the extent possible. The Commission considers that this would increase transparency and clarity for consumers.
285. The Commission notes that setting a maximum security deposit amount could lead to potential customers being refused service. The Commission also notes that WSPs have incentives to collect reasonable security deposit amounts as necessary and to return these deposits. The appropriate amount for a security deposit varies from one circumstance to the next. It involves examining situation-specific considerations, such as the customer's financial position and credit rating. By the same token, the WSP is motivated to sign up customers. The Commission therefore considers it appropriate to rely on market forces regarding security deposit amounts. Nevertheless, the Commission considers that information relating to the security deposit, including the reasons for requesting it, as well as the conditions for reviewing the appropriateness of the deposit and conditions for its return, must be clearly communicated to consumers. The Commission will monitor security deposit-related complaints to the CCTS to ensure that security deposits do not become a barrier for consumers to access to wireless services.

---

<sup>9</sup> This Code is administered by the CCTS.

286. The Commission notes that, in general, WSPs offering prepaid services do not require security deposits, since their business model limits their exposure to non-payment. Consumers who are unable to pay a requested security deposit can choose prepaid wireless service options.

***Commission's determinations***

287. The Commission determines that if a WSP requests a security deposit from a customer, the WSP must
- i. provide the customer with the reasons for requesting the deposit.
  - ii. keep a record of those reasons for as long as they hold the deposit.
  - iii. specify in the written contract the conditions for the return of the security deposit and review the continued appropriateness of retaining the deposit at least once per year.
  - iv. return the security deposit, with interest, retaining only any amount owed by the customer, no more than 30 calendar days after service cancellation or the WSP's determination that the conditions for return of the security deposit have been met.
288. The Commission requires WSPs to calculate the interest on the customer's security deposit using the Bank of Canada's overnight rate in effect at that time, plus at minimum one percent, on the basis of the actual number of days in a year, accruing on a monthly basis.
289. The Commission determines that WSPs may apply the security deposit towards any amount past due, and may require the customer to replenish the security deposit after such use.
290. The Commission also determines that these requirements do not apply to prepaid services.

**15. Disconnection**

***Positions of parties***

291. Parties generally agreed that WSPs' disconnection policies should be clear and easy to understand, while acknowledging the differences between wireless and wireline services. Consumer groups noted that service suspension is more common in the wireless service market than in the wireline service market, and that disconnection policies should reflect this reality. These parties considered that the two pillars of a disconnection policy should be (i) customer notification; and (ii) the maintenance of service during a dispute. Some WSPs opposed the imposition of the regulations set out in the wireline disconnection policy on wireless services, arguing that there are significant differences between the wireline and wireless service business models.
292. Some parties noted that disconnection is nearly nonexistent in the prepaid service market, due to the negligible risk of non-payment.

***Commission's analysis***

293. The Commission considers that WSPs must make reasonable attempts to notify customers before disconnecting their wireless service. Wireless services have, for many Canadians, become their sole telephone service, which they use to receive important information, for example, about their work, children, and medical appointments.
294. The Commission notes that the Deposit and Disconnection Code sets out rules for the appropriate treatment of disconnection for wireline services.<sup>10</sup> The Commission considers it reasonable to model policies for wireless service disconnection on those in place for wireline services, to the extent possible. The Commission considers that this would increase transparency and clarity for consumers. However, in light of the different business models of wireline and wireless services, a separate disconnection policy for wireless services is required.
295. Two key principles must apply to any wireless service disconnection policy:
- (i) wireless service customers can only be disconnected for failure to pay when the security deposit amount does not cover the amount owing to a WSP, and
  - (ii) wireless service customers on a spending limit or credit management program are exempt from the application of the wireless service disconnection policy. The Commission considers that this modified disconnection policy empowers consumers while allowing flexibility for WSPs to discuss alternative payment arrangements with their customers.
296. During the proceeding, WSPs filed information in regard to the plans they offer to customers with limited access to credit. In those cases, the service limitations have been agreed upon by the WSP and the customer, therefore, requiring additional notification of disconnection would be burdensome for WSPs. Accordingly, the Commission agrees with some WSPs' submission that a lack of provisions directed toward these customers in the Wireless Code could result in fewer service options for them.
297. Service interruptions when a pre-set spending limit is reached, such as for prepaid service customers or other customers on credit limited spending programs, should not count as disconnections under the Wireless Code. The Commission notes that customers of prepaid services or those who have agreed to a services cap clearly understand that continued service is contingent on having an account balance or using less than their cap. These customers do so as a way to control their telecommunications expenses.

---

<sup>10</sup> The Deposit and Disconnection Code can be obtained from the "Documents" section of the CCTS's website.

### ***Commission's determinations***

298. In light of the above, the Commission determines that if the grounds for disconnecting the customer are failure to pay, a WSP can disconnect a customer's postpaid service where the customer (i) fails to pay an account that is past due, provided it exceeds \$50 or has been past due for more than two months; (ii) fails to provide or maintain a reasonable security deposit or alternative when requested to do so by the WSP; or (iii) agreed to a deferred payment plan with the WSP and fails to comply with the terms of the plan.
299. The Commission determines that except with customer consent or in exceptional circumstances, disconnection may occur only on weekdays between 8 a.m. and 9 p.m. or on weekends between 9 a.m. and 5 p.m., unless the weekday or weekend day precedes a statutory holiday, in which case disconnection may not occur after noon. The applicable time is that of the customer's declared place of residence.
300. If a WSP has disconnected a customer in error, it must restore service by the end of the next business day, and it cannot impose reconnection charges.
301. The Commission determines that if a WSP intends to disconnect a customer, it must provide reasonable notice to the customer at least 14 calendar days before disconnection, of (i) the reason for disconnection and amount owing (if any); (ii) the scheduled disconnection date; (iii) information on the availability of deferred payment plans; (iv) the amount of the reconnection charge (if any); and (v) contact information for a WSP representative with whom the disconnection can be discussed. This notification is required in all cases, except those where (i) the WSP has a reasonable suspicion that fraudulent activity has occurred or is likely to occur; or (ii) action must be taken to protect the WSP's network from harm.
302. A WSP must provide a second notice to advise a customer that their service will be disconnected at least 24 hours before disconnection, except where (i) repeated attempts to contact the customer have failed; (ii) action is necessary to protect the network from harm; or (iii) the WSP has a reasonable suspicion that fraud is occurring or likely to occur.
303. A WSP must not disconnect a customer if (i) the customer notifies the WSP on or before the scheduled disconnection date listed in the notice that they dispute the reasons for disconnection; (ii) the customer pays the amount due for any undisputed portion of the charges; and (iii) the WSP does not have reasonable grounds to believe that the purpose of the dispute is to evade or delay payment.

## **16. Privacy policies**

### ***Positions of parties***

304. Consumers and consumer groups expressed concern that privacy policies are not easily available and can be changed without notification. They also expressed concerns over the safeguarding of their personal information, including the possible sharing of this information (i) to third parties without consumers' consent; (ii) for GPS tracking on smartphones; and (iii) to parties outside Canada.

305. Middleton et al. submitted that research on the usage of information and communication technologies indicates that youth and seniors are particularly concerned over the management of their personal information.
306. The Office of the Privacy Commissioner of Canada submitted that the Wireless Code should explicitly reference the obligations and guiding principles of the Personal Information Protection and Electronic Documents Act (PIPEDA).
307. All parties generally agreed that WSPs should (i) make their privacy policies available in a manner that is accessible; and (ii) notify their customers of any amendments to their privacy policies at least 30 calendar days in advance.

### ***Commission's analysis***

308. The Commission notes that WSPs are subject to either federal or provincial privacy legislation. While the Commission considers that PIPEDA and provincial privacy legislation promote the interests of consumers, the Commission also notes that privacy continues to be of primary concern for many consumers.
309. Customer notification by WSPs of amendments to their privacy policies would ensure that customers are informed of how WSPs manage their personal information. This requirement requires little effort by WSPs but ensures that consumers are well informed about these important conditions related to their services. The Commission notes that WSPs supported the application of provisions related to privacy policies in the Wireless Code to prepaid services.

### ***Commission's determinations***

310. In light of the above, WSPs are required to notify their customers of amendments to their privacy policies at least 30 calendar days before these amendments take effect. This requirement applies to all prepaid and postpaid services. Privacy policies must be provided in an accessible manner, which includes alternative formats for people with disabilities, upon request and at no charge.

## **17. Unlimited services and advertised prices**

### ***Positions of parties***

311. Consumers submitted that advertised prices can be misleading, since they often include basic service charges, but not additional fees and charges for optional services. Consumers stated that advertised prices should include all fees, optional service charges, taxes, and should list potential overage charges.
312. Parties generally agreed on the need for clarity in advertised prices. Mr. Sokolov submitted that advertised prices should include the average cost of wireless services over the length of the contract term for fixed-term contracts, or two years for indeterminate contracts. PIAC et al. and Vaxination argued that advertised prices should include any taxes and additional fees. MAC submitted that pricing should be clear and consistent between WSPs to help consumers compare services.

313. TCC indicated that due to the different tax rates in different provinces, imposing an “all-in” price advertising requirement would make national advertising campaigns infeasible. EastLink submitted that a provision on advertised prices in the Wireless Code is unnecessary because other federal legislation already has established such obligations.
314. Consumers expressed frustration with plans that are advertised as being unlimited, but may be subject to unclear usage limitations or overage fees. The CCTS and consumer groups argued that fair use policies are not well disclosed. In addition, the CCTS filed its 2011-2012 annual report on the record of the proceeding, which highlights complaints related to unlimited plans as being of significant concern.
315. MTS Allstream and Vaxination submitted that an unlimited plan should be defined as a plan under which a customer cannot be charged overage fees. MTS Allstream argued that if no network or traffic management practices were allowed to apply to unlimited plans, this would create a disincentive to WSPs to offer such plans, reducing consumer choice and potentially increasing prices.
316. TCC suggested that WSPs should not be permitted to advertise a service as being “unlimited” if their network practices may result in a material reduction in the quality of that service for customers who reached a specified amount of use.
317. L’Union submitted that WSPs should not be able to move customers to limited plans once a certain usage threshold has been reached. L’Union also submitted that WSPs must clearly explain their fair use policies and what level of usage leads to these policies being applied. In general, parties agreed that plans advertised as being “unlimited” should not have any usage limitations, unless they are clearly described in a WSP’s fair use policy.
318. Mobilicity proposed a similar definition of an unlimited service. WIND and Public Mobile agreed that provisions in the Code on unlimited services should apply to all prepaid and postpaid services

### ***Commission’s analysis***

319. In order to ensure that consumers have the information they need to make choices in the wireless marketplace, they need to have a clear understanding of the cost and inclusions of wireless service plans. The requirements described in paragraphs 53 to 61 and 73 to 76 above regarding the information that must be included in written contracts and the Critical Information Summary will effectively address this need.
320. Consumers should be clearly informed of the limitations of the services they are agreeing to purchase. In particular, if a customer agrees to pay for an unlimited plan, that customer should not be subject to any usage limitations beyond those necessary for network management purposes, and these limitations should be clearly disclosed.
321. The Commission considers that when a customer subscribes to a plan that is described in the contract as being “unlimited,” the customer should not be charged any overage fees for use of any services under that plan. The Commission also

considers that for these plans, there should be no usage limitations outside a WSP's fair use policy. WSPs must explicitly explain in the fair use policy (i) the amount of usage that will trigger the application of the policy; and (ii) what the consequences are for the customer of the application of the policy. This will ensure that customers who subscribe to plans that are advertised as being "unlimited" understand the related parameters and that these consumers are not charged unexpected overage fees. The Commission considers that when fair use policies are applied, it is the WSP's burden to demonstrate that a customer has violated the policy.

322. The Commission also considers that these requirements should apply to both prepaid and postpaid services, since unlimited plans are common to many different business models.
323. The Commission notes the submissions requesting that the Commission require that certain optional services, such as Call Display and Voicemail, be included in the advertised price of wireless service plans. The Commission notes that a variety of wireless service plans are available in the marketplace with different usage allowances and services included. It is appropriate to allow WSPs the flexibility to design and price wireless service plans that respond to the needs of consumers, provided that pricing and service information is clearly explained in the written contract and Critical Information Summary.
324. The Commission also notes that WSPs must adhere to federal and provincial legislation regarding advertising practices. The Commission considers that the existing federal and provincial legislation address consumer interests with respect to the advertised prices.

### ***Commission's determinations***

325. In light of the above, the Commission determines that (i) WSPs cannot charge a customer any overage charge for services described in their contract as being unlimited; (ii) WSPs must ensure that all limitations on the use of their services, including any rules on the appropriate use of the network, are explained in the WSP's fair use policy; and (iii) WSPs must provide this information to the customer at the time that the contract is agreed to. These requirements apply equally to prepaid and postpaid services.
326. The Commission notes that, as set out above, the Wireless Code establishes new requirements on WSPs to ensure the clarity of the prices in contracts. The Commission finds that no additional requirements are necessary to address advertised prices.

## **18. Accommodations for people with disabilities**

### ***Positions of parties***

327. Consumers expressed concern regarding the promotion of wireless service plans that are tailored for people with disabilities and the accessibility of customer service. MAC highlighted, among other issues, the need for à la carte services, an

extended trial period, and accessible customer service for people with disabilities. MAC requested that the Code require a 45-day trial period and that this period include the full complement of voice, text, and data usage. In contrast, Bell Canada et al. and RCP submitted that a 30-day trial period would be reasonable for people with disabilities.

328. Parties generally agreed that the Wireless Code should provide for specific accommodations for people with disabilities.
329. Some WSPs noted that disability-specific wireless service plans already exist in the market. Other WSPs noted their initiatives to promote accessibility to their customers. RCP submitted that it has plans to establish a “centre of excellence” for accessibility services. The CWTA announced its plans to create an Accessibility Advisory Group that will hold discussions on wireless service accessibility. Videotron and EastLink submitted that their respective “value for money” approaches to their service offerings would meet the needs and expectations of people with disabilities.

### ***Commission’s analysis***

330. The Commission notes that people with disabilities are often challenged with finding wireless service plans and related customer service information that meet their unique needs. The Commission notes that it considered that WSPs’ wireless services should include reasonable accommodations for people to access them. The Commission considers that WSPs’ contracts and related documents should be accessible for people with disabilities in alternative formats upon request and at no additional charge.
331. The Commission acknowledges that people with disabilities may require additional time to familiarize themselves with and integrate a new mobile device to assistive technology and software. In addition, people with disabilities must often schedule assistive technology support services to further determine the compatibility of their mobile device with accessibility software. As noted earlier in this decision, the Commission considers it reasonable to provide people with disabilities with an extended trial period in terms of the number of days and usage.
332. In Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy), the Commission imposed requirements on WSPs and outlined its expectations for WSPs to better serve the needs of people with disabilities. These include an expectation for WSPs to offer accessible handsets, and requirements for WSPs to (i) provide reasonable accommodations for people with disabilities in their customer service and on their websites, (ii) promote disability-specific services, and (iii) provide information in alternative formats upon request.
333. In the Accessibility Policy, the Commission encouraged WSPs to consult with their customers with disabilities and appropriate advocacy groups to develop suitable options and packages of optional features for people with disabilities and to offer such options at the earliest possible opportunity.

334. WSPs generally expressed that they were committed to advancing accessibility issues. The Commission considers that disability-specific plans are currently being offered by WSPs, but that these plans may not be promoted sufficiently. The Commission notes consumers' frustration with the wireless service industry in receiving customer service with expertise in the area of accessibility.
335. WSPs should ensure that their customers with disabilities have access to the information they need to determine which plans, services, or products would best meet their needs. The Commission considers customer service resources with expertise the area of accessibility to be important for communication this type of information. In this regard, the Commission also considers it reasonable to require WSPs to report on how they are promoting the plans and services that they consider best meet the needs of people with disabilities.

### ***Commission's determinations***

336. The Commission notes that, in this decision, it has required WSPs (i) to provide contracts in alternative formats for people with disabilities upon request and at no charge; and (ii) to provide an extended trial period for contracts for people with disabilities.
337. The Commission expects WSPs to ensure that customers with disabilities have the information they need to determine which plans and services best meet their needs.
338. The Commission **directs** WSPs to report on what wireless service plans they offer for people with disabilities, how they promote these plans, and what accessibility-specific customer service resources are available to consumers by **3 March 2014**.

## **19. Expiration of prepaid cards**

### ***Positions of parties***

339. Prepaid wireless service cards (prepaid cards) are subject to an expiry date determined by the WSP and ranging from 15 days to one year following activation, depending usually on the value of the card (e.g. a \$100 prepaid card generally has a later expiry date than a \$30 card). To continue service and/or carry over credits beyond the expiry date, consumers can choose to "top-up" or add money to their account via the WSP's website and/or by purchasing additional prepaid cards.
340. Many consumers submitted that they were frustrated that their account balances expire immediately if they do not "top up," and that, if they missed the end of their account by one day, their balance would be lost. These consumers therefore requested that the Commission require WSPs to carry over prepaid account balances indefinitely.
341. Some consumer groups and individuals submitted that the Wireless Code should prohibit the expiration of prepaid cards (i.e. services not used within the timeframe allotted should roll over indefinitely).

342. WSPs argued that prepaid cards should not be prohibited from expiration, since the business model is based on providing time-limited access to the network.
343. The CWTA submitted that prepaid services are not defined solely by the purchase of minutes. The CWTA stated that prepaid service models provide access to the network (e.g. the ability to receive or send calls, text messages or data) as well as predetermined usage volumes (e.g. a set number of minutes, texts or megabytes; or unlimited usage for a fixed duration). Prepaid wireless service balances also typically do not have an expiry date; rather they have a usage period that begins once the balance is activated. Many prepaid services allow customers to carry over unused minutes to a new usage period as long as the customer refreshes the account before the end of the term.
344. RCP and Bell Canada et al. argued that customers already understand how prepaid services function and how to manage their accounts. They submitted that consumers are already informed of the conditions applicable to their prepaid balances, including the usage period. Bell Canada et al. further stated that alternatives already exist to prevent account expiry.
345. WSPs generally agreed with the CWTA that a prepaid card is substantially different from a gift card, in that prepaid cards are a billing mechanism for a specific service over a period of time. SaskTel stated that once a prepaid card is activated, there is recognition that the card has been used to purchase an ongoing service, and that there is a cost to retaining this service over time.
346. SaskTel argued that if a prepaid balance were to never expire, customers might purchase a prepaid plan and use the device infrequently or only in cases of emergency. SaskTel expressed concern that this could result in significant numbering resources being assigned to devices that are infrequently or never used. TCC also argued that it would not be reasonable for a WSP to be obligated in perpetuity to a customer, especially when the company has no contact information for the customer and cannot even know if they reside in Canada or are deceased, for example. For these reasons, TCC argued that there must be a time when a prepaid account is considered to have been abandoned, and the accounting standard is 90 days.

### ***Commission's analysis***

347. The Commission considers that consumers' key requests related to prepaid cards are (i) for WSPs to carry over their account balances (which may be represented in terms of minutes, text messages, or other usage) indefinitely if unused; and (ii) for consumers to be able to "top up" their accounts a bit late.
348. The Commission considers that WSPs should hold prepaid card customers' accounts open for seven days following expiry of an activated prepaid card to give customers more time to "top up" their accounts. The Commission considers that such a requirement would (i) not impose a significant burden on WSPs; (ii) improve clarity regarding prepaid service billing and policies; (iii) balance consumer interests with current market realities; and (iv) increase flexibility for frequent users of prepaid services.

349. The Commission considers that the evidence on the record of the proceeding does not support consumers' request for WSPs to carry over their prepaid unused minutes indefinitely. In this regard, the Commission notes that wireless services, including prepaid card services, provide access to the network for a specific period of time with specific usage limitations that are distinct for each aspect of the service. The Commission considers that imposing a requirement that services be provided beyond the limitations set out in the service agreement would not be appropriate.

***Commission's determinations***

350. In light of the above, the Commission requires WSPs to hold prepaid customers' accounts open for at least seven days following the expiry of an activated card at no charge to give customers more time to "top up" their accounts and retain their prepaid balance.

**C. Implementation of the Wireless Code**

***Positions of parties***

351. Individuals and consumer groups, including the CCC, submitted that the Wireless Code should be implemented as soon as possible. WSPs proposed implementation periods ranging from immediately to 24 months for various aspects of the Wireless Code. All parties agreed that the majority of the proposals found in the Draft Code could be implemented within 6 months. Bell Canada et al. suggested a staggered implementation approach of 30 days, 6 months, and 12 months for different provisions, depending on their complexity. RCP suggested a staggered approach of 3, 6, and 18 months. TCC submitted that the implementation period should last 6 months, but that WSPs should be allowed flexibility for more complex aspects if they can demonstrate the need.
352. Videotron, RCP, SaskTel, and TCC submitted that implementing usage notifications and usage caps, as proposed in the Draft Code, would require significant investments and information technology system upgrades. RCP noted that its network and billing platforms were not designed to provide minute-by-minute information while services are in use, and that the company would need to implement new systems to enable this functionality. SaskTel submitted that it does not currently have the ability to implement usage notifications and usage caps, and argued that smaller WSPs could not implement changes as quickly as larger WSPs. TCC submitted that implementing usage notifications and usage caps could take 24 months, and estimated that it could cost the company \$60-80 million for usage notifications and \$50-75 million for usage caps. WIND argued that it was technically feasible and not cost-prohibitive to implement some usage notification and measuring tools.

353. MTS Allstream noted the significant costs involved if a six-month implementation period were chosen for all proposals presented in the Draft Code, and questioned whether this would comply with the Policy Direction.<sup>11</sup>
354. RCP submitted that incorporating the Critical Information Summary into its contracts would take at least 18 months, but stated that it could institute a hard copy version for in-store activations within six months.
355. The CCC, PIAC et al., and l'Union stated that they preferred a six-month implementation period. PIAC et al. and l'Union argued that implementing different sections of the Wireless Code at different times would be confusing for consumers. PIAC et al. acknowledged that flexibility in the implementation period could be required for some sections of the Wireless Code.
356. All parties except Mobilicity and PIAC et al. agreed that applying the Wireless Code to all existing contracts immediately would be impractical and disproportionate. WSPs pointed out the costs of re-writing and re-signing millions of contracts and the difficulty in calculating the maximum early cancellation fee when the value of the device was not recorded at the time the contract was signed.
357. However, several WSPs stated that many of the Wireless Code's provisions that do not relate to a particular contract, including obligations related to privacy policies or notifications for additional fees, could be applied as of the implementation date across the board without any legal or practical issues.
358. Many WSPs stated that, if the Commission found it necessary, the Code could be applied to existing contracts at the time that they are amended, renewed or extended. TCC stated that the Wireless Code could apply when a material term of the contract is changed, while MTS Allstream argued that it could be applied when a customer upgrades to a new device.
359. PIAC et al. suggested that to ensure that all Canadians benefit from the Code within a reasonable amount of time, the Commission should set an ultimate date for its application to all contracts in order to avoid WSPs extending contracts indefinitely to avoid application of the Wireless Code.

### ***Commission's analysis***

360. The Commission notes that the purpose of the Wireless Code is to ensure that consumers are empowered to make informed choices in the competitive market and to contribute to making that market more dynamic. The Commission considers that it is in the best interest of consumers that the Wireless Code be implemented as soon as practicable. The Commission notes, however, that the interests of consumers must be balanced with what is reasonable and technically feasible for WSPs to achieve. This is consistent with the Policy Direction.

---

<sup>11</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006.

361. The Commission considers that there are two distinct implementation issues to address: (i) when the Wireless Code will come into force; and (ii) when the Code's requirements begin to dictate outcomes with respect to pre-existing contracts.
362. The Commission agrees with PIAC et al. and l'Union's concerns that having multiple implementation dates for the Wireless Code could be confusing for consumers. The Commission notes that WSPs generally agreed that most aspects proposed in the Draft Code could be implemented within six months.
363. Implementing the Wireless Code imposes a significant number of new requirements on WSPs. The Commission notes that many WSPs have stated that implementing caps on data overage charges and data roaming charges will require significant investments in time, labour, and capital. The Commission notes, however, that the more onerous elements of the requirements proposed in the Draft Code have not been imposed as part of the Wireless Code, considerably lessening the burden on WSPs and the time they would need to implement these requirements.
364. The Commission notes that if a particular WSP is faced with unique barriers to the implementation of a specific provision in the Wireless Code that would make it technically impossible or financially unreasonable for the WSP to implement within the six-month period, it can file an application to obtain an extension of this timeline. However, the Commission considers that a WSP would be required to provide detailed evidence and rationale that show that their circumstances are unique and that the burden they face is exceptionally unreasonable.
365. The Commission notes that if the Wireless Code only applies to contracts entered into or amended on or after the implementation date, many Canadians with pre-existing wireless service contracts will not fully benefit from the Wireless Code until these existing contracts expire or are amended. The Commission considers that it is essential to ensure that the transition period for the implementation of the Wireless Code is as short as possible in order to ensure that all Canadians benefit from the Wireless Code in a reasonable period. The Commission notes that unreasonable delays in the implementation of the Code for some customers could be considered undue discrimination.
366. However, the Commission also considers that there are valid practical reasons why immediate application of the Code to all existing contracts may not be proportionate, in that the costs and resources necessary to immediately implement the Code would outweigh the relative benefit to consumers.
367. Based on the evidence filed on the record of the proceeding, the Commission notes that if the Code applied to new and amended contracts only, approximately half of all wireless service customers would be covered by the Code within one year of its implementation, including customers on indeterminate contracts, who would be covered immediately, and customers on fixed-term contracts who would renew, amend, or otherwise enter into a new contract within that period of time. The Commission also notes that the evidence on the record of the proceeding is clear that a large proportion of consumers amend or extend their contracts before the end

of the contract term, and that, therefore, the Wireless Code would apply to most contracts in less than 2 years. At this point, then, the Wireless Code should apply to the vast majority of contracts and the burden on the WSPs to amend the remaining contracts would be substantially reduced.

### ***Commission's determinations***

368. In light of the above, the Commission determines that all aspects of the Wireless Code will take effect on **2 December 2013**.
369. The Commission finds that where an obligation relates to a specific contractual relationship between a WSP and a customer, the Wireless Code should apply if the contract is entered into, amended, renewed, or extended on or after **2 December 2013**. In addition, in order to ensure that all consumers are covered by the Wireless Code within a reasonable time frame, the Wireless Code should apply to all contracts, no matter when they were entered into, by no later than **3 June 2015**.

## **D. Enforcement and administration of the Wireless Code**

### ***Positions of parties***

370. All parties generally supported the Commission and the CCTS enforcing the Wireless Code jointly, with the CCTS being responsible for tracking and resolving consumer complaints, and the Commission being responsible for enforcing compliance by WSPs. The CCTS submitted that under its current mandate, it could only “administer” the Code, since traditional enforcement activities, including investigating business practices and sanctioning misconduct, are beyond its mandate. However, the CCTS submitted that it could collect data on complaints that it receives that would facilitate the Commission’s enforcement activities.
371. Consumer groups, including PIAC et al., argued that the CCTS’s mandate and procedural code should be modified to enable the CCTS to offer additional remedies to consumers. The CCTS and WSPs considered that this would not be necessary or appropriate.
372. Most parties agreed that it would be appropriate for the Commission to require WSPs to report on how they are implementing and complying with the Wireless Code.

### ***Commission's analysis***

373. The Commission notes the consensus among parties that the current complaint resolution model at the CCTS is functioning well. The number of complaints directed to the CCTS has steadily risen, indicating that consumers are becoming increasingly aware of the CCTS’s role in dispute resolution. Despite its increasing case load, the CCTS has been able to resolve a significant percentage of complaints – over 90 percent in 2011. The Commission agrees with the CCTS’s submission that its procedural code is sufficiently broad to provide authority for it to rely on the Wireless Code in addressing disputes related to wireless services. In light of the CCTS’s success and the evidence on the record of the proceeding, the Commission

considers that a change in the CCTS's mandate or procedural code, which sets out the complaints it can address and the means by which it can address them, is not necessary. The Commission considers that the CCTS's mandate encourages WSPs' participation in CCTS dispute resolution processes, and that the Commission's mandate enables it to address systemic or serious issues.

374. The Commission notes that, in addition to the dispute resolution function fulfilled by the CRTC, the Commission has a number of regulatory tools available to it to ensure compliance with the Wireless Code. These include the power to impose a mandatory order pursuant to section 51 of the Act and to register its decisions with the Federal Court pursuant to section 63 of the Act. The Commission notes that failure to comply with a decision registered with the Federal Court can lead to contempt proceedings.
375. In addition to the information the Commission may receive from the CCTS about the disputes it resolves, the Commission will require additional information to ensure that it can enforce the Wireless Code if WSPs are not complying. The Commission considers it especially important to monitor WSPs' compliance in implementing the requirements set out in the Wireless Code within the time frames indicated. The Commission therefore considers that WSPs should file a report outlining the steps they have taken to comply with the Wireless Code. The Commission notes that, in order to assist WSPs and ensure that the Commission obtains the information it needs, it intends to issue a set of questions that must be answered in the report before the report is due.

