



Telecom Regulatory Policy CRTC 2017-235

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Reference: Telecom Notice of Consultation 2016-333

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Disconnection practices between telecommunications service providers

The availability of high-quality telecommunications services in Canada is made possible through a network of interconnected service providers that work together to ultimately deliver services to Canadian end-customers. However, sometimes disputes occur between various service providers, which may result in the disconnection of a service that affects end-customers. The determinations in this decision will help mitigate the impact of such disconnection on Canadian end-customers.

*The Commission **directs** service providers, as a condition of offering and providing any telecommunications services, to notify end-customers at least four business days in advance of the disconnection of telecommunications services by an underlying Canadian carrier or a non-carrier that the service provider relies on to provide services to end-customers, and to provide a copy of such notice to the Commission at the time it is provided to end-customers.*

The Commission expects service providers to use its informal and formal dispute resolution services, as appropriate, to help them work together to avoid or minimize impacts on end-customers.

Introduction

1. In January 2016, an ongoing dispute between a Canadian carrier (as defined in section 2 of the *Telecommunications Act* [the Act], also known as an underlying carrier) and a non-carrier (a person offering and providing telecommunications services other than a Canadian carrier, as set out in section 24.1 of the Act, also known as a reseller) led the Canadian carrier to cease providing certain telephone services to the non-carrier. As a result, telephone services provided by the non-carrier to approximately 27,000 Canadians were disconnected for several days without prior notice. A Commission staff [letter](#) addressing the incident was issued on 8 June 2016.
2. The Commission subsequently issued Telecom Notice of Consultation 2016-333, in which it called for comments on disconnection practices when a provider of telecommunications services (service provider)¹ ceases providing services to another

¹ For the purpose of this decision, the term “provider of telecommunications services (service provider)” refers to Canadian carriers and non-carriers as defined in paragraph 1.

service provider for reasons such as non-payment for services rendered. The Commission's aim was to mitigate the effects of these practices on end-customers, the ultimate users of telecommunications services.

3. The Commission received interventions from Bell Canada; Bragg Communications Incorporated, operating as Eastlink (Eastlink); the Canadian Cable Systems Alliance Inc. (CCSA); the Canadian Independent Telephone Company Joint Task Force (JTF); la Coalition pour le service 9-1-1 au Québec (la Coalition); the Commissioner for Complaints for Telecommunications Services Inc. (CCTS); DERYtelecom inc.; Distributel Communications Limited (Distributel); Iristel Inc. (Iristel); the Province of British Columbia (B.C.); the Public Interest Advocacy Centre (PIAC); Quebecor Media Inc., on behalf of Videotron G.P. (Videotron); Rogers Communications Canada Inc. (RCCI); Shaw Cablesystems G.P. (Shaw); TBayTel; TekSavvy Solutions Inc. (TekSavvy); TELUS Communications Company (TCC); and Zayo Canada Inc. (Zayo) [formerly Allstream Inc.], as well as one individual.
4. The public record of this proceeding, which closed on 6 December 2016, can be found on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Issues

5. The Commission has identified the following issues to be addressed in this decision:
 - Should the Commission impose a regulatory measure requiring service providers to advise their end-customers in the event that they receive a notice of disconnection from the service providers they rely on to provide services to their own end-customers?
 - Should a minimum time frame be imposed for notices of intent to disconnect between service providers?
 - Should service providers be required to advise the Commission each time they issue a notice of intent to disconnect to other service providers?

Should the Commission impose a regulatory measure requiring service providers to advise their end-customers in the event that they receive a notice of disconnection from the service providers they rely on to provide services to their own end-customers?

Positions of parties

6. Bell Canada, Shaw, and TCC shared the view that no new measures are required to protect end-customers. Bell Canada submitted that should the Commission establish new rules concerning the provision of reasonable advance notice to end-customers, these rules should not prevent wholesale service providers from exercising their contractual rights.

