Canadian Radio-television and Telecommunications Commission
Conseil de la radiodiffusion et des télécommunications canadiennes

Telecom Regulatory Policy CRTC 2011-569

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Regulatory measure associated with the provision of detailed monthly billing

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In this decision, the Commission maintains the existing regulatory measure pertaining to detailed monthly billing for small and large incumbent local exchange carriers. In addition, consistent with the Policy Direction, the Commission determines that market forces can continue to be relied upon with respect to the detailed monthly billing requirement in forborne markets. The dissenting opinions of Commissioners Suzanne Lamarre and Michel Morin are attached.

Introduction

1. In Telecom Decision 2011-69, the Commission issued an updated action plan to review certain regulatory measures in light of the Governor in Council's *Order Issuing a Direction to the CRTC on Implementation of the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction).

2. As part of the action plan, the Commission identified the regulatory measure associated with the provision of detailed monthly billing to customers as a matter to be reviewed. In Telecom Notice of Consultation 2011-161, the Commission invited parties to comment, in light of the Policy Direction, on the continued appropriateness of the existing regulatory measure.

3. Although the Commission noted that the measure applied only to the incumbent local exchange carriers (ILECs),[1] including large and small ILECs, in non-forborne markets,[2] the Commission requested comments on the implications and feasibility of applying the regulatory measure to all telecommunications service providers (TSPs).

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[1] In Telecom Decision 2006-52, as amended by Telecom Decision 2006-78, the Commission established a statement of consumer rights for customers of the large ILECs applicable to non-forborne markets, setting out existing consumer rights, including the "right to receive a detailed billing statement every month." In Telecom Decision 2007-28, Northwestel Inc. and the small ILECs were directed to adopt a similar statement of consumer rights in their respective territories.

[2] In Telecom Decision 2006-15 and Telecom Regulatory Policy 2009-379, the Commission did not retain the requirement for all ILECs to issue detailed monthly billing statements in forborne local services markets.

4. The Commission received submissions from Bell Aliant Regional Communications, Limited Partnership, Bell Canada, KMTS,[3] NorthernTel, Limited Partnership, Saskatchewan Telecommunications, and Télébec, Limited Partnership (collectively, Bell Canada et al.); Bragg Communications Inc., operating as EastLink (EastLink); the Canadian Independent Telephone Company Joint Task Force (JTF), on behalf of the small ILECs; the Canadian Network Operators Consortium Inc. (CNOC); the Government of the Northwest Territories (GNWT); MTS Allstream Inc. (MTS Allstream); the Public Interest Advocacy Centre, Option consommateurs, and Canada Without Poverty (collectively, the Consumer Groups); Rogers Communications Partnership (RCP); and TELUS Communications Company (TCC).

5. The public record of this proceeding, which closed on 6 June 2011, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

6. In reviewing this regulatory measure in light of the Policy Direction, the Commission will first assess whether it can rely on market forces to achieve the purpose underlying the regulatory measure. If the Commission determines that it cannot rely on market forces and that regulation remains necessary it will then examine whether the existing measure should be modified. This review includes an identification of the telecommunications policy objectives of the *Telecommunications Act* (the Act) that are relevant to the purpose of this regulatory measure.

Should the regulatory measure pertaining to detailed monthly billing be maintained and, if so, should it be modified?

7. The detailed billing provisions were first set out in Telecom Decision 86-7,[4] and modified in subsequent decisions. All ILECs are currently required to provide their single-line customers in non-forborne markets with detailed monthly billing which details what local and optional services customers subscribe to, and how much they are paying for each service (the detailed monthly billing requirement).

8. EastLink, the JTF, RCP, and TCC generally submitted that market forces would be sufficient to achieve the purpose of this particular measure. They indicated that all local exchange carriers (LECs), as well as other TSPs, currently provide detailed billing in both forborne and non-forborne markets due to strong market incentives (e.g. customer expectations, the costs associated with the potential volume of calls to client services, and competitive choices).

9. Bell Canada et al. submitted that the current regulatory measure associated with detailed monthly billing aligns with their billing practices in both forborne and non-forborne markets. Bell Canada et al. also submitted that the current regulatory measure does not place a significant burden on the ILECs.

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[3] KMTS was formerly known as Kenora Municipal Telephone System.