### **Commission's determinations**

376. The Commission hereby requests that the CCTS administer the Wireless Code. This includes (i) resolving any complaints related to the Wireless Code; (ii) monitoring trends in complaints; and (iii) reporting on both complaints and trends in its annual report. The Commission will enforce the Wireless Code by addressing issues related to (i) delayed implementation; and (ii) systemic non-compliance.
377. In addition, to ensure that WSPs are implementing the Code on time and adhering to the requirements set out in the Code, the Commission **directs** all WSPs to file a report detailing their compliance with the Wireless Code, no later than **15 January 2014**. This report must address all questions that will be set out by the Commission on this matter.
378. The Commission notes that as with any new set of rules, there may be issues of interpretation that it has not anticipated. In order to ensure the greatest benefit to consumers, if any part of the Code or a consumer's contract is ambiguous, or if it is unclear how the terms of the Code or the contract are to be applied, then the Code and the contract must be interpreted in a manner that is favourable to the consumer.
379. Moreover, if at any time WSPs or other interested parties are unclear about the application or interpretation of the Wireless Code or this decision, they may seek guidance or interpretation from the Commission. The Commission reserves the right to issue guidelines of general application.

## **E. Promotion of the Wireless Code**

### ***Positions of parties***

380. All parties generally agreed that WSPs should be required to notify their customers of the Wireless Code on their websites and billing statements, and in their contracts, as well as when they receive a complaint about wireless services. Parties also agreed that the responsibility for promoting and raising awareness of the Code should be shared between WSPs, the CWTA, and the CCTS. Some parties noted that the Code's promotion should extend beyond website advertisements, while others submitted that consumer information tools should also be used.

### ***Commission's analysis***

381. The Commission considers that the Wireless Code must be accompanied by a promotion and awareness campaign to ensure that the rights and requirements set out in the Code are well understood by consumers and WSPs. The Commission notes that because consumers' dealings with wireless services occur through WSPs, consumers need to have access to knowledgeable staff or resources in order to ensure that consumers obtain the information they need. As such, the Commission considers it important for WSPs to ensure that their staff and agents are knowledgeable of and promote the Code.
382. To assist WSPs and other parties with promoting the Code, the Commission has produced a checklist that highlights the most important aspects of the Code for consumers of prepaid and postpaid wireless services. This document, which is titled *Your Rights as a Wireless Consumer*, is set out as Appendix 2 to this decision (the consumer checklist).
383. The Commission also considers that consumers must be able to easily find information about the Code on the WSPs' websites. This would require that WSPs provide prominent links to the consumer checklist on their websites. Prominent means that customers must be able to access the consumer checklist within one click of the WSPs' home page and within one "click" of all pages describing their wireless service offerings. To increase customer awareness, these links should be available as soon as possible, but no later than the date on which the Wireless Code takes effect. The Commission also encourages the CCTS and the CWTA to publicize and provide links to the Wireless Code and consumer checklist on their websites. The Commission considers that the Code's promotion should be as broad as possible, using a variety of communication methods in addition to the Web, including advertisements, in-store materials, and a standard notification on billing statements.
384. In addition, given the impact of the Wireless Code on consumers, as well as the Code's importance, the Commission considers that WSPs must add notifications regarding the consumer checklist to their billing statements and describe how they have promoted the Code in the compliance reports described above.

### ***Commission's determinations***

385. To ensure the effective and universal promotion of the Wireless Code, the Commission hereby **directs** all WSPs to
- a) ensure that their customer service representatives are (i) knowledgeable of the Wireless Code; (ii) able to effectively describe the Code's provisions; and (iii) able to explain recourse options for customers;
  - b) provide prominent links to the consumer checklist on their websites – on their home page and on all pages on which their wireless service plans and offerings are described;
  - c) add a notification regarding the consumer checklist to their billing statements on two separate occasions: one in the month that the Wireless Code takes effect, and one three months later; and
  - d) include information on their promotion of the Code in their compliance reports filed with the Commission.

## **F. Measuring and reviewing the effectiveness of the Wireless Code**

### ***Positions of parties***

386. Parties generally submitted that multiple methods of measuring the effectiveness of the Wireless Code would be appropriate, including complaints measurement and public opinion research. Most parties agreed that the Wireless Code should be reviewed within three years.
387. Many parties noted that while the CCTS's complaint statistics are important, they are an incomplete measure of the Wireless Code's success. Nearly all parties suggested some form of consumer survey or public opinion research to gather consumers' views on the functioning of the Code. Some parties, notably PIAC et al., submitted that evaluation metrics should be tied to objectives, while other parties suggested that overall market conditions should be used to measure the Wireless Code's success. Some WSPs, including Bell Canada et al. and TCC submitted that performance indicators such as churn, pricing, and device penetration are inappropriate and not specific enough to the Wireless Code.

### ***Commission's analysis***

388. The Commission notes that the Canadian wireless market is shaped by a number of factors and that it will be challenging to separate the effects of the Wireless Code from other variables affecting the market. However, clear measures of success will help maximize the effectiveness of the Wireless Code and facilitate its review at a later date.

389. The Commission considers that the two key objectives of the Wireless Code are to empower consumers by setting a baseline for industry behaviour, and to inform consumers of their rights and responsibilities, with the eventual goal of contributing to a more dynamic marketplace.
390. The Commission considers that complaint data will be particularly relevant regarding the provisions set out in the Wireless Code that are intended to change current market practice. For example, complaints related to bill shock, 30-day cancellation policies, early cancellation fees, and contract changes should decrease. However, the Commission notes that promotion of the Wireless Code may result in an increase in complaints to the CCTS as consumers become more aware of the CCTS and of the Code. As such, the Commission considers that complaint data on a particular issue would need to be analyzed in terms of the total number of wireless subscribers and the total number of complaints. The Commission also considers that data on the effectiveness of complaint resolution (specifically, time taken to achieve resolution) will be relevant.
391. However, the Commission considers that complaint data will only provide limited insight into the effectiveness of the provisions set out in the Wireless Code that target consumer education and clarifying information for consumers. The Commission considers that public opinion research, surveys, focus groups, or another form of direct polling of consumers would be the optimal way to collect information on their understanding of their wireless service contracts and their related rights.
392. The Commission considers it appropriate to develop an evaluation plan for to evaluate the effectiveness of the Wireless Code, including the WSPs' compliance reports referred to above. The results of this evaluation will form part of a formal review of the Wireless Code following its implementation. The Commission considers that a three-year time frame for this review is appropriate to (i) monitor compliance with the Code, (ii) ensure the Code's effectiveness, and (iii) correct any issues that may develop during the implementation process.

### ***Commission's determinations***

393. The Commission intends to initiate a formal review of the Wireless Code within three years of its implementation.

### **Conclusion**

394. The Commission **directs** Canadian carriers that provide retail mobile wireless voice and data services to individuals or small business consumers to adhere to the rules set out in the attached Wireless Code, as a condition of providing these services pursuant to section 24 of the Act no later than **2 December 2013**.
395. The Commission also **directs** Canadian carriers, as a condition of providing telecommunications services that WSP resellers use to provide retail mobile wireless services, to include in their service contracts or other arrangements with

these service providers the requirement that the purchaser of the service, and any or all of their wholesale customers and subordinate wholesale customers, abide by the condition in the previous paragraph.

396. As noted above, the Commission further **directs** all WSPs to
- a) report on what wireless service plans they offer for people with disabilities, how they promote these plans, and what accessibility-specific customer service resources are available to consumers by **3 March 2014**;
  - b) file a report detailing their compliance with the Wireless Code, no later than **15 January 2014**; and
  - c) promote the Code as set out in paragraph 385.

### **Consistency with the Policy Direction**

397. The Policy Direction requires, among other things, that the Commission rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives set out in the Act. The Policy Direction also requires the Commission to regulate, where there is still a need to do so, in a manner that interferes with market forces to the minimum extent necessary to meet these policy objectives.
398. Consistent with subparagraph 1(a)(i) of the Policy Direction, the Commission considers that market forces alone cannot be relied upon to ensure that consumers have the information they need to participate effectively in the wireless service market.
399. Consistent with subparagraph 1(a)(ii) of the Policy Direction, the Commission considers that the regulatory requirements set out in the Wireless Code are efficient and proportionate to their purpose, and minimally interfere with market forces. As noted in Telecom Decision 2012-556, the Commission considers that the most efficient, least intrusive way of achieving the objective of ensuring that consumers understand their rights and responsibilities with respect to wireless services is the development of a code. In reviewing each individual obligation set out in this decision, the Commission has considered the burden that will be imposed on the WSPs in complying with the obligation, as well as the potential impact on existing business models. If an obligation has been imposed, it has been carefully tailored to ensure that it targets the real problem for consumers, and that WSPs retain the maximum amount of flexibility possible to determine how best to implement the obligation in order to meet the needs of their customers.

400. The Commission considers that the policy objectives set out in paragraphs 7(a), (b), (f), and (h) of the Act<sup>12</sup> are advanced by the regulatory measures established in this decision.
401. Consistent with subparagraph 1(b)(iii) of the Policy Direction, which requires that regulatory measures that are not of an economic nature be implemented, to the greatest extent possible, in a symmetrical and competitively neutral manner, the Commission considers that the development of a code for wireless services is symmetrical across all WSPs, regardless of the technology they use, the geographic market in which they operate, and their size.

Secretary General

### Related documents

- *Proceeding to establish a mandatory code for mobile wireless services*, Telecom Notice of Consultation CRTC 2012-557, 11 October 2012, as amended by Telecom Notices of Consultation CRTC 2012-557-1, 1 November 2012; 2012-557-2, 21 December 2012; 2012-557-3, 28 January 2013; 2012-557-4, 11 February 2013, and 2012-557-5, 13 March 2013
- *Decision on whether the conditions in the mobile wireless market have changed sufficiently to warrant Commission intervention with respect to mobile wireless services*, Telecom Decision CRTC 2012-556, 11 October 2012
- *Proceeding to consider whether the conditions in the Canadian wireless market have changed sufficiently to warrant Commission intervention with respect to retail wireless services*, Telecom Notice of Consultation CRTC 2012-206, 4 April 2012
- *Review of the Commissioner for Complaints for Telecommunications Services*, Telecom Regulatory Policy CRTC 2011-46, 26 January 2011
- *Review of the Commissioner for Complaints for Telecommunications Services – Decision on membership*, Telecom Decision CRTC 2010-921, 8 December 2010
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009

---

<sup>12</sup> The cited policy objectives of the Act are

7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;

7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and

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

- *Establishment of an independent telecommunications consumer agency*, Telecom Decision CRTC 2007-130, 20 December 2007
- *Implementation of wireless number portability*, Telecom Decision CRTC 2005-72, 20 December 2005
- *Prince Rupert City Telephones – Cellular service forbearance*, Telecom Decision CRTC 2004-84, 21 December 2004
- *CRTC refrains from regulating O.N. Telcom's delivery of mobile wireless services*, Order CRTC 2001-501, 29 June 2001
- Telecom Order CRTC 99-991, 13 October 1999
- *Forbearance from Regulation of Mobile Wireless Services Provided by Municipally Owned Telephone Companies*, Telecom Decision CRTC 98-19, 9 October 1998
- *Regulation of mobile wireless telecommunications services*, Telecom Decision CRTC 96-14, 23 December 1996
- *Regulation of wireless services*, Telecom Decision CRTC 94-15, 12 August 1994

**TAB (i)**

## Appendix 1

### The Wireless Code

The Canadian Radio-television and Telecommunications Commission (CRTC) has created this Wireless Code (the Code) so that consumers of retail mobile wireless voice and data services (wireless services) will be better informed of their rights and obligations contained in their contracts with wireless service providers (service providers).

The Wireless Code will

- (i) make it easier for individual and small business customers to obtain and understand the information in their wireless service contracts;
- (ii) establish consumer-friendly business practices for the wireless service industry where necessary; and
- (iii) contribute to a more dynamic wireless market.

The Code applies to all wireless services, whether purchased on a stand-alone basis or as part of a bundle, and whether purchased in person, online, or over the phone. All service providers must comply with the Code. All sections of the Code apply to postpaid services. The following sections of the Code also apply to prepaid services: A. 1-3; B. 2; E. 1, E. 4, and E. 5; F. 1-4; G. 1-4; and J. 1.

Definitions of terms used in the Code are provided at the end of the Code. Defined terms are indicated in *italics and bold* the first time they appear in the Code.

If any part of the Code or the customer's contract is ambiguous, or if it is unclear how the terms of the Code or the contract are to be applied, then the Code and the contract must be interpreted in a manner that is favourable to the customer.

A customer who believes that their service provider is not adhering to the Code should first try to resolve the problem directly with the service provider. If the customer is not satisfied with the service provider's response, they can contact the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) as follows:

Mail: P.O. Box 81088, Ottawa ON K1P 1B1

Website: [www.ccts-cprst.ca](http://www.ccts-cprst.ca)

Toll-free: 1-888-221-1687

TTY: 1-877-782-2384

Email: [response@ccts-cprst.ca](mailto:response@ccts-cprst.ca)

Fax: 1-877-782-2924

<b>A. Clarity</b>	
<b>1. Plain language</b>	<ul style="list-style-type: none"> <li>(i) A <i>service provider</i> must communicate with <i>customers</i> using plain language.</li> <li>(ii) A service provider must ensure that its <i>written contracts</i> and <i>related documents</i>, such as <i>privacy policies</i> and <i>fair use policies</i>, are written in a way that is clear and easy for customers to read and understand.</li> </ul>
<b>2. Prices</b>	<ul style="list-style-type: none"> <li>(i) A service provider must ensure that the prices set out in the <i>contract</i> are clear and must indicate whether these prices include taxes.</li> </ul>
<b>3. Unlimited services</b>	<ul style="list-style-type: none"> <li>(i) A service provider must not charge a customer any <i>overage charge</i> for services purchased on an unlimited basis.</li> <li>(ii) A service provider must not limit the use of a service purchased on an unlimited basis unless these limits are clearly explained in the fair use policy.</li> </ul>
<b>B. Contracts and related documents</b>	
<b>1. Postpaid service contracts</b>	<ul style="list-style-type: none"> <li>(i) A service provider must give the customer a <i>permanent copy</i> of the contract and related documents at no charge in the following circumstances: <ul style="list-style-type: none"> <li>a. If the contract is agreed to in person, the service provider must give the contract and related documents to the customer immediately after the customer agrees to the contract.</li> <li>b. If the contract is not agreed to in person (i.e. if it is agreed to over the phone, online, or otherwise at a distance), the service provider must send the contract and related documents to the customer within 15 calendar days of the customer agreeing to the contract. If a service provider fails to do this, or if the terms and conditions of the permanent copy of the contract conflict with the terms and conditions that the customer agreed to, the customer may, within 30 calendar days of receiving the permanent copy of the contract, cancel the contract without paying an <i>early cancellation fee</i> or any other penalty.</li> <li>c. The service provider must also provide the customer with a paper copy of the contract upon request at no charge, at any time during the <i>commitment period</i>.</li> </ul> </li> <li>(ii) The permanent copy of the contract and related documents must be a paper copy, unless the customer expressly and knowingly decides that an electronic copy is acceptable.</li> <li>(iii) A service provider must provide a customer with a copy of the contract in an alternative format for people with disabilities upon request, at no charge, at any time during the commitment period.</li> <li>(iv) Contracts for postpaid services must set out all of the information listed below in a clear manner (items a-m): <ul style="list-style-type: none"> <li><b>Key contract terms and conditions</b> <ul style="list-style-type: none"> <li>a. the services included in the contract and any limits on the use of those services that could trigger overage charges or additional fees;</li> <li>b. the <i>minimum monthly charge</i> for services included in the contract;</li> <li>c. the commitment period, including the end date of the contract;</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>d. if applicable <ul style="list-style-type: none"> <li>i. the total early cancellation fee;</li> <li>ii. the amount by which the early cancellation fee will decrease each month; and</li> <li>iii. the date on which the customer will no longer be subject to the early cancellation fee;</li> </ul> </li> <li>e. if a <i>subsidized device</i> is provided as part of the contract, <ul style="list-style-type: none"> <li>i. the retail price of the device, which is the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the service provider without a contract;</li> <li>ii. the amount the customer paid for the device; and</li> <li>iii. the fee to unlock the device, if any;</li> </ul> </li> </ul> <p><b>Other aspects of the contract</b></p> <ul style="list-style-type: none"> <li>f. an explanation of all related documents, including privacy policies and fair use policies;</li> <li>g. all one-time costs, itemized separately;</li> <li>h. the trial period for the contract, including the associated limits on use;</li> <li>i. rates for <i>optional services</i> selected by the customer at the time the contract is agreed to;</li> <li>j. whether the contract will be extended automatically on a month-to-month basis when it expires, and if so, starting on what date;</li> <li>k. whether upgrading the device or otherwise amending a contract term or condition would extend the customer's commitment period or change any other aspect of the contract;</li> <li>l. if applicable, the amount of any security deposit and any applicable conditions, including the conditions for return of the deposit; and</li> <li>m. where customers can find information about <ul style="list-style-type: none"> <li>i. rates for optional and <i>pay-per-use services</i>;</li> <li>ii. the device manufacturer's warranty;</li> <li>iii. tools to help customers manage their bills, including notifications on data usage and <i>roaming</i>, data caps, and usage monitoring tools;</li> <li>iv. the service provider's service coverage area, including how to access complete <i>service coverage maps</i>;</li> <li>v. how to contact the service provider's customer service department;</li> <li>vi. how to make a complaint about <i>wireless services</i>, including contact information for the <i>Commissioner for Complaints for Telecommunications Services Inc. (CCTS)</i>; and</li> <li>vii. the Wireless Code.</li> </ul> </li> </ul>
<p><b>2. Prepaid service contracts</b></p>	<ul style="list-style-type: none"> <li>(i) A service provider must inform the customer of all conditions and fees that apply to the prepaid balance.</li> <li>(ii) A service provider must explain to the customer how they can <ul style="list-style-type: none"> <li>a. check their usage balance;</li> <li>b. contact the service provider's customer service department; and</li> <li>c. complain about the service, including how to contact the CCTS.</li> </ul> </li> </ul>

	<p>(iii) A service provider must provide this information separately if it does not appear on a prepaid card or in the written contract.</p> <p>(iv) If a device is provided as part of a prepaid service contract, a service provider must also inform the customer of</p> <ol style="list-style-type: none"> <li>a. where applicable <ol style="list-style-type: none"> <li>i. the total early cancellation fee;</li> <li>ii. the amount by which the early cancellation fee will decrease each month; and</li> <li>iii. the date on which the customer will no longer be subject to the early cancellation fee;</li> </ol> </li> <li>b. the retail price of the device, which is the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the service provider without a contract;</li> <li>c. the amount the customer paid for the device;</li> <li>d. the fee to unlock the device, if any; and</li> <li>e. where customers can find information about device upgrades and the manufacturer's warranty.</li> </ol> <p>(v) A service provider must give the customer a copy of the contract in an alternative format for people with disabilities upon request, at no charge, at any time during the commitment period.</p>
<b>C. Critical Information Summary</b>	
<p><b>1. Critical Information Summary</b></p>	<p>(i) A service provider must provide a Critical Information Summary to customers when they provide a permanent copy of the contract for postpaid services. This document summarizes the most important elements of the contract for the customer.</p> <p>(ii) A service provider must ensure that the Critical Information Summary contains all of the following:</p> <ol style="list-style-type: none"> <li>a. a complete description of all key contract terms and conditions (see item B. 1. (iv) a-e listed above);</li> <li>b. the total monthly charge, including rates for optional services selected by the customer at the time the contract is agreed to;</li> <li>c. information on all one-time charges and additional fees; and</li> <li>d. information on how to complain about the service provider's wireless services, including how to contact the service provider's customer service department and the CCTS.</li> </ol> <p>(iii) A service provider must ensure that the Critical Information Summary</p> <ol style="list-style-type: none"> <li>a. accurately reflects the content of the contract;</li> <li>b. is either provided as a separate document from the written contract or included prominently on the first two pages of the written contract; and</li> <li>c. is clear and concise (does not exceed two pages), uses plain language, and is in an easily readable font.</li> </ol>
<b>D. Changes to contracts and related documents</b>	
<p><b>1. Changes to key contract terms and conditions</b></p>	<p>(i) A service provider must not change the key contract terms and conditions of a postpaid wireless contract during the commitment period without the customer's informed and express consent.</p>

	<p>(ii) When a service provider notifies a customer that it intends to change a key contract term or condition during the commitment period, the customer may refuse the change.</p> <p>(iii) As an exception, a service provider may only change a key contract term or condition during the commitment period without the customer's express consent if it clearly benefits the customer by either</p> <ol style="list-style-type: none"> <li>a. reducing the rate for a single service; or</li> <li>b. increasing the customer's usage allowance for a single service.</li> </ol>
<b>2. Changes to other contract terms and conditions or related documents</b>	<p>(i) If, during the commitment period, a service provider wishes to change other contract terms and conditions or the related documents, it must provide the customer with at least 30 calendar days' notice before making such changes.</p> <p>(ii) This notice must explain the change and when it will take effect.</p>
<b>E. Bill management</b>	
<b>1. International roaming notification</b>	<p>(i) A service provider must notify the customer, at no charge, when their device is roaming in another country. The notification must clearly explain the associated rates for voice, text messaging, and data services.</p> <p>(ii) Customers may opt out of receiving these notifications at any time.</p>
<b>2. Cap on data roaming charges</b>	<p>(i) A service provider must suspend national and international data roaming charges once they reach \$100 within a single monthly billing cycle, unless the customer expressly consents to pay additional charges.</p> <p>(ii) A service provider must provide this cap at no charge.</p>
<b>3. Cap on data overage charges</b>	<p>(i) A service provider must suspend data overage charges once they reach \$50 within a single monthly billing cycle, unless the customer expressly consents to pay additional charges.</p> <p>(ii) A service provider must provide this cap at no charge.</p>
<b>4. Unsolicited wireless services</b>	<p>(i) A service provider must not charge for any device or service that the customer has not expressly purchased.</p>
<b>5. Mobile premium services</b>	<p>(i) If a customer contacts their service provider to inquire about a charge for a mobile premium service, the service provider must explain to the customer how to unsubscribe from the mobile premium service.</p>
<b>F. Mobile device issues</b>	
<b>1. Unlocking</b>	<p>(i) A service provider that provides a <i>locked device</i> to the customer as part of a contract must</p> <ol style="list-style-type: none"> <li>a. for subsidized devices: unlock the device, or give the customer the means to unlock the device, upon request, at the rate specified by the service provider, no later than 90 calendar days after the contract start date.</li> <li>b. for unsubsidized devices: unlock the device, or give the customer the means to unlock the device, at the rate specified by the service provider, upon request.</li> </ol>
<b>2. Warranties</b>	<p>(i) A service provider must inform the customer of the existence and duration of a manufacturer's warranty on a device before offering an extended warranty or insurance on that device.</p>

<b>3. Lost or stolen devices</b>	<ul style="list-style-type: none"> <li>(i) When a customer notifies their service provider that their device has been lost or stolen, <ul style="list-style-type: none"> <li>a. the service provider must immediately <i>suspend</i> the customer's service at no charge; and</li> <li>b. the terms and conditions of the contract will continue to apply, including the customer's obligation to pay <ul style="list-style-type: none"> <li>i. all charges incurred before the service provider received notice that the device was lost or stolen; and</li> <li>ii. either the minimum monthly charge (and taxes), if the customer continues with the contract, or the applicable early cancellation fee, if the customer cancels the contract.</li> </ul> </li> </ul> </li> <li>(ii) If the customer notifies the service provider that their device has been located or replaced and requests that their service be restored, the service provider must restore the service at no charge.</li> </ul>
<b>4. Repairs</b>	<ul style="list-style-type: none"> <li>(i) A service provider must suspend wireless service charges during device repairs upon request if all of the following conditions are met: <ul style="list-style-type: none"> <li>a. the device was provided as part of a contract with the service provider and is returned to the service provider for repair;</li> <li>b. the device is under the manufacturer's or the service provider's warranty;</li> <li>c. the service provider did not provide a free replacement device for use during the repair; and</li> <li>d. the customer would incur an early cancellation fee if they were to cancel their wireless services.</li> </ul> </li> </ul>
<b>G. Contract cancellation and extension</b>	
<b>1. Early cancellation fees – General</b>	<ul style="list-style-type: none"> <li>(i) If a customer cancels a contract before the end of the commitment period, the service provider must not charge the customer any fee or penalty other than the early cancellation fee. This fee must be calculated in the manner set out in sections 2. and 3. below.</li> <li>(ii) When calculating the time remaining in a contract to determine the early cancellation fee, a month that has partially elapsed at the time of cancellation is considered a month completely elapsed.</li> </ul>
<b>2. Early cancellation fees – Subsidized device</b>	<ul style="list-style-type: none"> <li>(i) When a subsidized device is provided as part of the contract, <ul style="list-style-type: none"> <li>a. for <i>fixed-term contracts</i>: The early cancellation fee must not exceed the value of the <i>device subsidy</i>. The early cancellation fee must be reduced by an equal amount each month, for the lesser of 24 months or the total number of months in the contract term, such that the early cancellation fee is reduced to \$0 by the end of the period.</li> <li>b. for <i>indeterminate contracts</i>: The early cancellation fee must not exceed the value of the device subsidy. The early cancellation fee must be reduced by an equal amount each month, over a maximum of 24 months, such that the early cancellation fee is reduced to \$0 by the end of the period.</li> </ul> </li> <li>(ii) When calculating the early cancellation fee, <ul style="list-style-type: none"> <li>a. the value of the device subsidy is the retail price of the device minus the amount that the customer paid for the device when the contract was agreed to; and</li> <li>b. the retail price of the device is the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the service provider without a contract.</li> </ul> </li> </ul>

<b>3. Early cancellation fees – No subsidized device</b>	<ul style="list-style-type: none"> <li>(i) When a subsidized device is not provided as part of the contract, <ul style="list-style-type: none"> <li>a. for fixed-term contracts: The early cancellation fee must not exceed the lesser of \$50 or 10 percent of the minimum monthly charge for the remaining months of the contract, up to a maximum of 24 months. The early cancellation fee must be reduced to \$0 by the end of the period.</li> <li>b. for indeterminate contracts: A service provider must not charge an early cancellation fee.</li> </ul> </li> </ul>
<b>4. Trial period</b>	<ul style="list-style-type: none"> <li>(i) When a customer agrees to a contract through which they are subject to an early cancellation fee, a service provider must offer the customer a trial period lasting a minimum of 15 calendar days to enable the customer to determine whether the service meets their needs.</li> <li>(ii) The trial period must start on the date on which service begins.</li> <li>(iii) A service provider may establish reasonable limits on the use of voice, text, and data services for the trial period.</li> <li>(iv) During the trial period, customers may cancel their contract without penalty or early cancellation fee if they have <ul style="list-style-type: none"> <li>a. used less than the permitted usage; and</li> <li>b. returned any device provided by the service provider, in near-new condition, including original packaging.</li> </ul> </li> <li>(v) If a customer self-identifies as a person with a disability, the service provider must extend the trial period to at least 30 calendar days, and the permitted usage amounts must be at least double the service provider’s general usage amounts for the trial period.</li> </ul>
<b>5. Cancellation date</b>	<ul style="list-style-type: none"> <li>(i) Customers may cancel their contract at any time by notifying their service provider.</li> <li>(ii) Cancellation takes effect on the day that the service provider receives notice of the cancellation.</li> </ul>
<b>6. Contract extension</b>	<ul style="list-style-type: none"> <li>(i) To ensure that customers are not disconnected at the end of the commitment period, a service provider may extend a contract, with the same rates, terms and conditions, on a month-to-month basis.</li> <li>(ii) A service provider must notify a customer on a fixed-term contract at least 90 calendar days before the end of their initial commitment period whether or not the contract will be automatically extended.</li> <li>(iii) At the time that a service provider offers a customer a device upgrade, the service provider must clearly explain to the customer any changes to the existing contract terms caused by accepting the new device, including any extension to the commitment period.</li> </ul>
<b>H. Security deposits</b>	
<b>1. Requesting, reviewing, and returning a security deposit</b>	<ul style="list-style-type: none"> <li>(i) If a service provider requires a security deposit from a customer, the service provider must <ul style="list-style-type: none"> <li>a. inform the customer of the reasons for requesting the deposit;</li> <li>b. keep a record of those reasons for as long as the service provider holds the deposit;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>c. specify in the written contract the conditions for the return of the security deposit;</li> <li>d. review the continued appropriateness of retaining the deposit at least once per year; and</li> <li>e. return the security deposit with interest to the customer, retaining only any amount owed by the customer, no more than 30 calendar days after <ul style="list-style-type: none"> <li>i. the contract is terminated by either the customer or the service provider; or</li> <li>ii. the service provider determines that the conditions for the return of the security deposit have been met.</li> </ul> </li> </ul> <p>(ii) A service provider must calculate interest on security deposits using the Bank of Canada's overnight rate in effect at the time, plus at minimum one percent, on the basis of the actual number of days in a year, accruing on a monthly basis.</p> <p>(iii) A service provider may apply the security deposit toward any amount past due and may require customers to replenish the security deposit after such use in order to continue providing service.</p>
<b>I. Disconnection</b>	
<b>1. When disconnection may occur</b>	<ul style="list-style-type: none"> <li>(i) If the grounds for disconnecting a customer are failure to pay, a service provider can disconnect a customer's postpaid service only if the customer <ul style="list-style-type: none"> <li>a. fails to pay an account that is past due, provided it exceeds \$50 or has been past due for more than two months;</li> <li>b. fails to provide or maintain a reasonable security deposit or alternative when requested to do so by the service provider; or</li> <li>c. agreed to a deferred payment plan with the service provider and fails to comply with the terms of this plan.</li> </ul> </li> <li>(ii) Except with customer consent or in other exceptional circumstances, disconnection may occur only on weekdays between 8 a.m. and 9 p.m. or on weekends between 9 a.m. and 5 p.m., unless the weekday or weekend day precedes a statutory holiday, in which case disconnection may not occur after noon. The applicable time is that of the customer's declared place of residence.</li> <li>(iii) If a service provider disconnects a customer in error, the service provider must restore service to the customer by the end of the next business day and must not impose reconnection charges.</li> </ul>
<b>2. Notice before disconnection</b>	<ul style="list-style-type: none"> <li>(i) If a service provider intends to disconnect a customer, it must notify the customer before disconnection, except in cases where <ul style="list-style-type: none"> <li>a. action is necessary to protect the network from harm; or</li> <li>b. the service provider has a reasonable suspicion that fraud is occurring or likely to occur.</li> </ul> </li> <li>(ii) In all other cases, a service provider must give reasonable notice to the customer at least 14 calendar days before disconnection. The notice must contain the following information: <ul style="list-style-type: none"> <li>a. the reason for disconnection and amount owing (if any);</li> <li>b. the scheduled disconnection date;</li> <li>c. the availability of deferred payment plans;</li> <li>d. the amount of the reconnection charge (if any); and</li> <li>e. contact information for a service provider representative with whom the disconnection can be discussed.</li> </ul> </li> </ul>

