



Telecom Regulatory Policy CRTC 2016-295

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Application of certain consumer safeguards for payphones directly to competitive payphone service providers

*The Commission **directs** competitive payphone service providers (CPSPs), as a condition of providing service, to abide by all consumer safeguards with respect to the notification of rates for non-cash payphone calls.*

*The Commission **retains** the condition imposed on incumbent local exchange carriers (ILECs) that operate payphones requiring them to include the existing safeguards in their tariffs and contracts with CPSPs. Further, the Commission **directs** these ILECs to include the new safeguard in their tariffs and contracts with CPSPs as well.*

*Finally, the Commission **directs** CPSPs to report on their implementation of these safeguards within 12 months of the date of this decision.*

With this decision, the Commission ensures that Canadians will be able to make informed decisions when making non-cash payphone calls on all payphones regardless of the provider.

Background

Notification requirements for non-cash calls

1. The Commission established consumer safeguards with respect to the notification of rates for non-cash payphone calls in Telecom Order 95-316 and Telecom Decision 98-8, as follows (the existing safeguards):
 - At each payphone they operate, competitive payphone service providers (CPSPs) must prominently display rates for local calls and any surcharge, markup, or location charges not included in the price of the call.
 - For operator-handled payphone calls, the incumbent local exchange carriers (ILECs) and CPSPs are to provide, when requested by the customer, the rates and charges for a call and alternative billing methods available to customers.
2. In Telecom Regulatory Policy 2015-546, the Commission found that the existing safeguards for local non-cash payphone calls were sufficient. However, the Commission also found that the existing safeguards for long distance non-cash payphone calls were not sufficient. Accordingly, the Commission directed all ILECs to make detailed information available to consumers regarding the rates and other fees charged by or on behalf of the payphone

provider with respect to long distance non-cash payphone calls.¹ The ultimate goal of this requirement is to safeguard consumers by enabling them to obtain the information necessary to make an informed decision about their long distance non-cash payphone calls, and to lower the possibility of bill shock. The Commission provided a non-exhaustive list of ways that a provider might satisfy this obligation (the new safeguard).

3. The Commission also directed ILECs to file, within six months from the date of that decision, information on the means they intend to use to implement the new safeguard, how the chosen means would satisfy the requirement, and the timeline for implementation of the chosen means.
4. The above-mentioned safeguards are imposed on ILECs by virtue of section 24 of the *Telecommunications Act* (the Act), which allows the Commission to impose conditions on the offering and provision of telecommunications services by Canadian carriers.²
5. Until recently, the Commission did not have the authority to directly impose these conditions on non-carriers, that is, providers other than Canadian carriers that include CPSPs.³ Instead, where it was considered necessary, the Commission directed the underlying carriers that provide services to non-carriers to ensure through their tariffs or contractual arrangements that the non-carriers were subject to these conditions.⁴
6. As a result of the *Economic Action Plan 2014 Act, No. 2*,⁵ the Act was amended to include new section 24.1,⁶ which gives the Commission the power to impose directly on non-carriers conditions related to the offering and provision of telecommunications services.

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7. In Telecom Regulatory Policy 2015-546, the Commission concluded that the new safeguard should be applied to CPSPs, but stated that it would be more appropriate to determine how it should be applied in the context of a follow-up proceeding.
8. In Telecom Notice of Consultation 2016-103, the Commission put forward the preliminary view that direct application of both the existing and new safeguards to CPSPs may be

¹ Detailed rate information includes connection fees, per-minute rates, and any other charges that would be charged to the consumer by or on behalf of the ILEC for a long distance non-cash payphone call.

² The Commission has the authority to impose conditions on any Canadian carrier that offers telecommunications services to potential customers, or that provides telecommunications services to customers.

³ A non-carrier that provides telecommunications services is commonly referred to as a “reseller” of telecommunications services. A reseller sells or leases a telecommunications service provided by a Canadian carrier to the reseller on a wholesale basis.

⁴ For example, the existing safeguards are applied to CPSPs indirectly, through a section 24 condition on the underlying carriers.

⁵ This was originally Bill C-43, which received royal assent on 16 December 2014.

⁶ Section 24.1 of the Act states that the offering and provision of any telecommunications service by any person other than a Canadian carrier are subject to any conditions imposed by the Commission, including those relating to (a) service terms and conditions in contracts with users of telecommunications services; (b) protection of the privacy of those users; (c) access to emergency services; and (d) access to telecommunications services by persons with disabilities.

appropriate, as it would allow the Commission to directly impose compliance measures on CPSPs in response to non-compliance with these safeguards. Accordingly, the Commission directed CPSPs to show cause why the existing and new safeguards should not directly apply to them.

9. In that notice, the Commission also invited comments on the following questions:
 - Should the Commission remove the condition imposed on Canadian carriers requiring them to include the existing safeguards in their tariffs and contracts with CPSPs?
 - Should the Commission impose a condition on Canadian carriers requiring them to include the new safeguard in their tariffs and contracts with CPSPs?
 - Should the Commission require that CPSPs report on (i) the means they intend to use to ensure the new safeguard is implemented, (ii) how this approach will ensure that all potential payphone users have an opportunity to obtain information about detailed rate information necessary to make an informed decision, and (iii) the timeline for the implementation of the selected approach, as ILECs were required to do in Telecom Regulatory Policy [2015-546](#) and, if so, what deadline for such a report would be appropriate?
10. The Commission received interventions from Bell Canada, TELUS Communications Company, and l'Union des consommateurs (l'Union).
11. The public record of this proceeding, which closed on 28 April 2016, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Issues

12. The Commission has identified the following issues to be addressed in this decision:
 - Should the Commission impose the existing and new safeguards directly on CPSPs?
 - Are conditions on ILECs requiring them to include the safeguards in their tariffs and contracts with CPSPs necessary?
 - What reporting requirements are appropriate for CPSPs?