[4] In Telecom Decision 86-7 and subsequent rulings, the incumbent local exchange carriers were required to provide their single-line customers with a detailed itemization of service and equipment charges at service commencement, after any rate or service and equipment changes and, at a minimum, once a year.

10. The Consumer Groups, the GNWT, and MTS Allstream generally submitted that the existing measure should be maintained in non-forborne markets because it continues to be an effective regulatory tool. The Consumer Groups and the GNWT further submitted that the degree of local exchange competition is insufficient to ensure that the interests of customers would be protected in such markets.

11. The Consumer Groups also proposed that the Commission should expand the existing regulatory measure to all LECs in both non-forborne and forborne markets, and consider expanding it to all TSPs in all service markets (e.g. wireless, Internet service, and broadcasting) in a future proceeding.

12. Bell Canada et al., CNOC, EastLink, the JTF, MTS Allstream, RCP, and TCC opposed the Consumer Groups' proposal for expansion. They generally submitted that the Consumer Groups had provided no evidence in support of any market failure that would justify such a significant regulatory intervention in forborne markets. They submitted that their practices are already symmetrical between non-forborne and forborne markets, arguing that the Consumer Groups' proposal for expansion would be unnecessary and contrary to the Policy Direction.

Commission's analysis and determinations

13. The Commission notes that the purpose of the monthly detailed billing policy is, among other things, to assist customers in understanding and managing their telephone service. Furthermore, the Commission considers that the regulatory measure furthers the telecommunications policy objectives set out in paragraphs 7*(a), (b),* and *(h)* of the Act.[5]

14. The Commission considers that market forces alone are unlikely to be sufficient to achieve the purpose of this measure in non-forborne markets because customers in those markets have a limited choice of service providers. Given this, the Commission is not convinced that the interests of customers would be sufficiently protected if the current measure were to be eliminated for the ILECs. The Commission further considers that the existing measure is not burdensome on these incumbent service providers and that maintaining the obligation would not be onerous. Accordingly, the Commission finds that it would be appropriate to maintain the detailed monthly billing requirement for all ILECs in non-forborne markets.

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[5] The cited policy objectives 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; and
7(*h*) to respond to the economic and social requirements of users of telecommunications services.

15. With respect to extending the regulatory measure to other TSPs in non-forborne markets, the Commission notes that these TSPs do not have an obligation to serve and that their retail services are unregulated. The Commission further notes that, based on the record of this proceeding, the majority of TSPs currently provide detailed billing and generally adopt the same practices as ILECs in order to compete in their territories. The Commission considers that, given the mandate for ILECs to provide detailed billing, other TSPs will likely continue providing detailed monthly billing. Accordingly, the Commission finds that it would not be necessary to extend the regulatory measure associated with detailed monthly billing to other TSPs in non-forborne markets.

16. In regard to extending the regulatory measure to ILECs and other TSPs in forborne service markets, the Commission considers that the Consumer Groups provided no evidence (a) that market forces are inadequate or (b) of market failure which would justify the Commission intervening in these markets. Further, the Commission is of the view that the record of this proceeding demonstrates that ILECs have maintained the measure in forborne markets and that all LECs and TSPs intend to continue providing detailed billing to their customers due to strong market incentives. As such, the Commission concludes that it would be reasonable to continue relying on market forces in order to ensure that the purpose of the regulatory measure related to detailed monthly billing is achieved. Accordingly, consistent with the Policy Direction, the Commission finds that it would not be appropriate to extend this regulatory measure in forborne markets or in other service markets.

17. The Commission notes, however, that it could reconsider imposing detailed billing conditions on TSPs in forborne service markets in the future, if market conditions were to change such that market forces would no longer be sufficient to protect the interest of consumers.

18. Based on the above, the Commission determines that the existing regulatory measure pertaining to the provision of monthly detailed billing should be maintained without modification.

Policy Direction

19. The Commission considers that the regulatory measure regarding detailed monthly billing, as reviewed in this decision, is consistent with the Policy Direction.