	<p>(iii) A service provider must provide a second notice to advise a customer that their service will be disconnected at least 24 hours before disconnection, except if</p> <ul style="list-style-type: none"> <li>a. repeated attempts to contact the customer have failed;</li> <li>b. action is necessary to protect the network from harm; or</li> <li>c. the service provider has a reasonable suspicion that fraud is occurring or likely to occur.</li> </ul>
<p><b>3. Disputing disconnection charges</b></p>	<p>(i) A service provider must not disconnect a customer if</p> <ul style="list-style-type: none"> <li>a. the customer notifies the service provider on or before the scheduled disconnection date listed in the notice that they dispute the reasons for the disconnection;</li> <li>b. the customer pays the amount due for any undisputed portion of the charges; and</li> <li>c. the service provider does not have reasonable grounds to believe that the purpose of the dispute is to evade or delay payment.</li> </ul>
<p><b>J. Expiration of prepaid cards</b></p>	
<p><b>1. General</b></p>	<p>(i) A service provider must keep open the accounts of customers with prepaid cards for at least seven calendar days following the expiration of an activated card, at no charge, to give the customer more time to “top up” their account and retain their prepaid balance.</p>

<b>The Wireless Code – Definitions</b>	
<b>Canadian Radio-television and Telecommunications Commission (CRTC)</b>	A public organization that regulates and supervises the Canadian broadcasting and telecommunications systems to ensure that Canadians have access to a world-class communication system.
<b>Commissioner for Complaints for Telecommunications Services Inc. (CCTS)</b>	An independent organization dedicated to working with customers and their telecommunications service providers to resolve complaints relating to their telecommunications services. The CCTS (i) responds to and resolves complaints from customers in order to ensure that they are treated in a way that is consistent with the Wireless Code; and (ii) collects data on complaints related to the Wireless Code. This data will be published on the CCTS's website at <a href="http://www.ccts-cprst.ca">www.ccts-cprst.ca</a> .
<b>Commitment period</b>	The term or duration of the contract. For fixed-term contracts, the commitment period is the entire duration of the contract. For indeterminate contracts, the commitment period is the current month or billing cycle.
<b>Contract and written contract</b>	A contract is a binding agreement between a service provider and a customer to provide wireless services. A written contract is a written instrument that expresses the content of the contract.
<b>Customers</b>	Individuals or small businesses subscribing to retail mobile wireless services.
<b>Device subsidy</b>	The difference between (i) the lesser of the manufacturer's suggested retail price of a device or the price set for the device when it is purchased from the service provider without a contract; and (ii) the amount a customer paid for the device when they agreed to the contract.
<b>Disconnection</b>	The termination of wireless services by a service provider.
<b>Early cancellation fee</b>	A fee that may be applied when a customer's service is cancelled before the end of the commitment period.
<b>Fair (or acceptable) use policy</b>	A policy that explains what is considered to be unacceptable use of the service provider's wireless services and the consequences of unacceptable use (e.g. using the service to engage in an activity that constitutes a criminal offence). Violations of a fair or acceptable use policy may result in (i) disconnection or service suspension; or (ii) a modification of the services available to the customer.
<b>Fixed-term contracts</b>	Contracts that have a set duration (usually one, two, or three years).
<b>Indeterminate contracts</b>	Indeterminate contracts do not have a set duration. They automatically renew each month.
<b>Key contract terms and conditions</b>	The elements of the contract that the service provider cannot change without the customer's express consent. Key contract terms and conditions are listed in section B. 1. (iv) a-e of the Code.
<b>Locked device</b>	A wireless device that is programmed to work only with the network of the service provider that sold the device to the customer.
<b>Minimum monthly charge</b>	The minimum amount that customers will have to pay for wireless services each month if they do not use optional services or incur any additional fees or overage charges. This charge may be subject to taxes, as set out in the contract.
<b>Mobile premium services (or premium text messaging services)</b>	Text message services that customers may subscribe to for an additional charge, usually on a per-message basis.

<b>The Wireless Code – Definitions (cont'd)</b>	
<b>Optional services</b>	Services that a customer can choose to add to their wireless plan, usually for an additional charge, such as caller ID or call forwarding.
<b>Overage charge</b>	A charge for exceeding an established limit on the use of a service.
<b>Pay-per-use services</b>	Services that a customer can choose to add to their wireless plan, such as international roaming, which are typically measured and charged on a usage basis.
<b>Permanent copy</b>	An inalterable copy (e.g. a paper copy or PDF version) of the contract, as of the date of signing or the date of the latest amendment.
<b>Postpaid services</b>	Wireless services that are paid for after use, usually upon receipt of a monthly bill.
<b>Prepaid services</b>	Wireless services that are purchased in advance of use, such as the use of prepaid cards and pay-as-you-go services.
<b>Privacy policy</b>	A policy that explains how service providers will handle customers' personal information.
<b>Related documents</b>	Any documents referred to in the contract that affect the customer's use of the service provider's services. Related documents include, but are not limited to, privacy policies and fair use policies.
<b>Roaming</b>	The use of wireless services outside the service provider's network area.
<b>Service coverage maps</b>	An illustration of the extent of the service provider's network, showing where coverage is available.
<b>Service provider</b>	A provider of retail mobile wireless voice and data services.
<b>Subsidized device</b>	A wireless device that is sold to a customer by a service provider at a reduced price as part of a contract. A wireless device that is (i) purchased by the customer at full price; or (ii) not purchased as part of the contract is not a subsidized device.
<b>Suspension (of a customer's service)</b>	A temporary halt in wireless service that can result from a lack of payment or hitting a pre-determined spending or usage limit. The customer's account and contract remain in force during service suspension.
<b>Unlimited services</b>	The unlimited use of specific services (e.g. unlimited local calling), for a fixed price.
<b>Wireless services</b>	Retail mobile wireless voice and data services.

## Appendix 2

### Your Rights as a Wireless Consumer

The CRTC's **Wireless Code** comes into effect on **2 December 2013**. The Wireless Code establishes basic rights for all wireless consumers and puts new requirements on service providers. The Wireless Code significantly limits cancellation fees and requires your service provider to unlock phones, to offer a trial period for wireless contracts, and to set default caps on data charges to help you avoid bill shock.

*Do you know your rights? This checklist will help you to understand the most important things that the Code does for you. For more information, visit the CRTC's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), where you can find the Wireless Code, which explains all of your rights as a wireless consumer in greater detail.*

**Do you pay a bill *after* you use your wireless service? If so, you use *postpaid* services, and you have the right**

- to cancel your contract at no cost after a maximum of two years
- to cancel your contract and return your phone at no cost, within 15 days and specific usage limits, if you are unhappy with your service
- to have your phone unlocked after 90 days, or immediately if you paid in full for your phone
- to have your service suspended at no cost if your phone is lost or stolen
- to receive a Critical Information Summary, which explains your contract in under two pages
- to receive a notification when you are roaming in a different country, telling you what the rates are for voice services, text messages, and data usage
- to limit your data overage charges to \$50 a month and your data roaming charges to \$100 a month
- to pay no extra charges for a service described as "unlimited"
- to refuse a change to the key terms and conditions of your contract, including the services in your contract, the price for those services, and the duration of your contract

**Your contract must**

- use in plain language and clearly describe the services you will receive
- include information on when and why you may be charged extra

**Do you pay *before* you use your wireless service? If so, you use *prepaid* services, and you have the right**

- to cancel your contract at no cost after a maximum of two years
- to cancel your contract and return your phone at no cost, within 15 days and specific usage limits, if you are unhappy with your service
- to have your phone unlocked after 90 days, or immediately if you paid in full for your phone
- to have your service suspended at no cost if your phone is lost or stolen
- to receive a notification when you are roaming in a different country, telling you what the rates are for voice services, text messages, and data usage
- to a minimum seven-day grace period in order to "top up" your prepaid card account and retain your balance

**Your contract must**

- use plain language
- clearly describe the conditions that apply to your prepaid balance and how you can check your balance

**Are you a person with a disability?** If so, you have the right to a copy of your contract in an alternative format at no charge and to a longer (30-day) trial period to ensure that the service and phone meet your needs.

*Is your service provider respecting your rights? If you are unsure, you have the right to complain. First, try to resolve the issue with your service provider. If you are still unsatisfied, contact the Commissioner for Complaints for Telecommunications Services Inc.*

Mail: P.O. Box 81088, Ottawa ON K1P 1B1  
 Website: [www.ccts-cprst.ca](http://www.ccts-cprst.ca)  
 Toll-free: 1-888-221-1687

TTY: 1-877-782-2384  
 Email: [response@ccts-cprst.ca](mailto:response@ccts-cprst.ca)  
 Fax: 1-877-782-2924

TAB 3



## Telecom Decision CRTC 2012-556

PDF version

Route reference: Telecom Notice of Consultation 2012-206

Ottawa, 11 October 2012

### **Decision on whether the conditions in the mobile wireless market have changed sufficiently to warrant Commission intervention with respect to mobile wireless services**

File numbers: 8661-C12-201204057; 8620-R28-201202598; 8661-P8-201116807

*In this decision, the Commission determines that the conditions for forbearance have not changed sufficiently to require the Commission to regulate rates or interfere in the competitiveness of the retail mobile wireless voice and data services market.*

*However, to ensure that consumers are able to participate in the competitive market in an informed and effective manner, and to fulfill the policy objectives of the Telecommunications Act, the Commission finds it necessary to develop a mandatory code to address the clarity and content of mobile wireless service contracts and related issues (the Wireless Code).*

*Concurrent with this decision, the Commission has issued a call for comments to establish the Wireless Code.*

#### **Introduction**

1. In April 2012, the Commission issued Telecom Notice of Consultation 2012-206, which initiated a public proceeding to consider whether the conditions for forbearance in the Canadian wireless market have changed sufficiently to warrant Commission intervention with respect to retail mobile wireless data and voice services (mobile wireless services).<sup>1</sup>
2. The Commission received submissions from Bell Canada; Bragg Communications Inc., carrying on business as EastLink; the Canadian Wireless Telecommunications Association (CWTA); the Commissioner for Complaints for Telecommunications Services Inc. (CCTS); the Communications, Energy and Paperworkers Union Of Canada; Consumer Protection BC; Data & Audio-Visual Enterprises Wireless Inc., carrying on business as Mobilicity; Globalive Wireless Management Corp., operating as WIND Mobile; the Government of the Northwest Territories;

---

<sup>1</sup> In Telecom Notice of Consultation 2012-206, the Commission suspended consideration of applications from the Public Interest Advocacy Centre, on behalf of itself and the Consumers' Association of Canada, dated 22 December 2011, and from Rogers Communications Partnership, dated 8 March 2012, until such time as it makes a determination on the issue raised in the Notice of Consultation.

Grenier Verbauwheide Avocats Inc.; Le ministère de la Culture, des Communications et de la Condition féminine du Québec (Government of Quebec); Manitoba's Minister of Healthy Living, Seniors and Consumer Affairs (Government of Manitoba); MTS Inc. and Allstream Inc. (collectively, MTS Allstream); the Public Interest Advocacy Centre (PIAC) on behalf of itself and Canada Without Poverty and the Consumers' Association of Canada (collectively PIAC et al.); Public Mobile Inc.; Quebecor Media Inc. on behalf of its affiliate Videotron Ltd.; Rogers Communications Inc. (RCI); Saskatchewan Telecommunications (SaskTel); Shaw Communications Inc.; TELUS Communications Company (TCC); and Union des consommateurs. The Commission also received 246 comments from members of the public and 706 form letters of support for Commission intervention in the development of a code for mobile wireless services.

3. The public record of this proceeding, which closed on 14 May 2012, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file numbers provided above.

### **Positions of parties**

4. The Commission received over 970 submissions from mobile wireless service providers (WSPs), individuals and consumer advocacy organizations, provincial and territorial governments, and industry organizations on whether it should intervene in the development of a code to address consumers' concerns about mobile wireless services.
5. Parties were nearly unanimous in the view that, irrespective of whether the conditions for forbearance in the mobile wireless market have changed, the Commission should intervene in the development of a new code for mobile wireless services. Only SaskTel and one individual opposed Commission intervention in the development of a code for mobile wireless services.
6. Most parties submitted that it was not necessary for the Commission to make a finding of fact that the conditions for forbearance have changed to take action, noting that the Commission has the authority to require mobile WSPs to adhere to a code without regulating rates or interfering in the competitiveness of the mobile wireless services market.
7. Many individuals cited concerns about the following: issues related to the competitiveness of the mobile wireless marketplace, such as choice of competitive service providers and the cost of mobile wireless services (including fees for data and roaming), the clarity of contract terms, the clarity of advertised prices, changes to contract terms, locked phones, phone theft, the quality of mobile wireless services and customer service, and terms related to cancelling contracts (including early termination fees). These parties argued that Commission intervention in the development of a code was necessary to address these consumer concerns.

8. PIAC et al. submitted that the mobile wireless market has become increasingly confusing and frustrating for consumers. PIAC et al. further submitted that there is evidence of consumer concerns about mobile wireless services that a competitive market seems incapable of resolving without Commission intervention.<sup>2</sup> PIAC et al. noted that various provinces have or plan to introduce consumer protection legislation that addresses, among other things, mobile wireless services, which demonstrates that these provinces have received significant complaints regarding mobile wireless services. PIAC et al. requested that the Commission initiate a proceeding to develop an effective consumer protection code.
9. The CCTS, which is mandated to investigate and resolve consumer complaints about forborne telecommunications services, noted a continued growth in the number of mobile wireless-related consumer complaints it receives. During its last fiscal year and its current fiscal year to date, over 60 percent of complaints that the CCTS received involved mobile wireless services.<sup>3</sup> The CCTS submitted that codes can be of great assistance to the CCTS in fulfilling its mandate. The CCTS further submitted that, should the Commission determine to undertake the development of a national mobile wireless consumer code of conduct, the CCTS would be prepared to use it as an aid in the resolution of mobile wireless consumer complaints.
10. Many mobile WSPs and the CWTA cited concerns about amendments to provincial consumer protection legislation that directly or indirectly affects mobile wireless services. These parties considered that regulations that vary from province to province will add to customer confusion and increase compliance costs and inefficiencies for the mobile wireless industry. These parties submitted that the Commission should develop a code that would apply to all consumers, regardless of their province or territory of residence. In a joint submission, Bell Canada, PIAC et al., RCI, and TCC expressed similar concerns and submitted that by leading an initiative to develop such a code, the Commission would address the demand for consumer protection in the most economically and administratively efficient manner and would further the telecommunications policy objectives.
11. Certain parties, including the Government of Manitoba, submitted that the code developed by the Commission should meet or exceed provincial standards for mobile wireless consumer protection that have been legislated or are being presently introduced. The Government of Manitoba also submitted that the code developed by the Commission should provide sufficient enforcement capacities.
12. The Government of the Northwest Territories strongly supported the development of such a code on grounds that market forces are not sufficient to protect the interest of mobile wireless service consumers in the North.

---

<sup>2</sup> Consumer issues cited by PIAC et al. included, among other things, clarity of contract terms, clarity around pricing for services (including promotional pricing, roaming charges, charges for premium Short Message Service (SMS), unilateral contract changes by service providers, contract termination fees, unlocking of mobile wireless devices, quality and availability of customer service, and customer recourse for complaints.

<sup>3</sup> The CCTS received approximately 8000 complaints about wireless services during that period.

13. The Government of Quebec submitted that, irrespective of the position taken by the Commission in this proceeding, it will retain its existing consumer protection legislation.
14. SaskTel submitted that the introduction of regulatory measures by the Commission in the mobile wireless market at this time would interfere with the competitive market forces in play today and would hamper innovation and progress relative to the global market. SaskTel noted that there is already a voluntary national code of conduct developed through the CWTA to which SaskTel is a signatory. SaskTel noted further that Commission intervention in terms of a mandated national code would lead to duplication and overlap of federal regulation with existing provincial legislation. SaskTel also submitted that the imposition of a national code would be inconsistent with the Policy Direction<sup>4</sup> as it would interfere with the operation of competitive market forces by introducing regulation upon regional carriers who are already operating with minimal provincial consumer legislation.

### Issues

15. The Commission considers that the following issues must be addressed:
  - I. Whether the conditions for forbearance have changed sufficiently to warrant the regulation of rates for mobile wireless services; and
  - II. Whether Commission intervention is appropriate in the development of a code for mobile wireless services.

### Commission's analysis and determinations

- I. *Whether the conditions for forbearance have changed sufficiently to warrant the regulation of rates for mobile wireless services*
16. The *Telecommunications Act* (the Act) states that where the Commission finds that a telecommunications service or class of services is or will be subject to competition sufficient to protect the interests of users, the Commission **shall** refrain, or forbear, to the extent that it considers appropriate, conditionally or unconditionally, from the exercise of any power or the performance of any duty under certain sections of the Act in relation to the service or class of services (emphasis added).<sup>5</sup>
17. In the mid-1990s, the Commission determined that it would allow market forces to guide the mobile wireless industry's growth and that it would forbear from further regulation of the mobile wireless industry. The Commission retains its regulatory

---

<sup>4</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

<sup>5</sup> Subsection 34(2) of the Act

powers under section 24 and subsections 27(2) and 27(4) of the Act for retail mobile wireless voice and data services.<sup>6</sup>

18. The Commission notes many of the consumers who provided comments in this proceeding expressed concern about issues related to the competitiveness of the Canadian mobile wireless market, such as choice of service providers and mobile wireless service rates.
19. While parties did point to a number of studies that address the rates and competitiveness of the mobile wireless market, the Commission notes that market indicators demonstrate that consumers have a choice of competitive service providers and a range of rates and payment options for mobile wireless services.
20. The mobile wireless services market is subject to competition. As set out in the Commission's 2012 *Communications Monitoring Report*, new entrants in the mobile wireless market continue to increase their market share and coverage. Companies continue to invest in new infrastructure to bring new innovative services to more Canadians. Moreover, the average cost per month for mobile wireless services has remained relatively stable.<sup>7</sup>
21. In light of the above, the Commission considers that competition in the mobile wireless market continues to be sufficient to protect the interests of users with respect to rates and choice of competitive service provider. The Commission finds that there is no evidence that the conditions for forbearance have changed sufficiently to warrant Commission intervention with respect to mobile wireless service rates or competitiveness in the mobile wireless market. Pursuant to subsection 34(2) of the Act, the Commission must, therefore, continue to forbear in this regard. The Commission also considers that this approach is consistent with the Policy Direction, which requires that the Commission rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives set out in the Act.

---

<sup>6</sup> The forbearance framework was first established in Telecom Decision 94-15, and was refined in Telecom Decision 96-14. In a number of follow-up company-specific decisions and orders, such as Telecom Decision 98-19, Telecom Order 99-991, Order 2001-501, and Telecom Decision 2004-84, the framework was extended to the wireless services provided by Canadian carriers that were not captured by Telecom Decisions 94-15 and 96-14. The Commission retained its regulatory powers under section 24 and subsections 27(2) and 27(4) of the Act for mobile voice services. In Telecom Decision 2010-445, the Commission amended the forbearance regime for mobile wireless data services to be consistent with the forbearance regime applicable to mobile voice services.

<sup>7</sup> As set out in the Commission's 2012 *Communications Monitoring Report*: the advanced wireless network, which supports handsets such as smartphones and turbo sticks, is available to 99 percent of Canadians. In 2011, there were over 27 million mobile wireless subscribers. New facilities-based mobile WSPs are accessible to fifty-five percent of Canadians and have captured approximately four percent of wireless subscribers and two percent of market revenues in 2011, a hundred-percent increase over 2010.

*II. Whether Commission intervention is appropriate in the development of a code for mobile wireless services*

22. The Commission notes that while it forbore from regulation of the mobile wireless market, it retains its regulatory powers under section 24 of the Act. Section 24 of the Act enables the Commission to impose any conditions on the offering and provision of any telecommunications service by a Canadian carrier, such as the requirement to be a member of the industry self-regulatory agency, the CCTS.
23. The Commission considers that the record of this proceeding demonstrates that Canadian consumers may not have all the information they need to effectively navigate the competitive mobile wireless market. In this regard, the Commission notes the significant consumer concerns raised by individuals, consumer groups, and mobile WSPs with respect to the clarity of mobile wireless contracts.
24. The Commission further notes that the CCTS cites mobile wireless services, specifically clarity around contract terms, as a significant source of consumer complaints. The Commission also notes that, last year, complaints to the CCTS regarding mobile wireless services outnumbered complaints about all other telecommunications services combined. The Commission considers that the complaints about mobile wireless services are disproportionately high compared to those about other telecommunications services with similar household adoption rates, such as broadband Internet services. As a result of the Commission's requirement that mobile WSPs participate in the CCTS, residential and small business consumers across Canada have recourse to the agency's dispute resolution processes.<sup>8</sup> The Commission notes, however, that while the CCTS is mandated to address adherence to contract terms, the agency is not mandated to address the clarity or content of the contracts.
25. Moreover, although certain provinces have introduced consumer protection legislation, these protections are not available to all Canadians across the country, and may not address issues unique to the mobile wireless services market.
26. The Commission notes SaskTel's concerns that a mobile wireless code is not necessary, would interfere with market forces, and would be inconsistent with the Policy Direction. However, the Commission also notes the near-unanimous view of consumer groups, individual consumers, and other mobile WSPs that Commission intervention in the development of a mobile wireless code is necessary to address consumer concerns that a competitive market cannot resolve. The Commission

---

<sup>8</sup> The Commission has expanded the requirement that telecommunications service providers (TSPs) be members of the CCTS over time. In Telecom Decision 2007-130, the Commission required all TSPs with annual Canadian telecommunications service revenues exceeding \$10 million to be members of the CCTS. In Telecom Decision 2010-921, the Commission expanded the membership requirement to all TSPs that offer services within the scope of the CCTS's mandate. In Telecom Regulatory Policy 2011-46, the Commission specified that TSPs that were not yet members of the CCTS by 1 December 2010 were required to become members of the CCTS five days after the date on which the CCTS informs the Canadian carrier that the CCTS has received a complaint about the Canadian carrier falling within the scope of the CCTS's mandate.

shares the view that market forces alone cannot be relied upon to ensure that consumers have the information they need to participate effectively in the competitive mobile wireless market. The Commission also shares these parties' view that a code that addresses the clarity and content of mobile wireless contracts and related issues would not interfere with market forces and would be consistent with the Policy Direction.

27. In light of the above, the Commission considers that it is necessary, to ensure the fulfillment of the telecommunications policy objectives set out in paragraphs 7(a), (b), (f), and (h) of the Act,<sup>9</sup> to impose a section 24 condition that all mobile WSPs abide by a mandatory code to address the clarity and content of mobile wireless service contracts and related issues, to ensure that consumers have the information and protection they need to make informed choices in the competitive market.
28. Therefore, in Telecom Notice of Consultation 2012-557, also issued today, the Commission has initiated a proceeding to establish a mandatory code to address the clarity and content of mobile wireless service contracts and related issues.

#### *Other matters*

29. The Commission notes that the issues raised in the Part 1 applications by PIAC, on behalf of itself and as counsel to Consumers' Association of Canada, dated 22 December 2011, and Rogers Communications Partnership, dated 8 March 2012, are covered by Telecom Notice of Consultation 2012-557. As a result, the Commission has closed these files.

### **Consistency with the Policy Direction**

30. The Policy Direction requires, among other things, that the Commission rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives set out in the Act. The Policy Direction also requires the Commission to regulate, where there is still a need to do so, in a manner that interferes with market forces to the minimum extent necessary to meet these policy objectives.
31. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the Act, shall implement the policy objectives set out in section 7 of the Act, in accordance with the Policy Direction.

---

<sup>9</sup> The cited policy objectives of the Act are

7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;

7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and

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

32. Consistent with subparagraph 1(a)(i) of the Policy Direction, the Commission considers that market forces alone cannot be relied upon to ensure that consumers have the information they need to participate effectively in the competitive mobile wireless market.
33. Consistent with subparagraph 1(a)(ii) of the Policy Direction, the Commission considers that the development of a code for mobile wireless services is efficient and proportionate to its purpose, and minimally interferes with market forces. In this regard, the Commission considers that the most efficient, least intrusive way of achieving the objective of ensuring consumers understand their rights and responsibilities with respect to mobile wireless services is the development of a code.
34. The Commission considers that the policy objectives set out in paragraphs 7(a), (b), (f), and (h) of the Act are advanced by the regulatory measures established in this decision. In particular, the Commission notes that the development of a code for mobile wireless services will address the needs of consumers across Canada while relying on market forces to the greatest extent possible.
35. With respect to subparagraph 1(b)(iii) of the Policy Direction, which requires that regulatory measures that are not of an economic nature be implemented, to the greatest extent possible, in a symmetrical and competitively neutral manner, the Commission considers that the development of a code for mobile wireless services is symmetrical across all mobile WSPs, irrespective of the technology used, the geographical market in which they operate, or the size of the company.

Secretary General

### **Related documents**

- *Proceeding to establish a mandatory code for mobile wireless services*, Telecom Notice of Consultation CRTC 2012-557, 11 October 2012
- *Proceeding to consider whether the conditions in the Canadian wireless market have changed sufficiently to warrant Commission intervention with respect to retail wireless services*, Telecom Notice of Consultation CRTC 2012-206, 4 April 2012
- *Review of the Commissioner for Complaints for Telecommunications Services*, Telecom Regulatory Policy CRTC 2011-46, 26 January 2011
- *Review of the Commissioner for Complaints for Telecommunications Services – Decision on membership*, Telecom Decision CRTC 2010-921, 8 December 2010
- *Establishment of an independent telecommunications consumer agency*, Telecom Decision CRTC 2007-130, 20 December 2007

- *Prince Rupert City Telephones – Cellular service forbearance*, Telecom Decision CRTC 2004-84, 21 December 2004
- *CRTC refrains from regulating O.N. Telcom's delivery of mobile wireless services*, Order CRTC 2001-501, 29 June 2001
- Telecom Order CRTC 99-991, 13 October 1999
- *Forbearance from Regulation of Mobile Wireless Services Provided by Municipally Owned Telephone Companies*, Telecom Decision CRTC 98-19, 9 October 1998
- *Regulation of mobile wireless telecommunications services*, Telecom Decision CRTC 96-14, 23 December 1996
- *Regulation of wireless services*, Telecom Decision CRTC 94-15, 12 August 1994

TAB 4



## Telecom Notice of Consultation CRTC 2012-557

PDF version

Ottawa, 11 October 2012

### Notice of hearing

**28 January 2013**  
**Gatineau, Quebec**

### Proceeding to establish a mandatory code for mobile wireless services

**Deadline for submission of interventions/comments: 20 November 2012**

File number: 8665-C12-201212448

*The Commission initiates a proceeding to establish a mandatory code for mobile wireless service providers to address the clarity and content of mobile wireless service contracts and related issues for consumers. The Commission invites detailed comments, with supporting rationale, on the contents of the code, to whom the code should apply, how the code should be enforced and promoted, and how the code's effectiveness should be assessed and reviewed, by **20 November 2012**.*

*The proceeding will include a public consultation, which will begin on **28 January 2013 at 9:00 a.m.**, at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec.*

*The Commission will also conduct an online consultation on the issues discussed in the proceeding.*

### Introduction

1. In Telecom Decision 2012-556, the Commission determined that it would be appropriate to develop a code for retail mobile wireless data and voice services (mobile wireless services) to ensure the clarity of mobile wireless service contracts and related issues for consumers. The Commission concluded that consumers need additional tools to better understand their basic rights, as well as their service providers' responsibilities with respect to mobile wireless services, in order to participate in the competitive market in an informed and effective manner.
2. With this Notice of Consultation, the Commission initiates a proceeding to establish a mandatory code to address the clarity and content of mobile wireless service contracts and related issues (the Wireless Code). The code developed as a result of this proceeding is intended to provide a clear and concise list of consumers' rights and service providers' responsibilities regarding mobile wireless services.

3. The Commission notes that, as a result of this proceeding, it could impose additional obligations on some or all mobile wireless service providers, including resellers, whether or not they are parties to this proceeding.

