



Telecom Order CRTC 2007-91

Ottawa, 23 March 2007

TELUS Communications Company

Reference: Tariff Notice 227

900 service

*In this Order, the Commission **denies** an application by TELUS Communications Company (TCC), to destandardize and withdraw its 900 service in Alberta and British Columbia. The Commission finds that TCC's application failed to adequately address the Commission's requirements set out in New procedures for disposition of applications dealing with the destandardization and/or withdrawal of tariffed services, Telecom Circular CRTC 2005-7, 30 May 2005.*

Introduction

1. The Commission received an application by TELUS Communications Company (TCC), dated 30 June 2006, proposing a revision to its General Tariff item 521 – 900 service in order to destandardize and subsequently withdraw this service.
2. TCC noted that its 900 service was a message toll service that allowed end-users to place calls to 900-prefixed phone numbers assigned to TCC's 900 service content provider customers (the customers). It also noted that end-users were charged by the customers on a per-minute basis, with billing and collection done on the customers' behalf by TCC. The company proposed to grandfather and to withdraw the service because of its small customer base and declining associated revenues, and because of the growth of the Internet as the preferred avenue for customers who traditionally used the service.

Process

3. The Commission received comments regarding TCC's application from ITEL Interactive Media Inc. (ITel), dated 5 July 2006; Network Telephone Services Inc., doing business as North American Telnet (NAT), dated 13 July 2006; Mystical Connections Inc. (Mystical Connections), dated 27 July 2006; The Art of Tarot, dated 8 August 2006; and First Media Group Inc. (First Media), dated 14 August 2006.
4. TCC filed reply comments dated 24 August 2006.
5. The Commission received further comments from First Media dated 29 August 2006, and from TCC, dated 13 September 2006.

Background

6. In *New procedures for disposition of applications dealing with the destandardization and/or withdrawal of tariffed services*, Telecom Circular CRTC 2005-7, 30 May 2005 (Circular 2005-7), the Commission indicated that in order to properly assess a proposal for the destandardization and/or withdrawal of a tariffed service, the applicant must file an application containing the following information:
 - a) service proposed to be destandardized and/or withdrawn;
 - b) proposed date for destandardization;
 - c) proposed date for ultimate withdrawal of service;
 - d) type of destandardization;
 - e) rationale for the application;
 - f) availability of a substitute, with rationale as to why it is reasonable in terms of equivalent functionality, availability in the same geographical area, and cost (including the initial outlay and ongoing costs to the customer);
 - g) the transition plan;
 - h) relevant information concerning existing customers, such as the number of customers affected;
 - i) a copy of the notice to affected customers; and
 - j) any other information the applicant believes is relevant.
7. The Commission further indicated that if the applicant considered that certain criteria did not apply to a particular application, the applicant was expected to provide submissions regarding why it believed those criteria should not apply.
8. The Commission stated in Circular 2005-7 that the applicant must provide notice to each customer affected by its application to destandardize and/or withdraw a particular service and that the notice should be sent to affected customers on the date the application was filed. The Commission specified that the notice must include items a) to g) as set out in paragraph 6 above, as well as clear and detailed information regarding how an affected customer could participate in the Commission's process, including the date by which comments must be received by the Commission. The Commission also specified that interested parties should be allowed 45 calendar days to comment on an applicant's destandardization and/or withdrawal application.

TCC's application

9. TCC submitted that its application was consistent with the criteria established in Circular 2005-7 and provided the following information to support its request:

- a) service proposed to be destandardized and/or withdrawn

TCC proposed to destandardize General Tariff item 521 – 900 service.

- b) proposed date for destandardization

TCC proposed that, effective 11 September 2006, its 900 service would no longer be available to new customers, while existing customers would continue to receive the 900 service at current rates. TCC also proposed that, effective 31 December 2006, 900 service customers would no longer be able to request any moves, additions or changes to the service.

- c) proposed date for ultimate withdrawal of service

TCC proposed to withdraw its 900 service effective 31 December 2007.

- d) type of destandardization

TCC proposed to issue a complete "stop sell" with respect to the service. TCC submitted that as of the approved effective date of 11 September 2006, the 900 service would no longer be offered to new customers. TCC also stated that customers that had been receiving the service prior to the approved effective date for destandardization would continue to do so at existing rates, but that moves, additions, or changes to the 900 service would no longer be available to existing customers on or after 31 December 2006.