Should the Commission impose the existing and new safeguards directly on CPSPs?

13. All of the interveners supported direct application of the safeguards to CPSPs. In so doing, they highlighted the importance of symmetric regulation, arguing that safeguards should be available to all consumers regardless of their geographic location or type of service provider.

Commission's analysis and determinations

14. Applying the existing and new safeguards directly to CPSPs would be consistent with, and symmetrical to, the Commission's regulation of the ILECs, which are already subject to such obligations. Further, it will provide the Commission with greater flexibility with regard to the investigation and enforcement of these safeguards.
15. In light of the above, and pursuant to section 24.1 of the Act, the Commission **directs** all persons other than Canadian carriers, who offer or provide payphone services, as a condition of offering and providing such services, to abide by the existing and new safeguards.

Are conditions on ILECs requiring them to include the safeguards in their tariffs and contracts with CPSPs necessary?

16. Bell Canada argued that conditions on the underlying ILECs were not necessary. It submitted that the Commission is better suited than the ILECs to monitor and enforce compliance by CPSPs with the safeguards and that removing the underlying ILEC conditions would make the regulatory process more efficient.
17. L'Union argued that if the ILECs were subject to such conditions, this would provide additional incentive for the CPSPs to comply with the safeguards.

Commission's analysis and determinations

18. There was no evidence on the record of this proceeding that the underlying ILECs would incur more than minimal incremental resource implications if the condition to include the existing safeguards in their tariffs and contractual arrangements with CPSPs was retained and expanded to include the new safeguard.
19. In addition, such conditions constitute a valuable mechanism by which CPSPs can be better informed of their obligations and further motivated to comply. As a result, such conditions will ultimately benefit consumers and support their ability to make informed choices with respect to non-cash long distance payphone calls, no matter what type of service provider they choose.
20. In light of the above, the Commission **retains** the condition imposed on ILECs that operate payphones requiring them to include the existing safeguards in their tariffs and contracts with CPSPs. The Commission also **directs**, pursuant to section 24 of the Act, that as a condition of offering and providing telecommunications services to persons who provide any payphone services, all ILECs include the new safeguard in their tariffs and contracts with CPSPs.

What reporting requirements are appropriate for CPSPs?

21. Both Bell Canada and l'Union supported a reporting requirement for CPSPs. Bell Canada argued that CPSPs should be subject to the same reporting requirement as ILECs, as this would ensure a symmetrical application of the safeguards and provide better protection for consumers. L'Union submitted that CPSPs should be required to report on the methods used to comply with the safeguards within the shortest possible time frame, in order to avoid a

situation in which consumers are deprived of information necessary to make informed decisions.

Commission's analysis and determinations

22. Applying reporting requirements to CPSPs will provide the Commission with the information it needs to ensure that CPSPs understand their obligations and that the safeguards are implemented by all providers of payphone service across Canada. However, the Commission recognizes that many CPSPs may have limited resources and that greater flexibility in the reporting timelines may be required. As such, the Commission has increased the time allotted to twelve from six months with regard to the reporting obligations listed below.
23. Pursuant to section 24.1 of the Act, the Commission **directs** all persons other than Canadian carriers, who offer or provide payphone services, as a condition of offering and providing such services, to file, within twelve months of the date of this decision, (a) the means they will use to implement the new safeguard, (b) how this approach will ensure that all potential users have an opportunity to obtain information about detailed rate information necessary to make an informed decision, and (c) the timeline for implementation.

Policy Direction

24. The Commission is required, in exercising its powers and performing its duties under the Act, to implement the policy objectives set out in section 7 of the Act in accordance with the Policy Direction.⁷
25. Bell Canada submitted that it would be consistent with the Policy Direction to apply the safeguards directly on CPSPs, to require CPSPs to report in the same manner as ILECs, and to remove conditions on ILECs requiring them to insert the safeguards in their tariffs and contracts with CPSPs.
26. In Telecom Regulatory Policy 2015-546, the Commission noted that its determinations regarding the new safeguard would advance the policy objectives set out in paragraphs 7(a), (b), (f), and (h) of the Act.
27. With the present decision, the Commission has furthered the symmetrical application of the safeguards across Canada by imposing the safeguards directly on all providers of payphone services, and by requiring all such providers to report on their implementation progress, regardless of the technology they use, the geographic market in which they operate, and their size, consistent with subparagraph 1(b)(iii) of the Policy Direction.
28. With respect to the conditions requiring ILECs to insert the safeguards in their tariffs and contracts with CPSPs, this measure is consistent with the Policy Direction by, for example, interfering with competitive market forces to the minimum extent necessary to meet the

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

policy objectives and by being efficient and proportionate with respect to the measure's purpose of enabling consumers to obtain the information necessary to make an informed decision about their long distance non-cash payphone calls.

Secretary General

Related documents

- *Application of certain consumer safeguards for payphones directly to competitive payphone service providers*, Telecom Notice of Consultation CRTC 2016-103, 17 March 2016
- *Consumer safeguards for payphones – Notification of rates for non-cash payphone calls*, Telecom Regulatory Policy CRTC [2015-546](#), 10 December 2015
- *Local pay telephone competition*, Telecom Decision CRTC [98-8](#), 30 June 1998
- Telecom Order CRTC [95-316](#), 15 March 1995