## Background

### *The policy objectives and the Policy Direction*

4. The Commission regulates the Canadian telecommunications industry with the goal of fulfilling the Canadian telecommunications policy objectives set out in the *Telecommunications Act* (the Act). These objectives include rendering reliable and affordable telecommunications services of high quality accessible to Canadians in all regions of Canada, responding to the economic and social requirements of users of telecommunications services, fostering increased reliance on market forces for the provision of telecommunications services, and ensuring that regulation, where required, is efficient and effective.
5. The Commission is required to exercise its powers and perform its duties under the Act in accordance with the *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives* (the Policy Direction).<sup>1</sup>
6. The Policy Direction requires the Commission to rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives. When the Commission must rely on regulatory measures to achieve the telecommunications policy objectives, the Policy Direction requires the Commission to use regulatory measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives. When the Commission implements non-economic regulatory measures, such as industry codes, the Policy Direction requires the Commission to implement these measures in as symmetrical and competitively neutral a manner as possible.

### *Regulation of the wireless industry*

7. The Act states that where the Commission finds that a telecommunications service or class of services is or will be subject to competition sufficient to protect the interests of users, the Commission **shall** refrain, or forbear, to the extent that it considers appropriate, conditionally or unconditionally, from the exercise of any power or the performance of any duty under certain sections of the Act in relation to the service or class of services (emphasis added).<sup>2</sup>

---

<sup>1</sup> P.C. 2006-1534, 14 December 2006

<sup>2</sup> Subsection 34(2) of the Act

8. In the mid-1990s, the Commission determined that it would allow market forces to guide the wireless industry's growth and that it would forbear from further regulation of the wireless industry. However, the Commission retains its regulatory powers under section 24 and subsections 27(2) and 27(4) of the Act for retail mobile wireless voice and data services.<sup>3</sup>
9. Under section 24 of the Act, the Commission may impose any conditions on the offering and provision of any telecommunications service by a Canadian carrier.
10. Over the years, the Commission has imposed various conditions on mobile wireless service providers, pursuant to section 24 of the Act. These conditions include requirements related to 9-1-1 services, accessibility services for people with disabilities, and the requirement to be members of the Commissioner for Complaints for Telecommunications Services Inc. (CCTS).<sup>4</sup> The Commission ensures that these conditions apply to resellers of mobile wireless services through their contracts with mobile wireless carriers.<sup>5</sup>

*Consumer recourse for complaints about mobile wireless services*

11. The CCTS is an independent, self-regulatory industry ombudsman. The CCTS's structure was reviewed, modified, and approved by the Commission in 2007. The Commission conducted a further review in 2010 to ensure that the CCTS was effective in fulfilling its mandate.
12. The CCTS's primary mandate is to resolve disputes between service providers and consumers about mobile wireless services, home phone services, and Internet services. The CCTS's mandate also includes publishing an annual report on

---

<sup>3</sup> The forbearance framework was first established in Telecom Decision 94-15, and was refined in Telecom Decision 96-14. In a number of follow-up company-specific decisions and orders, such as Telecom Decision 98-19, Telecom Order 99-991, Order 2001-501, and Telecom Decision 2004-84, the framework was extended to the mobile wireless services provided by Canadian carriers that were not captured by Telecom Decisions 94-15 and 96-14. The Commission retained its regulatory powers under section 24 and subsections 27(2) and 27(4) of the Act for mobile voice services. In Telecom Decision 2010-445, the Commission amended the forbearance regime for mobile wireless data services to be consistent with the forbearance regime applicable to mobile voice services.

<sup>4</sup> The CRTC has expanded the requirement that telecommunications service providers (TSPs) be members of the CCTS over time. In Telecom Decision 2007-130, the CRTC required all TSPs with annual Canadian telecommunications service revenues exceeding \$10 million to be members of the CCTS. In Telecom Decision 2010-921, the Commission expanded the membership requirement to all TSPs that offer services within the scope of the CCTS's mandate. In Telecom Regulatory Policy 2011-46, the Commission specified that TSPs that were not yet members of the CCTS by 1 December 2010 were required to become members of the CCTS five days after the date on which the CCTS informs the Canadian carrier that the CCTS has received a complaint about the Canadian carrier falling within the scope of the CCTS's mandate.

<sup>5</sup> The Commission requires resellers of telecommunications services to adhere to section 24 conditions by requiring Canadian carriers, as a condition of providing telecommunications services to resellers, to include in their service contracts or other arrangements with such service providers, the requirement that the latter, and any or all of their wholesale customers and subordinate wholesale customers, abide by these conditions.

complaints, identifying trends in complaints that may warrant further attention by the Commission or the government, and enforcing industry codes of conduct and standards. While the CCTS is mandated to address adherence to contract terms, the CCTS is not mandated to address the clarity or content of the contracts. The CCTS currently enforces two industry codes through its dispute resolution processes: the Canadian Wireless Telecommunications Association's (CWTA) Code of Conduct for Wireless Service Providers<sup>6</sup> and the Commission-approved Disconnection and Deposit Code for forborne home phone services.

13. In order to ensure that residential and small business consumers across Canada have access to the CCTS's dispute resolution processes, the Commission requires all telecommunications service providers that serve such customers to be members of the CCTS. The CCTS can require a service provider to provide a customer with an explanation or apology, an undertaking to do or cease doing specific activities with respect to the customer, or monetary compensation up to \$5,000.

### **Call for comments**

14. In light of the Commission's determination that it is appropriate to establish a mandatory code to address the clarity and content of mobile wireless service contracts and related issues for consumers, the Commission invites detailed comments, with supporting rationale, on the following:
  - I. The content of the Wireless Code
  - II. To whom the Wireless Code should apply
  - III. How the Wireless Code should be enforced and promoted
  - IV. How the Wireless Code's effectiveness should be assessed and reviewed

#### *I. The content of the Wireless Code*

15. The Commission is of the preliminary view that the Wireless Code should address (1) clarity of contract terms and conditions, (2) changes to contract terms and conditions, (3) contract cancellation, expiration and renewal, (4) clarity of advertised prices, (5) application of the code to bundles of telecommunications services, (6) notification of additional fees, (7) privacy policies, (8) hardware warranties and related issues, (9) loss or theft of hardware, (10) security deposits, and (11) disconnections, as set out in more detail below.

---

<sup>6</sup> The CWTA code is a voluntary code, developed by CWTA members. In the proceeding that led to Telecom Decision 2012-556, the CWTA submitted that the Commission should establish regulations for wireless contracts in Canada.

*Clarity of contract terms and conditions*

- a provision that contracts must be written in plain language; a provision that sets out specific issues that must be addressed in a contract to ensure clarity and completeness;<sup>7</sup> and a provision that sets out how and when service providers must provide contracts or service agreements to customers.

*Changes to contract terms and conditions*

- a provision that addresses the conditions under which a service provider may amend contract terms for mobile wireless services.

*Contract cancellation, expiration and renewal*

- a provision that addresses the conditions under which consumers may terminate their mobile wireless contracts early, including how cancellation fees may be applied; and a provision that addresses the conditions under which contracts may expire or be renewed automatically.

*Clarity of advertised price*

- a provision that addresses clarity of advertised prices of services included in a contract, such as monthly and one-time charges for mobile wireless services, including optional services, devices, data and roaming, and any associated fees.
- a provision that service providers may not charge consumers for optional mobile wireless services they have not ordered.

*Application of the Code to bundles of telecommunications services*

- a provision that the Wireless Code would apply equally to mobile wireless services purchased separately or as part of a bundle of telecommunications and broadcasting distribution services.

*Notification of additional fees*

- a provision that addresses the conditions under which their provider must notify customers that they have exceeded the limits of their service agreements and will incur additional fees; and a provision that consumers with capped or metered billing of mobile wireless services be provided with adequate tools to monitor usage

---

<sup>7</sup> Issues to be addressed could include, among other things, whether any company policies, such as “fair use” policies, apply to a contract.

### *Privacy policies*

- a provision that addresses how service providers must disclose, and notify customers of amendments to, their privacy policies.

### *Hardware warranties and related issues*

- a provision that addresses how service providers disclose hardware warranty policies and extended warranty policies; a provision that addresses how service charges will apply while the handset is being repaired; and a provision that addresses the conditions under which a handset may be unlocked.

### *Loss or theft of hardware*

- a provision that addresses how service charges and contract terms will be applied if the customer's handset is lost or stolen.

### *Security deposits*

- a provision that addresses the conditions under which a service provider may request a security deposit; a provision that establishes a maximum amount for security deposits; and a provision that establishes the conditions under which a service provider must return security deposits.

### *Disconnection*

- a provision that addresses the conditions under which a service provider may disconnect mobile wireless services.

16. The Commission invites detailed comments, with supporting rationale, on the above issues and any other specific provisions that would enable consumers to better understand their rights with respect to mobile wireless services. Comments should outline the specific problem to be addressed, explain how the proposed provision would address this problem, and propose specific wording to be included in the Wireless Code.

## *II. To whom the Wireless Code should apply*

17. The Commission specifically calls for comments, with supporting rationale, on the following:
  - Should the Wireless Code apply to both Canadian carriers and resellers;

- Should the Wireless Code apply to both pre-paid and post-paid wireless services; and
- Should the application of the Wireless Code be suspended in provinces or territories which the Commission determines have legislation that provides substantially similar protections for mobile wireless consumers.<sup>8</sup> If so, how should the suspension of the Code be applied (e.g. based on the consumer's province or territory of residence or on the province or territory where the consumer signed or otherwise entered into the contract)?

### *III. How the Wireless Code should be enforced and promoted*

18. The Commission specifically calls for comments, with supporting rationale, on the following:

- Who should enforce the Wireless Code (e.g. the Commission, the CCTS, or other)?
- What mechanisms should be used to ensure compliance with the Wireless Code?
- What recourse and remedies should be available to consumers if their service provider does not comply with provisions in the Wireless Code (e.g. liquidated damages clause)?
- What mechanisms should be used to promote the Wireless Code among consumers?
- When should the Wireless Code be implemented?

### *IV. How the Wireless Code's effectiveness should be assessed and reviewed*

19. The Commission specifically calls for comments, with supporting rationale, on the following:

- How should the Wireless Code's effectiveness be measured? What performance measurements should be monitored?

---

<sup>8</sup> This approach has been used by the federal government with respect to privacy protection legislation. Paragraph 26(2)(b) of the *Personal Information Protection and Electronic Documents Act (PIPEDA)* allows the Governor in Council to issue an Order exempting an organization, a class of organizations, an activity or a class of activities from the application of PIPEDA with respect to the collection, use or disclosure of personal information that occurs within a province that has passed legislation that is substantially similar to PIPEDA. Industry Canada has developed a set of criteria to determine what is 'substantially similar' and the Governor in Council has issued orders exempting organizations within certain provinces from application of PIPEDA.

- When and how should the Wireless Code be reviewed to ensure its ongoing effectiveness for consumers?

### Procedures for participation and filing submissions

20. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* SOR/2010-277 (the Rules of Procedure) apply to the Commission's proceedings. For help understanding the Rules of Procedure, see the *Guidelines on the CRTC Rules of Practice and Procedure*.<sup>9</sup>

### Interventions and reply comments

21. Wireless carriers are made parties to this proceeding and may file interventions with the Commission by **20 November 2012**.<sup>10</sup> As set out in paragraph 3, the Commission notes that, as a result of this proceeding, it could impose additional obligations on some or all mobile wireless service providers, including resellers, whether or not they are parties to this proceeding.
22. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission by **20 November 2012**.
23. In accordance with section 26 of the Rules of Procedure, interventions **must indicate whether the person wishes to appear at the public hearing**. The intervention must also indicate on the first page of the intervention any special requests regarding such appearance at the public hearing, as described below. Only those parties whose requests to appear have been granted will be contacted by the Commission and invited to appear at the hearing. Interventions will be posted on the Commission's website shortly after they are filed.
24. Interveners are permitted to coordinate, organize and file, in a single submission, interventions of other interested persons who share their position but do not wish to appear at the hearing as a "Joint Supporting Intervention." More information on how to do so and a template for the covering letter to be filed by the parties can be found in Telecom Information Bulletin 2011-693. **Parties are encouraged to use this method rather than form letter campaigns and petitions, as it improves efficiency for the Commission and parties alike and ensures that all interveners filing jointly are aware that their personal information will appear on the Commission's website.**

---

<sup>9</sup> The Rules of Procedure set out, among other things, the rules for the filing, content, format and service of interventions and interrogatories, the procedure for filing confidential information and requesting its disclosure, and the conduct of the public hearing. Accordingly, the procedure set out in this notice must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."

<sup>10</sup> A wireless carrier is a facilities-based provider that owns or operates spectrum that it uses to provide mobile wireless service in Canada. A list of wireless carriers is available on the Commission's website.

25. All parties who filed interventions may file reply comments with the Commission, by **5 December 2012**. A reply must be limited to responding to interventions filed by other parties and must not introduce new proposals.
26. The Commission may request information in writing from mobile wireless service providers, the CWTA, the CCTS, or any other person during the course of this proceeding.
27. The Commission encourages interested persons or parties to monitor the record of this proceeding on the Commission's website for additional information that they may find useful when preparing their submissions.

***On-line consultation***

28. To facilitate further engagement of Canadians, the Commission will also be conducting an online consultation on the issues discussed in this proceeding. The Commission will host a website that will allow the public to engage in discussion on issues and questions relating to this proceeding. Details of the online consultation will be announced shortly on the Commission's website.
29. Following the online consultation period, transcripts will be available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca). The record of the online consultation will be made part of the record of this proceeding.

***Public Consultation***

30. The Commission will hold a public hearing, beginning on **28 January 2013 at 9:00 a.m.** at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec, to address the matters set out in this Notice of Consultation. The hearing is expected to last up to 5 business days.
31. As noted above, the public hearing will be held in the National Capital Region. However, parties may participate from the Commission's regional offices via videoconference. Parties interested in doing so are asked to indicate, at the time they file their interventions, the regional office where they wish to appear. A list of the Commission's regional offices is included in this notice.
32. The Commission will consider requests by parties who cannot appear at one of the Commission's regional offices to participate from another location, where circumstances may warrant, via telephone or videoconference. Parties must request to do so in their intervention, and provide reasons why telephone or videoconference from another location would be necessary.
33. Persons requiring communications support, such as assistive listening devices and sign language interpretation, who wish to participate in the public hearing, are requested to inform the Commission at least **20 days** before the commencement of the public hearing so that the necessary arrangements can be made.
34. An organization and conduct letter providing directions on procedure with respect to the public hearing will be issued prior to the commencement of the public hearing.

***Final written comments***

35. Following the public hearing, parties may have an opportunity to file brief final written comments in reply to submissions at the public hearing on any matter within the scope of this proceeding. Final written comments, including an executive summary, are not to exceed 15 pages.

***How to file submissions***

36. You must send your submissions to the Secretary General of the Commission using **only one** of the following means:

**by completing the**  
[Intervention/comment/answer form]

or

**by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

or

**by fax to**  
819-994-0218

37. Submissions longer than five pages should include a summary.
38. Parties are reminded that, in accordance with the Rules of Procedure, if a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date. A document must be filed with the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. The Commission takes no responsibility for postal delays and will not notify parties if their submissions are received after the deadline. Late submissions will not be considered by the Commission and will not be made part of the public record.
39. Electronic submissions should be in HTML format. Alternatively, Microsoft Word may be used for text and Microsoft Excel for spreadsheets.
40. Each paragraph of all submissions should be numbered. In addition, the line **\*\*\*End of document\*\*\*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
41. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.
42. The Commission will not formally acknowledge interventions or comments. It will, however, fully consider all submissions, which will form part of the public record of the proceeding.

### **Important notice**

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

### **Examination of documents**

47. Electronic versions of the documents referred to in this notice are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) by using the file number provided at the beginning of this notice or by visiting the "Public Proceedings" section of the Commission's website. The documents are accessed by selecting "View all proceedings open for comment," then clicking on the "View entire record" link associated with this particular notice. All interventions are also available on the Commission's website, at the same location, by clicking on the "Interventions" link associated with this particular notice.
48. Documents are also available during normal office hours at the Commission offices and documentation centres directly involved with these applications or, upon request, within two working days at all other Commission offices and documentation centres.

### **Location of CRTC offices**

49. Submissions may be examined or will be made available promptly upon request at Commission offices during normal business hours.

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

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

Central Building  
Les Terrasses de la Chaudière  
1 Promenade du Portage, Room 206  
Gatineau, Quebec J8X 4B1  
Tel.: 819-997-2429  
Fax: 819-994-0218

***Regional offices***

Metropolitan Place  
99 Wyse Road, Suite 1410  
Dartmouth, Nova Scotia B3A 4S5  
Tel.: 902-426-7997  
Fax: 902-426-2721

205 Viger Avenue West, Suite 504  
Montréal, Quebec H2Z 1G2  
Tel.: 514-283-6607

55 St. Clair Avenue East, Suite 624  
Toronto, Ontario M4T 1M2  
Tel.: 416-952-9096

360 Main Street, Suite 970  
Winnipeg, Manitoba R3C 3Z3  
Tel.: 204-983-6306  
Fax: 204-983-6317

2220 – 12th Avenue, Suite 620  
Regina, Saskatchewan S4P 0M8  
Tel.: 306-780-3422

100 4<sup>th</sup> Avenue SW, Suite 403  
Calgary, Alberta T2P 3N2  
Tel.: 403-292-6660  
Fax: 403-292-6686

858 Beatty Street, Suite 290  
Vancouver, British Columbia V6B 1C1  
Tel.: 604-666-2111  
Fax: 604-666-8322

Secretary General

## Related documents

- *Decision on whether the conditions in the mobile wireless market have changed sufficiently to warrant Commission intervention with respect to mobile wireless services*, Telecom Decision CRTC 2012-556, 11 October 2012
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Review of the Commissioner for Complaints for Telecommunications Services*, Telecom Regulatory Policy CRTC 2011-46, 26 January 2011
- *Modifications to forbearance framework for mobile wireless data services*, Telecom Decision CRTC 2010-445, 30 June 2010
- *Review of the Commissioner for Complaints for Telecommunications Services – Decision on membership*, Telecom Decision CRTC 2010-921, 8 December 2010
- *Establishment of an independent telecommunications consumer agency*, Telecom Decision CRTC 2007-130, 20 December 2007
- *Prince Rupert City Telephones – Cellular service forbearance*, Telecom Decision CRTC 2004-84, 21 December 2004
- *CRTC refrains from regulating O.N. Telcom's delivery of mobile wireless services*, Order CRTC 2001-501, 29 June 2001
- Telecom Order CRTC 99-991, 13 October 1999
- *Forbearance from Regulation of Mobile Wireless Services Provided by Municipally Owned Telephone Companies*, Telecom Decision CRTC 98-19, 9 October 1998
- *Regulation of mobile wireless telecommunications services*, Telecom Decision CRTC 96-14, 23 December 1996
- *Regulation of wireless services*, Telecom Decision CRTC 94-15, 12 August 1994

TAB 5

Court File No.

**FEDERAL COURT OF APPEAL**

B E T W E E N:

BELL CANADA, BELL MOBILITY INC., MTS INC., NORTHERNTEL,  
LIMITED PARTNERSHIP, ROGERS COMMUNICATIONS PARTNERSHIP,  
SASKATCHEWAN TELECOMMUNICATIONS, TÉLÉBEC, SOCIÉTÉ EN  
COMMANDITE and TELUS COMMUNICATIONS COMPANY

Applicants

- and -

AMTELECOM LIMITED PARTNERSHIP, BRAGG COMMUNICATIONS INC., DATA &  
AUDIO-VISUAL ENTERPRISES WIRELESS INC., GLOBALIVE WIRELESS  
MANAGEMENT CORP., HAY COMMUNICATIONS CO-OPERATIVE LIMITED, HURON  
TELECOMMUNICATIONS CO-OPERATIVE LIMITED, MORNINGTON  
COMMUNICATIONS CO-OPERATIVE LIMITED, NEXICOM MOBILITY INC.,  
NORTHWESTEL INC., PEOPLE'S TEL LIMITED PARTNERSHIP, PUBLIC MOBILE INC.,  
QUADRO COMMUNICATIONS CO-OPERATIVE INC., QUEBECOR MEDIA INC.,  
SOGETEL MOBILITÉ INC., THUNDER BAY TELEPHONE, VAXINATION  
INFORMATIQUE, CONSUMERS' COUNCIL OF CANADA, DIVERSITYCANADA  
FOUNDATION, MEDIA ACCESS CANADA, MOUVEMENT PERSONNE D'ABORD DU  
QUÉBEC, PUBLIC INTEREST ADVOCACY CENTRE, CONSUMERS' ASSOCIATION OF  
CANADA, COUNCIL OF SENIOR CITIZENS' ORGANIZATIONS OF BRITISH  
COLUMBIA, OPENMEDIA.CA, SERVICE DE PROTECTION ET D'INFORMATION DU  
CONSOUMMATEUR, UNION DES CONSOUMMATEURS, CANADIAN WIRELESS  
TELECOMMUNICATIONS ASSOCIATION, COMMISSIONER FOR COMPLAINTS FOR  
TELECOMMUNICATIONS SERVICES INC., COMPETITION BUREAU OF CANADA,  
GLENN THIBEAULT, HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,  
GOVERNMENT OF MANITOBA, GOVERNMENT OF THE NORTHWEST TERRITORIES,  
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, ATTORNEY GENERAL OF  
QUEBEC, GOVERNMENT OF YUKON, OFFICE OF THE PRIVACY COMMISSIONER OF  
CANADA, CATHERINE MIDDLETON, TAMARA SHEPHERD, LESLIE REGAN SHADE,  
KIM SAWCHUK, BARBARA CROW, SHAW TELECOM INC., TERRY DUNCAN, GLENN  
FULLERTON, TANA GUINDEBA, NASIR KHAN, MICHAEL LANCIONE, ALLAN  
MUNRO, FREDERICK A. NAKOS, RAINER SCHOENEN and DANIEL SOKOLOV

Respondents

**AFFIDAVIT OF JOHN MELDRUM**

I, John Meldrum, of the Hamlet of Emerald Park, in the Rural Municipality of Edenwold No. 158, in the Province of Saskatchewan, SWEAR THAT:

1. I am the Vice-President, Corporate Counsel & Regulatory Affairs and Chief Privacy Officer of the applicant Saskatchewan Telecommunications ("SaskTel"). I have been employed at SaskTel for over 36 years in various roles. Before assuming my current position in the 1990s, I was a solicitor at SaskTel and then General Counsel and Corporate Secretary. As part of my current role, I have overall responsibility for overseeing regulatory compliance by SaskTel.
2. One of my direct reports actively participates on SaskTel's behalf in the activities of the Canadian Wireless Telecommunications Association ("CWTA"), which represents the interests of wireless service providers and other wireless service industry participants. As a result of my experience in the wireless service industry and SaskTel's participation in the CWTA, I have general knowledge of the services offered by other wireless service providers. I therefore have knowledge of the facts set out in this affidavit.

#### **SaskTel**

3. SaskTel is a full-service telecommunications company. It provides a wide variety of telecommunications services, including wireless services, throughout the province of Saskatchewan.

#### **Wireless service contracts and device subsidies**

4. Wireless services are offered to customers either on a pre-paid basis or under a contract that provides that the customer will pay for the service on a monthly basis. Contracts providing for the latter type of services, known as post-paid services, are by far the most common. In offering post-paid services to their customers, SaskTel and other wireless service providers enter into fixed- or indeterminate-term (i.e. month-to-month) wireless service contracts. Fixed-term contracts range in length from one to three years.
5. The ordinary retail price of a new wireless device depends on the device, but can be as much as \$700. In most cases, wireless service providers subsidize a new device for a customer who enters into a fixed-term contract. The amount of the device subsidy varies in accordance with the length of the contract. For example, SaskTel currently offers plans under which a

customer obtains a \$50 device subsidy in exchange for entering into a one-year fixed-term contract, a \$100 device subsidy in exchange for entering into a two-year fixed-term contract, and a \$500 device subsidy in exchange for entering into a three-year fixed-term contract.

6. Under fixed-term contracts involving a device subsidy, the subsidy is forgiven over the term of the contract. The mechanism by which device subsidies are forgiven varies by contract and by carrier, but generally involves a cancellation fee which declines over time. In the case of many contracts offered by other wireless service providers, the cancellation fee declines at a fixed rate over the term of the contract so that it is at zero by the end of the term. If a customer cancels a contract early, the customer must pay an early cancellation fee in an amount determined by reference to the unpaid portion of the device subsidy or in accordance with a formula set out in the contract.

7. Under all contracts currently offered where the customer receives a device subsidy, the wireless service provider recovers the device subsidy either through monthly payments made under a fixed-term contract carried through to the end of its term or through early cancellation fees. In some cases, wireless service providers choose to forgive or discount early cancellation fees if a customer enters into a new three-year fixed-term contract.

#### **The Wireless Code decision and the Wireless Code**

8. The Canadian Radio-television and Telecommunications Commission (“CRTC”) issued Commission Telecom Regulatory Policy CRTC 2013-271 on 3 June 2013 (the “Wireless Code decision”). The Wireless Code decision establishes the Wireless Code, a set of mandatory requirements applicable to all wireless service contracts entered into between wireless service providers and individuals or small businesses.

9. The Wireless Code’s requirements with respect to early cancellation fees are set out at Section G of the Code. In the case of fixed-term contracts where a customer received a subsidized device upon signing the contract, the following requirements apply:

- (a) the early cancellation fee must not exceed the value of the device subsidy;
- (b) the early cancellation fee must be reduced by an equal amount each month, for the lesser of 24 months or the total number of months in the contract’s term; and

- (c) the early cancellation fee must be reduced to zero by the lesser of 24 months or the end of the contract's term.

10. When calculating the early cancellation fee, the value of the device subsidy is the retail price of the customer's mobile device minus the amount that the customer paid for the device when the contract was entered into. The retail price is the lesser of the manufacturer's suggested retail price and the price set for the device when it is purchased from the provider without a contract.

### **Coming into force of the Wireless Code**

11. The Wireless Code decision states that the Wireless Code will take effect on 2 December 2013 and that it will apply as of that date to all wireless service contracts entered into, amended, renewed or extended on or after that date. It also states that the Wireless Code "should apply" to all contracts, no matter when they were entered into, by 3 June 2015.

12. After the Wireless Code decision was issued, the CWTA requested clarification from the CRTC as to whether the Wireless Code will apply on a mandatory basis to contracts entered into before the Code comes into force on 2 December 2013. A copy of the CWTA's letter is attached as Exhibit A.

13. The CRTC responded through its staff that the Code will apply on a mandatory basis to all contracts after 3 June 2015, regardless of whether the contract was entered into before the Wireless Code comes into force. A copy of the letter from CRTC staff is attached as Exhibit B.

14. This response is inconsistent with the CRTC's statement posted on 6 June 2013 on its online Twitter account, where it stated:

CRTC provides clarification about wireless code: it does not apply to contracts signed before Dec. 2, 2013.

A copy of a printout from the CRTC's Twitter account is Exhibit C.

### **Impact of Wireless Code decision on pre-existing contracts**

15. If the Wireless Code were to apply to all contracts as of 3 June 2015 regardless of when they were entered into, many contracts entered into before the Wireless Code comes into force on 2 December 2013 would be affected.

16. Indeed, the Wireless Code would apply to any contract entered into before 2 December 2013 with a term that expires after 3 June 2015. The Code would even apply to contracts entered into before the CRTC issued its Wireless Code decision. For example, the Code would apply to a three-year fixed-term contract entered into on 3 May 2013 as of 3 June 2015, two years and one month into the contract's three-year term.

17. Applying the Wireless Code to pre-existing contracts would likely prohibit wireless service carriers from recovering a substantial amount of unpaid device subsidies offered to customers in exchange for three-year contracts. This is because wireless service providers would be prohibited by the terms of their existing three-year contracts from recovering unpaid device subsidies on an accelerated basis such that the device subsidies would be fully repaid by the end of the contract's second year. Yet, under the Wireless Code, wireless service providers will be prohibited from recovering unpaid device subsidies from any customer who chooses to cancel a fixed-term contract after two years.

18. Effectively, after 3 June 2015, customers with pre-existing three-year fixed-term contracts would be entitled to cancel their contracts after two years without repaying the unpaid amount of the device subsidy that they are contractually obligated to repay. For example, a customer who entered into a three-year fixed-term contract on 3 May 2013 would be entitled to cancel the contract without penalty on 3 June 2015 even though that customer's device subsidy will not be fully repaid by that date.

19. CRTC staff stated in their letter to the CWTA that, according to the CRTC's confidential calculations, approximately 80% of wireless customers would be covered by the Wireless Code if the Code applied only to contracts entered into or modified after the Code comes into force. If this is true it follows that approximately 20% of all wireless customers are party to contracts entered into before the Code comes into force that would be affected by the Wireless Code as of 3 June 2015. This amounts to millions of customers across Canada.

**The Wireless Code decision has created uncertainty in the marketplace**

20. Since the Wireless Code decision was issued, SaskTel and other wireless service providers have continued to enter into three-year fixed-term contracts with customers, and SaskTel currently expects to continue to do so in the period leading up to the coming into force of the Wireless Code on 2 December 2013.

21. The application of the Wireless Code to those contracts is uncertain. Wireless service providers that continue to offer three-year fixed-term contracts with a heavily-subsidized device do not know whether customers will be entitled to cancel those contracts after two years without repaying the unpaid portion of their device subsidy. This uncertainty has led and will lead to confusion in the marketplace, which is especially problematic given that the industry's two busiest sales periods, the back-to-school period and the pre-holiday period, are only two and four months away.

22. The uncertainty in the marketplace will only be resolved once the Court finally determines whether the Wireless Code will apply as of 3 June 2015 to contracts entered into before 2 December 2013.

**The Wireless Code proceeding**

23. All wireless service providers, including SaskTel and the other applicants, were parties in the CRTC's proceeding that led to the issuance of the Wireless Code. In Telecom Notice of Consultation CRTC 2012-557, the CRTC invited other interested participants to become parties by filing an intervention (at paragraphs 21 and 22).