20. The dissenting opinions of Commissioners Suzanne Lamarre and Michel Morin are attached.

Secretary General

Related documents

- *Review of the regulatory measures associated with the provision of detailed monthly billing statements to customers*, Telecom Notice of Consultation CRTC 2011-161, 7 March 2011

- *Updated action plan for reviewing regulatory measures*, Telecom Decision CRTC 2011-69, 4 February 2011, as amended by Telecom Decision CRTC 2011-69-1, 21 February 2011

- *Framework for forbearance from regulation of retail local exchange services in the serving territories of the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-379, 23 June 2009

- *Statement of consumer rights for Northwestel Inc. and the small incumbent local exchange carriers*, Telecom Decision CRTC 2007-28, 2 May 2007

- *Amendment to the statement of consumer rights*, Telecom Decision CRTC 2006-78, 21 December 2006

- *Statement of consumer rights*, Telecom Decision CRTC 2006-52, 29 August 2006

- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007

- *Review of the general regulations of the federally regulated terrestrial telecommunications common carriers*, Telecom Decision CRTC 86-7, 26 March 1986

Dissenting opinion of Commissioner Suzanne Lamarre

1. With all due respect for the opinion expressed by most of my fellow Commissioners, I believe that achievement of the objectives of the *Telecommunications Act* (the Act) and compliance with the Policy Direction depend not only on maintaining the existing regulatory measure associated with the provision of detailed billing (the regulatory measure), but also on extending it to all LECs and other TSPs in both regulated and forborne markets.

2. For the following reasons, I would have chosen this solution rather than that set out in the majority decision.

Objectives of the Act

3. The telecommunications policy objectives set out in paragraphs 7(*a*), (*b*), and (*h*) of the Act, which are referenced in paragraph 13 of the majority decision, aim to protect consumers by ensuring that the Commission's decisions facilitate Canadians' access to telecommunications services, in a well-ordered manner and at an affordable cost. These governing principles must guide the Commission's judgment. A fourth principle, set out in paragraph 7(*f*), must also be considered: "**to foster increased reliance on market forces** for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective." [emphasis added]

4. In my opinion, the Commission's majority decision can be summarized as follows:

    - in regulated markets, maintain the regulatory measure for ILECs;

    - in regulated markets, do not impose the regulatory measure on other TSPs, since they have, in general, already implemented this practice due to the pressure they have experienced as a result of the obligation imposed on the ILECs; and

    - in forborne markets, do not impose the regulatory measure on ILECs or on other TSPs, because they have already implemented this practice and plan to continue to follow it.

5. The majority position is therefore that detailed billing, which is already available in forborne markets, proves that market forces are working effectively.

6. I respectfully submit that this conclusion results from the mistake of reversing cause and effect. **As such, market forces cannot be fostered and cannot work effectively** – that is, they cannot benefit the consumer – **unless the consumer constantly obtains, from all potential providers, details on the costs of services received or to be received**. In other words, the existence and the expression of the consumer's informed consent form part of the foundation of market forces; they are not a result thereof.

7. The regulatory measure does not aim to protect a vague and heterogeneous group of consumers, but is meant to protect each individual consumer, who has to make decisions that affect him or her personally, based on his or her own needs, expectations, and financial circumstances. It is crucial not to underestimate the importance of the decisions that consumers have to make, both financially and strategically, when choosing a provider and/or a service package – in that order or vice-versa. Telecommunications are becoming more and more important in our private lives, as well as for achievement in our education and careers. The Commission must therefore ensure that conditions that enable consumers to make fully informed and educated decisions at all times are not only implemented, but also **maintained**. This is what fosters reliance on market forces.

8. Maintaining the regulatory measure and extending its application to LECs and other TSPs would allow for informed consent, which, I reiterate, forms the basis of market forces. The regulatory measure is therefore essential to achieving the objectives of the Act.

Policy Direction

9. In deciding which measures to use to achieve the telecommunications policy objectives, the Commission must also take into account the government's 2006 Policy Direction. It is therefore appropriate to ensure that maintaining the regulatory measure and extending its application to LECs and other TSPs would be consistent with the Policy Direction.

10. We must remember that the Policy Direction does not override the policy objectives set out in section 7 of the Act. Furthermore, section 47 of the Act states the following:

> The Commission **shall** exercise its powers and perform its duties under this Act and any special Act
>
> > (*a*) with a view to implementing the Canadian telecommunications policy objectives and ensuring that Canadian carriers provide telecommunications services and charge rates in accordance with section 27; and
> >
> > (*b*) in accordance with any orders made by the Governor in Council under section 8 or any standards prescribed by the Minister under section 15. [emphasis added]

11. This means that, given the facts of the present case, the provisions of paragraphs 7(*a*), (*b*), (*f*), and (*h*) must each be considered properly and reconciled with the Policy Direction.

