



Telecom Decision CRTC 2021-38

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Bell Canada – Application seeking exemption from certain reporting requirements pursuant to Telecom Regulatory Policy 2018-466

*The Commission **approves** Bell Canada’s request for an exemption from the reporting requirement to distinguish between wholesale teletypewriter (TTY) relay service and retail TTY relay service. Given that the network infrastructure of the company’s TTY relay service situation precludes it from distinguishing between wholesale and retail customers, the Commission’s measures to protect against discrimination in such a circumstance are rendered unnecessary. Bell Canada will continue to be subject to all other reporting requirements under Telecom Regulatory Policy 2018-466.*

*The Commission also **directs** Bell Canada to indicate in its annual reporting whether or not its network infrastructure has changed in a way that would enable it to distinguish between wholesale and retail TTY relay service traffic.*

Background

1. In *Review of the regulatory framework for text-based message relay services*, Telecom Regulatory Policy CRTC 2018-466, 14 December 2018 (Telecom Regulatory Policy 2018-466), the Commission set out a number of determinations regarding the regulatory framework for text-based message relay services (MRS). These determinations aimed to (i) ensure that Canadians with a hearing or speech disability continue to have access to MRS, (ii) improve the quality of MRS, (iii) improve and increase access to MRS on mobile devices, and (iv) prepare MRS users and providers for the future as networks transition to Internet Protocol (IP) technology.
2. The Commission determined that it would be sufficient and efficient for an annual reporting requirement to be applied only to the large incumbent local exchange carriers and large cable-based carriers.¹ It also determined that this reporting would be broken down by (i) type of MRS (for example, IP relay service versus teletypewriter [TTY] relay service), (ii) wholesale versus retail provision of MRS, and (iii) wireline versus wireless operations. Finally, the Commission identified specific indicators that had to be reported on.

¹ This requirement was imposed on Bell Canada and its affiliates (Bell Mobility Inc.; Bell MTS, a division of Bell Canada; Northwestel Inc.; and Télébec, Société en commandite); Bragg Communications Incorporated, carrying on business as Eastlink; Cogeco Communications inc.; Rogers Communications Canada Inc.; Saskatchewan Telecommunications; Shaw Telecom G.P., TELUS Communications Inc.; and Videotron Ltd.

3. The Commission imposed the aforementioned reporting requirements for all wholesale providers of MRS in order to enable it to monitor the treatment of all wholesale MRS customers.
4. While Bell Canada is a wholesale provider of MRS, nothing on the record of the proceeding that led to Telecom Regulatory Policy 2018-466 indicated that it was offering unequal treatment to its wholesale and retail customers, nor was there any indication at that time that its infrastructure precluded it from distinguishing between wholesale and retail customers.

Application

5. On 20 December 2019, the Commission received an application from Bell Canada, on its own behalf and on behalf of its affiliates that are subject to Telecom Regulatory Policy 2018-466, in which it requested an exemption from certain reporting requirements set out in that decision.
6. Specifically, Bell Canada requested a permanent exemption from the requirement that annual indicators and reporting on MRS include separate information related to its wholesale TTY relay service and its retail TTY relay service.
7. The Commission received an intervention regarding Bell Canada's application from the Deaf Wireless Canada Consultative Committee; the Canadian Association of the Deaf; the Canadian National Society of the Deaf-Blind, Inc.; and the Deafness Advocacy Association Nova Scotia (collectively, the Accessibility Groups).

Should the Commission approve Bell Canada's application for an exemption from the requested reporting requirements?

Positions of parties

8. Bell Canada submitted that, through its third-party providers, it is currently technologically unable to distinguish between wholesale and retail TTY relay service customers, that any potential method for creating such a distinction would be financially unreasonable, and that a permanent exemption is therefore required to address this unique barrier.
9. Bell Canada submitted that as a result of its inability to differentiate between wholesale and retail TTY relay service customers, all customers are necessarily treated equally. Bell Canada argued that customers are protected, rather than prejudiced, by its inability to distinguish between them. The company further submitted that this equal treatment is consistent with the intention of Telecom Regulatory Policy 2018-466 and substantively addresses the harm that the reporting requirements are intended to prevent.
10. Bell Canada also indicated that it intends to comply with all other reporting requirements set out in Appendix 2 to Telecom Regulatory Policy 2018-466.
11. The Accessibility Groups opposed Bell Canada's application. They argued that the Telecom Regulatory Policy 2018-466 reporting requirements cannot be as burdensome as the company claims, seeing as how another provider of TTY relay services, Telus

Communications Inc. (TCI) is able to distinguish between wholesale and retail customers in its reporting of both its TTY relay service and IP relay service.

12. The Accessibility Groups added that distinguishing between wholesale and retail TTY relay service customers will help the Commission and the public determine what regulatory changes, if any, must be made to ensure that all customers (both wholesale and retail) receive the same quality of TTY and IP relay services.
13. Bell Canada replied that it is not possible to compare its ability to implement the reporting requirement in question against TCI's ability to do so, since the network infrastructure and engineering associated with TCI's provision of TTY relay service are unknown.
14. Further, Bell Canada submitted that no evidence has been presented to indicate that TCI faces the same unique barriers that Bell Canada does in distinguishing between wholesale and retail TTY relay service customers, and that it has no reason to believe that is the case.
15. Bell Canada reiterated that the exemption it is seeking is limited to its TTY relay service reporting requirements, and does not include its IP relay service reporting requirements. It is able to distinguish between wholesale and retail IP relay service customers, and will continue to do so.
16. Finally, Bell Canada restated its argument that since it is technologically impossible to distinguish between wholesale and retail TTY relay service customers, all customers are necessarily protected against any possibility of prejudice on its part.

