



Telecom Decision CRTC 2015-376

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Wireless Code – Requests for clarification on how the disconnection rules apply to suspensions

*In response to an application from Rogers Communications Partnership, the Commission **clarifies** how the Wireless Code's disconnection rules apply to suspensions. Specifically, the Commission **clarifies** that the disconnection rules apply before the first suspension in a disconnection cycle. Further, the Commission **dismisses** the company's request that providers be permitted to proceed with disconnections outside of the time frames indicated in the Wireless Code because it is not a clarification request, but a request to vary the Wireless Code.*

Introduction

1. In *The Wireless Code*, Telecom Regulatory Policy CRTC 2013-271, 3 June 2013 (the Wireless Code policy), the Commission established the Wireless Code, a mandatory code of conduct for all providers of retail mobile wireless voice and data services (wireless services).
2. The Wireless Code established new rules for wireless service contracts, including how and when wireless service providers (WSPs) can disconnect a customer's service for failure to pay (the disconnection rules).
3. The disconnection rules state that a WSP must notify a customer twice prior to disconnection for failure to pay: at least 14 calendar days before disconnection, and again at least 24 hours before disconnection. These rules indicate the information that needs to be included in the notice (the notification requirements).
4. The disconnection rules also state that WSPs can only disconnect a customer's service during certain time frames: on weekdays between 8 a.m. and 9 p.m. or on weekends between 9 a.m. and 5 p.m., unless the weekday or weekend day precedes a statutory holiday, in which case disconnection may not occur after noon. The applicable time is that of the customer's declared place of residence.
5. The disconnection rules do not apply to all service interruptions or suspensions. As set out in paragraph 297 of the Wireless Code policy, service interruptions when a pre-set spending limit is reached, such as for prepaid service customers or other customers on credit-limited spending programs, do not count as disconnections under the Wireless Code. Customers of prepaid services or those who have agreed to a

service cap clearly understand that continued service is contingent on having an account balance or using less than their cap.

6. The Commissioner for Complaints for Telecommunications Services (CCTS) administers the Wireless Code and reports on related consumer complaints. In its 2014-2015 Mid-Year Report, the CCTS submitted that there were 86 breaches related to the notification requirements of the disconnection rules between 1 August 2014 and 31 January 2015.

Application

7. The Commission received an application from Rogers Communications Partnership (RCP), dated 13 February 2015, in which it requested that the Commission clarify that
 - Section I: Disconnection of the Wireless Code does not apply to suspensions; and
 - WSPs may disconnect customers at any time of the day and not be limited by the time frames set out in the Wireless Code.
8. The Commission received interventions regarding RCP's application from Bell Canada; Bragg Communications Incorporated, operating as Eastlink (Eastlink); and TELUS Communications Company (TCC) [collectively, the WSPs]; the CCTS; the Consumers' Association of Canada (CAC) and the Public Interest Advocacy Centre (PIAC) [collectively, CAC/PIAC]; l'Union des consommateurs (l'Union); Vaxination Informatique (Vaxination); and one individual.
9. The public record of this proceeding, which closed on 16 March 2015, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Issues

10. The Commission has identified the following issues to be addressed in this decision:
 - How do the disconnection rules apply to suspensions?
 - Can service providers disconnect customers outside of the specified time frames?

How do the disconnection rules apply to suspensions?

11. RCP requested that the Commission clarify that the Wireless Code's disconnection rules do not apply to suspensions.
12. RCP noted that a disconnection cycle (i.e. the process that, following a customer's failure to pay, ends in permanent disconnection of their service if the situation is not resolved) can include multiple suspensions. RCP explained that its customers can

enter into a “promise-to-pay” agreement as part of the collection process. When a customer fails to pay their wireless bill, RCP suspends their service. During the suspension, the customer may be offered the option to enter into a promise-to-pay agreement. If they enter into such an agreement, RCP reactivates their service. If the customer fails to pay as promised, service may be resuspended and ultimately disconnected.