12. It is appropriate to recall at this point the following excerpt from the first paragraph of the Policy Direction; specifically, the part that applies to this case:

(*a*) the Commission should

(i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and

(ii) when relying on regulation, use 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;

...

(*b*) (iii) if they are not of an economic nature, to the greatest extent possible, are implemented in a symmetrical and competitively neutral manner.

13. In the case of detailed billing, which is a non-economic measure, it is important from now on to ensure that the measure (1) is implemented in a symmetrical manner, (2) fosters competition, (3) is efficient and proportionate to its purpose, and (4) interferes with the operation of market forces to the minimum extent necessary. The following is an analysis of these four elements that will demonstrate how the maintenance and extension of the regulatory measure is entirely consistent with the Policy Direction.

Symmetrical implementation

14. The Commission's current practice is to apply the concept of symmetry based on the expectations, obligations, and measures that it imposes on carriers. Very well, I agree. However, in reading the telecommunications policy objectives set out in paragraphs 7(*b*) and (*h*) of the Act, it is clear that this symmetry not only may, but must, also be understood to apply to the effects on consumers, if circumstances warrant.

15. Yet, in 2006, the Commission created a statement of consumer rights[6] and established that these rights applied to ILEC customers. By establishing these rights for the benefit of a specific group of consumers, the Commission adopted an asymmetrical regulatory measure with regard to carriers and consumers alike. It is appropriate to point out that this measure was adopted prior to the Policy Direction coming into force.

16. This is our first opportunity since the Policy Direction came into effect to correct this asymmetry, for both consumers and carriers, by requiring that all carriers provide consumers with detailed billing. One could argue that the same result could be obtained by eliminating the measure completely. That would be a mistake since, as demonstrated by the reasoning above and below, eliminating the measure would contravene both the telecommunications policy objectives and the Policy Direction.

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[6] Telecom Decision CRTC 2006-52, 29 August 2006

Fostering competition

17. The goal of competition, and its advantage, must be that consumers are offered competitive prices and a choice of products. When more than one provider exists, the only way to take advantage of competition is to obtain details on the exact prices of the services offered by each provider. This information must be easily accessible for the effects of competition to be as decisive as they should be. It is therefore essential that all service providers, not just some of them, be subject to the regulatory measure, so that competition can be properly fostered for the benefit of all consumers.

Efficient and proportionate measure

18. All regulatory measures adopted by the Commission must be efficient and proportionate to their purpose. In other words, measures must not place an undue burden on those on whom they are imposed, and they must allow for the achievement of the set objective. Maintaining and extending the regulatory measure in question here would place a burden on carriers that is neither undue nor excessive. It would not even be proportionate. In fact, **the burden imposed on the carriers would be non-existent.**

19. Indeed, **by the carriers' own admission**, this measure corresponds to the existing business practices of the vast majority of them, in both regulated and forborne markets.[7] This is further evidence, if any is needed, that the measure fosters reliance on market forces and is effective.

Interfering with the operation of market forces to the minimum extent necessary

20. Imposing the regulatory measure on all LECs and other TSPs in all markets does not interfere in any way with the operation of market forces. On the contrary, it fosters the operation of market forces by enabling consumers to give informed consent when signing service contracts with these providers.

21. Some carriers[8] have also expressed the opinion that the Commission should not consider extending the regulatory measure because the Consumer Groups had provided no evidence in support of any market failure that would justify the Commission's involvement. It should be noted that these carriers have incorrectly interpreted both the Policy Direction and the Act in this regard.

22. In fact, as explained above, the Act provides that the Policy Direction must be followed in such a way as to achieve the telecommunications policy objectives set out in the Act. Yet the policy objective that refers to market forces, which is set out in paragraph 7(*f*), stipulates that the Commission must **foster** increased reliance on market forces. This means that the Commission cannot simply wait for and take note of market force failures, and then correct them. It must act pre-emptively and ensure that market forces are working in all respects – that is, they must allow carriers

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[7] See paragraph 12 of the majority decision.
[8] See paragraph 12 of the majority decision for a specific list.

to compete in a specific niche on one hand, and, on the other hand, enable consumers to benefit from competitive prices. In the present case, that means ensuring that detailed billing information is available to all consumers with respect to the services they receive, and not simply relying on the goodwill of individual carriers.

