



Telecom Regulatory Policy CRTC 2015-545

PDF version

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Public notification policy for the removal of the last payphone in a community

In order to be more precise with respect to its public notification policy for the removal of the last payphone in a community, the Commission modifies the policy by (i) specifically adding municipalities and First Nation communities to its existing definition of a “community,” and (ii) determining that the notification requirement applies to payphones in areas with no mobile wireless service. Finally, the Commission determines that the notification requirement, as modified in this decision, applies to all incumbent local exchange carriers.

This update to the policy ensures that Canadians are able to voice their concerns when the last payphone in a community or any payphone in a region with no mobile wireless service is scheduled to be removed as payphones still serve a role for many Canadians.

Background

Telecom Public Notice 2002-6 proceeding

1. In 2002, the Commission initiated a proceeding to address a number of issues related to access to payphones in Canada. In the decision that resulted from that proceeding, Telecom Decision 2004-47, the Commission concluded that although demand for payphone service was declining, it was still an important public service. In that decision, the Commission noted that it was particularly concerned with the impact that the removal of the last payphone in a small or rural community may have on that community. As such, the Commission established a notification process for when the last payphone in a community is scheduled for removal.¹ This notification process was imposed only on certain incumbent local exchange carriers (ILECs).²

¹ The 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 for at least 60 days prior to removal, and (iii) a notice placed in the local newspaper at least 60 days prior to removal.

² The notification process currently applies to Bell Aliant Regional Communications, Limited Partnership; Bell Canada; MTS Inc.; Saskatchewan Telecommunications; Télébec, Limited Partnership; and TELUS Communications Company.

2. At the time, the Commission recognized the difficulty in precisely describing what constitutes a community when applying the above-referenced notification requirement. The Commission noted that the ILECs have established geographic administrative areas within their territories, which are used to define local exchanges, within which there are one or more wire centres. The Commission considered that, as a minimum rule, the ILECs subject to Telecom Decision 2004-47 must adhere to the notification requirement in all cases where the last payphone in the area served by a wire centre is to be removed.

Telecom Notice of Consultation 2013-337 proceeding

3. On 16 July 2013, the Commission issued Telecom Notice of Consultation 2013-337, in which it initiated a fact-finding process related to the role of payphones in the Canadian communications system. The purpose of the process was to collect information on the extent to which Canadians rely on payphones, and the effects, if any, that future payphone removals and possible rate increases may have on Canadians.
4. The results of this fact-finding process were published on the Commission's website on 26 February 2015 in *Results of the fact-finding process on the role of payphones in the Canadian communications system* (the Report).³ On that same date, the Commission also published a third-party study that it had commissioned, prepared by RedMobile Consulting, entitled *Evaluation of payphone alternatives and payphones in emergency preparedness*.⁴

Telecom Notice of Consultation 2013-338 proceeding

5. On 16 July 2013, the Commission also issued Telecom Notice of Consultation 2013-338. In the proceeding initiated by that notice, the Commission invited parties to comment on whether it should prohibit all ILECs from removing the last payphone in a community pending the conclusion of its fact-finding process and, if required, any related follow-up process.
6. In Telecom Regulatory Policy 2013-708, the Commission prohibited all ILECs, on an interim basis, 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.

Telecom Notice of Consultation 2015-66 proceeding

7. Based on its review of the submissions filed in relation to the Telecom Notice of Consultation 2013-337 proceeding, it was apparent to the Commission that its public notification policy for the removal of the last payphone in a community, set out in Telecom Decision 2004-47, could be enhanced. As such, the Commission sought

³ <http://www.crtc.gc.ca/eng/publications/reports/rp150226a.htm>

⁴ <http://www.crtc.gc.ca/eng/publications/reports/rp150226.htm>

comments on three proposed modifications to its public notification policy for the removal of the last payphone in a community. The proposed modifications, as set out in Telecom Notice of Consultation 2015-66, relate to the following:

- modifying the definition of a community to include municipalities and First Nations reserves;
 - amending the notification requirement to ensure that it is also triggered for the removal of any payphone in a location that does not have access to mobile wireless service by any carrier; and
 - applying the notification requirement (for the removal of the last payphone in a community and for the removal of any payphone in a location that does not have access to mobile wireless service by any carrier) to all ILECs [the large ILECs, small ILECs, and Northwestel Inc. (Northwestel)].
8. The Commission indicated that it would lift the moratorium on the removal of the last payphone in a community set out in Telecom Regulatory Policy 2013-708 once the decision resulting from the Telecom Notice of Consultation 2015-66 proceeding was published.
9. The Commission received interventions regarding the Telecom Notice of Consultation 2015-66 proceeding from Bell Canada, on behalf of itself, Bell Aliant Regional Communications, Limited Partnership, Northwestel, and Télébec, Limited Partnership (collectively, Bell Canada et al.); Coalition pour le service 9-1-1 au Québec, made up of Agence municipale de financement et de développement des centres d'urgence 9-1-1 du Québec, Association des centres d'urgence du Québec, and Centrale des appels d'urgence de Chaudière-Appalaches (collectively, C911); the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, and the Public Interest Advocacy Centre (collectively, PIAC et al.); the Forum for Research and Policy in Communications (FRPC); the Government of the Northwest Territories (GNWT); the Canadian Independent Telephone Company Joint Task Force (JTF); MTS Inc. (MTS); Saskatchewan Telecommunications (SaskTel); TBayTel; TELUS Communications Company (TCC); l'Union des consommateurs (l'Union); the Yukon Government (YG); and almost 60 individuals.
10. The public record of this proceeding, which closed on 8 May 2015, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Issues

11. The Commission has identified the following issues to be addressed in this decision:
- Should the definition of a community be modified to include, in addition to the last payphone in an area served by a wire centre, the last payphone in a municipality and the last payphone in a First Nation community?

- Should the notification requirement also be triggered for the removal of any payphone that is in a location, determined by street address, which does not have access to mobile wireless service by any carrier?
- Should the notification requirement, as modified, apply to all ILECs?

Should the definition of a community be modified to include, in addition to the last payphone in an area served by a wire centre, the last payphone in a municipality and the last payphone in a First Nation community?

12. While C911, FRPC, PIAC et al., and l'Union noted that the notification requirement should be centred on consumer needs, not what is most convenient to payphone providers, consumer groups generally argued that proposals short of a requirement that payphones be made available to all Canadians would not be sufficient.
13. The GNWT and YG supported the proposed modifications to the definition of a community, as long as the definition was broad enough to include any settled area.
14. Bell Canada et al. argued that “wire centre” has been the definition of “community” since 2004 and that it is still a sufficient threshold. The JTF, MTS, SaskTel, and TCC agreed that the “wire centre” was the appropriate definition of a “community.” Further, Bell Canada et al. and MTS noted the proposed modification would impose an additional burden on payphone providers, with Bell Canada et al. arguing that the level of consumer protection under the proposed amendment would largely be the same as the current notification requirement.
15. Bell Canada et al., the JTF, and TCC argued that municipal units are not similarly defined across Canada and are subject to change. C911 and l'Union noted that some municipalities are quite large and may be composed of many population centres and that consumers would not be well served by a requirement that is too wide, arguing that the requirement should be clarified to be a “population centre” or “local municipality.”
16. FRPC similarly had concerns about whether “municipality” would appropriately address consumers’ needs, suggesting that census tracts⁵ would be more appropriate. TCC argued that census tracts are similarly subject to change; as such, TCC expressed operational concerns with that proposal, as well as the proposal put forward by the Commission.
17. Bell Canada et al. were not opposed to a requirement that providers make a good-faith effort to ascertain whether a payphone may be the last payphone in a settled community before removing it.

⁵ Defined by Statistics Canada as an “area that is small and relatively stable. Census tracts usually have a population between 2,500 and 8,000 persons. They are located in census metropolitan areas and in census agglomerations that have a core population of 50,000 or more.”

18. SaskTel and TBayTel argued that, should the Commission proceed with the proposed changes, exceptions should be allowed in cases such as when location providers, the community, or local law enforcement request the removal. Other payphone providers also generally argued for the need for exceptions such as the removal of a payphone from a bank of payphones, or removal for reasons out of their control.
19. PIAC et al. and SaskTel noted that including First Nations reserves in the definition of a community would remove any further uncertainty regarding what constitutes a community. TCC submitted that the term “First Nations reserve” is one that is not in use across Canada, and thus does not encompass all aboriginal lands.
20. PIAC et al. suggested that the distance to the nearest payphone could be used to determine whether notification is required. TCC argued that this proposal was outside the scope of this proceeding and should not be considered, while FRPC noted that more evidence would be needed on the specific distances suggested in this proposal to assess its value. Bell Canada et al. opposed this proposal, arguing that significant investment would be required to essentially remap every payphone installed across their serving territory. In their view, the cost of doing so would not be commensurate with the marginal benefit to be realized by moving beyond the wire centre as the definition of a community.
21. Bell Canada et al. further stated that they are not able to accurately track the location of their payphones by municipality, particularly in rural and remote areas.