7. Distributel argued that clauses could be included in contracts requiring the service provider that serves the end-customer to notify end-customers of a potential disconnection, but that such notice could precipitate mass cancellation of services from that service provider by end-customers. Further, while the consequences of a disconnection can be significant for end-customers, Distributel submitted that in its experience, these situations occur infrequently, and that for the most part, service providers can be relied upon to resolve any dispute in a manner that does not negatively affect end-customers.
8. Zayo submitted that if the Commission determines that regulatory measures are required, it would be in favour of service providers notifying their end-customers of a potential disconnection.
9. Bell Canada and TCC suggested new rules concerning the provision of reasonable advance notice to end-customers if the Commission were convinced that new rules are needed. In addition, other parties proposed other potential new rules. All of these proposals are described below:
 - Bell Canada proposed that a service provider that has received a 30-day notice of disconnection from another service provider should be required, within 14 days of receiving such notice, to provide notice to its own end-customers who would be affected should services be disconnected.
 - La Coalition stated that to ensure the security of Canadians, any obligations should be applied to all communications services that enable (i) end-customers to link directly or indirectly to 9-1-1 services, and (ii) public safety answering points or other emergency interveners to call back callers if the communication is interrupted.
 - Eastlink submitted that Canadian carriers already have clearly defined terms of service that outline the disconnection process for end-customers. It added that if resellers are not already subject to these requirements, they should be.
 - Iristel proposed that a service provider that receives a notice of disconnection from an upstream service provider be required to notify its end-customers, but also, could seek from the Commission a waiver of timely notice to end-customers within five days of receiving the notice of disconnection, if the service provider demonstrates to the Commission that the disconnection poses no risk of service interruption to end-customers.
 - PIAC and TCC suggested extending the [Deposit and Disconnection Code](#),² such that it would apply to telecommunications services other than residential primary exchange services (PES) provided by local exchange carriers (LECs) in forborne markets, and to other service providers.
 - PIAC proposed that disconnected end-customers continue to have access to 9-1-1 services for 30 days after the date of disconnection.

²The Commission approved the [Deposit and Disconnection Code](#) in Telecom Decision 2011-702.

Commission's analysis and determinations

10. Over the years and through several decisions, the Commission has mandated, for certain telecommunications services, that service providers respect notification requirements and associated time frames related to the disconnection³ of their customers (who may be end-customers or other service providers). Currently, those notification requirements and time frames, as identified in Telecom Notice of Consultation 2016-333 and on the record of this proceeding, are as follows:

- Incumbent local exchange carriers (ILECs) are subject to regulatory obligations, including notice requirements, by way of their terms of service, when they intend to suspend or terminate regulated telecommunications services to end-customers and other service providers. Specifically, notice is generally required at least 30 days before suspension or termination of service, and at least 24 hours in advance of when suspension or termination is imminent.
- Pursuant to Telecom Decision 2006-15, the ILECs' terms of service concerning the suspension or termination of a customer's service also apply to the provision of residential stand-alone PES in forborne exchanges. In paragraph 400 of that decision, the Commission stated that the full terms of service remain in force, in a forborne market, for all those services outside the scope of that proceeding, including competitor services.
- Cable companies, pursuant to their Third-Party Internet Access (TPIA) tariffs,⁴ and competitive local exchange carriers (CLECs), pursuant to the CLEC Model Tariff,⁵ are required to provide their customers (i.e. other service providers), with notice of disconnection at least 30 days before suspension or termination of service, and at least 24 hours in advance of when suspension or termination is imminent.
- LECs are subject to the **Deposit and Disconnection Code**, which sets out the grounds for disconnection and notice provisions for residential PES provided by LECs in forborne markets. This Code, which is administered by the CCTS, requires notice to be provided at least 14 days prior to disconnection, and at least 24 hours in advance of when disconnection is imminent.
- Wireless service providers are subject to the regulatory obligations, including notice requirements, set out in the Wireless Code. The Wireless Code, as set out most recently in Telecom Regulatory Policy

³ Disconnection is also referred to as suspension or termination of telecommunications services.

⁴ The Commission has approved TPIA tariffs for Cogeco Communications Inc., Eastlink, RCCI, Shaw, and Videotron.

⁵ CLECs must file an Access Services Tariff for Commission approval based on the most recent version of the CLEC Model Tariff. Any departure from the CLEC Model Tariff needs to be justified.

2017-200, applies to individual and small business end-customers, and is administered by the CCTS. Pursuant to this Code, notice of disconnection is required at least 14 days prior to disconnection, and at least 24 hours in advance of when disconnection is imminent.