Conclusion

23. In addition to the above justifications for maintaining and extending the regulatory measure, one question remains: since the regulatory measure corresponds to the current business practices of the vast majority of carriers in all markets, why is it necessary to impose the measure on all carriers? There are two main reasons. First, we would be recognizing the undeniable importance of this practice by upgrading it from a voluntary practice to a permanent, general, and mandatory one. Second, consumers have the right to this protection, given the inevitable imbalance of power between service providers and their customers.

24. Canadian consumers rightly expect the Commission to make good use of the powers it has been granted under the Act to rebalance, as much as possible, the power dynamic between consumers and the service providers that it regulates. The Commission could have taken a step in this direction by extending the regulatory measure to all LECs and other TSPs in all markets, without even increasing the burden on carriers, all while achieving the objective of fostering reliance on market forces in the provision of telecommunications services.

25. Alas, the Commission has passed up an excellent opportunity to fulfill this unique role.

Dissenting opinion of Commissioner Michel Morin

1. Canadian consumers are entitled to receive the same information regarding billing for their telephone services. In my opinion, this is a fundamental principle of fairness. However, in its decision on the provision of detailed monthly billing, the Commission maintains two categories of consumers: (i) those who are still in regulated markets and who are entitled to receive detailed billing for their telephone services, and (ii) the majority of Canadian consumers (i.e. those who live in cities with 100,000 inhabitants or more) who, because of this Commission decision, will have to continue to rely on "market forces" to receive – or not – detailed billing for their telephone services each month.

2. In other words, by confirming previous Commission decisions dating back to the mid-1990s concerning detailed billing requirements, the Commission is still refusing to make detailed billing for telephone services mandatory, as it does for regulated markets – and this time, it would be in the interest of four out of every five Canadian consumers to do so. This means that over 80 percent of Canadians have no assurance that they will receive detailed monthly billing for the telephone services to which they subscribe. In making this decision, the Commission is missing an excellent opportunity to correct previous decisions by mandating full transparency and detailed billing for all customers of telephone companies.

3. There is nothing surprising about this decision. For over 40 years, the Commission has also refused to require transparency regarding the costs of broadcasting and Canadian content regulatory measures on each subscriber's bill.

Context

4. Allow me to point out again that consumers in markets that are still regulated (generally small municipalities or remote areas), when they are customers of an incumbent local exchange carrier (ILEC), are still entitled to receive detailed monthly billing for their telephone services.

5. Furthermore, as a general rule, most Canadian companies provide their customers with relatively detailed billing for their telephone services. The Commission considers for the time being that "the majority of TSPs [telecommunications service providers] currently provide detailed billing."

6. This raises the question: will this always be the case?

7. The Commission's decision reads as follows: "The Commission considers that, given the mandate for ILECs to provide detailed billing, other TSPs will likely continue providing detailed monthly billing. Accordingly, the Commission finds that it would not be necessary to extend the regulatory measure associated with detailed monthly billing to other TSPs in non-forborne markets."

8. This statement is rooted in uncertainty. What will happen when the markets are 95 percent deregulated? Given this argument, will the TSPs be as motivated to provide their customers with detailed billing? I doubt it. All we know is that the Commission has no assurance that the TSPs will continue to act as they currently do. Why is the Commission refusing to give Canadian consumers a lasting guarantee that they will always be correctly informed via "detailed monthly billing" for their telephone services?

The keyword – transparency

9. I believe that, on the contrary, it is in the Commission's interest to take a clear stand and play the transparency card to the fullest for the good of Canadian consumers. It is not the consumers' task to determine whether or not their billing is transparent. The vast majority have neither the time nor the inclination to undertake the sort of exercise that will allow them to verify whether or not a provider offers transparency, and to choose a provider accordingly. Rather, it is up to the regulator to require this "transparency," once and for all, from all carriers operating in the Canadian broadcasting and telecommunications system, in all markets. Consumers should not be treated differently depending on whether or not the carrier that serves them is regulated. All consumers are entitled to receive the same information.