24. 1,055 parties filed interventions with the CRTC and participated in the Wireless Code proceeding by submitting written comments. The CRTC posted the interventions on its website, which lists each party's email address.<sup>1</sup> During the Wireless Code proceeding, the CRTC communicated with the parties by email. A chart listing all parties (except the applicants and their affiliates) and their email addresses is attached as Exhibit D. The chart was compiled from the CRTC's website by the applicants' counsel, Torys LLP. I believe that it is accurate.

---

<sup>1</sup> Available: <<https://services.crtc.gc.ca/pub/ListeInterventionList/Default-Default.aspx?en=2012-557&dt=c&Lang=c>>.

SWORN BEFORE ME at the City of  
Regina, in the Province of Saskatchewan  
this 2nd day of July, 2013

  
Commissioner of Oaths

for Saskatchewan.

My commission expires  
Nov. 30, 2016.

  
John Meldrum

TAB 5A

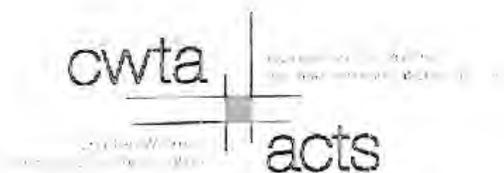
---

THIS IS **EXHIBIT A** REFERRED TO IN THE  
AFFIDAVIT OF **JOHN MELDRUM**  
SWORN BEFORE ME THIS 2<sup>ND</sup> DAY  
OF JULY, 2013

Lynn M. Newberry  
Commissioner of Oaths

for Saskatchewan.

My commission expires Nov. 30, 2016.



June 12, 2013

John Traversy  
 Secretary General  
 Canadian Radio-Television and Telecommunications Commission  
 Les Terrasses de la Chaudière  
 1 Promenade du Portage  
 Gatineau, Quebec J8X 4B1

**Re: Request for clarification regarding elements of the implementation of the Wireless Code, Telecom Regulatory Policy CRTC 2013-271**

Dear Mr. Traversy:

1. The Canadian Wireless Telecommunications Association (CWTA) is the recognized authority on wireless issues, developments and trends in Canada. It represents wireless service providers, as well as companies that develop and produce products and services for the industry.
2. As we have noted in speeches and media interviews, CWTA welcomes the Commission's Wireless Code of Conduct, as it provides a single set of clear national rules for all Canadian wireless consumers, no matter where they live. We also recognize the Commission's efficiency at analyzing vast amounts of evidence through multiple rounds of submissions to develop a focused and coherent decision in a relatively short time frame. That said, through this letter, we would respectfully request the Commission's clarification on two specific questions as to which aspects of the Wireless Code will apply to which contracts, and when.
3. First, paragraph 368 of TRP CRTC 2013-271 states that: "... all aspects of the Wireless Code will<sup>1</sup> take effect on 2 December 2013,". In contrast, paragraph 369 states in part as follows: "... In addition, in order to ensure that all consumers are covered by the Wireless Code within a reasonable time frame, the Wireless Code should apply to all contracts, no matter when they were entered into, by no later than 3 June 2015."
4. The mandatory application of the Code to all new contracts signed on or after 2 December 2013 is made expressly clear through the use of the word "will." However, it is unclear whether the Wireless Code is intended to apply on a mandatory basis to contracts signed before 2 December 2013 as a result of the use of the discretionary word "should" in relation to the 3 June 2015 date. We request the Commission clarify if the 3 June 2015 date is intended to be mandatory or discretionary in terms applying the Wireless Code to wireless contracts, including those entered into prior to 2 December 2013.
5. If the 3 June 2015 date is intended to be mandatory, we request clarification on how the Wireless Code is intended to apply to "all contracts, no matter when they were entered into, by no later than 3 June 2015." Clarification is specifically required to address situations best illustrated through the following examples:

<sup>1</sup> Unless otherwise indicated the emphasis in underlined text is added.

- i. If a customer entered into a 36 month contract on 2 April 2013, receiving a \$600 handset for \$240, this equates to a device subsidy of \$360 that decreases – under most existing 36 month contracts currently in the marketplace – by \$10 a month over the next 36 months. So, by 3 June 2015 that customer will have been under contract for more than 24 months and will have 10 months remaining on their contract, and \$100 remaining on their device subsidy balance.
  - ii. If a customer enters into a 36 month contract on 2 October 2013, receiving a \$600 handset for \$240, that would equate to a device subsidy of \$360 that will decrease –under most 36 month contracts currently in the marketplace—by \$10 a month over the next 36 months. So, by 3 June 2015 that customer would have 16 months remaining on their contract, and \$160 remaining on their device subsidy balance.
6. It is unclear for each of the two scenarios above whether, through the interplay between paragraph 369 and Wireless Code section G.2(i)(a), the carrier is required to eliminate any remaining balances on the customers' device subsidies beyond 24 months effective on the 3 June 2015 implementation date. In other words:
- i. Would the customer in scenario A be able to cancel their service outright on 3 June 2015 without repaying any early cancellation fee, including the outstanding 10 months of their subsidy balance?
  - ii. Would the customer in scenario B be able to cancel their service by paying only a 4 month equivalent of the subsidy balance, instead of the full outstanding 16 months of their device subsidy?
  - iii. Or would each customer be required under the terms of their respective service contracts to pay their respective remaining subsidies, but no additional penalty, should they choose to cancel their contract effective 3 June 2015?
7. Consumers and service providers alike require clarification as to how this important aspect of the Code applies to them. From the consumer's perspective, it may very well influence their purchasing decisions in the coming months. As you can appreciate, from the carriers' perspective, the implementation of the Code to existing contracts poses considerable and potentially material business impacts for service providers. For instance, if the 3 June 2015 application of the Wireless Code is intended to reduce the length of all contracts to 24 months, than the three-year contracts signed between the release of this decision and 2 December 2013 are de facto two-year contracts, which would necessitate significant changes to carriers' systems and contracts.
8. In addition, we note that the question of whether the Commission intends the Code to apply to contracts entered into before its 3 December 2013 coming into force date could be relevant to parties' leave to appeal rights under the *Telecommunications Act*. For all of these reasons we would respectfully request a reply to these important questions of interpretation within 48 hours.

Sincerely,



Bernard Lord  
President and Chief Executive Officer

**TAB 5B**

---

THIS IS **EXHIBIT B** REFERRED TO IN THE  
AFFIDAVIT OF **JOHN MELDRUM**  
SWORN BEFORE ME THIS 2<sup>ND</sup> DAY  
OF JULY, 2013

Lynn M. Jewsbury  
Commissioner of Oaths  
for Saskatchewan.

My commission expires Nov. 30, 2016.



Canadian Radio-television and  
Telecommunications Commission

Conseil de la radiodiffusion et des  
télécommunications canadiennes

Ottawa, Canada  
K1A 0N2

DM5 192271

18 June 2013

File No. [2013-C13-201214-03](#)

BY E-MAIL

Mr. Bernard Lord  
President and Chief Executive Officer  
Canadian Wireless Telecommunications Association  
300 - 80 Elgin Street  
Ottawa, Ontario K1P 6R2  
[bern@cwta.ca](mailto:bern@cwta.ca)

**RE: Clarification on elements of the Wireless Code, Telecom Regulatory Policy  
CRTC 2013-271**

Dear Mr. Lord:

I am in receipt of your letter dated 12 June 2013, requesting clarification on behalf of your members of certain elements of the Wireless Code, Telecom Regulatory Policy CRTC 2013-271 (the Regulatory Policy). Specifically, your questions relate to wireless service providers' (WSP) obligations following the final implementation date (3 June 2015), with respect to remaining balances on customers' devices and related early cancellation fees.

As you mention in your letter, paragraph 369 of the Regulatory Policy states that the Code a) should apply to contracts entered into, amended, renewed or extended on or after 2 December 2013 and b) should apply to all contracts by no later than 3 June 2015, no matter the date upon which they were entered into.

The Commission's analysis related to implementation of the Code, detailed in paragraphs 365 through 367, recognized that application solely to new or amended contracts would severely limit the benefit to Canadians with existing contracts. Conversely, immediate application to all existing contracts would not be proportionate to the costs and resources required for such an implementation by the wireless industry.

As you will recall, during the public hearing the Commission asked your members how quickly their customers would be covered by the Code, based on rates of churn, contract renewal and device upgrades. In general, your members responded that all customers would be covered by the Code within two to three years. In fact, Bell Canada, KMTS, and NorthernTel, Limited Partnership (collectively, Bell Canada *et al.*) stated that Canadians replace devices every 2.5 to 2.75 years. Moreover, your members filed confidential calculations on the record in response to this same question.

Canada

The Commission used this information, along with other evidence on the public file of the proceeding, in arriving at its determinations and conclusions. Given all the information, the Commission noted in the Regulatory Policy that approximately 50% of all customers would be covered by the Code by December 2014, and most wireless customers would be covered in less than two years given the natural course of rates of churn, contract amendments and renewal, and device upgrades. Though the confidential calculations filed used different bases, that evidence suggests that approximately 80% of wireless customers, depending on the service provider, would be covered by the Code by 3 June 2015.

As clearly indicated in the Regulatory Policy, the Commission determined that full implementation of the Code in June 2015 would strike a reasonable balance between managing the transition for WSPs and ensuring that there is no undue discrimination against those customers already bound by a wireless contract. It is essential to make sure that the transition period for the implementation of the Wireless Code is as short as reasonable in order to ensure that all Canadians realize the benefits from the Wireless Code.

It is clear that the Commission intended the final 3 June 2015 implementation date to be a mandatory date. Consequently, after 3 June 2015, early cancellation fees for all wireless service contracts will be determined in accordance with the formula set out in the Code.

With respect to the scenarios described in paragraph 6 of your letter, I understand the desire of the industry for detailed interpretation of possible operational scenarios:

- i. Scenario A: a customer on a 36 month contract starting April 2013 with a \$360 device subsidy. By 3 June 2015, the customer will have been under contract for more than 24 months and will have 10 months remaining on their contract, and \$100 remaining on their device subsidy.*
- a) As you will recall, your members indicated during the hearing that they were unable to separate the value of the device subsidy from the monthly service rate paid by customers. Consequently, it would appear that the majority of the market does not operate in the way described in Scenario A.

However, to reiterate, the Wireless Code does not immediately apply. If a customer wishes to cancel a contract signed before 2 December 2013 prior to 3 June 2015 where no amendment or modification has been made by either party, the customer will have to pay the early cancellation fee that is set out in the contract, even if it is higher than the fee permitted by the Code.

The first time a contract is amended, renewed, or extended after 2 December 2013, the Code will apply to the contract and from that time, a customer exiting the contract will be subject to a cancellation fee that is consistent with the Code. Also, no matter when the contract is signed, the Code will apply to it as of 3 June 2015.

- ii. Scenario B: a customer on a 36 month contract starting October 2013 with a \$360 device subsidy. By 3 June 2015, the customer will have been under contract for 20 months and will have 16 months remaining on their contract, and \$160 remaining on their device subsidy.*
- b) The six month transition period was established to allow the industry to adjust its business practices to bring them into line with the Code. Carriers are free to implement any part or parts of the Code prior to the 2 December 2013 implementation date. It would be surprising that in October of 2013 a customer would be offered a plan with a device subsidy with a 36 month term as that would be contrary to the spirit of the Code and the development of a more dynamic marketplace.

I look forward to the cooperation of the CWTA and its members in the implementation of this positive initiative for Canadian wireless consumers.

Yours sincerely,

  
Barbara Motzney  
Chief Consumer Officer  
Consumer Affairs and Strategic Policy

TAB 5C

---

THIS IS **EXHIBIT C** REFERRED TO IN THE  
AFFIDAVIT OF **JOHN MELDRUM**  
SWORN BEFORE ME THIS 2<sup>ND</sup> DAY  
OF JULY, 2013

Lynn M. Jewsbury

Commissioner of Oaths

for Saskatchewan.

My commission expires Nov. 30, 2016.

Have an account? [Sign in](#)

Tweets

[Following](#)

[Followers](#)

[Favorites](#)

[Lists](#)

Follow CRTCeng

Full name

Email

Password

[Sign up](#)

Photos and videos



Worldwide Trends · [Change](#)

- Casillas
- Pirlo
- #TodoBienHastaQue
- Villa
- #mojoklasa
- #RazonesParaExistir
- #MentionSomeoneHandsome
- Iniesta
- Ramos
- #ICantLiveWithout

© 2013 Twitter [About](#) [Help](#) [Terms](#) [Privacy](#)  
[Blog](#) [Status](#) [Apps](#) [Resources](#) [Jobs](#)  
[Advertisers](#) [Businesses](#) [Media](#) [Developers](#)  
[Directory](#)



**CRTCeng**  
 @CRTCeng  
 Official Twitter account of the CRTC. Suivez-nous en français @CRTCfra  
 Gatineau, Québec · [crtc.gc.ca](http://crtc.gc.ca)

1,406 TWEETS    109 FOLLOWING    6,470 FOLLOWERS    [Follow](#)

Tweets

- 

**CRTCeng** @CRTCeng 1h  
 #CRTC allows @TSN690RadioMtl to continue to operate in English, on condition that station maintains its sports format  
[Expand](#)
- 

**CRTCeng** @CRTCeng 1h  
 #BellAstral will have to invest \$246.9 M over 7 years in initiatives that benefit Canadians and the broadcasting system #crtc  
[Expand](#)
- 

**CRTCeng** @CRTCeng 1h  
 #BellAstral will have to divest itself of 10 radio stations and 11 television services #CRTC [crtc.gc.ca/eng/com100/201...](http://crtc.gc.ca/eng/com100/201...)  
[Expand](#)
- 

**CRTCeng** @CRTCeng 1h  
 #CRTC approves sale of Astral to BCE, imposes measures to uphold public interest. [crtc.gc.ca/eng/com100/201...](http://crtc.gc.ca/eng/com100/201...)  
[Expand](#)
- 

**CRTCeng** @CRTCeng 26 Jun  
 @cnhb969 the CRTC is working with its int'l partners. Examples of possible resolutions: [bit.ly/o93ed0](http://bit.ly/o93ed0) & [bit.ly/10kPft2](http://bit.ly/10kPft2)  
[View conversation](#)
- 

**CRTCeng** @CRTCeng 25 Jun  
 @arloludwig See information here on loud tv commercials: [crtc.gc.ca/eng/info\\_sht/g...](http://crtc.gc.ca/eng/info_sht/g...)  
[View conversation](#)
- 

**CRTCeng** @CRTCeng 25 Jun  
 @cnhb969 We suggest that you contact the National Do Not Call List [lnnte-dncl.gc.ca/cn-cu-eng](http://lnnte-dncl.gc.ca/cn-cu-eng)  
[View conversation](#)
- 

**CRTCeng** @CRTCeng 21 Jun  
 @H\_Dhillon Correct.  
[View conversation](#)
- CRTCeng** @CRTCeng 21 Jun

-  **CRTCeng** @CRTCeng 10 Jun  
Chris Seidl #CRTC Exec.Dir.Telecomm speech at the annual convention of the Independent Telecomm Providers Association [bit.ly/164SsOS](http://bit.ly/164SsOS) Have an account? Sign in  
Expand
-  **CRTCeng** @CRTCeng 10 Jun  
#CRTC announces that PF Expert Montreal inc. has paid \$21,000 penalty for its telemarketing practices. [crtc.gc.ca/eng/archive/20...](http://crtc.gc.ca/eng/archive/20...)  
Expand
-  **CRTCeng** @CRTCeng 6 Jun  
#CRTC provides clarification about wireless code: it does not apply to contracts signed before Dec. 2, 2013.  
Expand
-  **CRTCeng** @CRTCeng 6 Jun  
#CRTC provides clarification about wireless code: it does not apply to contracts signed before Dec. 2  
Expand
-  **CRTCeng** @CRTCeng 5 Jun  
#CRTC letter to Bell Canada re: Broadband Expansion to remote communities [crtc.gc.ca/eng/archive/20...](http://crtc.gc.ca/eng/archive/20...)  
Expand
-  **CRTCeng** @CRTCeng 4 Jun  
#CRTC Chairman Jean-Pierre Blais speech to the Canadian Telecom Summit [crtc.gc.ca/eng/com200/201...](http://crtc.gc.ca/eng/com200/201...)  
Expand
-  **CRTCeng** @CRTCeng 3 Jun  
What does the #CRTC wireless code mean for you? [crtc.gc.ca/eng/info\\_sht/t...](http://crtc.gc.ca/eng/info_sht/t...)  
Expand
-  **CRTCeng** @CRTCeng 3 Jun  
#CRTC thanks everyone who contributed to the development of the wireless code [crtc.gc.ca/wirelesscode](http://crtc.gc.ca/wirelesscode)  
Expand
-  **CRTCeng** @CRTCeng 3 Jun  
Canadians to receive a contract that is easy to read and understand thanks to #CRTC wireless code [crtc.gc.ca/wirelesscode](http://crtc.gc.ca/wirelesscode)  
Expand
-  **CRTCeng** @CRTCeng 3 Jun  
Canadians will be able to unlock their cellphones after 90 days, or immediately after paying for their devices #CRTC [crtc.gc.ca/wirelesscode](http://crtc.gc.ca/wirelesscode)  
Expand
-  **CRTCeng** @CRTCeng 3 Jun  
#CRTC wireless code caps international data roaming charges at \$100 to prevent bill shock [crtc.gc.ca/wirelesscode](http://crtc.gc.ca/wirelesscode)  
Expand
-  **CRTCeng** @CRTCeng 3 Jun  
#CRTC wireless code caps domestic data charges at \$50/month to prevent bill shock [crtc.gc.ca/wirelesscode](http://crtc.gc.ca/wirelesscode)  
Expand

TAB 5D

---

THIS IS **EXHIBIT D** REFERRED TO IN THE  
AFFIDAVIT OF **JOHN MELDRUM**  
SWORN BEFORE ME THIS 2<sup>ND</sup> DAY  
OF JULY, 2013

Lynn M. Jewsbury  
Commissioner of Oaths

for Saskatchewan.

My Commission expires Nov. 30, 2016.

**PARTIES IN THE WIRELESS CODE PROCEEDING<sup>1</sup>**

<b><u>Company/Name</u></b>	<b><u>Email Address</u></b>	<b><u>Company/Name</u></b>	<b><u>Email Address</u></b>
Aaron Boyd	aaronboyder@gmail.com	P. Luong-Scott	pyluong@gmail.com
Jason Palmer	prplhaze@gmail.com	Candice McLeod	mcleodfamily5@gmail.com
Mark Wong	chromentis@hotmail.com	Aravind Ceyardass	avdpub@gmail.com
Ryan Shannon	rmshannon@gmail.com	Theresa Mitchell	itsmetree@yahoo.ca
Kevin Rys	kevinrys@drytel.net	Justen Wilson	justen.wilson@gmail.com
Edward Hare	ejhare@mymts.net	Concerned Canadian	learningcurvestudios@gmail.com
Timothy Morin	tim.morin@hotmail.ca	Clayton King	Clayton.da.king@gmail.com
Kai Hutchence	kaihutch@yahoo.ca	Ernie Vance	ernie@vance.ca
Jamie Innes	jamie.innes@randstad.ca	Estelle Simons	simonsonthelake@gmail.com
Thomas Jardine	tom.m.jardine@gmail.com	Shawn Greenberg	shawngreenberg@outlook.com
Tyler Haughey	Thaughey@me.com	D. Simmonds	deshane.simmonds@gmail.com
Jason Miller	moosejaws73@hotmail.com	Marc Brosseau	honestmarc@me.com
Jessica Rust	BRTW_forever@hotmail.com	Eric Rietvelt	eric_rietvelt@outlook.com
Samuel Borde	samuel.borde@laposte.net	Kyle Logan	klogan8@shaw.ca
Daniel Mazzantini	dmazzantini@brossard1.com	Jhansen Chonn	jhansen.chonn@gmail.com
Ryan Knuth	rmknuth@hotmail.com	Becky Dennett	beckyrandall_81@hotmail.com
Anthony Kroecker	casualt@gmail.com	Tom Gwozdz	tgwozdz@gmail.com
Exfinity	venelinn@gmail.com	Todd Shields	drocketodd@gmail.com
Dave Bowles	bowlesdr@gmail.com	Dean Kiel	dak828@shaw.ca
Gordon Johnston	gordjohnston@gjohnstonandasociates.ca	Kyle Urquhart	coolblue_52@hotmail.com
Eric Tremblay	eric.tremblay23@gmail.com	Boby Kollanur	hobygk@hotmail.com
Uppiliappan Mukundan	UM.Chari@gmail.com	Frank Seles	frankseles@telusmail.net
Rayer Kivari	ty.kivari@gmail.com	Debra Weinber	debra_weinber@carleton.ca
Ray Howarth	ryhwrth@gmail.com	Michael Laycock	zee92@hotmail.com
ETS	renejr.landry@etsmtl.ca	Rafail Veli	seafight@usa.net
Riley Brown	rileybrown@swag.ca	Mathieu Soucy	mathsoucyphone@gmail.com
Ashley Cardoz	ashcardoz@gmail.com	Rida Mirza	rmirza@me.com
Glenn Fullerton	gf999111@gmail.com	Roger Richardson	osoyousguy@yahoo.ca
Corinne Reilly	cocoreilly@hotmail.com	Adam Doherty	doherty.adam@gmail.com
Gee El	geedeel@yahoo.com	Jay Cowan	shiningdragoon@me.com
Ryan Hughes	nycalhoutex@yahoo.com	Edwin Dolby	edwindolby@shaw.ca
Sheri Winslow	sheri@winslow.ca	Henry Smith	hmtnotify@gmail.com
James Hunter	thehunters@rogers.com	Minita Chandy	minita_chandy@gmail.com
Scott Monette	scottm@mgmsecuritygroup.com	Ian Watson	pdamd2001@gmail.com
Darcey Millar	darceymillar20@gmail.com	Francois-Johan Roy	royf0129@gmail.com
Etienne Dumont	etienne_dumont@hotmail.com	Mark Fuchs	MarkSFuchs@gmail.com
Steve Lessard	lessards@yahoo.com	Bashar Abdullah	babdul1938@rogers.com
Eric Sangwine	svcire@yahoo.ca	Sheldon Banow	sheldon@banow.ca
Larry R. Brown	alarry@telus.net	André Masson	xvico2307@hotmail.com
Jacob Dinsmore	jacobrossdinsmore@gmail.com	Mike Donald	mdonald7@mymts.net

<sup>1</sup> Excluding the applicants and their affiliates

- 2 -

<u>Company/Name</u>	<u>Email Address</u>	<u>Company/Name</u>	<u>Email Address</u>
Tom Lockhart	crtc@innovelle.com	Adam Shaka	emailadam@hotmail.com
Bartolomeo Parete	Bartolomeo.Parete@rogers.com	Raymond Chow	raymond.km.chow@gmail.com
Alexandra A.	alexandra.j.a@hotmail.com	Steve Mostacci	smdstemos@yahoo.com
Kostas Kritsilas	kkritsilas@gmail.com	Vimal Agola	vimalagola@yahoo.com
Nicholas Rados	nrados@gmail.com	Robert Voutier	voutier.robert@brandonsd.mb.ca
Kamal Gill	kamalgill99@hotmail.com	Ian Wilson	ikwilson@cogeco.ca
Baljit Narwal	baljitnarwal@yahoo.ca	Peter Warth	pwarth.es@gmail.com
Mario Leroux	leroux.mario@videotron.ca	Vikas Jain	jainv2011@hotmail.com
Salim Grim	grim.salim@hotmail.com	Joseph Morrissey	josephmorrissey2@gmail.com
Mohit Arora	a.mohit@hotmail.com	Ryan Jaeb	ryan@jaeb.ca
Stephan Doiron	stephan.doiron@shaw.ca	Peter Krmjevic	pkrmjevic@gmail.com
John Kuzyk	john.kuzyk@telus.net	Craig Power	Craig.Power@eastlink.ca
Peter Savelli	rabbit_41@hotmail.com	Jeffrey Jang	jangjeffrey@gmail.com
Darrin Deveau	ddeveaupei@hotmail.com	The Strand Companies	strandcos@gmail.com
Alykhan Visram	alykhan.visram@gmail.com	Jonathan Vegt	mjvegt@gmail.com
Alan Brackley	rural@rogers.com	Colleen McIntyre	colleenmcintyre@gmail.com
Shan Shirodkar	shanshirodkar@gmail.com	Garrett Knights	garrett.knights@gmail.com
James Hall	jce.hall@shaw.ca	Nola Hambleton	farmgal1960@hotmail.com
Zoran Duma	zduma123@yahoo.ca	Bethany Moore	bethadone@hotmail.com
Henry Manaster	hankman@bell.net	Nicholas Cordon	nick.cordon@uav-dynamics.org
Eric Skilling	ericskilling@gmail.com	Coreen Leclerc	blacklilyorchard@gmail.com
Won Herman	hbusiness.w@gmail.com	Robert Brown	brownb999@hotmail.com
Matt Harker	m4th4rker@gmail.com	Raymond Caron	raymond.m.caron@gmail.com
Marilyn Yenson	venomouschie@gmail.com	Kathy McCartney	kmccartney24@hotmail.com
Peter Russell	russell.peter@gmail.com	William Bagnell	IDontUseEmail@IDontUseEmail.com
Sammir Assaf	sammir.assaf@gmail.com	Jennifer Andrew	j80aaaa@hotmail.com
Tracey Lodge	coldcreeklodge@gmail.com	Matthew Haw	mathaw@gmail.com
Michael Ives	ives.mike@gmail.com	Kerry Francocur	a1a15078@gmail.com
Marlon Sibayan	msibayan98@yahoo.com	Salim Masri	samasria@gamil.com
Osman Arfeen	osman.arfeen@gmail.com	William Brebber	billbrebber@shaw.ca
Bill Armstrong	weaconsulting@yahoo.com	Gurj Singh	gurjodh@hotmail.com
Naser Siddiqui	naser_sid@yahoo.com	Hassan Warsame	hassanlwarsame@hotmail.com
Stephen Campbell	stephen.campbell@ualberta.net	Cory Alder	cory@davander.com
jonathan ibbotson	ibby-666@hotmail.com	John Carroll	carroll007@gmail.com
Dave Eaglesham	eagle9093@outlook.com	Derek Martin	orangey@gmail.com
Andrew Barks	barks.andrew@gmail.com	Cecilia Neto	cecilianeto@yahoo.com
Stan Cobourn	s.cobourn01@cogeco.ca	Chico Barker	chico.barker@gmail.com
Norbert S.	sailonappo@yahoo.com	Edward Arnould	edarnould@hotmail.com
Pierre-Yves Dagenais	pydagenais@hotmail.com	Maxim Tremblay	maximt@pubnix.net
Karen Moore	iamkmoore@me.com	Pamela Rekasi	pjuldil@rogers.com
K. Connor	connor@lunenfeld.ca	Shivan Narine	sdnarine000@hotmail.com
Nicholas Simpson	nick.simpson@gmail.com	Paul Miller	paulmiller7636@gmail.com
David Higgs	davidjhiggs@gmail.com	Trung Luu	trungluu@hotmail.com
Larry Cohen	floodirector10@yahoo.ca	Justin Schroeder	justin.schroeder@edu.sait.ca
Fadi Abou-Chalha	fadyac@gmail.com	Raj Karen Bassi	bassi.rajkaren@live.com
Jean-Francois Asselin	jf_asselin99@hotmail.com	Susanne Yeh	susanneych@hotmail.com
Carmen von Richthofen	carlut@gmail.com	Pat Nigro	pnigro67@yahoo.ca

