



Telecom Regulatory Policy CRTC 2013-708

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Route reference: Telecom Notice of Consultation 2013-338, as amended

Ottawa, 17 December 2013

Removal of the last payphone in a community

File number: 8650-C12-201310078

In this decision, the Commission prohibits all incumbent local exchange carriers from removing the last payphone in a community pending the conclusion of its fact-finding process initiated in Telecom Notice of Consultation 2013-337 and, if required, any related follow-up process. Requests for exemptions to this measure will be considered by the Commission on a case-by-case basis.

Background

1. In Telecom Decision 2004-47, the Commission determined that payphones provide an important public service, especially for Canadians who earn low income and those that live in rural and remote communities. In order to address concerns about the impact that the removal of the last payphone in a community may have on these Canadians, the Commission established a notification process as outlined below.
2. Certain incumbent local exchange carriers (ILECs) are required to inform the public in instances where the last payphone in a community¹ is scheduled for removal. This 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. The notification process applies to Bell Aliant Regional Communications, Limited Partnership (Bell Aliant); Bell Canada; MTS Inc. (MTS); Saskatchewan Telecommunications (SaskTel); Télébec, Limited Partnership (Télébec); and TELUS Communications Company (TCC).
3. In Telecom Decision 2013-336, the Commission denied an application by Bell Aliant, Bell Canada, and Télébec to increase the price ceiling for local payphone calls. However, the Commission's decision recognized that there had been substantial changes in the telecommunications industry since the last time it collected detailed data and information about payphone usage nearly a decade ago. Accordingly, the Commission issued Telecom Notice of Consultation 2013-337 to

¹ In Telecom Decision 2004-47, the Commission noted that ILECs have established geographic administrative areas within their territories used to define local exchanges, referred to as wire centres. The Commission therefore considered that a community should be defined, at a minimum, as an area served by a wire centre.

initiate a fact-finding process to investigate how payphones are being used, including the impacts, if any, that payphone removals or proposed rate increases may have on Canadians.

4. At the same time, the Commission issued Telecom Notice of Consultation 2013-338, in which it invited parties to file comments, with supporting rationale, as to whether the Commission should prohibit all ILECs² from removing the last payphone in a community pending the conclusion of the Commission's fact-finding process and, if required, any related follow-up process.

Telecom Notice of Consultation 2013-338

5. The Commission received over 170 interventions relating to Telecom Notice of Consultation 2013-338 from individual citizens, municipalities, consumer and community organizations, one territorial government, and all the ILECs identified in Appendix A of Telecom Notice of Consultation 2013-338.
6. The public record of this proceeding, which closed on 6 September 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

7. Bell Aliant, Bell Canada, Dryden Municipal Telephone System (DMTS), KMTS, NorthernTel, Limited Partnership (NorthernTel), Northwestel Inc., and Télébec (collectively, Bell Canada et al.); MTS; SaskTel; and TCC submitted that the current notification mechanism, as outlined in Telecom Decision 2004-47, provides an appropriate and proportionate mechanism for payphone removals that allows companies to adapt to changing pressures while ensuring community involvement in the process. Bell Canada et al. suggested that extending the notification requirement to the small ILECs would represent a more proportionate measure.
8. Many ILECs expressed concern about the workability of an interim measure as payphones are often located on private property (e.g. businesses, schools, and hospitals) and cannot remain on the premises without agreement of the property owner. Payphones are often removed at the request of the property owner or community.
9. The Canadian Independent Telephone Company Joint Task Force (JTF), filing on behalf of the majority of the small ILECs,³ submitted that the imposition of a new regulatory measure before the Commission has concluded its fact-finding process is premature and would make it impossible to guarantee that the measure complies

² See Appendix A of Telecom Notice of Consultation 2013-338 for a list of all the ILECs.

³ The following small ILECs filed interventions separate from the one filed by the JTF: Amtelecom Limited Partnership, DMTS, KMTS, NorthernTel, People's Tel Limited Partnership, and TBayTel.

with the Policy Direction.⁴ The JTF noted that the small ILECs it represents serve exclusively high-cost exchanges with few locations for payphone placement, and therefore require flexibility to make appropriate business decisions pertaining to removals. In this regard, the JTF indicated that, in order to provide communities with continued access to payphone service, some small ILECs make local courtesy telephones available in recognition that public telephone service is an important feature for some communities.