- e) rationale for the application

TCC submitted that the different services, the content, and the information formerly offered exclusively through its 900 service were all available on the Internet. It also submitted that the growth of the Internet, now the primary venue through which former customers operated, had resulted in reduced demand and declining revenues for TCC's 900 service. TCC submitted that at the same time, the costs and overhead to maintain the service had remained high and relatively unchanged. TCC submitted that, in light of these trends, it had ceased to offer its 900 service to new customers outside of Alberta and British Columbia as of 26 November 2002.

- f) availability of a substitute, with rationale as to why it is reasonable in terms of equivalent functionality, availability in the same geographical area, and cost (including the initial outlay and ongoing costs to the customer)

TCC stated that the main alternatives to its 900 service were the Internet and various Web-based applications. The company suggested that the Internet was a preferable substitute given its ability to combine video and audio content, and its greater accessibility to potential end-users of the service. TCC submitted that for customers who wished to maintain a 900 service, there were other telecommunications service providers that continued to provide 900 service.

- g) the transition plan

TCC proposed that once the company's application to destandardize its 900 service had been approved, it would adopt a two-part strategy towards the eventual withdrawal of the service, effective 31 December 2007. It submitted that, first, unused 900 numbers would be terminated and, second, TCC would work with existing customers in order to identify service alternatives and migration plans.

- h) relevant information concerning existing customers, such as the number of customers affected

TCC provided information regarding the existing number of customers and revenues associated with the service in confidence to the Commission.

- i) a copy of the notice to affected customers

TCC submitted that it had issued a notice on 30 June 2006 to its customers, describing the proposal to destandardize that service.

- j) any other information the applicant believes is relevant

No additional information was filed.

10. TCC did not provide submissions regarding why the above items should not be applied to the destandardization and withdrawal of its 900 service.
11. TCC indicated in its notice to customers that the proposed dates were structured to provide sufficient time for 900 service providers to end their existing 900 program(s) and/or to establish new agreements with alternative 900 service providers.

Positions of parties

12. Itel, NAT, Mystical Connections, The Art of Tarot and First Media argued that TCC's application should be denied.

13. Itel noted that it had paid TCC over \$20,000 to purchase approximately forty 900 telephone numbers that were still active and that it had a large investment in hardware and software. Itel indicated that TCC had offered no alternative 900 service provider or solution that would allow Itel to continue its operations without incurring substantial costs by moving to Eastern Canada, where Bell Canada provided 900 service.
14. NAT noted that it provided pay-per-call entertainment and information services, and that it operated a large number of 900 telephone numbers assigned by TCC, many of which were brand or vanity numbers that callers associated with specific products and services.
15. NAT submitted that if TCC were granted permission to exit the 900 service market, current TCC customers should be entitled to continue using the 900 numbers assigned and serviced by TCC. NAT submitted further that TCC should be required to continue providing its 900 service until its customers were able to migrate to alternative 900 service providers.
16. NAT submitted that TCC's customers should be allowed a five-year notice period to allow them to move to alternative programs or dialing formats. NAT also submitted that TCC should assist its customers in notifying end-users that an alternative telephone number must be used once TCC discontinued its 900 service. NAT submitted further that TCC should be required to maintain its 900 service beyond the proposed withdrawal date of 31 December 2007 to allow end-users to receive a new 900 telephone number when they dialed the old 900 number.
17. Mystical Connections questioned where it could obtain a list of contacts in British Columbia for alternative 900 service providers.
18. The Art of Tarot submitted that discontinuing TCC's 900 service would eliminate an important part of its services and that costs would be incurred to change advertising, to inform regular end-users, and to set up another 900 service. The Art of Tarot stated that its deposit of \$1,500 should be refunded by TCC to cover costs that would result from the service withdrawal.
19. First Media stated that 900 service filled a market niche that had yet to be replicated by either the Internet or toll-free and credit card alternatives. First Media submitted that Bell Canada and MTS Allstream Inc. (MTS Allstream) were the only 900 service providers with the technical ability and expertise to offer TCC's existing customers continued 900 service without mandatory number assignment changes. First Media also submitted that 900 service content providers would have no established, committed alternative 900 service providers in Alberta and British Columbia if Bell Canada and MTS Allstream chose not to offer 900 service in those provinces.
20. First Media indicated that the 900 telephone number associated with a 900 service content provider's was an important marketing tool, and that many 900 service content providers had used vanity numbers.
21. First Media submitted that TCC should not be allowed to withdraw its 900 service prior to the full implementation of 900 service number portability.