<b>Company/Name</b>	<b>Email Address</b>	<b>Company/Name</b>	<b>Email Address</b>
Singes Eieml	singes@yahoo.com	Jerome Ngoh	jngoh@me.com
Brad Matthews	mathewsb@nbnet.nb.ca	Muhammad Ahmed	itsmahmood94@gmail.com
Steve Moses	smoses@rogers.com	Ricky Goodman	rickyg81@gmail.com
Gordon DeGrandis	gordon.degrandis@yahoo.ca	Graham Zell	graham.zell@gmail.com
Ashley Stewart	ashleydianastewart@gmail.com	Wayne Stuebing	waynestuebing@gmail.com
Andrew Erius	aerius@beyond.ca	Fernando Gomez	Fgomez.fernando@gmail.com
Gravitational Research	robindustrygraves@kidbots.com	Jeff Everingham	jefl.everingham@live.ca
Shahid Neaz	smneaz@yahoo.com	Shaun Conway	qphustler@hotmail.com
Iain MacLeod	macleod@iain.ca	Kamran Hussain	chkamran@gmail.com
Andre Foucault	andreCourier@hotmail.com	Daniel Cohn	dcohnyorku@gmail.com
Kelly Aitcheson	kbyers@sutton.com	Ze'ev Ionis	z.ionis@mendz.com
Kulwinder Bhatia	kulwindersingh@ymail.com	Paul Shalev	paul.shalev@mail.com
Matthew Douglas	mdouglastv@yahoo.com	Maxime Lapierre	turboled@gmail.com
Troy Letourneau	letourneau-1987@hotmail.com	Robert Marshall	robert.marshall@rogers.com
Jesse Kloster	Tribal_warrior_1@hotmail.com	jeffrey hergeron	kitsy@rogers.com
Leanne Rutter	linseman6@rogers.com	Jim Jordan	jimmyj@shaw.ca
Marc Poliquin	mpoliquin000@sympatico.ca	Tal Braiman	tal360ca@gmail.com
Gerrit Wittevoen	wittb69@island.net	Kevin Hunter	kevinhunter@live.ca
Ian Radford	i_radford@hotmail.ca	Gord Wright	rxox@bell.net
Paul Dombowsky	paulnd66@gmail.com	Greg Neff	gregneff@rogers.com
Daniel Adam	d_strathadam@rogers.com	Kosta Boutsalis	kbouts@hotmail.com
Alain Miville de Chêne	z.crtc@nasrudin.ca	Joël Robichaud	Joelrobichaud@yahoo.ca
Billy Yu	yu_billy@msn.com	Darren Valiquette	thestig.nation@gmail.com
Jian-xiong Wang	jian.x.wang@gmail.com	Shawn Rapaz	shawnrapaz@gmail.com
Claude McMahon	mcm_cla@yahoo.ca	Michael Harrison	mikehseven@gmail.com
William Maitner	wmaitner@yahoo.com	Ugyen Lhakyab	ulhakyab@gmail.com
David Ng	davidng07@yahoo.com	Matt Steward	Makiwa@hotmail.com
Megan Macdonald	mjmcdnld@yahoo.ca	Mykhaylo Shaforostov	crtc@shaforostov.com
Manoj Saxena	manoj.saxena@live.com	John Wilson	beyondvideo@gmail.com
Luis Acero	luis_e_acero@hotmail.com	Dennis Lam	DennisLam@hotmail.com
Paul Marcovici	paul@marcovici.net	Michael "Terry" Mulcahy	terrymulcahy@gmail.com
Dwayne Gomboc	cgomboc@shaw.ca	David O'connor	david_ajs_oconnor@hotmail.com
David Gibbins	daveginkw@hotmail.com	Randy Toni	rtoni@hotmail.com
Garry Fraser	bcvw@telusplanet.net	Muhammad Kashif Farooqui	cashiph93@hotmail.com
Christian De Cloet	christian@decloet.ca	Deirdre St. Luke	dstluke@shaw.ca
David Munroe	davesmunroe@gmail.com	Dee Primo	tyrenthe@yahoo.ca
Felipe de Oliveira	fmdo@cloudpipe.ca	Richard Wolfe	rdwolfe@outlook.com
Dennis Oliven	duo888@gmail.com	Trevor Korman	korman.trevor@brandonsd.mb.ca
Allan Smith	leeandpat@shaw.ca	Brian Savoy	Bdsavoy@yahoo.com
Eric Martin	martinbooking@gmail.com	Graham Greenwood	graham@mwpa.com
Simon Czarniecki	simon@gosek.com	Carol Layte	cizzy@live.ca
Marie-Annick Scott	Maricannick@laposte.net	David Hodson	dhodson@shaw.ca
David Hammel	david.k.hammel@gmail.com	Martin Cashin	mcashin@gmail.com
Merrill Nuttall	merrill.nuttall@gmail.com	Kaveh Partovi	kavehpartovi@gmail.com
Jonathan Landry	yepeekai@hotmail.com	Ken Christoffersen	christoffersenk@gmail.com
Tony Michel	tonymichel@gmail.com	Dawn Xiao	dx_dawn@yahoo.com

- 4 -

<u>Company/Name</u>	<u>Email Address</u>	<u>Company/Name</u>	<u>Email Address</u>
Deborah Carson	dcarson@myself.com	Jeffrey Ip	jtip@rogers.com
Bruce Martin	mistenvoyzero@gmail.com	Doug Nicholson	nix@wightman.ca
John Conrad	magpie@la.shockware.com	Val Guertsman	vygertsman@rogers.com
C. Williams	chuckpw@gmail.com	Bikram Manandhar	bikku8@hotmail.com
Owen Bryan	northvanisle@shaw.ca	Shalryn Morrison	shalryn_ca@yahoo.ca
Mark Skerritt	mark.skerritt@gmail.com	Diane Roberts	jackelr@shaw.ca
Richard Massie	radmassie@gmail.com	Care Taugh	ctaugh@cogeco.ca
Ginette Bisailon	spellinspector@gmail.com	Steve Purkis	steve@purkis.ca
Ryan McIver	ryanmciver5@gmail.com	Rehana Akhter	rakhter4@yahoo.com
Mike Springer	mikespringer@hotmail.ca	Pierre Cousineau	dec.pierre@sympatico.ca
Eric Sneek	esneek@hotmail.com	Marc Dumont	m-dumont@shaw.ca
Alex Smith	zandr6@hotmail.com	Olivia Voutier	oj_otters@hotmail.com
Sangeeta Patel	sangeeta.patel@gmail.com	Jordan Bell	belljeg@gmail.com
Mauricio Curbelo	mauricio.curbelo@gmail.com	Ian Smith	ian.smithian@gmail.com
Walter Dullemond	Walterdullemond@gmail.com	Jasdiap Bhandol	jasonbhandol@gmail.com
Annie Onimous	annieo@hotmail.com	Brandon Scott	brandon.friendz@gmail.com
Jack Moxness	jackmox@moxness.net	Doug Chinnery	thebigchin@gmail.com
John Bagnol	john86@yorku.ca	Stephen Neave	steveneave@gmail.com
Nitin Gaba	nitingaba@live.com	Afzal Rahman	arahman56@gmail.com
Ryan Allen	rja@recurse.org	Stephen Pottie	spottie68@gmail.com
Bryan Campbell	ba.campbell@zoho.com	Eleanor Belshaw-Hauff	blythilie@hotmail.com
Shelley Khosla	shelley31@gmail.com	Christian Roscius	erosqr@yahoo.com
Paula Campbell	camkids1@gmail.com	Chris Galloway	chrisgalloway1@gmail.com
Andrew Reid	andrewereid@gmail.com	Joe Ursano	6454726@gmail.com
Kris Taylor	mrcanada976@gmail.com	Mathieu Charron	mathieu.a.charron@gmail.com
Chris Haines	hainesy@gmail.com	Fraser McClure	frsr.mcclure@gmail.com
Mitchell Richardson	mitch_richardson2008@hotmail.com	Dennis Sanchez-Caro	dennis@sanchez-caro.com
Douglas Mason	douglas.c.mason@gmail.com	Cecile Gousseau	cgousseau@shaw.ca
Morgan Evans	morganwevans@gmail.com	Victor Prasad	vivekvp@ovi.com
Andres Panti	andres.panti@gmail.com	Margaret MacAdam	mmacad6967@rogers.com
Joshua Dauphinee	joshua.dauphinee@gmail.com	A. Toor	astoor@gmail.com
Adam Stork	adamstork@sympatico.ca	Kyle Buyers	kylebuyers@gmail.com
Steven W. Robertson	swaggerz@tchus.net	Michel Vallee	limech@gmail.com
Michael Bishop	michael.r.a.bishop@gmail.com	Marlene Burton	marleneburton@hotmail.com
Eric Cardinal	eric.cardinal@gmail.com	Randy Thrift	thrift8@gmail.com
Erik Thiessen	eriksher@gmail.com	Skyler Jones	skylerjones@sasktel.net
France St-Arnaud	france.starnaud@gmail.com	Chantal Petitpas	cnpetitpas@gmail.com
Elodie Cardinal	cardinal.elodie@gmail.com	Scott Campbell	Bones197123@hotmail.com
Alexandrine Cardinal	alexandrine.cardinal@gmail.com	Gary Lyon	gary.lyon@rogers.com
Nehir Morzaria	knec.here@gmail.com	Adrian Tam	silkhouette@yahoo.com
Mark Fritz	mark.fritz@sympatico.ca	Christopher Carrigan	carrigan@me.com
Lisa Wilkinson	natalie216@live.ca	Brad Crawford	bradcrawf@gmail.com
Brock Jones	brockthedesigner@gmail.com	George Schandl	geoschandl@gmail.com
Johnathan Leger	johnathan.leger@gmail.com	George LaBine	george.labinc@gmail.com
John Arnold	arnoldmj@sympatico.ca	Patricia Kenny	muti_kayia@hotmail.com
Orysia Cox	orysiar@gmail.com	Arash Rasekhi-Nejad	arash.rncjad@gmail.com
Adam Rayl	adamrayl@gmail.com	John Rami	john.rami@gm.com
Marcus Patz	me@mpatz.tk	Ice Cream Delights	michaelm@icecreamdelights.ca
Lisa Kempson	lisakempson@me.com	Naya Mohamud	ayanm05@hotmail.com

- 5 -

<u>Company/Name</u>	<u>Email Address</u>	<u>Company/Name</u>	<u>Email Address</u>
Brian MacDonald	brian.macdonald@strait.ednet.ns.ca	Lynn Perry	onthegrid@gmail.com
Amun Dhak	amundhak@gmail.com	Dan Beck	dan.beck@yahoo.ca
Rick Beckers	beckers.rick@gmail.com	Mitchell Kuszczyk	rollei@rogers.com
Muzammil Khan	muzammilk@gmail.com	John Helps	kna829@yahoo.ca
Yannick Picard	halo1974@outlook.com	Terry Duncan	terryd@nucleus.com
Daniel Needemyer	dn1@me.com	Gerald Berish	gberish@rogers.com
Aaron Long	taekat@gmail.com	Bob MacMorran	brumas@sympatico.ca
Sam Donaldson	crtc@sammouth.f9.co.uk	Richard Staniforth	rstanif@yahoo.com
Gerald Coates	gerald.coates30@gmail.com	Anand Gopinath	anandgopinath@gmail.com
Shaun Ram	shaun_r_ram@hotmail.com	Diane Lai for soft skin	dlai@dianelai.com
Mike Saad	mesaad@eastlink.ca	Frank Stack	frankstack@shaw.ca
Eric Goodwin	eric@auxonic.com	Faye Golub	loreal68@hotmail.com
Bernedette Butler	bernedette.butler@shaw.ca	Kim Wrigley	Kim.wrigley@sasktel.net
Dave Feltham	dave@feltham.ca	Travis Ramage	travis@crazy-canadian.com
C. Gonsalv	c@c.ca	Vadim Alexandrov	vadim.alexandrov@gmail.com
Vladimir Kanevski	toronto_bear@yahoo.com	Judy Hill	hunter_dom@hotmail.com
Cody Lusk	lusk3@gmail.com	Michael Banks	michael.r.banks@gmail.com
Chris Burgess	cburgess@gmail.com	Josh Gilbank	Josh.Gilbank@gmail.com
Dominic Cheung	dominic.cheung@mail.utoronto.ca	David Smith	David Smith Cellphone Submission@xemaps.com
Anrew Devlin	devlin.andrew@gmail.com	Linda Young-Isaac	linda.young@coverdell.ca
Mathew Pinard	mathew.pinard@gmail.com	Anne Morrison	annie.e.morrison@gmail.com
Brenden Powell	brendenpowell@gmail.com	Gary Mulcahey	gmulcahey@ymail.com
Scott Tinsley	scott.tinsley@gmail.com	Tyler Hore	tyler.hore@gmail.com
Barry Garfield	bjgarfield@yahoo.com	Derrick Corkum	dwo0606@yahoo.ca
Brad Ward	dragonsawareness@live.com	Antoine Rouffignat	arouffignat@yahoo.com
Pablo Fuchs	pablo_fuchs@yahoo.com	Allan Dere	adere@sutton.com
Mark Lastiwka	mlastiwka@gmail.com	Wade Comer	thedube@gmail.com
Christine Hanley	christine.m.hanley@gmail.com	Allan Munro	mail@allanmunro.com
Daniel Udey	danudey@me.com	Alyson Rawes	alyson.rawes@gmail.com
Jamie Macdonald	jamie.alban@gmail.com	Jonathan Carriere LEcuyer	jonlec899@gmail.com
Ryan Shea	ryan.shea403@gmail.com	Mark Stephens	nr.mestephens@gmail.com
Tobias Mueller	tzmuller@gmail.com	David Lessard-Gauvin	david.lg@hotmail.ca
Ruth Skinner	skinner255@shaw.ca	Sam Vocella	samsvoc@gmail.com
Sylvain Marier	levraisylvain@gmail.com	Houman Shariati	houman_shariati@yahoo.com
Alexander Hagan Inc	david@thirdeyecapital.com	Douglas Bowers	dbowers@gmail.com
Gary Strevett	gstrevett@cogeco.ca	Morgan Thevarajan	mthevarajan@phreesia.com
Dale Theoret	daletheoret@yahoo.ca	David Cubberley	cubbs@telus.net
Derek Poon	crtc@derekandkaren.com	John Neto	netojvln@gmail.com
Mark Sheehan	mark.sheehan@sympatico.ca	Brett Stevens	brett@math.carleton.ca
Jason Paquette	jason_paquette@mac.com	Chris Johnson	planet131@sympatico.ca
Neil Jordan	nrj4life1@yahoo.ca	Brian Norris	BGN39@hotmail.com
Adrian Tong	adrian@tong.ws	Lisa Duncan	lmilson@hotmail.com
Tokang Ka	tokang_ka@yahoo.ca	Samuel Castelli	boitajeux@hotmail.com
Barry Wasylyk	bwasylyk99@hotmail.com	Paul Bissonnette	jpaulbiss@gmail.com
Michael S.	mss0138@gmail.com	Lonpuz Konkirk	lonpuz@hotmail.com
Pavel Tarassov	pavel.tarassov@gmail.com	Mitchell Begin	mitchbegin@videotron.ca
Michael Houle	mhoule63@gmail.com	Allan Coates	arthurallan@cogeco.ca
RockTenn	mark.dunmill@gmail.com	Steven W. Robertson	swaggerz@telus.net
Ming Chan	chanms@gmail.com	Rainer Schoenen	rs@sce.carleton.ca

<u>Company/Name</u>	<u>Email Address</u>	<u>Company/Name</u>	<u>Email Address</u>
Rishon Richard	rishon.richard@ryerson.ca	Jennifer Paulin Prescott	jprescott@bellaliant.net
Peter Grice	petergrice2323@hotmail.com	Deborah Cheng	deborah.nl.cheng@gmail.com
Kelvin Ho	kelvinho604@gmail.com	James Kuse	premediesel@gmail.com
Amin Fardi	af_88@msn.com	Nick Pelin	nickpelin@hotmail.com
Nina Klemm	canuck312@yahoo.ca	M. Watcher	mwatcher@gmail.com
Duane Evenson	duane3@shaw.ca	Paul Brodie	versilleus@gmail.com
Choppa Keama	choppak@gmail.com	Laura Howat	thisisizzy@gmail.com
Jamieson Kassner	jamiesonkassner@hotmail.com	Rajni Gill	rajnigill@hotmail.com
Tyler Romano	tylerj99@hotmail.com	Q. Tejpar	qassim@gmail.com
Jason Dobos	dobos@rogers.blackberry.net	Roy Atkinson	roycatkinson@gmail.com
Philip Sober	Philip.sober@gmail.com	James Kerslake	jim_kerslake@yahoo.ca
Pierre Saint-Georges	psig@me.com	Peter Papadatos	peter.papadatos@aero.bombardier.com
Monish Bhatia	monishb@gmail.com	Kevin Lee	kbleemobile@gmail.com
Richard LaFreniere	rlafreniere@shaw.ca	Zoran Nikolic	znikolic@hotmail.com
Jeff Guthrie	crtc.email.jeffgu3@recursor.net	John Batchelor	john.batchelor@sympatico.ca
Wayne Ashton	wayne@crackberry.com	Diane Button	dbentry@ymail.com
Jennifer Hanson	jennilynnhanson@hotmail.com	Mary Mazerolle	mmazerolle@gmail.com
James Friars	jfriars@dal.ca	Jean-Marie Pawl	jmpawl@videotron.ca
Darren Wright	dawight@shaw.ca	Matthew Teal	matthew.teal@gmail.com
Stan Peterson	Stanpetterson@telus.net	Doye de Lauw	ddelauw@cogeco.ca
Michael Coppes	MICHAEL.COPPES@IIOTM.AIL.COM	Chinmay Arora	carora@gmail.com
Faizel Desai	faizel.desai@gmail.com	Pat Caruso	pcaruso@superiorradiant.com
Joe Miami	beer@beer.com	Raj Naidu	rajnaidu@shaw.ca
Matthew Oldroyd	oldroyd.matt@gmail.com	Mark Leigh	noemail@private.com
Don White	whited@renfrew.edu.on.ca	Ellery Burton	burtz9@hotmail.com
Justin Fox	jrfox87@me.com	Cantech Telecom Inc.	DEVON.GREGORIE@GMAIL.COM
Gavin Carr	gavinscarr@gmail.com	Andrew Soo	andrew.soo@ec.gc.ca
Dave Purdy	davepurdy@hotmail.com	Vee Singh	vee@yahoo.ca
Andrew Mallinson	amallinson@rgers.com	Christopher Catizzone	chris.catizzone@gmail.com
Robert George	robgeo@yahoo.com	Robert Croghan	robert.croghan@yahoo.com
Angie Poss	poss_angie@yahoo.ca	Michael Davis	michael.davis@shaw.ca
Don Albert	dalbertis@rogers.com	George Khacho	manning18xliv@hotmail.com
Obaidur Omar	obaidr@gmail.com	Dan Robinson	saddletramp82@aol.com
Bal Jagpal	bsjagpal@shaw.ca	Karl Harju	kbharju1@gmail.com
Miles B.	mixmastaspig@gmail.com	Guy Lafontaine	guy.lafontaine@yahoo.ca
Vilay Siharath	vilay_s@hotmail.com	Manjeet Singh	manjeet4@gmail.com
Eric Schultz	eric@schultzter.ca	Jim Drew	jpd@shaw.ca
Yue Ma	iyuema@gmail.com	Jessica Prive	Pixelizard@gmail.com
Newterra	ramyechade@gmail.com	Geraldine Lush	GeraldineLush@nf.sympatico.ca
Alpha Jewellery	alphajewellery@outlook.com	CRO Engineering	Grefford@ieee.org
Adam MacRae	adamjohnmacrac@gmail.com	Arthur Pequegnat	arthurep@gmail.com
Gary Power	garpower@hotmail.com	Cristian Asenjo	apu2009@gmail.com
Darcy Peters	darcy@darcypeters.ca	Sabrina Singh	sabrinasingh.law@gmail.com
Michael Pawluk	mikepawluk@gmail.com	Marc-Andre Brodeur	marcandrebrodeur@msn.com
Kendrick Barton	kenbarton@shaw.ca	Chico Barker	chico.barker@gmail.com
Steven Ingram	steveningram@bell.net	Michael Wolfe	mywolfe@gmail.com
Kevin Edwards	edwar187@hotmail.com	Michael Farquhar	mjfarquhar@gmail.com

- 7 -

<u>Company/Name</u>	<u>Email Address</u>	<u>Company/Name</u>	<u>Email Address</u>
Thomas Mackie	t.stone2010@hotmail.com	Shane Fraser	shaneff@ualberta.ca
Tanvir Hossain	tanvirh@email.com	Jonathan Pinto	pinto.jonathan@gmail.com
Michael Mohns	mike.mohns@ottawa.ca	Mary O.	meorsini@uwaterloo.ca
Robin Abrol	freelancewords@gmail.com	Mitch Gauthier	mitch_g@persona.ca
Sebastien Chaput	chaputs@gmail.com	Emily Bain	ebain202@hotmail.com
Michael Linhares	linhares.michael@gmail.com	Proline Management	adrian@prolinemanagement.com
Argaw Desta	argawdesta@telus.net	Gord Langder	groden@yahoo.ca
Ken Openshaw	ken.openshaw@gmail.com	Amramp Alberta	lorne.wensel@amramp.com
Michael Keeping	michaelkeeping@shaw.ca	Ken Burrows	kburrows@eastlink.ca
Kunwar Gill	kungriffey@gmail.com	Carl Foley	carlfoley@shaw.ca
Michael Will	nmmtastey@hotmail.com	Mark Allen	markscottallen@hotmail.com
Keith Lowe	mythos25@live.com	Igor Gurts	guzar@rogers.com
Paul Davies	PaulDavies@hotmail.ca	Bruce Douglas	bruce@douglas.ca
Dinesh Samtani	dinesh.samtani@gmail.com	Richard Aubé	M.Richard-Aube@Outlook.com
Dinesh	dinesh.samtani@gmail.com	Abhitha Munasinghe	Abhitha65@gmail.com
Kyle Lillie	kylelillie@gmail.com	Jeff Colbeck	jeffcolbeck@hotmail.com
Brad Thompson	brad@digitalspyders.com	Simon Cho	simoncho@shaw.ca
Joseph Ursano	jursano@vianet.ca	Eric Ring	eric-ring@hotmail.com
Jeffrey Lew	osakajoes@gmail.com	Nelson Jenking	va3ndj@yahoo.ca
Charles Badiou	ckbadiou@gmail.com	Roger Serpa	thebigone@gmail.com
Mark Whitcombe	mark.whitcombe@wightman.ca	Jaimon John	jaimon.john@gmail.com
Chris Carr	mailchris@gmail.com	David Finkelstein	thedaveed@gmail.com
Steve Read	readst27@yahoo.ca	Khuram Malik	Kmalik20@hotmail.com
Ian Johns	ian.johns@gmail.com	Matthew Bomas	Zero147x@gmail.com
Pedro Marques	one@ipedro.com	Juan Sarmiento	nilo_sarmiento@hotmail.com
Peter Varsek	vtginc@gmail.com	John Jordan	john@johnjordan.ca
Evan Hendry	evan.hendry@hotmail.com	Sabrina Dyal	sabd2012@gmail.com
Robert Seth Wotten	seth.wotten@gmail.com	Adrian Krol	adriankrol@hotmail.com
Benjamin Costen	bc_05@hotmail.com	Wade Comer	thedubc@gmail.com
Mark Robinson	mark@mrobinson.ca	Tana Guindeba	tguindeba@yahoo.fr
Pedro Marques	one@ipedro.com	Chris Miner	diehard67@hotmail.com
Geoffrey Cook	gsac@sympatico.ca	Jesse Beck	jet.beck86@gmail.com
Todd Naffin	ddot2002@hotmail.com	Tyler Nguyen	tylerdn@ymail.com
Shelly Willis	shellysquid@brokerlink.ca	Robbie Brar	robbie.brar@outlook.com
Dennis Roll	roll07@telus.net	Tom Bigos	tbigos@gmail.com
Scott Plunkett	Sjpspam@gmail.com	Krista James	krista.e.james@gmail.com
Tom Groenland	tomgroenland@gmail.com	Reza Zevari	reza.zevari@gmail.com
Pedro Marques	one@ipedro.com	Craig McConomy	cmceconomy@gmail.com
J. Healey	jdpuw@yahoo.ca	Jean-Francois Lafleche	jfl@outlook.com
Stephane Richard	srichard30@shaw.ca	Rajwant Brar	raj_brar_x@hotmail.com
John Esterer	johnesterer@hotmail.com	Michel Vallee	limech@gmail.com
Jordan Holt	jordan_h@hotmail.com	WIND Mobile	goerzk@gmail.com
Joelle Orto	joelleorto@hotmail.com	Keegan Goerz	goerzk@gmail.com
Jared Dykler	dykler.j@gmail.com	Sature Lam	sature@yahoo.com
Gord Maclean	gordmaclean@shaw.ca	James Hansen	jameshansen.bc@gmail.com
Mani Mani	manimani.ca@gmail.com	Francesco Catalano	F.Catalano@me.com
Rafal Dudek	duderaf@me.com	Leah MacPherson	8lmm@queensu.ca
Anthony Briggs	tony.briggs@gmail.com	Eftichia Bukas	eftichiabukas@hotmail.ca
Michel Lacaille	michel_lacaille@hotmail.com	Jennifer Bacher	jennbacher@sympatico.ca

<u>Company/Name</u>	<u>Email Address</u>	<u>Company/Name</u>	<u>Email Address</u>
Alan Scatter	al.scatter@gmail.com	Khaled Elsharkawi	ksharkawi@gmail.com
Jonathan McMullen	jonathan_mcmullen@hotmail.com	Justin Webster	darwinain@gmail.com
Edward Sadowski	ed.sadowski@gmail.com	Veronika Dubois	miss_kswiss@hotmail.com
Anthony Snow	anthonysnow@live.ca	Jonathan Salamati-Zavareh	jonathan.salamati@mc.com
Gregory Yapp	gyapp858@gmail.com	Roger Carter	roger@runrabbitentertainment.com
Benjamin Brown	ben.p.brown@gmail.com	James Bugden	james.bugden@gmail.com
Mackenzie Salt	stygiansalt@gmail.com	Sacha Ghosh	sacha.ghosh@orionhealth.com
Allan VanderSpek	allan@iamallan.com	Zimmer Adam	azimmer@uoguelph.ca
Laura Thomas	laurathomas@cogeco.ca	Tyler Pelletier	tylerpelletier@officeliveusers.com
Carl Hall	chall2k5@gmail.com	Geoff Kitching	g_kitching@hotmail.com
Dayton English	daytonenglish@hotmail.com	Joel Korneck	joelkorneck@gmail.com
Troy White	troywhiteman@yahoo.ca	Marisa Almas	marisa.almas@gmail.com
Darren Lelievre	dlelievre@cogeco.ca	Tim Buhler	mustang88gt@shaw.ca
Mike Hnatiuk	mhnatiuk91@gmail.com	Chris Tuff	chrismtuff@gmail.com
Sally Rowley	grl2nvy@msn.com	Scott Galbraith	galbrais@uoguelph.ca
Alan Johnson	ajohnson@terrainindustrial.com	C. Kemp	kal_wow@yahoo.ca
Jeremy Landstorfer	jeremylandstorfer@hotmail.com	Joe Smith	joe.smith.govproxy@outlook.com
F. Kamal	kamal@gmail.com	David Fraser	aliencatos@hotmail.com
Kourtney Smith	k@kourtneysmith.com	David Prioriello	davemsp@gmail.com
Paul W. Delannoy	pdelannoy@hotmail.com	Zach Katzell	zkatzell@gmail.com
Dennis Stewart	drstewar@gmail.com	Roy Parks	yiddersshinderbins@hotmail.com
Cef Meza	palomino.cef4@gmail.com	Maribel E. Lorayes	[No information except a home address provided]
Vitaliy Uretsky	zaporozhets968m@yahoo.ca	Eric Tucker	erictucker82@hotmail.com
Maurice Clepkens	mclepkens@hotmail.com	Tony Chen	totonyny@gmail.com
Geoff Tucker	Scatoclysm@gmail.com	Sasithan Kanagasingham	sasithank@gmail.com
BBA Inc.	tanguay.jeanmare@gmail.com	Andre Velloso	andre@velloso.net
Matthew Homen	matthewhomen@yahoo.ca	Mathieu Legault	matthieu.legault@bcc.ca
Diana Ayala	dmuz06@gmail.com	Arsh Johal	arshjohal1@gmail.com
Haythem Shakarchi	haythems@gmail.com	Serg Fazy	harmonic.harmony@gmail.com
T. Hughes	t_e_hughes@yahoo.com	Mec Kol	Mec@gmail.com
Badri Padhmanaban	BADRI.PADDU@GMAIL.COM	Adam Stephens	clockwerks77@gmail.com
George Foustas	Gfoustas@yahoo.com	Ronald Bryson	rrbryson@gmail.com
Joe Kong	kahokon@gmail.com	Vanessa Ling	ling.vanessa@gmail.com
Rhiana Labbé	r.c.labbe@gmail.com	Lorraine Darbyshire	rainedarbyshire@gmail.com
Peter Teevan	pteevan@shaw.ca	Daniel Egubat	daniel_amine@yahoo.com
Jacob McMullen	jake@sound-guy.com	Samuel Taler	sam_windsor@outlook.com
Anatoliy S.	t.tsfr3004@gmail.com	WIND	goerzk@gmail.com
Lisa Marshall	l.marshall@mail.com	Waqas Bin Idrees	waqas86@hotmail.co.uk
James Taylor	ecse@ripnet.com	Richard Bergeron	rictbergeron@gmail.com
Ernest Smith	edksmith@hotmail.com	Jordan Peters	jpeters9@gmail.com
Cheryl Petersen	vodkaslime82@hotmail.com	Maxime Peabody	maximepcabody@gmail.com
Eunice Roulette	e_roulette@hotmail.com	Jonah Sabcan	jonahsabcan@gmail.com
West Coast Fiero's	capt_fiero@shaw.ca	Jeffrey Ip	jtip@rogers.com

