



Telecom Decision CRTC 2013-299

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Ottawa, 21 June 2013

AFX Communications – Compensation for toll-free calls payable to competitive payphone service providers

File number: 8650-A121-201210682

In this decision, the Commission sets the default compensation rate for toll-free calls from competitive payphone service providers' payphones at \$0.80 per call.

Introduction

1. Compensation for toll-free calls made from payphones (compensation for toll-free calls) refers to an amount paid to a payphone service provider for each call made from one of its payphones to access the network of a long distance carrier by dialing a toll-free number, such as an 800 service. The amount of compensation to be collected is billed to the long distance carrier and not to the person making the call.
2. In Telecom Decision 98-8, the Commission established the framework for local competition in the payphone service market. In that decision, the Commission adopted the principle that all payphone service providers should be compensated for toll-free calls placed from their payphones to access a long distance carrier's network. The Commission considered it appropriate for competitive payphone service providers to negotiate their compensation rates for toll-free calls with the long distance carriers.
3. In Order 2000-538, the Commission set a default compensation rate for toll-free calls of \$0.25 per call, payable to the competitive payphone service providers in cases where they could not negotiate a mutually acceptable rate with the long distance carriers. That default rate reflected Bell Canada's compensation rate for toll-free calls, as approved by the Commission in Telecom Order 99-1017.
4. The Commission received an application from AFX Communications (AFX), dated 30 August 2012, in which the company proposed to increase the default compensation rate for toll-free calls from \$0.25 to \$0.64 per call, payable to all competitive payphone service providers.
5. The Commission received submissions regarding AFX's application from MTS Inc. and Allstream Inc. (collectively, MTS Allstream) and from TELUS Communications Company (TCC). The public record of this proceeding, which closed on 31 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

6. AFX submitted that competitive payphone service providers' costs have increased since the default compensation rate for toll-free calls was set. AFX filed a cost study in support of its application and indicated that its costs are representative of those of all competitive payphone service providers.
7. MTS Allstream and TCC expressed concern regarding the methodology AFX used in its cost study. These two companies indicated that the information provided in the study does not enable parties to provide relevant input on the study or to test the reasonableness of AFX's costs.
8. MTS Allstream proposed to allow competitive payphone service providers to bill any default compensation rate for toll-free calls, as long as it doesn't exceed the incumbent local exchange carrier's (ILEC) compensation rate in effect for the territory where the payphone is located. MTS Allstream submitted that this approach would sufficiently compensate competitive payphone service providers, whose costs would be lower than those of the ILECs due to their ability to add or remove payphones depending on profitability.
9. TCC proposed that the default compensation rate for toll-free calls for competitive payphone service providers be set according to the higher of the following rates: \$0.25 or the ILEC's compensation rate in effect for the territory where the payphone is located. TCC submitted that this approach would be efficient in terms of processes, would reduce the regulatory burden for the Commission and all other parties, and would ensure that competitive payphone service providers are never at a disadvantage compared to the ILECs.

Commission's analysis and determinations

10. The Commission notes that when it set the competitive payphone service providers' default compensation rate for toll-free calls in 2000, it did not have any information regarding these providers' specific costs.
11. The Commission considers that the large ILECs' costs may not be representative of the competitive payphone service providers' specific costs. For example, the ILECs might be able to benefit from greater economies of scale and productivity gains. The Commission therefore considers that a default compensation rate for toll-free calls based on AFX's costs would better reflect competitive payphone service providers' specific costs than a compensation rate set according to an ILEC's rate.
12. The Commission also notes that there are no specific regulatory requirements for establishing the competitive payphone service providers' service costs. In addition, these providers do not generally have access to the necessary resources to prepare cost studies with the same rigour as the ILECs. The Commission considers that it would not be appropriate to ask competitive payphone service providers to provide

cost studies that are as detailed as those provided by the ILECs, since such an approach would impose an inappropriate regulatory burden on these providers in these circumstances.

13. The Commission considers that the cost elements included in AFX's cost study relate to the provision of the compensation service for toll-free calls. The Commission also considers that AFX has provided adequate justification to support its proposed costs. However, the Commission considers that, for the reasons set out below, AFX's proposed costs should be modified.
14. When the Commission assesses the costs that a carrier must incur to provide a service to a competitor, it increases these costs using a markup¹ to determine the service rate. This markup represents a contribution to the recovery of the carrier's fixed and common costs – that is, the costs incurred by the carrier that do not vary according to the service offering and that, as such, are not included in the cost study. Fixed and common costs include, for example, costs related to legal, accounting, and advertising services.
15. The Commission notes that AFX did not propose to apply a markup to set the default compensation rate for toll-free calls. However, a markup was applied when this rate was set for the ILECs. The Commission considers it appropriate to apply such a markup in the case of the competitive payphone service providers.
16. The Commission notes that a markup of 25 percent applies to the interconnection services provided by TCC in Quebec and by Télébec, Limited Partnership, as well as to certain interconnection services provided by the small ILECs and by Northwestel Inc. The Commission therefore considers it appropriate to apply a markup of 25 percent to set the default compensation rate for toll-free calls for the competitive payphone service providers.
17. In light of the above, the Commission sets a default compensation rate for toll-free calls of \$0.80 per call, applicable as of the date of this decision. This rate will be payable to the competitive payphone service providers by the long distance carriers and will apply in cases where the parties involved have not agreed on the charging of another rate.

Policy Direction

18. The Policy Direction² states that the Commission, in exercising its powers and performing its duties under the *Telecommunications Act* (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.

¹ This markup is defined as the difference between a service's cost and its rate. For example, if the markup is 15 percent, the rate of a service that costs \$100 would be \$115.

² *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

19. The Commission considers that a default compensation rate for toll-free calls of \$0.80 per call will provide just and reasonable compensation to the competitive payphone service providers for the access that they offer their customers to the long distance carriers' network, without creating unreasonable financial repercussions for the long distance carriers. The Commission also considers that this default compensation rate will help these providers maintain their payphones and, in turn, customers' access to payphones. The Commission therefore considers that its decision advances the policy objectives set out in paragraphs 7(c), (f), and (h) of the Act.³
20. In light of the above, the Commission considers that its determinations are consistent with the Policy Direction requirements that the Commission should (i) rely on market forces to the maximum extent feasible as the means of achieving the policy objectives noted above, 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.

Secretary General

Related documents

- *Compensation for toll-free calls payable to competitive payphone service providers*, Order CRTC 2000-538, 14 June 2000
- *Pay telephone compensation per call for toll-free calls*, Telecom Order CRTC 99-1017, 22 October 1999
- *Local pay telephone competition*, Telecom Decision CRTC 98-8, 30 June 1998

³ The cited policy objectives are

7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;

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.