TCC's reply comments

22. TCC noted that the \$20,000 payment referred to by Itel and the \$1,500 deposit referred to by The Art of Tarot represented various service and one-time charges, respectively, as set out in TCC's General Tariff item 521, that compensated TCC for its up-front costs associated with providing its 900 service.
23. TCC submitted that Itel was mistaken in assuming that it had "purchased" 900 service numbers from TCC. TCC indicated that article 2.4 of the 900 service Provider Agreement signed between Itel and TCC stated that 900 service numbers belonged to TCC and all the rights to these numbers, including the right to terminate or change a number, remained within TCC's exclusive discretion. TCC further submitted that upon termination of a service provider's 900 service, the related 900 service numbers might be reassigned by TCC after a time period it determined appropriate.
24. TCC stated that it was the only company with a 900 service tariff in Alberta and British Columbia. TCC also stated that Bell Canada and Triton Global Business Services Inc. (Triton) also offered 900 service in these provinces and that there were no technical barriers that precluded others like MTS Allstream from entering the market. TCC submitted that it was possible that other companies would choose to enter the 900 service market upon approval of TCC's current tariff proposal by the Commission.
25. TCC submitted that while customers might incur one-time service charges to migrate to alternative 900 service providers like Bell Canada or Triton, it was also possible that they would be able to negotiate free or lower service charges with 900 service providers that were forborne from regulation in Alberta and British Columbia. In addition, TCC submitted that a customer did not need to relocate physically to receive 900 service from any current or future 900 service provider.
26. TCC argued that First Media was attempting to use the current proceeding to reopen the larger issue of mandated 900 service number portability that the Commission had examined in the past, and that First Media's comments were not within the scope of this proceeding.
27. TCC indicated that while there was no mandated 900 service number portability between Canadian providers, a process existed that allowed TCC to release 900 numbers to Bell Canada. The company also indicated that it expected that its 900 service numbers would be transferred to Bell Canada or other former Stentor members at the time of, or prior to, its proposed service withdrawal date of 31 December 2007. TCC submitted that it would work with Bell Canada to ensure an orderly wind-down of its involvement with 900 service. TCC also submitted that it would develop a migration strategy for customers that chose to migrate to Bell Canada.
28. TCC was of the view that, if a current 900 service customer made the decision to migrate to another 900 service provider, the 18-month service withdrawal notice period given by TCC in its notice provided ample time for customers to identify alternatives, adjust their advertising and operating expense budgets, and advertise to their end-users accordingly.

29. TCC stated that customers like First Media, which is based in Ontario, were not precluded from obtaining 900 service from 900 service providers in their home jurisdiction of Ontario and having calls to their 900 numbers terminated by TCC in Alberta and British Columbia.
30. TCC submitted that it would provide existing 900 customers with a list of contact names and phone numbers for alternative 900 service providers upon approval of its current tariff proposal. TCC also submitted that for customers that chose to migrate to a 900 service provider other than Bell Canada or another former Stentor member, it would keep those customers' former 900 service numbers active until 31 December 2007, and a recorded message would direct callers to the customers' new 900 service numbers until that date.

Further comments

31. First Media noted that TCC had included in its reply comments a migration strategy that was not in its original application. First Media submitted that TCC had not consulted with its customers on this proposed migration strategy. First Media also submitted that TCC should work with its customers on a transition plan, finalize the details with the other providers, and then resubmit its proposal.
32. First Media indicated that it had been informed by Bell Canada that 900 service numbers from TCC were not portable, and that upon switching to Bell Canada, First Media would be responsible for all the normal and tariffed start-up costs. First Media estimated that it would cost \$48,000 to re-establish its 900 circuits with Bell Canada.
33. TCC argued that it had clearly stated that it would work with customers to release their numbers and to migrate their services to Bell Canada, and that it had already started this process. TCC submitted that porting 900 numbers and negotiating the release of numbers by TCC to Bell Canada were different processes. TCC submitted that 900 number portability had been examined and rejected by the Commission, but that the release and reassignment of 900 service numbers between members of the former Stentor alliance was permitted by Stentor agreements.