<u>Company/Name</u>	<u>Email Address</u>	<u>Company/Name</u>	<u>Email Address</u>
Nasir Khan	kehbidona@yahoo.com	Kaotic Kreaions	kaotickreations@live.ca
Adam Fink	adafink@gmail.com	Adam Mastalerz	adam@scholarix.ca
Roy Hansen	roghsn@hotmail.com	Deana Martin	deanamar@telus.blackberry.net
Ambrose Dowe	ambrosedowe@yahoo.ca	Colin Arenburg	cmarenburg2@gmail.com
William Campbell	colincampbell11@yahoo.ca	Benaebi Akhigbe	benaebi@gmail.com
Murray Peglar	murray.peglar@yahoo.com	Marcello Araujo	flame@acanac.net
Keaten House, Ltd.	tom.andersen@spotdocuments.com	Carol Reilander	reilander.carol@gmail.com
Patrick Pender	ppender@shaw.ca	Robbyn Moore	ram_667@hotmail.ca
Brian Smith	Quicklitning@yahoo.ca	Allan Dieworld	dieworld@ualberta.ca
Jacob Wilson	Yangweifeng98@hotmail.com	Tabish Syed	tabishsyed1989@gmail.com
Doug Rapko	drapko@hotmail.com	Ghassan Bilbily	gybilbily@hotmail.com
Jody Willigar	jody.willigar@gmail.com	Sanjeev Arora	sa-to@live.com
Angelo Cerase	angelo.cerase@gmail.com	Elaine Kurtz-Hardowa	elkh123@gmail.com
TwelveDot Inc.	faud.khan@twelvedot.com	Fred Meikle	fred.meikle@gmail.com
Soluquip	info@soluquip.com	Asven Loganathan	asvengangster@hotmail.com
Nick Alexanders	nalexanders@hotmail.com	Patricia Fraser	patriciafraser007@gmail.com
Andrew McNally	mcinalla@gmail.com	Tauseef Rehman	tauseef.rehman@hotmail.com
Andre Corbeil	andre@rambleman.com	Michael Lancione	michaellancione@hotmail.com
Ken Appleby	kensprograms@gmail.com	Chris Stark	estark@samobile.net
David M. Bull	bullfrognumber1@hotmail.com	Umar Tanveer	09.umar@gmail.com
anil amarakoon	anil_a@shaw.ca	Edward Hamer	tedhamer@hotmail.com
Aleksander Demko	ademko@gmail.com	Matt Saunders	sinesthetix@gmail.com
John Greer	Jpgreer@gmail.com	Pierre Caron	caron_marineau@yahoo.ca
Andrew Pochopsky	Chopper_p@hotmail.com	Mitchell French	mittchellcfrench@gmail.com
William Caines	william_caines@rogers.com	Erik Whiteway	erikwhiteway@yahoo.com
John Stasiuk	john.stasiuk@shaw.ca	Alan Michael Khalil	alan.m.khalil@gmail.com
Ashley Fairfield	ashleyfairfield@gmail.com	Aman D.	adhillon_2001@yahoo.com
Mark Macrae; Archie Macrae	markmacrae@live.com	Martyn Clam	clamspam@hotmail.com
Manuel Orellana	alx886@gmail.com	Ghassan Bilbily	gybilbily@hotmail.com
Bret Alexandre	brewen65@gmail.com	GTALUG POG	davecb@spamcop.net
Jason Lee	leejas@sympatico.ca	Natalie Adamson	natalie.adamson1@gmail.com
kyle morley	kylemorley@hotmail.com	JOCK LEE	jocklee@rogers.com
Marcin Pacyna	marcin@marcin.ca	Jill Dykes	johndykes@shaw.ca
Brett Patterson	bpatterson@shaw.ca	Christian Meneses	christianmeneses@gmail.com
Rosewood Farm	rosewoodrural@gmail.com	Steve Orlob	steveorlob@gmail.com
Ghislain Ouellette	gouellet@nbnet.nb.ca	Frank DeMarinis	fdemar@shaw.ca
Norman Ozoroff	nozoroff@telus.net	Dave Kiss	simpilot89@gmail.com
Joel Rushworth	gwydionjhr@shaw.ca	Shane Richardson	mailinglist@sgr.ca
Jody Fritzke	jfritzke@gmail.com	Dennis Graves	dennisgraves@gmail.com
Jason Howell	jay_how@hotmail.com	Friedrich Probst	aprobst1@hotmail.com
Sorin Sculean	junkmailinu@yahoo.com	Matthew Becker	mattiasx@gmail.com
Adrian Chan	adrianchan96@gmail.com	Patrick O'Connor	Vernoconnor@me.com
Ian Hendrie	ian.hendrie@gmail.com	John Tsatsos	tsatsosj@hotmail.com
Findlay Macdermid	fin@amahoe.ca	Zhaoyan Lin	Zylin996@sympatico.ca
DFS Consultants Inc.	dfraser21@aol.com	Matthew Stachowiak	Stachowiak_14@hotmail.com
Thor O'Neill	tro@sfu.ca	Brian Javier	brian@hookmeup.to
Rene Marcoux	junioris@live.ca	Vishal Malik	vishalmalik1@hotmail.com

- 10 -

<u>Company/Name</u>	<u>Email Address</u>	<u>Company/Name</u>	<u>Email Address</u>
Irwin Cruz	lrwincruz@me.com	Richard Aubé	M.Richard-Aube@Outlook.com
Amanda Rampertab	zilvic@live.com	Timothy King	timking17@gmail.com
Mitch LeBlanc	mitch-leb@hotmail.com	Mark Wong	markwong1@gmail.com
Allan Hansom	allan.hansom@gmail.com	David Paterson	dpatero@decnet.com
Keith Tarrant	keith6789@hotmail.com	Dan Black	dan_black@myaccess.ca
Dave De Shane	deshanechiropractic@yahoo.ca	Mike Kozakowski	mike@skyscrapersource.com
Joe Baldwin	connex94@gmail.com	Alex Savulescu	alsavulescu@yahoo.com
Jordan Schumaker	Jordanschumaker2@gmail.com	Larry Trudeau	ltrudeau@myopera.com
Daniel Sarfati	dani@funkervogt.com	D. James	studio@davidjamesglass.com
Jennifer Loewen	jloewen417@gmail.com	Shahrukh Ashraf	shahrukhashraf05@gmail.com
Ebony Wright	ebonyw@alumni.yorku.ca	William Cox	bill@internalair.com
Sam Smith	faxbysharp@gmail.com	Christopher Sweetingham	chrisweetingham@hotmail.com
Kenneth Snider	ksnider@gmail.com	Benaebi Akhigbe	benaebi@gmail.com
George Yaworski	george.june@gmail.com	Michael Wolfe	wolfcda@gmail.com
Paul Donovan	brotherrandor@yahoo.ca	Shields Petroleum Consultants	tshieldsgeo@gmail.com
Zubair Wathra	zubairwathra@gmail.com	M. D'Silva	[No information except a home address provided]
Jean-Jacques Belliard	jaybelliard@yahoo.ca	Andriana Akins	andriana@live.ca
Justin Lee	koreanewb@hotmail.com	Gregory Wright	Maddog50@telus.net
Yvon Laplante	yglaplante@gmail.com	Joseph Karman	jkarman8@gmail.com
Gord Cybolsky	gordon.cybolsky@emdieels.com	Tyler Axani	vack_it@hotmail.com
Dan Ostojic	danielostojic@hotmail.com	Anders Halberg	halberganders@gmail.com
John Ball	johnb5509@yahoo.ca	Athos Sani	saniat@teksavvy.com
Ron Finnigan	rondyn@gmail.com	Geoff Hyslop	geoff.hyslop@gmail.com
Jeremy Gruman	jeremy@gruman.ca	Mark Murphy	griffers@live.ca
Samit Sharma	samitreshma@gmail.com	Bad Dog Media	kramert@baddogmedia.ca
Paula Re	whaatip@gmail.com	Joseph T.	post_modern_art@hotmail.com
Shaun Kelly	sdkelly2002@hotmail.com	Hubert Allaire	allbert@shaw.ca
Sean Jackson	sjjacks@gmail.com	Nicolaas van Stee	niekvs@hotmail.com
Matthew Latimer	matthewlatimer@gmail.com	Hoang Ho	hoang_ho@hotmail.com
Eric Wolinsky	eric.wolinsky@gmail.com	Gordon Schilde	gschilde@gmail.com
Bruce Gowling	brucegowling@me.com	J. LaBossiere	jlabbossiere@gmail.com
Deborah Sonogo	sonegodeb@sympatico.ca	George Richardson	[No information except a home address provided]
Sabin Iloric	sabin@northco.net	Sean Savage	savage6181@shaw.ca
Richard Clark	Imortality_xiii@hotmail.com	Sherry Fischer	sherry.fischer@live.ca
Joachim Voss	Joachimvoss1@gmail.com	N. Campbell	campbell_n@inbox.com
Peter Abel	a18009654606@yahoo.ca	Joshua Butcher	butcher.joshua@gmail.com
Robert Johnston	jbob_1234@hotmail.com	Theodore Tsifidis	terrytsifidis@gmail.com
Eric Beaulé	beam2611@videotron.ca	Jake Exton	jake.exton@dal.ca
Shaheer Amjad	shaheer_szm@yahoo.ca	Eddy Guay	eddyguay@gmail.com
Vicky Tobianah	vtobianah@gmail.com	Hot Shot Polymers	hotshotpolymers@yahoo.ca
Keith Lobo	kblobo@gmail.com	Antony Walter	888titan@gmail.com
Ken Crowston	eugene@shaw.ca	Jared Fremlin	blupheonix@gmail.com
John Baker	Baker@Collins-Creek.com	Michael Hitchman	hitchman0714@gmail.com
Kerry Jackson	kerryajackson@gmail.com	Ashour Rehana	ashour.rehana@gmail.com

<u>Company/Name</u>	<u>Email Address</u>	<u>Company/Name</u>	<u>Email Address</u>
Steve Monita	stevemonita@hotmail.com	Patrick Cajina Cortez	patrickeajina@me.com
Kevin Bawol	Kilobravo570@hotmail.com	Peter Hwang	101rice@gmail.com
Ben Caswill	bcaswill@rogers.com	CMIDS.ca	steve@cmids.ca
Joanne Patry	patry.joanne@gmail.com	Tom Pawluk	tompawluk@gmail.com
Raymond Banget	rbanget@scsi.qc.ca	Kathleen Gutzman	kgutzman@gmail.com
Marlee Linford	linfordm@shaw.ca	Deborah Michaliszyn	deborahm@mts.net
Len Comaniuk	LSComaniuk@Gmail.com	Andriana Akins	andriana@live.ca
E. Bodi	elliebean4@gmail.com	Anant Dhillon	esdhillon@yahoo.ca
Eric Westlake	erim@2hotmail.ca	Sharon Gillis	catsinbad@hotmail.com
Percy Chan	0ppc@queensu.ca	Ashraf Nazeer	drashrafmagdy@hotmail.com
James Webber	Midnitedoom@gmail.com	Matthew Lau	matthewlau81@gmail.com
Delta	sohailsarwarkhan@gmail.com	Nathan Woltman	nwoltman@outlook.com
Michael Abonader	labona98@gmail.com	Edie Hippern	dehippern@ns.sympatico.ca
Donna Redding	donna-redding@hotmail.com	Lisa Girbav	lisagirbav.greenbc@gmail.com
Steven Voutier	sdougall@mymts.net	Denis Leveille	Denis54@videotron.ca
Wilson Lam	icapture2000@yahoo.com	Ryan Rowson	rowson4@telus.net
Jeremy Cooper	jeremy@jeremycooper.info	OPA	iterraboy@gmail.com
Patrick Fuller	pgfuller@rogers.com	Matthew Slama	mslaman9@gmail.com
Stephen Garrioch	stevegarrioch@gmail.com	Justin Callanan	justin@callanan.ca
Andre LaRocque	dreLRock@yahoo.ca	Marco Perez	marco.collado.perez@gmail.com
Tom Estrela	tom.estrela@rogers.com	Kevin Ramirez	Online_9@mac.com
Andrew Pelley	andrew_pelley@me.com	Commissioner for Complaints for Telecommunications Services Inc.	howard.maker@ccts-cprst.ca
Shamim Kasiri	Kasiri.sham@gmail.com	Mouvement Personne d'Abord du Québec Métropolitain	mpdaqm@videotron.ca
James Kennedy	jimmykennody1023@gmail.com	Service de Protection et d'Information du Consommateur	sylvie@serviceconsommateur.org
Russell Padalec	mcp61@live.com	Nora Chambers Inc.	norachambers@shaw.ca
Joseph Richardson	real.richardson@yahoo.ca	Ontario Ministry of Consumer Services	giles.gherson@ontario.ca
Rachelle Urruh	rachelleunruh@ymail.com	Government of the Northwest Territories	angusoliver320@gmail.com linda_maljan@gov.nt.ca
Denis Mannion	rfog199@yahoo.com	Chris Smithson	chris.smithson@live.ca
Katherine Boc	kboc@shaw.ca	Media Access Canada on behalf of Access 2020 Group of Accessibility Stakeholders	bmilligan@mediac.ca
Ruben Arruda	Rubenarruda1986@gmail.com	DiversityCanada Foundation	celiasankar@bellgiveourmoneyback.com
Leonard Mutombo	Lmutombo@Hotmail.Com	Matthew Chen	matthewchen3@gmail.com
Wendell Coady	wlcoady@gmail.com	Kevin Montgomery	crte_kevin@kemosite.com
Stéphane Viale	stephane.viale@videotron.ca	Eileen Williams	awqpyed@gmail.com
Mandeep Chadha	mchadha04@hotmail.com	Jon Campbell	lifeislearning@gmail.com
Mike Jones	mikejones77@yahoo.com	Tony Ghanbari	tony531@gmail.com
Johnson Pittappillil	spicejohns@gmail.com	K. J. Yagi	kjyagi@hotmail.com
Spencer Callaghan	Scallaghan@gmail.com	Stefan Trifu	trifutibi@yahoo.com
Linda Hill	lchill@mnsi.net	Don Simpson	donjsimpson@hotmail.com

- 12 -

<b>Company/Name</b>	<b>Email Address</b>	<b>Company/Name</b>	<b>Email Address</b>
Ashley Ramsammy	gtz_starr@hotmail.com	Globalive Wireless Management Corp.	ljackson@windmobile.ca
Annie Kaplan	annie.kaplan@sympatico.ca	John Matt	aguyfromontario@gmail.com
Pijush Sarker	pkarker@hotmail.com	Neesh Patel	neeshpatel29@gmail.com
Caleb Gaz	RuneScapeCombatLeveling@gmail.com	Canadian Wireless Telecommunications Association	jpatrick@cwta.ca
Salvatore S.	zx78@live.com	Ernest Price	eehprice@rogers.com
Susan Hollinger	momlady@accesscomm.ca	Dustin McCabe	d.mccabe.angell@gmail.com
R. Scott	randscott55@gmail.com	Québecor Média inc.	dennis.bcland@quebecor.com
Government of Yukon	lisa.badenhorst@gov.yk.ca	Vern O'Connor	Vernocconnor@mc.com
Mark Henschel	mhenschel54@gmail.com	Glenn Thibeault, Member of Parliament for Sudbury (New Democratic Party)	glenn.thibeault@parl.gc
CIPPIC and OpenMedia.ca	tisrael@cippic.ca	Public Mobile Inc.	jamie.greenberg@publicmobile.ca
Minister of Service Alberta, Government of Alberta	calgary.montrose@assembly.ab.ca	Office of the Privacy Commissioner of Canada	arun.bauri@priv.gc.ca
Ian Hlavats	ian@tarantulaconsulting.com	Ministère de la Culture et des Communications, Gouvernement du Québec	andre.labrie@mcc.gouv.qc.ca
Mike Jenkins	mikemjenkins@mac.com	OpenMedia McGill Student Chapter	mcgill@openmedia.ca
Evan Burt	evanb@kos.net	Bragg Communications Inc. (Eastlink)	regulatory.matters@corp.eastlink.ca
William Meleka	h.melcka@gmail.com	A. Rose	RogersWatch@gmail.com
Daniel Sokolov	daniel@falco.ca	Catherine Middleton	catherine.middleton@ryerson.ca
Frederick Nakos	[No contact information provided]	Consumers Council of Canada	whitchurst@consumerscouncil.com
Data & Audio Visual Enterprises Inc. dba Mobilicity	gary.wong@mobilicity.ca	Andrew Cash, Member of Parliament for Davenport (New Democratic Party)	andrew.cash@parl.gc.ca
Tbaytel	david.wilkie@tbaytel.com	Union des consommateurs	slambert-racine@uniondesconsommateurs.ca
Public Interest Advocacy Centre	lawford@piac.ca	Bob Tsai	mcgrew@objectmail.com
Manitoba Healthy Living, Seniors and Consumer Affairs	dmhliv@leg.gov.mb.ca	Lynda G. Leonard	lynleo@vcn.bc.ca
Vaxination Informatique	jfmezei@vaxination.ca	OSMicroTrends	craig.wilson@osmicrotrends.com

TAB 6

Court File No.

**FEDERAL COURT OF APPEAL**

B E T W E E N:

BELL CANADA, BELL MOBILITY INC., MTS INC., NORTHERNTEL,  
LIMITED PARTNERSHIP, ROGERS COMMUNICATIONS PARTNERSHIP,  
SASKATCHEWAN TELECOMMUNICATIONS, TÉLÉBEC, SOCIÉTÉ EN  
COMMANDITE and TELUS COMMUNICATIONS COMPANY

Applicants

- and -

AMTELECOM LIMITED PARTNERSHIP, BRAGG COMMUNICATIONS INC., DATA &  
AUDIO-VISUAL ENTERPRISES WIRELESS INC., GLOBALIVE WIRELESS  
MANAGEMENT CORP., HAY COMMUNICATIONS CO-OPERATIVE LIMITED, HURON  
TELECOMMUNICATIONS CO-OPERATIVE LIMITED, MORNINGTON  
COMMUNICATIONS CO-OPERATIVE LIMITED, NEXICOM MOBILITY INC.,  
NORTHWESTEL INC., PEOPLE'S TEL LIMITED PARTNERSHIP, PUBLIC MOBILE INC.,  
QUADRO COMMUNICATIONS CO-OPERATIVE INC., QUEBECOR MEDIA INC.,  
SOGETEL MOBILITÉ INC., THUNDER BAY TELEPHONE, VAXINATION  
INFORMATIQUE, CONSUMERS' COUNCIL OF CANADA, DIVERSITYCANADA  
FOUNDATION, MEDIA ACCESS CANADA, MOUVEMENT PERSONNE D'ABORD DU  
QUÉBEC, PUBLIC INTEREST ADVOCACY CENTRE, CONSUMERS' ASSOCIATION OF  
CANADA, COUNCIL OF SENIOR CITIZENS' ORGANIZATIONS OF BRITISH  
COLUMBIA, OPENMEDIA.CA, SERVICE DE PROTECTION ET D'INFORMATION DU  
CONSOMMATEUR, UNION DES CONSOMMATEURS, CANADIAN WIRELESS  
TELECOMMUNICATIONS ASSOCIATION, COMMISSIONER FOR COMPLAINTS FOR  
TELECOMMUNICATIONS SERVICES INC., COMPETITION BUREAU OF CANADA,  
GLENN THIBEAULT, HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,  
GOVERNMENT OF MANITOBA, GOVERNMENT OF THE NORTHWEST TERRITORIES,  
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, ATTORNEY GENERAL OF  
QUEBEC, GOVERNMENT OF YUKON, OFFICE OF THE PRIVACY COMMISSIONER OF  
CANADA, CATHERINE MIDDLETON, TAMARA SHEPHERD, LESLIE REGAN SHADE,  
KIM SAWCHUK, BARBARA CROW, SHAW TELECOM INC., TERRY DUNCAN, GLENN  
FULLERTON, TANA GUINDEBA, NASIR KHAN, MICHAEL LANCIONE, ALLAN  
MUNRO, FREDERICK A. NAKOS, RAINER SCHOENEN and DANIEL SOKOLOV

Respondents

**APPLICANTS' MEMORANDUM OF FACT AND LAW**

**Torys LLP**

79 Wellington St. W., Suite 3000

Box 270, TD Centre

Toronto, ON M5K 1N2

John B. Laskin

Tel: 416.865.7317 / Fax: 416.865.7380

jlaskin@torys.com

Myriam Seers

Tel: 416.865.7535 / Fax: 416.865.7380

mseers@torys.com

Lawyers for the Applicants

## TABLE OF CONTENTS

	<b>Page No.</b>
PART I – FACTS.....	1
Overview.....	1
The applicants.....	2
Wireless service contracts.....	2
The Wireless Code.....	3
Legal authority for establishment of the Wireless Code.....	4
Coming into force of the Wireless Code.....	4
Impact of retrospective application on pre-existing contracts.....	6
The Wireless Code decision has created uncertainty in the marketplace.....	8
Participants in the Wireless Code proceeding.....	8
PART II – POINTS IN ISSUE.....	9
PART III – SUBMISSIONS.....	9
Test for granting leave to appeal.....	9
No jurisdiction to make the Wireless Code retrospective.....	10
Act does not authorize retrospective rule-making.....	10
Wireless Code applies retrospectively and interferes with existing contractual rights.....	11
The motion and proposed appeal should be expedited.....	13
Appeal raises a serious issue to be determined.....	13
There is a legitimate reason to expedite the appeal.....	14
Minimal prejudice to respondents and inconvenience to other litigants.....	14
Procedural directions.....	14
Determining the proper respondents.....	15
Authorizing service by email.....	15
PART IV – ORDER REQUESTED.....	17

## PART I – FACTS

### Overview

1. The applicants seek leave to appeal from Telecom Regulatory Policy CRTC 2013-271, issued 3 June 2013 (the “Wireless Code decision”) by the Canadian Radio-television and Telecommunications Commission (“CRTC”), insofar as the Wireless Code decision purports to give the Wireless Code that it establishes retrospective application to contracts concluded between wireless service providers and their customers before the Wireless Code comes into force on 2 December 2013.
2. A rule-making body has no power to make rules that retrospectively affect vested rights, including contractual rights, unless its enabling statute gives it that power either expressly or by necessary implication. The *Telecommunications Act* gives the CRTC no jurisdiction to engage in retrospective rule-making. The CRTC therefore exceeded its jurisdiction by purporting to render the Wireless Code retrospectively applicable to contracts entered into between wireless service providers and their customers before the Wireless Code comes into force. The applicants’ motion for leave to appeal should be granted.
3. The applicants also request that this motion and, if leave to appeal is granted, the appeal be heard and decided on an expedited basis. The Wireless Code decision has created significant uncertainty in the marketplace with respect to the application of the Wireless Code to contracts entered into before the Code comes into force in December 2013. This uncertainty will be resolved only once this motion and any appeal are decided.
4. The applicants further request that the Court give directions determining the proper respondents to this motion and to any appeal, and that the Court authorize service by email of the motion record and, if leave to appeal is granted, the notice of appeal. Absent this relief, the applicants would arguably be required to name as respondents and personally serve with the motion record and notice of appeal each of the over 5,000 participants in the CRTC proceeding

that led to the Wireless Code decision.<sup>1</sup> This would be unduly burdensome for the Court and for the parties.

### **The applicants**

5. The applicants are wireless service providers that provide mobile telephone services to consumers and businesses across Canada. They were parties in the Wireless Code proceeding.<sup>2</sup>

### **Wireless service contracts**

6. Wireless services are offered to customers either on a pre-paid basis or under a contract that provides that the customer will pay for the service on a monthly basis. Contracts providing for the latter type of services, known as post-paid services, are by far the most common. In offering post-paid services to their customers, wireless service providers enter into fixed- or indeterminate-term (i.e. month-to-month) wireless service contracts. Fixed-term contracts range in length from one to three years.<sup>3</sup>

7. The ordinary retail price of a new wireless device depends on the device, but can be as much as \$700. In most cases, wireless service providers subsidize a new device for a customer who enters into a fixed-term contract. The amount of the device subsidy varies in accordance with the length of the contract. For example, under some plans currently offered, a customer obtains a \$50 device subsidy in exchange for entering into a one-year fixed-term contract, a \$100 device subsidy in exchange for entering into a two-year fixed-term contract, and a \$500 device subsidy in exchange for entering into a three-year fixed-term contract.<sup>4</sup>

8. Under fixed-term contracts involving a device subsidy, the subsidy is forgiven over the term of the contract. The mechanism by which device subsidies are forgiven varies by contract and by carrier, but generally involves a cancellation fee which declines over time. Under some

---

<sup>1</sup> CRTC's *Proceeding to establish a mandatory code for mobile wireless devices*, Telecom Notice of Consultation CRTC 2012-557, as amended by Telecom Notices of Consultation CRTC 2012-557-1, 2012-557-2, 2012-557-3, 2012-557-4 and 2012-557-5.

<sup>2</sup> Telecom Notice of Consultation CRTC 2012-557, para. 21, Motion Record, Tab 4; Meldrum affidavit, para. 23, Motion Record, Tab 5.

<sup>3</sup> Meldrum affidavit, para. 4, Motion Record, Tab 5.

<sup>4</sup> Meldrum affidavit, para. 5, Motion Record, Tab 5.

contracts, the cancellation fee declines at a fixed rate over the term of the contract so that it is at zero by the end of the term. If a customer cancels a contract early, the customer must pay an early cancellation fee in an amount determined by reference to the unpaid portion of the device subsidy or in accordance with a formula set out in the contract.<sup>5</sup>

9. Under all contracts currently offered where the customer receives a device subsidy, the wireless service provider recovers the device subsidy either through monthly payments made under a fixed-term contract carried through to the end of its term or through early cancellation fees. In some cases, wireless service providers choose to forgive or discount early cancellation fees if a customer enters into a new three-year fixed-term contract.<sup>6</sup>

### **The Wireless Code**

10. The Wireless Code decision establishes the Wireless Code, a set of mandatory requirements applicable to all wireless service contracts entered into between wireless service providers and individuals or small businesses.<sup>7</sup>

11. The Wireless Code's requirements with respect to early cancellation fees are set out at Section G of the Code. In the case of fixed-term contracts where a customer received a subsidized device upon signing the contract, the following requirements apply:

- (a) the early cancellation fee must not exceed the value of the device subsidy;
- (b) the early cancellation fee must be reduced by an equal amount each month, for the lesser of 24 months or the total number of months in the contract's term; and
- (c) the early cancellation fee must be reduced to zero by the lesser of 24 months or the end of the contract's term.<sup>8</sup>

12. When calculating the early cancellation fee, the value of the device subsidy is the retail price of the customer's mobile device minus the amount that the customer paid for the device when the contract was entered into. The retail price is the lesser of the manufacturer's suggested

---

<sup>5</sup> Meldrum affidavit, para. 6, Motion Record, Tab 5.

<sup>6</sup> Meldrum affidavit, para. 7, Motion Record, Tab 5.

<sup>7</sup> Wireless Code decision, Motion Record, Tab 2.

<sup>8</sup> Wireless Code, Section G, Motion Record, Tab 2, Appendix 1.

retail price and the price set for the device when it is purchased from the provider without a contract.<sup>9</sup>

### **Legal authority for establishment of the Wireless Code**

13. In promulgating the Wireless Code, the CRTC relied on its authority under section 24 of the *Telecommunications Act*,<sup>10</sup> which states:

The offering and provision of any telecommunications service by a Canadian carrier are subject to any conditions imposed by the Commission or included in a tariff approved by the Commission.<sup>11</sup>

14. In Telecom Decision CRTC 2012-556, which led to the Wireless Code proceeding and the issuance of the Wireless Code decision, the CRTC stated that it considered it necessary to impose a section 24 condition that all wireless service providers abide by a mandatory code to address the clarity and content of mobile wireless service contracts and related issues.<sup>12</sup>

15. Nothing in section 24 gives the CRTC the power to make rules governing the offering and provision of wireless services that have retrospective application to pre-existing contracts.

### **Coming into force of the Wireless Code**

16. The CRTC issued the Wireless Code decision on 3 June 2013. Paragraph 368 of the decision states:

[T]he Commission determines that all aspects of the Wireless Code will take effect on **2 December 2013**.

17. Paragraphs 369 and 394 of the Wireless Code decision provide the following with respect to contracts entered into or modified after the Wireless Code comes into force:

369. The Commission finds that where an obligation relates to a specific contractual relationship between a [wireless service provider] and a customer, the Wireless Code should apply if the

---

<sup>9</sup> Wireless Code, Section G, Motion Record, Tab 2, Appendix 1.

<sup>10</sup> Wireless Code decision, para. 394, Motion Record, Tab 2.

<sup>11</sup> *Telecommunications Act*, S.C. 1993, c. 38, s. 24.

<sup>12</sup> Telecom Decision CRTC 2012-556, para. 27, Motion Record, Tab 3.

contract is entered into, amended, renewed or extended on or after **2 December 2013**.

...

394. The Commission **directs** Canadian carriers that provide retail mobile wireless voice and data services to individuals and small business consumers to adhere to the rules set out in the attached Wireless Code, as a condition of providing these services pursuant to section 24 of the Act no later than **2 December 2013**.

18. With respect to contracts entered into before the Wireless Code comes into force, paragraph 369 states:

In addition, in order to ensure that all consumers are covered by the Wireless Code within a reasonable time frame, the Wireless Code should apply to all contracts, no matter when they are entered into, by no later than **3 June 2015**.

19. After the Wireless Code decision was rendered, the Canadian Wireless Telecommunications Association (“CWTA”), which represents the interests of some of the applicants among others, requested clarification from the CRTC as to whether the Wireless Code will apply on a mandatory basis to contracts entered into before the Code comes into force.<sup>13</sup>

20. The CRTC responded through its staff, in a letter dated 18 June 2013, that the Code will apply on a mandatory basis to all contracts after 3 June 2015, regardless of whether the contract was entered into before the Wireless Code comes into force. The letter stated:

It is clear that the Commission intended the final 3 June 2015 implementation date to be a mandatory date. Consequently, after 3 June 2015, early cancellation fees for **all** wireless service contracts will be determined in accordance with the formula set out in the Code (emphasis added).<sup>14</sup>

21. This response is inconsistent with the CRTC staff’s statement posted on 6 June 2013 on its online Twitter account, where it stated:

---

<sup>13</sup> Letter from CWTA to CRTC, Exhibit A to the Meldrum affidavit, Motion Record, Tab 5A.

<sup>14</sup> Letter from CRTC staff to CWTA, Exhibit B to the Meldrum affidavit, Motion Record, Tab 5B.

CRTC provides clarification about wireless code: it does not apply to contracts signed before Dec. 2, 2013.<sup>15</sup>

### **Impact of retrospective application on pre-existing contracts**

22. The retrospective application of the Wireless Code to contracts entered into before the Wireless Code comes into force would override or render unenforceable substantial terms of these contracts.

