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

Telecom Decision CRTC 2013-336

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Ottawa, 16 July 2013

Bell Aliant Regional Communications, Limited Partnership; Bell Canada; and Télébec, Limited Partnership – Application to increase the price ceiling for local payphone calls

File number: 8650-B54-201200469

In this decision, the Commission denies the application filed by Bell Aliant, Bell Canada, and Télébec to increase the price ceiling for payphone rates to $1.00 for local cash calls and to $2.00 for local non-cash calls.

Concurrent with the release of this decision, the Commission issues Telecom Notice of Consultation 2013-337, in which it initiates a fact-finding process to collect information on the role of payphones in the Canadian communications system, and Telecom Notice of Consultation 2013-338, in which it calls for comments on whether it is appropriate to prohibit incumbent local exchange carriers from removing the last payphone in a community, pending the outcome of the above-referenced fact-finding process and, if required, any related follow-up process.

Background

1. Payphone service provides Canadians with access to public telephones for the purpose of making local and long distance calls, and is offered at various indoor and outdoor locations throughout Canada. Payphone service is offered at the discretion of the payphone provider, in that it is the provider who decides the location and number of payphones available in any given area. Payphones accept various means of payment including coins, credit cards, calling cards, or prepaid phone cards. Some payphone calls, such as 9-1-1 and calls to toll-free numbers, are provided at no charge to the user.

2. In Telecom Decision 98-8, the Commission established a regulatory framework that allowed for competition in the local payphone market in order to stimulate service innovation and increase customer choice. Prior to the introduction of this framework, payphone service was only provided by incumbent local exchange carriers (ILECs) within their respective operating territories. At that time, payphone service was considered to be a valuable complement to basic service, and the Commission encouraged the ILECs to ensure its widespread availability and accessibility at affordable rates.

3. In 1998, when the competition framework was introduced, the Commission considered that ILECs would remain dominant in the local payphone market for the foreseeable future. Today, ILECs continue to be the primary providers of payphone service across Canada and, as a result, the Commission continues to regulate the ILECs' local payphone rates under a price cap regime.[1] Currently, ILECs have the flexibility to charge up to a maximum rate of $0.50 for a local cash call, and up to a maximum rate of $1.00 for a local non-cash call.[2]

4. The Commission last reviewed the accessibility of payphones to Canadians in Telecom Decision 2004-47. The Commission concluded at the time that although demand for payphone service was declining, it was still an important public service that wireless services had not yet rendered obsolete. In that decision, the Commission, among other things, also established a notification process for when the last payphone in a community is scheduled for removal.[3] This notification process was imposed only on certain ILECs.[4]

Application

5. The Commission received an application from Bell Aliant Regional Communications, Limited Partnership; Bell Canada; and Télébec, Limited Partnership (collectively, Bell Canada et al.), dated 17 January 2012, requesting that the Commission grant these companies the flexibility to increase their payphone rates up to a maximum of $1.00 for a local cash call and up to a maximum of $2.00 for a local non-cash call.

6. The Commission received approximately 50 interventions regarding Bell Canada et al.'s application from individual citizens and organizations including the Public Interest Advocacy Centre (PIAC) and l'Union des consommateurs (l'Union).

7. The public record of this proceeding, which closed on 18 January 2013, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Positions of parties

8. Bell Canada et al. submitted that rate increases are needed in order to recover the costs associated with upgrading their payphones to accept the new one dollar coin issued by the Royal Canadian Mint in 2012. They also submitted that the payphone business is declining as a result of increased wireless phone usage, and that declining

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1 Price cap regulation generally places upward constraints on prices that a company can charge its customers.

2 Non-cash calls include calls using calling cards or commercial credit cards.

3 The notification process requires (i) a 60-day written notification to the location provider and to the local government, (ii) a notice posted on the payphone scheduled for removal at least 60 days prior to removal, and (iii) a notice placed in the local newspaper at least 60 days prior to removal.

4 The notification process currently applies to Bell Aliant Regional Communications, Limited Partnership; Bell Canada; MTS Inc.; Saskatchewan Telecommunications; Télébec, Limited Partnership; and TELUS Communications Company.

profitability related to less payphone usage has left them with no choice but to remove payphones from service.