Commission’s analysis and determinations

22. Consumer groups and payphone providers disagreed as to whether there is a need to modify the definition of a “community,” with the consumer groups generally agreeing that the current requirements are not sufficient and that new requirements based on criteria that are more centred on consumers are needed. Payphone providers generally argued that wire centres approximate municipalities, and that modifying the definition of a “community” would not yield a significantly higher level of protection.
23. Though FRPC suggested that census tracts could be a more representative geographical service area to use for notification requirements, they are not any more transparent to consumers than wire centres are and they do not have a specific governing structure (i.e. a town hall) that could be notified of the intent to remove the last payphone. As such, census tracts would not be an appropriate addition to the definition of a “community” that could more effectively address concerns related to the removal of the last payphone.
24. While interveners noted that “municipalities” are subject to redefinition by local government and may not directly reflect population centres, the Commission is confident that the municipality is a geographical service area that Canadians can relate to and understand. It is appropriate to include this concept in the definition of a “community” for the purpose of the notification requirement.
25. If payphone providers are indeed unaware of the precise location of their payphones within a municipality, because payphones are mapped according to wire centres and

not municipal boundaries, then modifying the definition of a “community” may require additional effort and cost related to the remapping of payphones. However, it is not clear that all payphones would need to be remapped. Mapping based on wire centres should still reflect general payphone density in an area. As such, payphone providers may only have to remap those payphones in areas with few payphones, which should reduce the investment necessary to implement a notification requirement based on a geographical service area other than the wire centre.

26. The benefits of providing notification to Canadians based on a geographical service area they can relate to outweigh the consideration put forward by payphone providers of what would be required to implement it. While limitations have been raised regarding the Commission’s proposal, it appears to be the most appropriate means to define a “community” in a manner that Canadians will relate to while not imposing overly onerous requirements on payphone providers.
27. In light of concerns raised during the proceeding as to the use of the term “First Nations reserve,” in defining a “community,” the Commission finds that “First Nation community,” the term used by the Department of Indian Affairs and Northern Development, would be the appropriate term to be used in the context of defining a “community.”
28. The Commission hereby determines that the definition of a “community,” for the purpose of the notification requirement for removal of the last payphone in a community, includes, in addition to a wire centre, (a) a municipality, and (b) a First Nation community. For greater clarity, the notification requirement will be triggered whenever a payphone is scheduled for removal that is the last in its wire centre, municipality, or First Nation community.

Should the notification requirement also be triggered for the removal of any payphone that is in a location, determined by street address, which does not have access to mobile wireless service by any carrier?

29. Consumer groups, local governments, SaskTel, and individuals generally supported the proposal of requiring payphone providers to provide the standard notification prior to the removal of a payphone in a location that does not have mobile wireless service, arguing that it would afford greater protection to Canadians.
30. MTS and PIAC et al. noted that mobile wireless service would need to be clearly defined under the Commission’s proposal. Bell Canada et al. and MTS argued that the processes to assess the presence of mobile wireless coverage could be costly. TCC added that an exception should be made to the Commission’s proposal in this regard in cases where the payphone provider is reducing the number of payphones in a payphone bank.
31. Bell Canada et al. further argued that residents of communities that do not have access to mobile wireless services do not rely on payphones as a complement to a wireless device. In these communities, payphone providers should have the discretion to remove a low-usage payphone without performing notification so long as it is not the last payphone in the community.

Commission's analysis and determinations

32. In general, the interveners who addressed this proposal, except for Bell Canada et al., agreed that the Commission's proposal that payphone providers provide notification prior to removing a payphone in an area that has no mobile wireless coverage was warranted and reasonable.
33. Though interveners noted that mobile wireless service providers' coverage maps may not exactly match Canadians' experience with mobile wireless coverage, such maps would be the most cost-effective and up-to-date means to validate whether a specific location has mobile wireless coverage.
34. The removal of a payphone in an area with no mobile wireless coverage may mean that public access to the telecommunications system may be lost to Canadians in remote regions. As such, the Commission finds that the notification requirement should apply to all payphones in an area with no mobile wireless coverage. However, the notification requirement will not apply where the payphone set to be removed is part of a bank of payphones and there remains at least one working payphone in the bank of payphones in question.
35. For the purposes of this requirement, "access to mobile wireless service" is based on the mobile wireless service providers' coverage maps.

Should the notification requirement, as modified, apply to all ILECs?