23. If the Wireless Code were to apply to all contracts as of 3 June 2015 regardless of when they were entered into, many contracts entered into before the Wireless Code comes into force would be affected. Indeed, the Wireless Code would apply to any contract entered into before 2 December 2013 with a term that expires after 3 June 2015. The Code would even apply to contracts entered into before the CRTC issued to Wireless Code decision.<sup>16</sup>

24. Take, for example, a three-year contract entered into on 3 May 2013, one month before the CRTC issued the Wireless Code decision.

25. Such a contract, validly entered and executed, would be due to expire on 2 May 2016. In addition to its three-year term, the contract would also specify the customer's rate plan, the amount of any device subsidy and the formula by which early cancellation fees will be calculated.

26. But for the application of the Wireless Code, on 3 June 2015 there would be eleven months remaining on the three-year contract. If this customer were to decide to terminate their contract as of that date, they would be required to pay an early cancellation fee in accordance with the terms of their contract.

---

<sup>15</sup> Printout from CRTC's Twitter account, Exhibit C to the Meldrum affidavit, Motion Record, Tab 5C.

<sup>16</sup> Meldrum affidavit, para. 16, Motion Record, Tab 5.

27. However, if the Wireless Code were to apply to this contract as of 3 June 2015, the customer would be entitled to terminate the contract without paying any early cancellation fee as of 3 June 2015, even though there would be eleven months remaining on the contract's term.<sup>17</sup>

28. Applying the Wireless Code to pre-existing contracts in this manner would prohibit wireless service providers from recovering a substantial amount of unpaid device subsidies offered to customers in exchange for three-year contracts that were entered into before the Code comes into force and even before the Wireless Code decision was issued. Effectively, after 3 June 2015, customers with pre-existing three-year fixed-term contracts would be entitled to cancel their contracts after two years without repaying the unpaid amount of the device subsidy that they are contractually obligated to repay. Wireless service providers would be prohibited from recovering unpaid device subsidies from any of these customers with pre-existing contracts who choose to cancel a three-year contract after two years.<sup>18</sup> Consistent with the above, a customer who entered into a three-year fixed-term contract on 3 May 2013 would be entitled to cancel the contract without penalty on 3 June 2015, even though that customer's device subsidy will not be fully repaid by that date with eleven months remaining on the term of their contract. The Wireless Code's requirements therefore would override an important term of many pre-existing contracts.<sup>19</sup>

29. The CRTC staff stated in its letter to the CWTA that, according to the CRTC's confidential calculations, approximately 80% of wireless customers would be covered by the Wireless Code if the Code applied only to contracts entered into or modified after the Code comes into force. If this is true, it follows that approximately 20% of all wireless customers are party to contracts entered into before the Code comes into force that would be affected by the Wireless Code as of 3 June 2015. This amounts to millions of customers across Canada.<sup>20</sup>

---

<sup>17</sup> Meldrum affidavit, para. 16, Motion Record, Tab 5.

<sup>18</sup> Meldrum affidavit, para. 17, Motion Record, Tab 5.

<sup>19</sup> Meldrum affidavit, para. 18, Motion Record, Tab 5.

<sup>20</sup> Letter from CRTC staff to CWTA, Exhibit B to the Meldrum affidavit, Motion Record, Tab 5B; Meldrum affidavit, para. 19, Motion Record, Tab 5.

### **The Wireless Code decision has created uncertainty in the marketplace**

30. Since the Wireless Code decision was issued, several wireless service providers have continued to enter into three-year fixed-term contracts with customers, and currently expect to continue to do so in the period leading up to the coming into force of the Wireless Code on 2 December 2013.<sup>21</sup>

31. The application of the Wireless Code to those contracts is uncertain. Wireless service providers that continue to offer three-year fixed-term contracts with a heavily-subsidized device do not know whether these customers will be entitled to cancel those contracts after two years starting 3 June 2015 without repaying the unpaid portion of their device subsidy. This uncertainty has led and will lead to confusion in the marketplace, which is especially problematic given that the industry's two busiest sales periods, the back-to-school period and the pre-holiday period, are only two and four months away.<sup>22</sup>

32. The uncertainty in the marketplace will only be resolved once the Court finally determines whether the Wireless Code will apply as of 3 June 2015 to contracts entered into before the Code comes into force.<sup>23</sup>

### **Participants in the Wireless Code proceeding**

33. Over 5,000 participants provided comments to the CRTC during two separate phases of the Wireless Code proceeding, including wireless service providers, consumer advocacy groups, governments, researchers and members of the public. Of these participants, 1,055 participants became parties in the proceeding by filing interventions. Most members of the public who submitted comments did so through the CRTC's website.<sup>24</sup>

34. The CRTC identified 61 of the parties in the Wireless Code decision.<sup>25</sup> The applicants have named as respondents to this motion all parties identified in the decision, excluding the

---

<sup>21</sup> Meldrum affidavit, para. 20, Motion Record, Tab 5.

<sup>22</sup> Meldrum affidavit, para. 21, Motion Record, Tab 5.

<sup>23</sup> Meldrum affidavit, para. 22, Motion Record, Tab 5.

<sup>24</sup> Meldrum affidavit, para. 24, Motion Record, Tab 5.

<sup>25</sup> Wireless Code decision, paras. 10-13, Motion Record, Tab 2.

applicants and their respective affiliates. The named respondents are all parties in the proceeding whose participation was sufficiently meaningful to warrant mention in the Wireless Code decision, including those members of the public who appeared at the public hearing.<sup>26</sup>

35. During the Wireless Code proceeding, the CRTC communicated with the parties by way of an email distribution list, which the applicants have recreated from the interventions listed on the CRTC's website.<sup>27</sup>

36. For the applicants to effect personal service of the motion record and of any notice of appeal on all 5,000 participants, and on all 1,055 parties, would be unduly burdensome.

## **PART II – POINTS IN ISSUE**

37. The main issue in this motion is whether there is an arguable case that the CRTC exceeded its jurisdiction or erred in law by purporting to give the Wireless Code retrospective application. The applicants submit that there is.

38. A second issue is whether this motion and, if leave to appeal is granted, the appeal should be expedited. The applicants submit that expedited disposition of the motion and any appeal would be appropriate and in the public interest.

39. The applicants also seek procedural directions with respect to the style of cause and service to facilitate the conduct of this proceeding.

## **PART III – SUBMISSIONS**

### **Test for granting leave to appeal**

40. By section 64 of the Act, an appeal lies to this Court from a decision of the CRTC on any question of law or jurisdiction, with leave of the Court.<sup>28</sup>

---

<sup>26</sup> Wireless Code decision, paras. 10-13, Motion Record, Tab 2.

<sup>27</sup> Meldrum affidavit, para. 24, Motion Record, Tab 5; Chart prepared by applicants' counsel identifying parties to the Wireless Code proceeding and their email addresses, Exhibit D to the Meldrum affidavit, Motion Record, Tab 5D.

<sup>28</sup> *Telecommunications Act*, *supra* note 11 at s. 64(1).

41. The threshold for granting leave to appeal is a low one. An applicant for leave to appeal need establish only some arguable ground upon which the appeal might succeed. It need not establish at this stage that it could actually succeed. The test is a “first and lower hurdle for the applicants to meet than that that must be met on the hearing of the appeal on the merits.”<sup>29</sup>

42. The applicants more than meet this threshold.

### **No jurisdiction to make the Wireless Code retrospective**

43. The CRTC exceeded its jurisdiction and erred in law by purporting to render the Wireless Code retrospectively applicable to contracts between wireless service providers and their customers entered into before the Wireless Code comes into force.

#### ***Act does not authorize retrospective rule-making***

44. A rule has retrospective application if it interferes with vested rights, including contractual rights, that existed before the rule came into force.<sup>30</sup>

45. The Supreme Court of Canada and this Court have repeatedly held that subordinate rule-makers do not have the power to make rules that retrospectively affect vested rights, including contractual rights. A subordinate rule-maker has the power to engage in retrospective rule-making only if its enabling statute gives it that power either expressly or by necessary implication.<sup>31</sup> Where an enabling statute is silent, the rule-maker is presumed not to have the power to engage in retrospective rule-making.<sup>32</sup>

---

<sup>29</sup> *Martin v. Canada (Minister of Human Resources Development)* (1999), 252 N.R. 141 at paras. 5-7, Applicants’ Book of Authorities, Tab 1.

<sup>30</sup> *Dikranian v. Quebec (Attorney General)*, 2005 SCC 73 at paras. 32, 37-38, 49, Applicants’ Book of Authorities, Tab 2; *R. v. Walker*, [1970] S.C.R. 649 at para. 59, Applicants’ Book of Authorities, Tab 3.

<sup>31</sup> *Bell Canada v. C.T.E.A.*, [2003] 1 S.C.R. 884 at para. 47, Applicants’ Book of Authorities, Tab 4; *British Columbia (Attorney General) v. Parklane Private Hospital Ltd.*, [1975] 2 S.C.R. 47 at para. 16, Applicants’ Book of Authorities, Tab 5; *Apotex Inc. v. Merck & Co.*, 2011 FCA 329 at para. 30, Applicants’ Book of Authorities, Tab 6.

<sup>32</sup> *Apotex Inc. v. Merck & Co.*, 2011 FCA 329 at para. 31, Applicants’ Book of Authorities, Tab 6.

46. The Supreme Court of Canada has also consistently held that the CRTC does not have the power to set rates retrospectively in the absence of a provision in the Act expressly allowing it to do so.<sup>33</sup>

47. Section 24 of the Act, on which the CRTC relied in establishing the Wireless Code, allows the CRTC to impose conditions that wireless service providers must meet when offering and providing a telecommunications service.<sup>34</sup> Section 24 plainly does not either expressly or impliedly permit the CRTC to impose conditions on wireless carriers that have retrospective application to contracts entered into between wireless carriers and customers.

48. No other provision in the Act authorizes the CRTC to engage in retrospective rule-making with respect to the conditions applicable to contracts entered into between wireless carriers and their customers.

49. It follows that the applicants have an arguable case that the CRTC does not have the power to impose conditions on contracts entered into between wireless carriers and their customers before the Wireless Code comes into force.

***Wireless Code applies retrospectively and interferes with existing contractual rights***

50. By making the conditions set out in the Wireless Code applicable to contracts entered into before the Wireless Code comes into force, the Wireless Code decision purports to give the Wireless Code retrospective application.

51. In paragraph 369 of the decision, the CRTC determined that the Wireless Code “*should* apply to all contracts, no matter when they were entered into, by no later than 3 June 2015” (emphasis added).<sup>35</sup> The CRTC, through its staff, has now taken inconsistent positions as to whether the Wireless Code will apply on a mandatory basis to all contracts by 3 June 2015. It has stated both that the Wireless Code does not apply to contracts entered into before 2 December

---

<sup>33</sup> *Bell Canada v. Canada (C.R.T.C.)*, [1989] 1 S.C.R. 1722 at paras. 44-46, Applicants’ Book of Authorities, Tab 7; *Bell Canada v. Bell Aliant Regional Communications*, 2009 SCC 40 at para. 59, Applicants’ Book of Authorities, Tab 8.

<sup>34</sup> *Telecommunications Act*, *supra* note 11 at s. 24.

<sup>35</sup> Wireless Code decision, para. 369, Motion Record, Tab 2.

2013, and that the Wireless Code will apply on a mandatory basis after 3 June 2015 to contracts entered into before 2 December 2013.<sup>36</sup>

52. The Wireless Code decision is not sufficiently clear to give the Wireless Code retrospective application. The CRTC's use of the word "should" rather than the word "will" or "shall" implies that the application of the Wireless Code to contracts entered into before the Code comes into force will be optional. The Supreme Court of Canada has construed the word "should" as denoting a desire or request, not a legal obligation.<sup>37</sup>

53. But if the Wireless Code decision is construed, as CRTC staff has stated it should be, to require that pre-existing contracts be subject to the Wireless Code by 3 June 2015, the retrospective application of the Wireless Code would interfere with the terms of those pre-existing contracts.

54. The applicants and other wireless service providers have entered into millions of contracts with customers throughout Canada that have terms that expire after 3 June 2015. It follows that if the Wireless Code applies on a mandatory basis to all contracts after that date, the conditions set out in the Wireless Code will apply to all of those contracts that remain in effect as of 3 June 2015. For example, in the case of a three-year contract entered into on 3 May 2013, the conditions set out in the Wireless Code will apply to the contract as of 3 June 2015 – two years and one month into the contract's three-year term.<sup>38</sup>

55. As set out above, to impose the conditions set out in the Wireless Code on contracts entered into before the Wireless Code comes into force would override or render unenforceable significant terms of contracts validly entered into by contracting parties.

---

<sup>36</sup> Letter from CRTC staff to CWTA, Exhibit B to the Meldrum affidavit, Motion Record, Tab 5B; Printout from CRTC's Twitter account, Exhibit C to the Meldrum affidavit, Motion Record, Tab 5C.

<sup>37</sup> *R. v. S.(S.)*, [1990] 2 S.C.R. 254 at para. 29, Applicants' Book of Authorities, Tab 9; Ruth Sullivan, *Sullivan on the Construction of Statutes*, 5th ed. (Markham, Ont.: LexisNexis, 2008) at pp. 80-81, Applicants' Book of Authorities, Tab 13.

<sup>38</sup> Meldrum affidavit, paras. 16, 20, Motion Record, Tab 5.

56. The applicants therefore have more than an arguable case that the CRTC exceeded its jurisdiction and erred in law by purporting to make the Wireless Code retrospectively applicable to contracts entered into before the Code comes into force. Leave to appeal should be granted.

**The motion and proposed appeal should be expedited**

57. The applicants request an order expediting the hearing and disposition of this motion and of any appeal.

58. Rule 8(1) of the *Federal Courts Rules* provides that the Court may abridge periods provided by the Rules.<sup>39</sup> The Court ordinarily considers four factors in deciding whether to grant an order expediting an appeal:

- (1) whether the appeal raises a serious issue;
- (2) whether there is a legitimate reason to expedite the appeal;
- (3) whether the respondent will suffer prejudice as a result of the expedited timetable; and
- (4) whether expediting the appeal will inconvenience other litigants whose proceedings have already been scheduled.<sup>40</sup>

59. All four requirements are met in this case. The motion and any appeal should be expedited.

***Appeal raises a serious issue to be determined***

60. An appeal raises a serious issue if it is neither frivolous nor vexatious. This proposed appeal calls for a determination of whether the CRTC may impose rules that interfere with contracts entered into between wireless service providers and their customers before those rules came into force. It more than meets the low threshold for raising a serious issue.

---

<sup>39</sup> *Federal Courts Rules*, SOR/98-106, r. 8(1).

<sup>40</sup> *Apotex Inc. v. Wellcome Foundation Ltd.* (1998), 81 C.P.R. (3d) 443 at paras. 2-4 (Fed. C.A.), Applicants' Book of Authorities, Tab 10; *Del Zotto v. Canada (Minister of National Revenue - M.N.R.)* (2000), 257 N.R. 56 (Fed. C.A.), Applicants' Book of Authorities, Tab 11.

*There is a legitimate reason to expedite the appeal*

61. As set out above, the possibility that the Wireless Code will be applied retrospectively to contracts entered into before 2 December 2013 has created significant uncertainty in the marketplace for wireless services, and will continue to do so in the period leading up to the coming into force of the Wireless Code on 2 December 2013. The application of the Wireless Code to those contracts that terminate after 3 June 2015 is uncertain. This uncertainty has led and will lead to confusion in the marketplace that will only be resolved once the motion and, if leave to appeal is granted, the appeal is heard and a decision is rendered.<sup>41</sup>

62. This motion and any appeal should be heard and determined as soon as possible in order to restore certainty in the marketplace in time for the busy sales periods leading up to 2 December 2013.

*Minimal prejudice to respondents and inconvenience to other litigants*

63. The timetable proposed by the applicants for the hearing of this motion and of any appeal is set out at Schedule A to the notice of motion. The timetable is reasonable, and minimally prejudicial to the respondents, in light of the importance of resolving the current confusion in the marketplace as quickly as possible.

64. Expediting this motion and any appeal would not inconvenience other litigants whose proceedings have already been scheduled. Since this motion will be heard in writing, no other litigant will be inconvenienced if it is expedited. If leave to appeal is granted, the applicants request that the appeal be accommodated on the Court's schedule as quickly as possible based on the Court's availability. They do not request that the Court assign to this appeal hearing dates that are already reserved for other appeals.

**Procedural directions**

65. The applicants also request that the Court give directions determining the proper respondents to this motion and to any appeal, and that the Court validate service by email of the motion record and, if leave to appeal is granted, authorize service by email of the notice of appeal.

---

<sup>41</sup> Meldrum affidavit, paras. 21-22, Motion Record, Tab 5.

*Determining the proper respondents*

66. The applicants request that the Court determine that the proper respondents to this motion and to any appeal are the parties in the Wireless Code proceeding identified by the CRTC in the Wireless Code decision, other than the applicants and their affiliates.

67. The Court may vary or dispense with compliance with a rule where doing so would secure the just, most expeditious and least expensive determination of a proceeding.<sup>42</sup> Absent the relief requested, the applicants would be required to name as respondents to this motion and to any appeal all parties to the Wireless Code proceeding who are adverse in interest to the applicants.<sup>43</sup>

68. 1,055 entities and individuals became parties in the Wireless Code proceeding by filing an intervention. The parties included wireless service providers, consumer advocacy groups, governments, researchers and members of the public.<sup>44</sup> Of these parties, the CRTC identified 61 in the Wireless Code decision, including those members of the public who appeared at the public hearing.<sup>45</sup> The contribution of those parties was sufficiently meaningful to warrant mention in the Wireless Code decision.

69. For all 1,055 parties in the Wireless Code proceeding (other than the applicants and their affiliates) to be named as respondents would be unduly burdensome for the Court and for the parties. It is therefore appropriate for the Court to restrict the proper respondents to this motion and to any appeal to the parties named in the Wireless Code decision, other than the applicants and their respective affiliates.

*Validating and authorizing service by email*

70. The applicants further request that the Court validate service of the motion record, and if leave to appeal is granted, authorize service of the notice of appeal, on the respondents and on

---

<sup>42</sup> *Federal Courts Rules*, rules 3 and 55.

<sup>43</sup> *Federal Courts Rules*, rules 338(1) and 352(2).

<sup>44</sup> Wireless Code decision, paras. 10-13, Motion Record, Tab 2.

<sup>45</sup> Wireless Code decision, paras. 10-12, Motion Record, Tab 2.

the other participants in the Wireless Code proceeding by email using the email distribution list that the CRTC used to serve documents in the Wireless Code proceeding.

71. In addition to the Court's power to vary or dispense with compliance with any rule where compliance would be unduly burdensome, the Court may order substituted service where personal service cannot practicably be effected and may validate service where it is satisfied that the document came to the notice of the person to be served.<sup>46</sup> If service by email is not validated or authorized, the applicants will be required to personally serve the motion record and any notice of appeal personally on the respondents and on all participants in the Wireless Code proceeding.<sup>47</sup>

72. Over 5,000 organizations and members of the public participated in the Wireless Code proceeding,<sup>48</sup> including 1,055 parties who filed interventions. During the Wireless Code proceeding, the CRTC served all materials on the parties by way of an email distribution list that the applicants have now recreated from the interventions listed on the CRTC's website.<sup>49</sup>

73. For the applicants to effect personal service of the motion record on all 5,000 participants in the Wireless Code proceeding would be unduly burdensome. In the case of the many thousands of members of the public who submitted comments on the Internet, personal service would likely be impossible in many cases where a home address was not provided to the CRTC.

74. Service on the parties by email using the distribution list used by the CRTC would serve the interest of justice by ensuring that every party who filed an intervention in the proceeding receives notice of this motion and, if leave to appeal is granted, of the appeal.

---

<sup>46</sup> *Federal Courts Rules*, rules 136(1) and 147; *Telewizja Polsat S.A. v. Radiopol Inc.*, 2005 FC 1179 at para. 13, Applicants' Book of Authorities, Tab 12.

<sup>47</sup> *Federal Courts Rules*, rules 339(1) and 352(2).

<sup>48</sup> Wireless Code decision, para. 9, Motion Record, Tab 2.

<sup>49</sup> Meldrum affidavit, para. 24, Motion Record, Tab 5; Chart prepared by applicants' counsel identifying parties to the Wireless Code proceeding and their email addresses, Exhibit D to the Meldrum affidavit, Motion Record, Tab 5D.

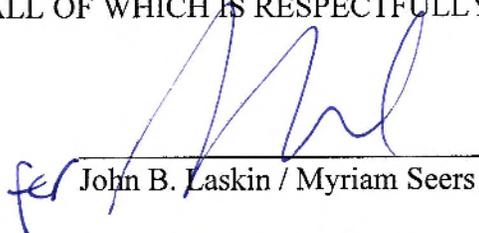
**PART IV – ORDER REQUESTED**

75. The applicants respectfully request an order:
- (a) granting leave to appeal to this Court from the Wireless Code decision, insofar as it purports to give the Wireless Code retrospective application to contracts entered into between wireless service providers and their customers before the Wireless Code comes into force on 2 December 2013;
  - (b) expediting the disposition of this motion in writing and, if leave to appeal is granted, expediting the hearing of the appeal by setting it down for the earliest date available to the Court;
  - (c) if the relief requested in paragraphs (a) and (b) is granted, fixing the time for completion of the steps in the appeal in accordance with the timetable set out in Schedule A to the notice of motion;
  - (d) directing that the respondents to this motion, and if leave to appeal is granted, to the appeal, be the persons and entities listed in the style of cause to this notice of motion;
  - (e) validating service of the motion record on the respondents by email at the addresses listed at Schedule B to the notice of motion and on the other parties to the Wireless Code proceeding by email at the addresses listed at Exhibit D to the Meldrum affidavit;
  - (f) if leave to appeal is granted, authorizing service of the notice of appeal on the respondents by email at the addresses listed at Schedule B to the notice of motion and on the other parties to the Wireless Code proceeding by email at the addresses listed at Exhibit D to the Meldrum affidavit;
  - (g) dispensing with service of the motion record, and if leave to appeal is granted, of the notice of appeal, on any person or entity other than the CRTC, the Attorney General of Canada and the persons or entities listed at Exhibit D to the Meldrum affidavit who provided their email address to the CRTC;
  - (h) granting the applicants their costs of this motion; and

- (i) granting such further relief as this Court may deem just.

July 2, 2013

ALL OF WHICH IS RESPECTFULLY SUBMITTED

A handwritten signature in blue ink, appearing to be "John B. Laskin / Myriam Seers", is written over a horizontal line.

John B. Laskin / Myriam Seers

Lawyers for the Applicants

**PART V – LIST OF AUTHORITIES**

1. *Apotex Inc. v. Merck & Co.*, 2011 FCA 329
2. *Apotex Inc. v. Wellcome Foundation Ltd.* (1998), 81 C.P.R. (3d) 443 (Fed. C.A.)
3. *Bell Canada v. Bell Aliant Regional Communications*, 2009 SCC 40
4. *Bell Canada v. C.T.E.A.*, [2003] 1 S.C.R. 884
5. *Bell Canada v. Canada (C.R.T.C.)*, [1989] 1 S.C.R. 1722
6. *British Columbia (Attorney General) v. Parklane Private Hospital Ltd.*, [1975] 2 S.C.R. 47
7. *Del Zotto v. Canada (Minister of National Revenue - M.N.R.)* (2000), 257 N.R. 56 (Fed. C.A.)
8. *Dikranian v. Quebec (Attorney General)*, 2005 SCC 73
9. *Martin v. Canada (Minister of Human Resources Development)* (1999), 252 N.R. 141
10. *R. v. S.(S.)*, [1990] 2 S.C.R. 254
11. *R. v. Walker*, [1970] S.C.R. 649
12. *Telewizja Polsat S.A. v. Radiopol Inc.*, 2005 FC 1179
13. *Sullivan on the Construction of Statutes*, 5th ed. (Markham, Ont.: LexisNexis, 2008)

## APPENDIX A

## STATUTES AND REGULATIONS

<i>Telecommunications Act</i> , S.C. 1993, c. 38	<i>Loi sur les télécommunications</i> , L.C. 1993, ch. 38
<b>24.</b> The offering and provision of any telecommunications service by a Canadian carrier are subject to any conditions imposed by the Commission or included in a tariff approved by the Commission.	<b>24.</b> L'offre et la fourniture des services de télécommunication par l'entreprise canadienne sont assujetties aux conditions fixées par le Conseil ou contenues dans une tarification approuvée par celui-ci.
<b>64.</b> (1) An appeal from a decision of the Commission on any question of law or of jurisdiction may be brought in the Federal Court of Appeal with the leave of that Court.	<b>64.</b> (1) Avec son autorisation, il peut être interjeté appel devant la Cour d'appel fédérale, sur des questions de droit ou de compétence, des décisions du Conseil.
<i>Federal Courts Rules</i> , SOR/98-106	<i>Règles des Cours fédérales</i> , DORS/98-106
<b>3.</b> These Rules shall be interpreted and applied so as to secure the just, most expeditious and least expensive determination of every proceeding on its merits.	<b>3.</b> Les présentes règles sont interprétées et appliquées de façon à permettre d'apporter une solution au litige qui soit juste et la plus expéditive et économique possible.
<b>8.</b> (1) On motion, the Court may extend or abridge a period provided by these Rules or fixed by an order.	<b>8.</b> (1) La Cour peut, sur requête, proroger ou abrégé tout délai prévu par les présentes règles ou fixé par ordonnance.
<b>55.</b> In special circumstances, in a proceeding, the Court may vary a rule or dispense with compliance with a rule.	<b>55.</b> Dans des circonstances spéciales, la Cour peut, dans une instance, modifier une règle ou exempter une partie ou une personne de son application.
<b>136.</b> (1) Where service of a document that is required to be served personally cannot practicably be effected, the Court may order	<b>136.</b> (1) Si la signification à personne d'un document est en pratique impossible, la Cour peut rendre une ordonnance autorisant la

<p>substitutional service or dispense with service.</p>	<p>signification substitutive ou dispensant de la signification.</p>
<p><b>147.</b> Where a document has been served in a manner not authorized by these Rules or by an order of the Court, the Court may consider the document to have been validly served if it is satisfied that the document came to the notice of the person to be served or that it would have come to that person's notice except for the person's avoidance of service.</p>	<p><b>147.</b> Lorsqu'un document a été signifié d'une manière non autorisée par les présentes règles ou une ordonnance de la Cour, celle-ci peut considérer la signification comme valide si elle est convaincue que le destinataire en a pris connaissance ou qu'il en aurait pris connaissance s'il ne s'était pas soustrait à la signification.</p>
<p><b>338.</b> (1) Unless the Court orders otherwise, an appellant shall include as a respondent in an appeal</p> <p>(a) every party in the first instance who is adverse in interest to the appellant in the appeal;</p> <p>(b) any other person required to be named as a party by an Act of Parliament pursuant to which the appeal is brought; and</p> <p>(c) where there are no persons that are included under paragraph (a) or (b), the Attorney General of Canada.</p>	<p><b>338.</b> (1) Sauf ordonnance contraire de la Cour, l'appelant désigne les personnes suivantes à titre d'intimés dans l'appel :</p> <p><i>a)</i> toute personne qui était une partie dans la première instance et qui a dans l'appel des intérêts opposés aux siens;</p> <p><i>b)</i> toute autre personne qui doit être désignée à titre de partie aux termes de la loi fédérale qui autorise l'appel;</p> <p><i>c)</i> si les alinéas <i>a)</i> et <i>b)</i> ne s'appliquent pas, le procureur général du Canada.</p>
<p><b>339.</b> (1) Unless the Court directs otherwise or an Act of Parliament authorizing the appeal provides otherwise, within 10 days after the issuance of a notice of appeal, the appellant shall serve it on</p> <p>(a) all respondents;</p> <p>(b) in the case of an appeal of an order of a tribunal,</p> <p>(i) the Attorney General of Canada, and</p> <p>(ii) the tribunal or its</p>	<p><b>339.</b> (1) Sauf disposition contraire de la loi fédérale qui autorise l'appel ou sauf directives contraires de la Cour, l'appelant signifie l'avis d'appel aux personnes suivantes dans les 10 jours suivant sa délivrance :</p> <p><i>a)</i> les intimés;</p> <p><i>b)</i> dans le cas de l'appel d'une ordonnance d'un office fédéral :</p> <p>(i) le procureur général du Canada,</p> <p>(ii) l'office fédéral ou son premier dirigeant;</p> <p><i>c)</i> toute personne qui n'est pas une partie</p>

<p>chief executive officer;</p> <p>(c) any person who is not a party and who participated in the first instance; and</p> <p>(d) any other person directly affected by the appeal.</p>	<p>mais qui a participé à la première instance;</p> <p><i>d)</i> toute autre personne directement touchée par l'appel.</p>
<p><b>352.</b> (1) Unless the Court orders otherwise, where leave to appeal is required, it shall be obtained on a motion brought in writing.</p> <p>(2) On a motion under subsection (1) the moving party shall name as respondents all persons referred to in rule 338 and personally serve all persons referred to in rule 339.</p>	<p><b>352.</b> (1) Sauf ordonnance contraire de la Cour, si une autorisation est requise pour interjeter appel, une requête à cet effet est présentée par écrit.</p> <p>(2) La personne qui présente un avis de requête visé aux termes du paragraphe (1) désigne à titre d'intimé les personnes qui seraient désignées comme intimées selon la règle 338 et le signifie à personne aux personnes visées à la règle 339.</p>