9. Bell Canada et al. indicated that if payphone rates were permitted to increase, revenues would likely improve, which would slow the rate at which payphones are being removed. They submitted that it is their goal to minimize the number of payphones that are removed from service, and that past initiatives to mitigate losses as a result of the declining payphone usage and profitability were unsuccessful. Moreover, they stated that they would experiment with various rate levels within the price ceiling in yet-to-be identified markets, and would not increase rates in such a manner that would result in excessive call curtailment.

10. Bell Canada et al. stated that, without a rate increase, they would proactively remove payphones that do not generate sufficient revenue to justify the upgrade required to make them compatible with the new one dollar coin.

11. In opposing Bell Canada et al.'s application, PIAC argued that Bell Canada et al. are not seeking to recover the costs of payphone upgrades, but instead seek to bring their costs more into line with revenues on an aggregate basis. PIAC noted that Bell Canada et al. provided no information on various socio-economic groups' use of payphones. PIAC submitted that the proposed price increases will disproportionately affect lower-income Canadians who are least able to afford sudden large increases in their expenses, and that these users, who have few options, will continue to use payphones despite the increases while others with more means will have other options.

12. PIAC submitted that unanticipated costs associated with upgrading payphones to accept the new one dollar coins would not qualify as an exogenous adjustment under the price cap regime.[5] PIAC argued that there is therefore no reason why Bell Canada et al. should not have to absorb such costs as a cost of doing business in payphones. PIAC also submitted that approval of the rate increases is neither in the interest of consumers (especially payphone-reliant consumers), nor is it in accord with the objectives of the *Telecommunications Act* (the Act), and that the rate increases must be denied unless and until the Commission can be satisfied that the social and economic needs of these payphone-reliant users can be met.

13. L'Union submitted that the economic issues raised by Bell Canada et al. cannot be determinative in disposing of the proposed rate increases. L'Union stated that the Commission must consider the accessibility of public telecommunications services, in light of the policy objectives set out in section 7 of the Act to render reliable and

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[5] Under the price cap regime, an exogenous adjustment allows a company to raise rates for services beyond approved limits in order to recover costs associated with events that are outside of the company's control. The company could request an exogenous adjustment for costs related to an event that satisfied the following criteria:

a) it is a legislative, administrative, or judicial action that is beyond the control of the company;
b) it is addressed specifically to the telecommunications industry; and
c) it has a material impact on the company.

affordable telecommunications services accessible to Canadians in both urban and rural areas, and to respond to the economic and social requirements of users.

14. L'Union argued that there is insufficient information on the record of this proceeding to approve Bell Canada et al.'s request for the above-referenced rate increases. L'Union argued that if the Commission is to consider the profitability of public payphones, it is necessary to initiate a broader proceeding to consider all the relevant issues raised by a proposed rate increase, including the issue of affordability and accessibility of public payphones. PIAC also submitted that a separate proceeding is warranted to consider more generally the economic and social barriers that vulnerable consumers experience when accessing public telecommunications networks.

15. Further opposition was expressed by several individuals, including those representing Women in Crisis (Algoma) Inc. and Canada Without Poverty, who were of the view that a price increase would further marginalize vulnerable Canadians who are likely the most common users of payphones.

Commission's analysis and determinations

16. The Commission recognizes that Bell Canada et al. must upgrade their payphones to accept the new Canadian coinage issued in 2012. However, the Commission considers that costs incurred as a result of changes to currency are normal costs of conducting business in an industry that relies on coins. Since the costs for these upgrades are not unique to the telecommunications industry, the Commission considers that they do not qualify for recovery under the current price cap regime. Further, based on the record of this application, the Commission finds that the recovery of costs associated with the new Canadian coinage is not an appropriate justification to modifiy the existing pricing rules for payphones.

17. The Commission notes that Bell Canada et al. argued that rate increases would improve revenues and slow the rate at which payphones are removed from service. The Commission also notes that these same arguments were made in support of proposed rate increases for payphones in 2006, which were later approved.[6]

18. However, the record of this proceeding indicates that after payphone rates were increased in 2007, demand for Bell Canada et al.'s payphone service and revenues generated by the service dropped considerably, and a significant number of payphones were removed from service on an annual basis. In addition, the Commission notes that Bell Canada et al. filed detailed costing data in this proceeding which indicated that the cost of providing payphone service exceeds revenues.

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6 See Telecom Decision 2007-27.