10. For four years, I have been advocating for issues that are far from easy, such as genre deregulation, the adoption of objective criteria in the evaluation of broadcasting services, the establishment of minimum basic service for subscribers to broadcasting services, and full transparency regarding fees charged to subscribers, particularly fees used to support the Canadian broadcasting system.

11. To be honest, I never imagined that one day I would have to defend the need for transparency regarding costs to subscribers. In its decision, the Commission is refusing to implement a measure that is simple, effective, and inexpensive, as the carriers themselves agree. In fact, despite deregulation, most carriers have continued to provide their subscribers with detailed billing.

12. In 2006, at the initiative of the Honourable Maxime Bernier, who was then the Minister of Industry and Commerce, the Governor in Council amended the regulatory framework to allow for more deregulation. At the same time, the Governor in Council ensured the protection of consumers by creating the Commissioner for Complaints for Telecommunications Services (CCTS). The purpose of deregulation is not to weaken one category of consumers as compared to another but to increase competition in the system. And an essential link in the competition chain is the information that consumers can access. The better informed customers are and the greater their assurance that they are informed, the better they are able to use their judgement and choose the carrier that provides services that best suit their needs.

13. By relying solely on "market forces," the Commission is compromising consumer access to detailed information. This is a step I am not prepared to take, even if for now, no one (including consumer advocacy groups) has been able to show that there was cause for concern.

14. Indeed, detailed billing in all markets, regulated or not, is fostered by the current government's desire to protect consumers through the creation of the CCTS. How will consumers be able to document their complaints if they are not sure whether all carriers in deregulated markets actually provide detailed billing to all their customers? And how will the CCTS be able to carry out its mandate effectively if it doesn't have the assurance that all consumers are correctly informed via their monthly bills? "Market forces" do not currently allow the Commission to offer this assurance to consumers because some carriers in deregulated markets have already succumbed and no longer provide their customers with detailed monthly billing for their services.

15. Moreover, we know that since the creation of the CCTS, the number of complaints it receives has increased substantially (and now exceeds 40,000 annually). If we consider the example of Australia, which created a similar organization over 10 years ago, it is likely that complaints by Canadian consumers will continue to increase. I therefore believe that the Commission, which oversaw the creation of the CCTS at the government's request, absolutely must step in and ensure that telephone service billing complaints are solidly documented. As well, given the variety of service bundles, detailed billing information must include all services provided by the carriers. In other words, with detailed billing, the CCTS, which was created by the government to provide services previously provided by the CRTC, will be in a better position to address complaints by Canadian consumers fairly and transparently.

16. Very recently, in July 2011, the NBC network reported that American consumers were being billed annually for telephone services to which they had not formally subscribed, to the tune of over $2 billion annually (see http://www.clicker.com/tv/today-show/consumers-pay-billions-for-unauthorized-phone-charges-1959244/). The report was a follow-up to an investigation of this topic by a U.S. Senate committee. The "fraud" would never have come to light nor been investigated had it not been for the detailed billing that American consumers are used to receiving and that clearly shows all regulatory measures each month on subscribers' bills.

17. In another dissenting opinion I wrote (http://www.crtc.gc.ca/eng/archive/2010/2010-622.htm), I noted that Canadian consumers who are billed for the distribution of broadcasting services unknowingly contribute up to 6.5 percent of monies to various funds (the Canada Media Fund, community television programming, and the Local Programming Improvement Fund), because they do not receive detailed billing worthy of that name! And yet these contributions total close to $500 million each year, which is equivalent to half of the government's contribution to the Canadian Broadcasting Corporation. In short, Canada's 11 million cable and satellite service subscribers are still left in the dark about how much they are personally contributing to the Canadian broadcasting system. And now, more than 40 years after its creation,

the Commission refuses to require, on behalf of consumers, full transparency concerning costs for broadcasting services that involve spending on Canadian content. It is therefore not surprising that the Commission is once again on the defensive when it comes to requiring carriers operating in deregulated markets to provide their subscribers with detailed billing of their services. For now, I remain the only one of 13 commissioners advocating for full transparency for both broadcasting and telephone services.

