



Telecom Decision CRTC 2010-511

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Ottawa, 23 July 2010

Distributel Communications Limited – Application for an order to bulk port telephone numbers to its network

File number: 8622-D11-200917114

In this decision, the Commission denies Distributel Communications Limited's (Distributel) request that the Commission order Rogers Cable Communications Inc. to bulk port telephone numbers to Distributel's network.

Introduction

1. In a letter dated 14 December 2009, Distributel Communications Limited (Distributel) requested that the Commission direct Rogers Cable Communications Inc. (RCCI) to bulk port a large quantity of telephone numbers from RCCI's network to Distributel's network. These telephone numbers were being used by customers that Communication Téosystème Inc. (CTI), a wholly owned subsidiary of Distributel, had acquired from Cybersurf Corp. (Cybersurf) as part of an asset purchase.
2. In a letter dated 15 December 2009, Goodmans LLP (Goodmans), on behalf of Comwave Telecommunications Inc. (Comwave), objected to Distributel's request. Goodmans indicated that Comwave had leased the telephone numbers in question from RCCI and that Comwave had subsequently provided the numbers to Cybersurf under a contractual arrangement. Goodmans requested that the Commission not proceed with the matter without taking into account the positions of all parties involved in the dispute.
3. The Commission initiated a process to gather comments from parties and received submissions from Distributel, Comwave, Cybersurf, and RCCI. The record of this proceeding, which closed on 12 May 2010, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Should the Commission order RCCI to bulk port the telephone numbers to Distributel's network?

4. Distributel submitted that RCCI had denied its porting request because Comwave, a reseller of RCCI's services that previously held the numbers, had refused to authorize RCCI to perform the bulk port because of a commercial contractual dispute between Comwave and Cybersurf over outstanding porting fees.
5. Distributel submitted that a commercial dispute is not a valid reason for a local service provider to deny a porting request under current porting rules. It submitted that Comwave had intentionally blocked the porting request to serve its own commercial interests and had not complied with local number portability rules.

Distributel argued that allowing Comwave to block the bulk porting in this manner would set a precedent that would allow any provider to deny a porting request based on the terms and conditions of a commercial contract. In Distributel's view, this would effectively give service providers absolute control over their customers' telephone numbers.

6. Distributel submitted that because the contractual dispute is between Comwave and Cybersurf, and does not involve Distributel or CTI, the dispute should not interfere with the porting request. As a result, Distributel requested that the Commission order RCCI to bulk port the numbers to Distributel's network.
7. Cybersurf was also of the view that the numbers should be ported to Distributel's network. It argued that Comwave should not be allowed to charge porting fees because the Commission has consistently denied applications by local exchange carriers to charge other local service providers for customer transfers or number ports. In Cybersurf's view, allowing a reseller to charge for number porting when carriers have been prohibited from doing so would not be symmetrical regulation.
8. Comwave submitted that there is no need for Commission intervention because this is a commercial matter and not a regulatory issue. It submitted that its dispute with Cybersurf should instead be resolved through arbitration. Comwave stated that it would abide by the arbitrator's decision in this matter and would subsequently undertake to facilitate the bulk porting of the numbers to Distributel.
9. Comwave argued that there is a difference between bulk porting a large quantity of telephone numbers between service providers and porting end-user numbers due to customer-initiated requests. In Comwave's view, the porting rules established in the Master Agreement for Local Interconnection, the Canadian Local Ordering Guidelines, and various Commission decisions apply only to end-user porting requests and not to bulk porting, as is the case in the current dispute.
10. Comwave submitted that even though bulk porting would be put on hold pending resolution of the dispute, the ability of individual customers to switch service providers and have their telephone numbers ported to a new provider would not be affected or impaired.
11. RCCI confirmed that it had received the bulk porting request from Distributel. It submitted that, consistent with the terms of a Master Carrier Services Agreement it has with Comwave, RCCI had forwarded Distributel's bulk porting request to Comwave for validation. It confirmed that Comwave had rejected the bulk porting request. RCCI submitted that it is a neutral party in the dispute and requested specific direction from the Commission on how to proceed regarding Distributel's porting request.

Commission's analysis and determination

12. The Commission considers that number porting initiated by end-users is a cornerstone of local competition and is critical to enabling consumer choice.

The Commission notes that it has consistently denied tariff applications submitted by local exchange carriers that sought to charge other carriers for individual customer transfers and number porting.¹

13. The Commission notes, however, that the current dispute involves bulk porting of telephone numbers between local service providers. Bulk porting streamlines the customer transfer process by eliminating certain steps in the process to improve the efficiency of large-scale transfers.
14. The Commission notes that Comwave and Cybersurf entered into a commercial agreement that included, among other things, a clause regarding an administration fee for transferring telephone numbers assigned by Comwave to another company. The Commission notes that, as a reseller, Comwave is not required to file tariffs for Commission approval and can charge market rates for its services. As such, the Commission considers that this dispute is over the terms and conditions of a commercial agreement between two parties and is not a regulatory matter that requires Commission intervention. The Commission notes that, as with other disputes over commercial contracts, methods other than regulatory intervention are available to parties as a means of settling this dispute – for example, arbitration.
15. The Commission notes that Comwave has indicated that service to end-users will not be disrupted as a result of this dispute, and that it will not deny porting requests that stem from individual end-users who wish to change service providers and have their numbers ported.
16. In light of the above, the Commission **denies** Distributel's application.

Secretary General

Related documents

- *Saskatchewan Telecommunications – Stand Alone Porting*, Telecom Order CRTC 2007-36, 2 February 2007
- *Call-Net Communications Inc. – LSR Processing for Customer Transfer Service*, Telecom Order CRTC 2005-255, 8 July 2005
- *CRTC denies CNCI's application to introduce service charges for local exchange carriers*, Order CRTC 2000-744, 10 August 2000
- *Local competition start-up and LNP costs established*, Order CRTC 2000-143, 23 February 2000

¹ See, for example, Telecom Order CRTC 2007-36, Telecom Order CRTC 2005-255, Order CRTC 2000-744, and Order CRTC 2000-143.