13. RCP submitted that, in administering the Wireless Code, the CCTS had concluded that suspensions that occur as part of a disconnection cycle should be considered to be disconnections for the purpose of the disconnection rules.
14. RCP disagreed with this interpretation and argued that the Commission did not intend to have the disconnection rules apply to suspensions, including suspensions that occur as part of a disconnection cycle. RCP submitted that the Commission intended for “disconnection” and “suspension” to be different concepts, in part because the terms were defined individually in the Wireless Code, as follows:
 - Disconnection: the termination of wireless services by a service provider.
 - Suspension: a temporary halt in wireless service that can result from a lack of payment or hitting a pre-determined spending or usage limit. The customer’s account and contract remain in force during a service suspension.
15. RCP submitted that its collection process includes multiple attempts to contact customers whose bills are past due to try to remedy the situation before disconnection occurs. RCP also indicated that customers are always advised that if payment is not made, their service could be temporarily suspended or ultimately terminated.
16. Further, with respect to the confirmed breaches of the disconnection rules that are attributed to RCP, RCP submitted that the CCTS did not consider the notice given to customers that their accounts may be suspended if payment of past due amounts were not made to be adequate notice.
17. RCP submitted that, under the CCTS’s interpretation of the disconnection rules, it would be required to send out notices to almost every customer who misses a payment. The company argued that the number of customers who receive notices each month would increase significantly. RCP submitted that it would be burdensome to provide 14 days’ notice prior to each suspension in a single disconnection cycle.
18. RCP submitted that, if the Commission required that notification be provided for suspensions, it could limit the existing flexible policies and procedures that the company uses when customers fall behind in making their payments, and that the company would be reluctant to offer promise-to-pay agreements to customers.
19. The WSPs generally supported RCP’s request that the Commission clarify that the disconnection rules do not apply to suspensions. The WSPs considered that by defining both terms in the Wireless Code, the Commission intended to make it clear that they are not equivalent. The WSPs indicated that they make multiple attempts to

contact a customer through text messages, phone calls, letters, and emails prior to disconnection. Bell Canada and TCC submitted that applying the notification requirements to suspensions would limit the flexibility of their collection processes.

20. CAC/PIAC, the CCTS, and l'Union generally opposed RCP's request and considered that the disconnection rules should apply to suspensions for non-payment.
21. CAC/PIAC, l'Union, and Vaxination argued that to a consumer, the effect of a suspension that occurs as part of a disconnection cycle is essentially the same as a disconnection: a loss of service. CAC/PIAC and l'Union submitted that wireless service may be the only telecommunications service for some Canadians and that it may also be a substitute for a landline in many cases; therefore, service provider-initiated suspensions could have serious consequences for consumers.
22. The CCTS noted that it considered the following when assessing how to apply the disconnection rules to suspensions:
 - the historic use of the two terms in an interchangeable manner, such as in (i) the Deposit & Disconnection Code, which the Wireless Code policy called for the Wireless Code provisions to be modelled on, and (ii) the policy and regulatory decisions that preceded the Wireless Code, in which the terms "suspension" and "termination" were used together and applied interchangeably;
 - the express objective described in the Wireless Code policy that customers do not have their valued wireless services interrupted without notice; and
 - their assessment of the potential impact on customers of RCP's interpretation of the disconnection rules.
23. L'Union argued that the required notifications, even if applied to both suspensions and disconnections, are not burdensome in number or content. It submitted that notifications are only necessary when the WSP has made the decision that suspension is warranted, not from the moment a bill is past due.
24. The CCTS and l'Union submitted that, based on RCP's description of its collection process, the company may already comply with most of the notification requirements for its suspended customers. In this regard, the CCTS submitted that breaches related to RCP's service were confirmed because RCP could not demonstrate that notices to its customers contained the details mandated by the Wireless Code, not because the attempts to notify the customer were not made.
25. Similarly, CAC/PIAC submitted that, through the WSPs' submissions on the record of this proceeding, it seemed that the WSPs were notifying consumers prior to suspension. CAC/PIAC argued that this practice could stop if the Commission does not clarify that the disconnection rules apply to both suspensions and disconnections.

Commission's analysis and determinations

26. As set out in the Wireless Code policy, "WSPs must make reasonable attempts to notify customers before disconnecting their wireless service. Wireless services have, for many Canadians, become their sole telephone service, which they use to receive important information, for example, about their work, children, and medical appointments."
27. As discussed above, the Wireless Code policy notes that service interruptions due to usage-based or credit-limited services' limits being reached do not count as disconnections under the Wireless Code. However, the Wireless Code policy does not specify how the rules apply to suspensions that occur as part of a disconnection cycle.
28. Suspensions due to a customer reaching a pre-established usage or credit limit are distinct from suspensions due to non-payment. In a case of suspension related to a pre-established usage or credit limit, the agreement entered into between a WSP and a customer ensures that a customer is aware of the conditions that could lead to service being temporarily suspended. In the case of suspension due to non-payment, while the agreement may define the conditions leading to suspension, it cannot contain specific timing for an event that may or may not happen for any given billing period.
29. For a customer, the effect of a suspension that occurs due to non-payment as part of a disconnection cycle is similar to the effect of disconnection, and customers should be informed prior to having their services suspended for non-payment.
30. However, if the disconnection rules were applied to suspensions within a disconnection cycle such that, after a customer fails to comply with their promise-to-pay agreement, WSPs had to wait an additional 14 days prior to suspending service, this would limit the flexibility of the promise-to-pay arrangement. A customer's agreement to a promise-to-pay arrangement should be considered sufficient notice of further potential suspensions in a single disconnection cycle.
31. RCP's concern that the number of notifications it would be required to provide would significantly increase if it were required to notify customers prior to suspensions as part of a disconnection cycle is unfounded. Based on data submitted by Bell Canada and RCP in confidence, the Commission considers that the companies' current notification practices are meeting the timing of the 14-day notice requirement, because the companies contact customers whose bills are past due during the required time frame.
32. Based on the CCTS's submission that breaches were generally confirmed due to notifications not containing all required information, WSPs may need to evaluate the content of the notice they are providing when they contact customers.
33. In light of all the above, the Commission
 - reiterates that WSPs must make reasonable attempts to notify customers before disconnecting their wireless service, as set out in the Wireless Code;