19. The Commission considers that, based on its annual monitoring data, the other ILECs' payphone services are likely operating under similar circumstances. The Commission also considers that a significant number of Bell Canada et al.'s payphones, as well as payphones in the territories of other ILECs, will likely continue to be removed from service in response to declines in revenues and demand, regardless of rates charged for payphone services. In light of the above, the Commission concludes that it is necessary and appropriate to investigate how this decline in payphones is affecting Canadians who continue to rely on payphones either as a basic or complementary telecommunications service.

20. The Commission notes that, in Telecom Decision 2004-47, it concluded that although wireless service could constitute an alternative method for many Canadians, it was not an affordable option for all. The Commission also found that certain segments of the population, specifically low-income Canadians and those without access to basic residential service, were more likely to use payphone service for important personal and emergency calls.

21. In addition, the Commission recognized in that decision that payphones were crucial in rural and remote communities, where consumers may not have access to basic residential service and where telecommunications service providers may not offer wireless services. Consequently, the Commission imposed the regulatory requirement for certain ILECs to notify the public when the last payphone in a community is scheduled for removal.

22. The Commission notes that there have been substantial changes in the telecommunications industry since the last time it collected detailed data and information about payphones and their users. Wireless services have now been adopted by the majority of Canadians, and advanced technologies and services are now widely available. However, the Commission notes that there is no information on the record of this proceeding indicating the extent to which the widespread availability of advanced technology has affected the demand for payphone service, particularly among lower-income earners, and persons living in rural and remote communities.

23. The Commission considers that, in these circumstances, additional data is required to assess the extent to which Canadians now rely on payphones. The Commission considers that this information will allow it to assess what impact the decline in payphone availability, and any proposed increases to payphone rates, would have on Canadians and what future regulatory action, if any, may be required.

24. In light of all of the above, the Commission **denies** Bell Canada et al.'s application to increase the price ceiling for local payphone calls. Concurrent with the release of this decision, the Commission issues Telecom Notice of Consultation 2013-337, in which it initiates a fact-finding process to collect information on the use of payphones by Canadians for the purpose of assessing the impact of possible rate increases and removals of payphones, as well as to clarify the role of payphones in Canada.

25. With respect to the removal of the last payphone in a community, the Commission notes that it has imposed a notification requirement only on certain ILECs. Given the significant decline in the availability of payphones since Telecom Decision 2004-47 was issued, the Commission considers that it is not clear whether this policy continues to ensure access to payphones to meet the requirements of Canadians, particularly low-income Canadians and those who live in rural and remote areas. In light of the above, the Commission will consider whether it would be appropriate to prohibit all ILECs from removing the last payphone in a community as an interim measure, pending the conclusion of its fact-finding process and, if required, any related follow-up process.

26. Accordingly, in Telecom Notice of Consultation 2013-338, also issued today, the Commission calls for comments on the issue of the removal of the last payphone in a community.

Policy Direction

27. The Policy Direction[7] 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 paragraphs 1(*a*), (*b*), and (*c*) of the Policy Direction.

28. The Commission considers that its denial of the request by Bell Canada et al. to grant these companies flexibility to increase their payphone rates advances the policy objectives set out in paragraphs 7(*b*), (*f*), and (*h*) of the Act.[8] The Commission notes that in this decision it has recognized that some consumers may continue to rely on payphones for basic service, and that they may not be able to afford further increases to the rates charged for that service. The Commission considers that its determinations in this decision effectively respond to these consumers' need for access to telecommunications service. In light of the foregoing, the Commission considers that, in accordance with subparagraphs 1(*a*)(ii) and 1(*b*)(ii) of the Policy Direction, its determinations in this proceeding (i) interfere with the operation of market forces to the minimum extent necessary to meet the policy objectives of the Act, and (ii) neither deter economically efficient competitive entry nor promote economically inefficient competitive entry into the payphone market.

Secretary General

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[7] *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

[8] The cited policy objectives of the Act are
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.

Related documents

- *Removal of the last payphone in a community*, Telecom Notice of Consultation CRTC 2013-338, 16 July 2013

- *Fact-finding process on the role of payphones in the Canadian communications system*, Telecom Notice of Consultation CRTC 2013-337, 16 July 2013

- *Price cap framework for large incumbent local exchange carriers,* Telecom Decision CRTC 2007-27, 30 April 2007

- *Access to pay telephone service*, Telecom Decision CRTC 2004-47, 15 July 2004

- *Local pay telephone competition*, Telecom Decision CRTC 98-8, 30 June 1998