11. However, service providers have no regulatory obligation to advise their own end-customers if the service provider from which they obtain services ceases the provision of such services, even though this service interruption could directly impact end-customers.
12. Given the importance of telecommunications services to Canadians, including the ability to request emergency services, if there is a possibility that end-customers find themselves without service through no fault of their own, and without prior notice, the Commission must address this issue by implementing a regulatory measure for notices of disconnection to end-customers.
13. To be effective, such a measure must apply to the offering and provision of any telecommunications services by a Canadian carrier or non-carrier to end-customers who could be affected by a disconnection. These services include all retail telecommunications services, such as voice and Internet services.
14. As well, in implementing such a measure, an appropriate balance is required between the timing of notification to end-customers and an appropriate time for service providers to resolve their dispute after they have received the notice of disconnection in order to avoid such disconnection. A service provider would likely be unwilling to give notice to its customers (end-customers or other service providers) soon after receiving a notice of disconnection, knowing that many of these customers would likely use that time to seek an alternative service provider, while the service provider may be looking for a solution.
15. Accordingly, to balance the interests of end-customers and service providers that have received a notice of disconnection, it would be appropriate to require such service providers to issue a notice at least four business days in advance of the disconnection of telecommunications services to their end-customers. Further, such notice to end-customers should specify which telecommunications services may be affected by the disconnection, including any impact on end-customers' ability to connect with 9-1-1 services.
16. In light of the above, the Commission imposes the following obligations on Canadian carriers, pursuant to section 24 of the Act, and on non-carriers, pursuant to section 24.1 of the Act:
 - service providers must notify their end-customers at least four business days in advance of the disconnection of telecommunications services by an underlying Canadian carrier or a non-carrier that the service provider relies on to provide services to those end-customers;

- the notice must describe which telecommunications services may be affected by the disconnection, including any impact on end-customers' ability to connect with 9-1-1 services; and
 - a copy of the end-customer notice must be provided to the Commission at the time it is provided to end-customers.
17. Such notice will enable end-customers to explore their options for services from alternative service providers. In addition, the obligation to provide a copy of end-customer notices to the Commission will enable it to answer potential questions from end-customers and to better assist them in transitioning to an alternative service provider, as needed.
18. Failure to abide by this new obligation to notify end-customers will constitute a violation that may result in the imposition of a regulatory measure, such as administrative monetary penalties (AMPs).⁶ In investigating cases of non-compliance, the Commission will consider all relevant circumstances, including whether information regarding the potential disconnection was relayed in a timely matter between any service providers involved in provisioning the services ultimately delivered to end-customers.
19. For clarity, the section 24 and 24.1 obligations set out above address situations in which end-customers may lose service through no fault of their own, but through a potential disconnection between their service provider and an underlying Canadian carrier or a non-carrier that their service provider relies on to provide services. By contrast, terms of service, the Deposit and Disconnection Code, and other existing regulatory measures remain fully in force, and address situations in which customers, including residential, business, and wholesale customers, face disconnection because of, for example, their own failure to pay for services provided or violations of the terms and conditions upon which services were provided.
20. Regarding other proposals put forward by several parties, there is not sufficient evidence on the record of this proceeding to (i) extend the Deposit and Disconnection Code to other telecommunications services and service providers, (ii) impose on resellers terms of service that outline the disconnection process for end-customers, or (iii) allow a waiver of timely notice to end-customers.
21. Regarding the requirement that customers continue to have access to 9-1-1 services for 30 days after the date of disconnection, as set out above, the Commission has addressed the importance of 9-1-1 services by requiring that end-customers be notified of the potential impact of disconnection of their services on 9-1-1 services.

⁶ Section 72.001 and subsection 72.002(1) of the Act grant the Commission the authority to impose AMPs to promote compliance with the Act (a) in the case of an individual, an AMP not exceeding \$25,000 and, for a subsequent contravention, a penalty not exceeding \$50,000; or (b) in any other case, an AMP not exceeding \$10,000,000 and, for a subsequent contravention, a penalty not exceeding \$15,000,000.

Should a minimum time frame be imposed for notices of intent to disconnect between service providers?