Commission's analysis and determinations

34. The Commission notes that TCC has addressed all of the items in Circular 2005-7. With reference to items (a) through (e) and (h), the Commission finds that TCC has adequately fulfilled the evidentiary requirements of Circular 2005-7. However, the Commission has concerns with the information provided by TCC relative to items (f), (g), and with the content of the notice to subscribers mentioned in item (i), and in paragraph 8 above. These items will be addressed as follows:
 - A. Availability of a reasonable substitute service
 - B. Transition plan
 - C. TCC's notice to affected customers

A. Availability of a reasonable substitute service

35. Based upon the evidence in this proceeding, the Commission considers that there are four substitute services that warrant review: the Internet, and the 900 services of Bell Canada, Triton and MTS Allstream. For each of these substitutes, the Commission will examine the following criteria for the availability of a substitute service, as set out in item (f) of Circular 2005-7: the functionality of the substitute service; the availability of the substitute service in the same geographical area; and the cost of the substitute service (including the initial outlay and ongoing costs to the customer).

Internet

36. TCC submitted that the Internet was a substitute for its 900 service, and that many 900 content providers had migrated to the Internet. The Commission notes that First Media submitted that the Internet did not represent a viable alternative to TCC's 900 service. The Commission also notes that TCC did not compare the Internet with its 900 service in terms of functionality, nor did TCC indicate how many customers had migrated to the Internet. The Commission has insufficient information for it to conclude as to whether the Internet, in terms of functionality, is a viable alternative to TCC's 900 service.
37. With respect to geographic coverage, TCC submitted that the Internet was universally accessible by end-users around the world. The Commission is satisfied with this statement. With respect to costs, the Commission notes that TCC submitted that the costs of establishing Internet-based content were relatively low compared to its 900 service. However, the Commission notes that TCC did not provide any evidence regarding the costs, if any, for customers that choose to migrate to the Internet.
38. In light of the above, the Commission considers that while the Internet could be a substitute for 900 service from the perspective of geographic coverage, it is unclear if the costs (including initial outlay and ongoing costs) are comparable. The Commission considers that more details would be required on these service attributes.

Bell Canada

39. TCC submitted that Bell Canada offered 900 service in Alberta and British Columbia. However, the Commission notes that TCC did not provide a comparison of functionality between TCC's and Bell Canada's 900 service.
40. With respect to the costs, TCC did not provide any information regarding initial and ongoing costs for customers migrating to Bell Canada's 900 service. The Commission notes TCC's suggestion that forborne 900 service providers such as Bell Canada (in Alberta and British Columbia) may offer lower service charges in Alberta and British Columbia. However, the Commission also notes First Media's comment that it would be required to pay \$48,000 plus tax and miscellaneous charges to re-establish its 900 circuits with Bell Canada, to which TCC did not respond nor contradict.

41. In light of the above, the Commission has insufficient information for it to conclude as to whether Bell Canada 900 service is a viable alternative to TCC's 900 service in terms of functionality. The Commission considers that while Bell Canada could be a substitute for 900 service from the perspective of geographic coverage, it is unclear if Bell Canada's rates are comparable to TCC's rates. The Commission considers that more details would be required on Bell Canada's 900 service attributes.

Triton

42. The Commission notes that TCC submitted that Triton offered 900 service in Alberta and British Columbia. However, the Commission also notes that TCC did not identify how Triton's 900 service compared with its 900 service in terms of functionality, geographic coverage or costs.
43. In light of the above, the Commission has insufficient information for it to conclude as to whether Triton 900 service is a viable alternative to TCC's 900 service in terms of functionality. The Commission considers that while Triton could be a substitute for 900 service from the perspective of geographic coverage, it is unclear if Triton's rates are comparable to TCC's rates. The Commission considers that more details would be required on Triton's 900 service attributes.

MTS Allstream

44. The Commission notes that First Media submitted that MTS Allstream and Bell Canada were the only 900 service providers with the technical ability and expertise to offer TCC's existing 900 service customers continued 900 service. The Commission notes that TCC did not identify MTS Allstream as a reasonable substitute in this proceeding. Accordingly, the Commission considers that it is not clear if MTS Allstream 900 service would be a reasonable substitute for TCC's 900 service.

Conclusion

45. In light of the above, the Commission considers that TCC has failed to adequately address the criterion for the availability of a substitute service, as set out in item (f) of Circular 2005-7, and finds that TCC's application regarding the availability of a substitute is deficient.