10. TCC submitted that it has not removed the last payphone in a community since the issuance of Telecom Decision 2004-47 and has no plans to do so in the future as payphones, including those that are underutilized, are not especially cumbersome to keep in service. MTS indicated that it has never removed the last payphone in a community, but opposed the proposed measure as it is currently upgrading its payphones and is unable to assess the impact this may have on the last payphone in a community.
11. Amtelecom Limited Partnership and People's Tel Limited Partnership, carrying on business as EastLink,⁵ and SaskTel did not object to the proposed interim measure. However, SaskTel did submit that exceptions to the proposed interim measure may be required to account for unique circumstances.
12. The consumer groups party to this proceeding supported the proposed interim measure. The Public Interest Advocacy Centre (PIAC),⁶ in a joint submission with two other consumer groups, submitted that such a measure should be extended to all large and small ILECs. The Consumers Council of Canada argued that payphones are needed for financial and geographical reasons, particularly in rural and remote communities where wireless service is not ubiquitous. The DiversityCanada Foundation (DiversityCanada)⁷ and Vaxination Informatique argued that payphones should be considered a part of a community's public safety infrastructure. In the case of DiversityCanada, it received support for its position from several communities surveyed in northern Ontario.
13. L'Union des consommateurs (l'Union) argued that additional factors, such as geography and population, should be considered when defining a community for the purpose of maintaining access to payphone service. L'Union suggested that the interim measure should be extended to a greater number of payphones, and should require that these payphones be accessible to the public at all times. Further, it urged the Commission to seek a permanent moratorium on the removal of the last payphone in a community.

⁴ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

⁵ EastLink indicated that it voluntarily practices the current notification requirement where the last payphone in a community is scheduled for removal.

⁶ A joint filing was received from the Public Interest Advocacy Centre, the Consumers' Association of Canada, and the Council of Senior Citizens Organizations of British Columbia; in this decision, these consumer groups have been referred to collectively as PIAC.

⁷ DiversityCanada filed a joint intervention with the National Pensioners and Senior Citizens Federation.

14. Several individual citizens, municipalities, and community organizations submitted that, for a variety of reasons, continued access to the last payphone in a community is important. Some individuals, however, were of the view that access to payphones was irrelevant due to the availability of advanced telecommunications technologies.

Commission's analysis and determinations

15. The Commission notes that none of the ILECs provided financial or economic evidence to support arguments that the measure is excessive or disproportionate to its purpose. Further, the Commission notes that more than one ILEC has stated that it has never removed the last payphone in a community, at least since the issuance of Telecom Decision 2004-47, and that some small ILECs provide local courtesy payphones in communities in lieu of removing unprofitable payphones. In light of the above, the Commission considers that a prohibition on removing the last payphone in a community would pose minimal burden on ILECs as it investigates the role of payphones in the Canadian communications system. This interim measure will allow the Commission to examine the broader role that payphones play in the Canadian communications system while maintaining a minimum level of service during the fact-finding process referred to above.
16. The Commission recognizes, however, that in communities with limited options for payphone placement, some ILECs, particularly the small ILECs who generally service fewer payphones, may lack control over payphone placement due to agreements with property owners. The Commission therefore considers that it is appropriate to allow for exceptions only in rare circumstances where it is not feasible to maintain access to payphone service. Accordingly, the Commission will consider requests for an exemption to the measure where
 - the removal of the last payphone in a community is being requested by the property owner or municipality; and
 - an alternate location in that community is not feasible.

Requests to remove the last payphone in a community will be considered by the Commission on a case-by-case basis when it is demonstrated that both of the criteria set out above are met.

17. The Commission notes that some consumer groups, notably l'Union, called into question the definition of community, as set out in Telecom Decision 2004-47. The Commission considers that the issue of defining a community is outside the scope of this proceeding.

Policy Direction

18. The Policy Direction 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.

19. The Commission considers that the measure is efficient and proportionate to its purpose, consistent with subparagraph 1(a)(ii) of the Policy Direction, as it is intended to safeguard consumers' interests, does not pose an economic burden on the ILECs, and would apply where there is no functioning competitive market for payphone service, and therefore advances the policy objectives set out in paragraphs 7(a), (b), and (h) of the Act.⁸ Further, the Commission considers that, by imposing the interim measure on all ILECs, it has implemented the measure in a manner that is symmetrical and competitively neutral, consistent with subparagraph 1(b)(iii) of the Policy Direction.⁹

Secretary General

Related documents

- *Removal of the last payphone in a community*, Telecom Notice of Consultation CRTC 2013-338, 16 July 2013, as amended by Telecom Notice of Consultation CRTC 2013-338-1, 2 August 2013
- *Fact-finding process on the role of payphones in the Canadian communications system*, Telecom Notice of Consultation CRTC 2013-337, 16 July 2013, as amended by Telecom Notice of Consultation CRTC 2013-337-1, 11 September 2013
- *Bell Aliant Regional Communications, Limited Partnership; Bell Canada; and Télébec, Limited Partnership – Application to increase the price ceiling for local payphone calls*, Telecom Decision CRTC 2013-336, 16 July 2013
- *Access to pay telephone service*, Telecom Decision CRTC 2004-47, 15 July 2004

⁸ The cited policy objectives of the Act 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.

⁹ The cited provisions of the Policy Direction are

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