Commission's analysis and determinations

17. After Bell Canada submitted its reply, the Commission requested that the company submit more details on the technical solutions and financial costs required to enable it to fulfill its original reporting obligations.
18. Upon review of Bell Canada's response, the Commission considers that the network infrastructure of the company's TTY relay service is indeed fundamentally unsuited to distinguishing between wholesale and retail TTY relay service customers. Not only would adding such a capability be technically and financially burdensome, it would also be disruptive to a number of users.² Finally, even if Bell Canada were to add this capacity, it would be likely to only yield imprecise results.³
19. The Commission originally sought to have the reporting broken down to protect wholesale customers of MRS from being treated differently than retail customers. However, such a requirement is only necessary in the event that a distinction can be drawn. In Bell Canada's

² While TTY-to-voice customers would continue dialing 7-1-1 to access TTY relay services, voice-to-TTY and TTY-to-TTY users would need to dial newly established 1-800 numbers, each corresponding to a specific wholesale TTY relay customer.

³ Even the most costly solution would rely on voice-to-TTY and TTY-to-TTY users dialing the correct 1-800 number. Any user that dialed the wrong number (or the current 1-800 number that would then be reserved for retail customers) would either be distinguished incorrectly or have their call blocked outright.

case, since the network infrastructure of the company's TTY relay service precludes it from distinguishing between wholesale and retail customers, the Commission's measures to protect against discrimination in such a circumstance are rendered unnecessary.

20. As such, it would be both unnecessary and unreasonable for the company to fulfill this specific reporting obligation due to significant technological hurdles at this time.
21. With respect to Bell Canada's financial cost argument, the Commission is of the view that the issue is technical in nature, not financial. As noted above, even if Bell Canada were to implement its proposed solutions, the end result would be imprecise and potentially cause disruptions to current users. Therefore, it would be unreasonable to request that Bell Canada invest any capital in a technical solution that would yield unreliable results.
22. The Commission also considers that wholesale and retail TTY relay service customers are shielded from discrimination by virtue of Bell Canada's inability to distinguish between the two. Therefore, granting Bell Canada an exemption to distinguish between the two in its reports would result in no impact on the Commission's practical ability to adequately monitor the quality of service of Bell Canada's TTY relay service for all customers, since the company would continue to be required to report on those indicators in a combined manner. Further, granting Bell Canada an exemption in this scenario would have no impact on the Commission's ability to monitor other MRS providers for fair treatment.
23. However, the Commission considers that Bell Canada should be subject to an annual reporting requirement to indicate whether or not its network infrastructure has changed in a way that would enable it to distinguish between wholesale and retail TTY relay service traffic.
24. In light of the above, the Commission **approves** Bell Canada's request for an exemption from the reporting requirement to distinguish between wholesale and retail TTY relay service. Bell Canada will continue to be subject to all other reporting requirements under Telecom Regulatory Policy 2018-466.
25. The Commission also **directs** Bell Canada to indicate in its annual reporting whether its network infrastructure has changed in a way that would enable it to distinguish between wholesale and retail TTY relay service traffic.

Policy Directions

26. The Commission is required to exercise its powers and perform its duties under the *Telecommunications Act* (the Act) in accordance with the 2006 Policy Direction⁴ and the 2019 Policy Direction.⁵ The 2006 Policy Direction states that the Commission should rely on market forces to the maximum extent feasible and regulate, where there is still a need to do

⁴ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

⁵ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227, 17 June 2019

so, in a manner that interferes with market forces to the minimum extent necessary. The 2019 Policy Direction provides that when the Commission is exercising its powers and performing its duties under the Act, it should consider how its decisions can promote competition, affordability, consumer interests, and innovation.

27. The Commission considers that the approval of Bell Canada's application is consistent with subparagraph 1(a)(ii) of the 2006 Policy Direction.⁶ Specifically, the Commission does not consider a requirement for Bell Canada to implement an expensive and technically burdensome solution that disrupts the end-user experience and generates imprecise data to be a measure that is efficient and proportionate to the purpose of protecting those end-users.
28. Finally, the Commission is of the view that its approval of Bell Canada's application is consistent with subparagraph 1(a)(iv) of the 2019 Policy Direction in that it protects the rights of consumers in their relationships with telecommunications service providers, including rights related to accessibility.⁷ Specifically, the rights of wholesale customers of Bell Canada's TTY relay service are protected since the company is unable to distinguish between wholesale and retail TTY relay service customers, and therefore cannot discriminate between the two. In addition, requiring Bell Canada to implement a technically burdensome solution would result in disruptions of service to existing users relying on this service, which would not be to the end-users' benefit.

Secretary General

⁶ Subparagraph 1(a)(ii) of the 2006 Policy Direction states that the Commission should, when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives.

⁷ Subparagraph 1(a)(iv) of the 2019 Policy Direction states that the Commission should consider how its decisions can promote competition, affordability, consumer interests and innovation, in particular the extent to which they enhance and protect the rights of consumers in their relationships with telecommunications service providers, including rights related to accessibility.