B. Transition plan

46. In Circular 2005-7, the Commission stated that if prior to filing an application for the destandardization and/or withdrawal of a service, the applicant was to work with affected customers to develop a transition plan that was mutually satisfactory to all parties, it would remove many hurdles. The Commission also stated in Circular 2005-7 that the applicant should make all reasonable efforts to ensure that affected customers understood which alternative services existed, including their functionality, geographic availability, and associated costs.
47. The Commission considers that in the current proceeding there are three scenarios of relevance with respect to the transition plan:
- a) customers who wish to transition to the Internet;

- b) customers who wish to transition to Bell Canada's or other former Stentor members' 900 service; and
- c) customers who wish to transition to a 900 service provider other than Bell Canada or other former Stentor members.

a) Customers who wish to transition to the Internet

48. The Commission notes that TCC provided no information for customers who wish to transition their existing 900 service to the Internet, and concludes that the transition plan is deficient in this regard.

b) Customers who wish to transition to Bell Canada's or other former Stentor members' 900 service

49. TCC submitted that the release and reassignment of 900 numbers between members of the former Stentor alliance is permitted by the former Stentor alliance agreements, and that customers' 900 service numbers would be reassigned at the time of, or prior to, the company's proposed withdrawal date of 31 December 2007. The Commission notes that TCC indicated that it would develop a migration strategy for customers that chose to migrate to Bell Canada if its application was approved.
50. However, the Commission notes First Media's submission that it had been informed by Bell Canada that TCC's 900 service numbers were not portable. The Commission notes that TCC did not address whether it would develop a migration strategy for customers that wished to migrate to other former Stentor alliance members. The Commission considers that TCC provided insufficient specific information regarding the terms, conditions and costs, if any, of transferring existing 900 service to Bell Canada or other former Stentor members.
51. In light of the above, the Commission considers that TCC has failed to adequately identify a transition plan for customers who wish to migrate to Bell Canada or other former Stentor members.

c) Customers who wish to transition to a 900 service provider other than Bell Canada or other former Stentor members

52. The Commission notes that TCC submitted that it would keep customers' former 900 service numbers active until 31 December 2007 and a recorded message would direct callers to the customer's new 900 service number. The Commission also notes that several parties to the proceeding argued that 900 service numbers were important marketing tools that increased in value over time. The Commission further notes that NAT argued that in cases where 900 service numbers change, TCC should be required to maintain its 900 platform beyond the proposed service withdrawal date of 31 December 2007.
53. The Commission considers that TCC's application raises concerns as to whether or not TCC can transition all existing 900 customers by the proposed withdrawal date. The Commission is not satisfied that TCC has ensured that arrangements for the transfer of existing 900 numbers would be in place by the date of the proposed withdrawal of its 900 service. While it appears that customers migrating to service providers other than Bell Canada or other former Stentor

members may have to change their 900 service numbers, the Commission considers that this also is not clear from TCC's application. The costs, timing, terms and conditions of transfer are unclear from TCC's application.

54. In light of the above, the Commission considers that TCC has failed to adequately identify a transition plan for customers who wish to migrate to a service provider other than Bell Canada or other former Stentor members.

Conclusion

55. In light of the above, the Commission considers that TCC has failed to adequately address the criteria for a transition plan, as set out in item (g) of Circular 2005-7.

C. TCC's notice to affected customers

56. The Commission notes that, as stated in Circular 2005-7, the applicant must include in its notice to affected customers items (a) to (g) and sufficient information to enable customers to participate in the Commission's process. The Commission notes that while TCC included this information in its application, the Commission considers that the information TCC provided under items (f) and (g) is deficient. Therefore, the Commission finds that TCC has not fulfilled its requirement under Circular 2005-7 with respect to providing sufficient information in its customer notice.

Summary

57. As noted above, TCC's application is deficient with respect to items (f) and (g) as set out in Circular 2005-7. Specifically, the Commission considers that TCC has not sufficiently demonstrated to the Commission or to affected customers the presence of a substitute 900 service in Alberta and British Columbia in terms of functionality and initial, ongoing and other costs that its 900 service customers would have to incur to migrate to a different 900 service provider. The Commission also considers that TCC has not provided an adequate transition plan.
58. The Commission further considers that the process to destandardize TCC's 900 service is ultimately connected to TCC's request to withdraw its 900 service, since TCC has proposed an end date. The Commission finds that it would be premature to approve TCC's request to destandardize its 900 service in Alberta and British Columbia with a view to withdrawing the service effective 31 December 2007 when sufficient arrangements are not in place regarding a substitute service and a transition plan for customers.
59. In light of the above, the Commission **denies** TCC's application.

Secretary General

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