Positions of parties

22. Bell Canada, Eastlink, RCCI, Shaw, and Zayo submitted that it was not necessary to impose new regulatory obligations by mandating the inclusion of requirements in contracts between service providers because of the following:
 - notice provisions are standard commercial practice in the provision of forborne services, and market forces are sufficient to ensure that appropriate notice of intent to disconnect is provided between service providers;
 - the dispute that led to the issuance of Telecom Notice of Consultation 2016-333 was fortunately an unusual and rare occurrence. It should not serve as a basis for imposing new regulatory requirements on wholesale service providers, because the wholesale service provider in that dispute gave notice to the reseller, but the reseller did not take immediate action to minimize the chances of disconnection and the impact on its end-customers; and
 - any new regulatory obligations would reduce a service provider's ability to enforce its contract.
23. The CCTS described four disconnection situations that have come to its attention since 2013. The CCTS stated that in these situations, its ability to assist the retail customers was limited, since it had no authority to resolve the issues between the service providers.
24. The CCSA and the JTF submitted that the introduction of new industry-wide regulation would not be efficient and proportionate to the purpose of such regulation, and that issues should be handled on a case-by-case basis.
25. B.C., Distributel, Iristel, PIAC, TCC, TekSavvy, and Videotron supported the Commission imposing an obligation that contracts for telecommunications services between two service providers include a minimum time frame for notices of intent to disconnect.
26. Distributel submitted that there should be circumstances in which disconnection without prior notice is permitted, for example, to protect from network harm, in cases of reasonable suspicion of fraudulent activity, or as required by order of competent public authority.
27. Iristel submitted that the Commission should avoid making any determinations that would require service providers to amend their existing contractual agreements.
28. PIAC submitted that the harm caused to end-customers in the dispute leading to the issuance of Telecom Notice of Consultation 2016-333 could have been

avoided if the reseller had complied with articles 3.1 to 3.7 of the Deposit and Disconnection Code.

29. TCC submitted that any new obligation should be implemented in a symmetrical and competitively neutral manner across all Canadian carriers and resellers, in accordance with the Policy Direction.⁷
30. TekSavvy submitted that a 30-day notice requirement would simplify and standardize the range of similarly-worded regulatory provisions.

Commission's analysis and determinations

31. For the services that the Commission has forborne from regulating, there are no mandated time frames for the provision of notices of disconnection between service providers, as is the case for regulated services (i.e. the notice requirements set out in the ILECs' terms of service, TPIA tariffs, and the CLEC Model Tariff [see paragraph 10 above]). Based on the record of this proceeding, it appears that current commercial contracts between service providers for these forborne services address notice of disconnection periods (typically 30 days).
32. There is evidence on the record of this proceeding that current contractual practices between service providers are resulting in the provision of adequate notice with respect to disconnection. As well, some of the parties' submissions cast doubt as to whether a new one-size-fits-all notification requirement would be appropriate in certain situations (e.g. in remote areas, or in cases where there are a number of non-carriers in a chain). It would not be practical for the Commission to impose requirements tailored to each and every situation.
33. In light of the above, it is not appropriate or necessary for the Commission to impose a regulatory obligation for telecommunications service contracts between service providers to include a minimum time frame for notices of intent to disconnect.

Should service providers be required to advise the Commission each time they issue a notice of intent to disconnect to other service providers?

Positions of parties

34. Bell Canada, Distributel, Eastlink, RCCI, Shaw, Videotron, and Zayo shared the view that an obligation to notify the Commission of an intention to disconnect the services of another service provider was neither needed nor appropriate. Bell Canada submitted that in the vast majority of cases, disconnection notices do not actually result in the disconnection of a service provider's services, but rather incite other responses, for example, to put a past-due account back into good standing.