36. Bell Canada et al., the GNWT, PIAC et al., TBayTel, TCC, l'Union, and YG agreed that the notification requirement should apply to all ILECs. Further, Bell Canada et al., C911, PIAC et al., TBayTel, TCC, and l'Union agreed that Canadians should be notified prior to the removal of the last payphone no matter who the provider is. Bell Canada et al. noted that this would satisfy the Policy Direction⁶ requirement that non-economic regulatory measures be implemented in a symmetrical manner.
37. The JTF argued that the Policy Direction requires that the Commission, when relying on regulation, is to use measures that are efficient and proportionate to their purpose, and that any new requirements imposed on small providers in a "dying business" do not meet this test.

Commission's analysis and determinations

38. All Canadians should have the opportunity to be made aware of the removal of the last payphone in their community, as redefined above. It is inappropriate for the notification of payphone removal to be contingent on which payphone service provider is providing payphone service in a consumer's community.
39. The Commission **directs** all ILECs,⁷ as a condition of providing payphone services pursuant to section 24 of the *Telecommunications Act* (the Act), to comply with the

⁶ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

⁷ All ILECs, including small ILECs and Northwestel

notification requirement set out in Telecom Decision 2004-47, and as modified above, prior to the removal of a payphone.

40. In summary, the modifications set out in this decision to the notification requirement are as follows:

- the definition of a “community,” for the purpose of the notification requirement for removal of the last payphone in a community, includes, in addition to a wire centre, (a) a municipality, and (b) a First Nation community; and
- the same notification requirement is to be triggered for the removal of any payphone that is in a location, determined by street address, which does not have access to mobile wireless services by any carrier, except in instances where the payphone to be removed is part of a bank of payphones and there remains at least one working payphone in the bank of payphones in question.

Other matters

41. The intent of the notification requirement set out in Telecom Decision 2004-47 was to allow time for the community to respond to the proposed removal of the last payphone in their community as well as allow time to all interested stakeholders to find an alternative solution to maintain access to the telecommunications system. In light of this, the Commission finds that it would be reasonable for there to be an exception to the modified notification requirement such that, when the last payphone is being replaced by an alternative public means to access the telecommunications system, rather than being entirely removed, the notification requirement does not apply.

42. Lastly, the Commission, as indicated in Telecom Notice of Consultation 2015-66, lifts the moratorium on the removal of the last payphone in a community which had been put in place in Telecom Regulatory Policy 2013-708.

Policy Direction

43. The Commission, in exercising its powers and performing its duties under the Act, is required to implement the policy objectives set out in section 7 of the Act, in accordance with the requirements of the Policy Direction.

44. The Commission considers that its determinations in this decision will advance the policy objectives set out in paragraphs 7(a), (b), (f), and (h)⁸ of the Act.
45. Consistent with subparagraph 1(a)(i) of the Policy Direction, in this case, market forces alone cannot be relied upon to ensure that consumers are sufficiently notified of the intent to remove the last payphone in a community or in an area with no mobile wireless coverage. ILECs continue to be the primary providers of payphone service across Canada and payphone consumers may not often have access to alternative payphone providers. Further, there is no indication that payphone providers currently provide notifications related to the removal of the last payphone in a municipality.
46. Consistent with subparagraph 1(a)(ii) of the Policy Direction, the regulatory requirements set out above are efficient and proportionate to their purpose, and they minimally interfere with market forces. The Commission has considered the burden that will be imposed on telecommunications service providers in complying with this requirement, as well as the potential impact on these providers' existing business models. However, additional costs to payphone providers necessary to implement the recommended requirements are outweighed by the benefits afforded to Canadians, who will enjoy supplemental protection as a result of the notification requirement being triggered prior to the removal of a payphone in a way that consumers can more closely relate to and in instances where access to the telecommunications system is limited.
47. Consistent with subparagraph 1(b)(iii) of the Policy Direction, the regulatory requirements set out above would achieve a symmetrical regulatory regime across all ILECs, regardless of the technology they use, the geographic market in which they operate, and their size. The requirements will afford a similar level of protection to all Canadians, regardless of who their incumbent local payphone provider is.

Secretary General

Related documents

- *Results of the fact-finding process on the role of payphones in the Canadian communications system – Follow-up process concerning the public notification policy for the removal of the last payphone in a community*, Telecom Notice of Consultation CRTC 2015-66, 26 February 2015
- *Removal of the last payphone in a community*, Telecom Regulatory Policy CRTC 2013-708, 17 December 2013

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; 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.

- *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
- *Access to pay telephone service*, Telecom Decision CRTC 2004-47, 15 July 2004
- *Access to pay telephone service*, Telecom Public Notice CRTC 2002-6, 5 December 2002