18. Unless there is proof of wrongdoing by the carriers, in which case the Commission might have been persuaded to act forcefully, we are faced with a laissez-faire philosophy that may encourage the carriers to reveal their costs to their subscribers or to hide them, depending on their mood at the time. Thus, when the CRTC created the Local Programming Improvement Fund (LPIF) two years ago, for the first time, Canadian subscribers were able to see the impact of a regulatory measure on their bill thanks to a completely arbitrary decision by the broadcasting distribution undertakings (1.5 percent of their cable or satellite bill went to the LPIF, which represents over $100 million annually).

19. It is "market forces" that did this. And that time, it was a good thing, both for the carriers and for consumer information! In this era of vertical integration, both telephone and broadcasting distribution services are often shown on the same bill, and it is precisely this lack of transparency, subject to the vagaries of "market forces," against which I am speaking out. I believe in the market. I have always believed in it, as my career shows. However, we have to know where to draw the line when the interests of consumers can be put at risk by the carriers, who, let's admit it, are often more concerned with the interests of their shareholders.

Conclusion

20. With this decision, the present Commission is confirming previous decisions to no longer require ILECs to provide their customers with detailed monthly billing in deregulated markets. It is thus succumbing to a rose-coloured view of "market forces," one to which I generally subscribe but not when it comes to information to consumers, which, in my opinion, is an absolute priority in carrying out my mandate.

21. The growth of a competitive environment is based *a priori* on consumers' ability to verify at any time that their bill is correct, not only to manage their telephone service more effectively, but also to immediately contest any billing error.

22. For these reasons, only detailed billing that is mandatory for all providers and for all markets can assure all Canadian consumers that they are being correctly informed every month about the services for which they are being billed.

23. In this context, I am submitting this dissenting opinion (the fifteenth since my appointment in August 2007) against the Commission's decision not to require detailed billing for customers in forborne markets. As in my previous opinions (listed below), I am guided in this opinion by the simple yet fundamental principle that has always guided my opinions: transparency, transparency, nothing but transparency.

List of 14 dissenting opinions

- *Addition of FUEL TV to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Regulatory Policy CRTC 2011-289, 3 May 2011

- *Call for applications for licences to operate a French-language general interest pay television service,* Broadcasting Notice of Consultation CRTC 2010-860, 19 November 2010

- *Criteria for assessing applications for mandatory distribution on the digital basic service*, Broadcasting Regulatory Policy CRTC 2010-629, 27 August 2010

- *Community television policy,* Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010

- *AUX TV – Category 2 specialty service*, Broadcasting Decision CRTC 2010-223, 21 April 2010

- *The implications and advisability of implement a compensation regime for the value of local television signals: A report prepared pursuant to section 15 of the* Broadcasting Act, 23 March 2010

- *Reconsideration of Broadcasting Decision 2008-222 pursuant to Orders in Council P.C. 2008-1769 and P.C. 2008-1770*, Broadcasting Decision CRTC 2009-481, 11 August 2009

- *Video-on-demand service*, Broadcasting Decision CRTC 2008-366, 23 December 2008

- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services,* Broadcasting Public Notice CRTC 2008-100, 30 October 2008

- *Licensing of new radio stations to serve Ottawa and Gatineau*, Broadcasting Decision CRTC 2008-222, 26 August 2008, as amended by *Licensing of new radio stations to serve Ottawa and Gatineau – Correction,* Broadcasting Decision CRTC 2008-222-1, 28 August 2008

- *Change in the effective control of TQS inc. and licence renewals of the television programming undertakings CFJP-TV Montréal, CFJP-DT Montréal, CFAP-TV Québec, CFKM-TV Trois-Rivières, CFKS-TV Sherbrooke, CFRS-TV Saguenay and of the TQS network*, Broadcasting Decision CRTC 2008-129, 26 June 2008

- *CRTC Report to the Minister of Canadian Heritage on the Canadian Television Fund (Appendix 2)*, as announced in *CRTC submits report on the Canadian Television Fund*, News release, 5 June 2008

- *Licensing of new radio stations to serve Kelowna, British Columbia*, Broadcasting Decision CRTC 2008-62, 14 March 2008

- *CIGR-FM Sherbrooke – Acquisition of assets*, Broadcasting Decision CRTC 2007-435, 24 December 2007