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

35. Distributel argued that a service provider contemplating service termination will not do so lightly, and will wait until all attempts to resolve the dispute have been exhausted.
36. RCCI, supported by TBayTel, submitted that a service provider will often provide multiple notices of intent to suspend or disconnect service, and that this is common practice, especially for issues such as unpaid bills.
37. Videotron submitted that a requirement to notify the Commission of an intent to disconnect services could be abused by a service provider that has received a notice of disconnection as a way for that service provider to delay the disconnection.
38. Zayo argued that a service provider with a cash-flow problem or unscrupulous business practices may take advantage of such a requirement, and that rather than ensuring service continuity to end-customers, this requirement would simply shift the financial risk and burden to the upstream service providers providing the services subject to disconnection.
39. TCC, supported by TBayTel, submitted that any notice requirement regarding the disconnection of wholesale services should enable the Commission to address inquiries from end-customers and to provide service providers and end-customers with tools to find a new service provider.⁸
40. B.C. argued that in cases where alternate service providers are available, reasonable notice of disconnection to end-customers should be sufficient to enable these customers to arrange for alternate service provisioning.
41. La Coalition, Iristel, and PIAC submitted that service providers should be required to notify the Commission of an intent to disconnect.

Commission's analysis and determinations

42. Based on the record of this proceeding, many notices of disconnection are issued by service providers to other service providers, but few result in the actual termination or suspension of service to end-customers. In many cases, notices of disconnection appear to be serving mostly as a catalyst to address commercial matters between service providers. As a result, end-customers are not generally affected.
43. Therefore, the Commission is not persuaded that there would be a clear public benefit for all service providers to advise the Commission each time a notice of intent to disconnect is issued to another service provider.
44. Where necessary, the Commission is able to address disputes between service providers, even if it is not informed of the dispute at the time a notice of disconnection is issued from one service provider to another.

⁸ The Commission's website provides [tools](#) for residential customers, such as a tool to find a service provider nearby.

45. As set out above, the Commission has imposed a requirement on Canadian carriers and non-carriers to send it a copy of the notice sent to end-customers at least four business days prior to a potential disconnection. Such a measure puts appropriate emphasis on notification to end-customers and ensures that the Commission has the appropriate information to assist end-customers in exploring service alternatives.
46. In light of the above, it is not necessary for the Commission to impose a regulatory requirement for service providers to advise the Commission each time they issue a notice of intent to disconnect to other service providers.
47. However, the Commission expects parties to consider using Commission staff-assisted dispute mediation in cases where a disconnection affecting end-customers is a real possibility.⁹ This would enable Commission staff (and the Commission itself, where necessary) to (i) help parties find a solution to prevent service interruptions to end-customers, (ii) mitigate the impact on end-customers of a potential disconnection, and (iii) respond to any inquiries from end-customers.

Policy Direction

48. The Policy Direction 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.
49. The Commission considers that the regulatory measures set out in this decision meet the objectives of the Policy Direction. Particularly, they are efficient and proportionate to their purpose, and they interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives set out in section 7 of the Act, in satisfaction of subparagraph 1(a)(ii) of the Policy Direction. Specifically, the obligations on Canadian carriers and non-carriers to advise their end-customers if the service provider from which they obtain services ceases providing such services will help ensure that end-customers are made aware of a potential service interruption, including the potential loss of 9-1-1 services.
50. Consistent with subparagraph 1(b)(i) of the Policy Direction, the Commission considers that the regulatory measures set out in this decision serve to advance the policy objectives set out in paragraphs 7(a), (b), (c), and (f) of the Act.¹⁰

⁹ Details regarding the Commission's dispute resolution process for both Broadcasting and Telecommunications complaints are set out in Broadcasting and Telecom Information Bulletin 2013-637. Parties may also file applications with the Commission that are covered by the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*.

¹⁰ The cited policy objectives 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; 7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; and 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.

51. Finally, consistent with subparagraph 1(b)(iii) of the Policy Direction, the regulatory measures established in this decision, to the greatest extent possible, are implemented in a symmetrical and competitively neutral manner. Specifically, the regulatory measures apply directly to all Canadian carriers and non-carriers that offer and provide telecommunications services.

Secretary General

Related documents

- *Review of the Wireless Code*, Telecom Regulatory Policy CRTC 2017-200, 15 June 2017
- *Disconnection practices between telecommunications service providers*, Telecom Notice of Consultation CRTC 2016-333, 18 August 2016
- *Practices and procedures for staff-assisted mediation, final offer arbitration and expedited hearings*, Broadcasting and Telecom Information Bulletin CRTC 2013-637, 28 November 2013
- *CISC non-consensus report – Draft Deposit and Disconnection Code*, Telecom Decision CRTC 2011-702, 14 November 2011
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006; as amended by Order in Council P.C. 2007-532, 4 April 2007