- **clarifies** that the disconnection rules apply to suspensions under certain circumstances, namely when the suspension of service is part of a process of potentially disconnecting a customer's service for non-payment;
- **clarifies**, with respect to how the disconnection requirements apply to suspension for non-payment, that
 - the notification requirements apply in all instances before a disconnection, and in the first instance of a suspension in a disconnection cycle;
 - the customer should be aware of the specific terms leading to further suspensions and disconnection should the customer not pay according to the terms in their promise-to-pay agreement; and
 - should the consumer fulfill the terms of the promise-to-pay agreement, the disconnection cycle is to be considered complete and any future non-payment would start a new disconnection cycle.
- reiterates that, notwithstanding the above, the disconnection rules do not apply to suspensions when a pre-set spending limit is reached, such as for prepaid service customers or other customers on credit-limited spending programs, as set out in the Wireless Code;
- reiterates that, except in exceptional circumstances as defined in the Wireless Code, WSPs are required to notify customers twice prior to disconnection: at least 14 days prior to disconnection, and again at least 24 hours prior to disconnection.

Can service providers disconnect customers outside of the specified time frames?

34. RCP requested that the Commission clarify that WSPs may disconnect wireless service at any time of day, submitting that the hours established in the Wireless Code were consistent with the landline disconnection rules and that, while this made sense in a situation where a technician had to visit the premises, wireless disconnections can occur remotely. RCP submitted that WSPs schedule disconnections for times when disconnections would have the least impact on network traffic, to minimize impacts on consumers. RCP further noted that the service of consumers scheduled for disconnection is already suspended; as such, the time of disconnection has minimal impact on the user. RCP also noted that unlike a landline customer who cannot contact emergency services through 9-1-1 when their service has been disconnected, a wireless customer always has that capability, even after disconnection.
35. TCC noted that it had no comment on this issue, while Bell Canada noted that it had fully implemented policies and procedures to comply with the disconnection rules and, therefore, had no comment.
36. CAC/PIAC, the CCTS, l'Union, and the individual intervener generally submitted that RCP raised no reasons why disconnecting wireless service outside of the approved hours would be in consumers' best interests. L'Union submitted that if the

intent is to get customers to contact the WSP and pay their bills, disconnection during business hours makes more sense. L'Union further submitted that not all emergencies warrant a call to 9-1-1, and that interrupting service outside of business hours could leave some customers with few alternatives.

Commission's analysis and determinations

37. The requirement on the time of day when disconnection may occur set out in the Wireless Code is clear and does not warrant clarification.
38. Further, in 2014, the Commission required WSPs to report on how they had implemented the Wireless Code.¹ As part of this process, the Commission found RCP to be in non-compliance with the disconnection rules with respect to the time of day it carried out disconnections. RCP agreed to come into compliance by the end of October 2014. In a letter dated 22 May 2015, RCP informed the Commission that it had not yet come into compliance. The company submitted that it would need to implement costly system changes to come into compliance, and that the process would take many months. RCP stated that it would not implement any changes until its application regarding clarification of the disconnection rules was resolved.
39. In light of the above, RCP's request is more appropriately characterized as a request to vary the Wireless Code. As noted above, any such requests should be raised during the review of the Wireless Code scheduled to take place during fiscal year 2016-2017.
40. Accordingly, the Commission **dismisses** RCP's request to permit WSPs to disconnect wireless service outside of the time frames set out in the Wireless Code.

Other matters

41. The other issues related to the Wireless Code raised on the record of this proceeding may be addressed during the upcoming review of the Wireless Code, which is planned for fiscal year 2016-2017 as set out in the *CRTC Three-Year Plan 2015-2018*.²

Secretary General

¹ The Commission created an [Implementation Report Card](#) that summarizes the results from all WSPs. The Report Card is based on [Compliance Reports](#) that each WSP filed in 2014 to demonstrate their compliance with the Wireless Code's requirements.

² For more information, refer to the "[Plans and Reports](#)" page of the Commission's website.