

Intervention

Regarding the Consultation on *Proceeding to establish a mandatory code for mobile wireless services*: Telecom Notice of Consultation CRTC 2012-557, 11 October 2012 and CRTC 2012-557-1, 1 November 2012.

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By submitting this intervention we are indicating our intent to become parties to this proceeding.

We also wish to appear at the public hearing on 11 February 2013 in Gatineau, Quebec.

Executive summary

1. This intervention into the development of a Wireless Code is based on evidence from research with youth and seniors on their negotiation of wireless services in Canada, along with a cross-cultural examination of similar regulatory provisions in Australia and the United Kingdom. Based on this research, we suggest that a Wireless Code would require increased clarity of contracts and pricing plans, special considerations for vulnerable consumer groups, an inclusion of specifics for mobile data services in addition to voice services, and a set of complementary resources for consumer education.
2. Our intervention addresses two consultation objectives in particular:
 - I. The content of the Wireless Code; and
 - III. How the Wireless Code should be enforced and promoted.
3. The background research that supports our suggestions stems from two areas of inquiry: the first comprises evidence about the impact of current industry practices on consumer rights in Canada, particularly on groups of youth and seniors; the second includes examples drawn from practices employed in Australia and the UK.
4. The implementation of a Wireless Code that supports consumer rights is important, especially for more vulnerable segments of the Canadian population. In addition, the CRTC might consider the need for such a code as an effect of the continuing lack of sufficient industry competition in Canada.

Part One – Intervention

5. Telecom Notice of Consultation CRTC 2012-557 describes this consultation as the development of “a code for retail mobile wireless data and voice services (mobile wireless services) to ensure the clarity of mobile wireless service contracts and related issues for consumers. The Commission concluded that consumers need additional tools to better understand their basic rights, as well as their service providers’ responsibilities with respect to mobile wireless services, in order to participate in the competitive market in an informed and effective manner.”¹
6. This intervention aims to put forth evidence about two particular populations of Canadians – youth and seniors – in terms of how they negotiate wireless service provision as consumers. Our research with these groups shows that they have specific needs and deserve special considerations in the development of a Wireless Code.
7. We also seek to draw Commission’s attention to relevant practices in other jurisdictions, specifically Australia and the United Kingdom, where federal regulators and industry associations have introduced important precedents for ensuring consumer rights in wireless communications.

¹ Canadian Radio-television Telecommunications Commission (2012) Introduction. Telecom Notice of Consultation CRTC 2012-557: <http://crtc.gc.ca/eng/archive/2012/2012-557.htm>

Part Two – Responses to the specific consultation objectives

8. In response to the objectives outlined in the Telecom Notice of Consultation CRTC 2012-557, this section highlights specific areas where action to enhance consumer rights is needed. These areas have been determined through our original research on certain Canadian populations in relation to wireless communication (see Part Three), as well as through the existing practices in other jurisdictions, where relevant examples are offered below.
9. Our research holds implications for the consultation objectives: I. The content of the Wireless Code, and III. How the Wireless Code should be enforced and promoted.

I. The content of the Wireless Code

Clarity of contract terms and conditions

10. The code should require the standardization of the language found in supplier terms and conditions, so that consumers can more easily understand these contracts and compare the terms of different suppliers. As an example, see the standard agreements and contractual documentation provided by Optus in Australia.²
11. It is also important that wireless providers clearly state any limitations on services imposed upon their customers. For instance, if particular features of handsets³ are disabled by the service provider, this information must be made clear to customers. If certain services are only available for use over the carrier's data network rather than freely accessible over Wi-Fi networks, or if access to a service over the carrier's network requires a specific type of data plan,⁴ this must also be clear to customers. For instance, most Canadian carriers will not sell a smartphone without a data plan, even though most of the applications on the phone will work on Wi-Fi networks that are not operated by the wireless providers. Likewise, if services are unavailable in Canada (e.g. some functionality of Apple's Siri service on the iPhone was limited when first introduced to Canada), this information must be clear to potential customers before they commit to a service contract. Availability of services

² See for example, Optus's Standard forms of agreement for mobile services: <http://www.optus.com.au/aboutoptus/About+Optus/Legal+%26+Regulatory/Standard+Forms+of+Agreement/Personal/Mobile/Mobile>

³ e.g., caller ID/call display, call forwarding.

⁴ For example, customers in the US wishing to use Apple's Facetime service over AT&T's mobile network initially required a specific plan to do so. See: <http://attpublicpolicy.com/consumers-2/a-few-thoughts-on-facetime/>

may change over the term of a customer's contract, thus it is suggested that providers should inform their customers when services are added or disabled.

Clarity of advertised price

12. Our main concerns regarding the clarity and fairness of advertised prices and contract terms and conditions can be addressed by a provision requiring service providers to clearly state the full costs of a wireless contract over the term of the contract. This would ensure that limited-term or introductory pricing deals do not mislead consumers into accepting a higher price for service over time. For instance, in Australia, supplier websites and advertisements indicate the service costs over 12- and 24-month periods.⁵ As many Canadian wireless services providers only offer their customers the option of a 36-month contract, it is especially important that Canadians understand the total costs of the commitment they are making when signing a contract. Additionally, some Canadian service providers charge fees for services that are commonly included as part of basic service packages in other countries (e.g. voice mail, long distance). These fees must be clearly stated to allow potential customers to understand the full costs of the services they intend to use.

Application of the Code to bundles of telecommunications services

13. The language of a Wireless Code must account for not only voice services, but for the provision of mobile data. Data plans often comprise the most expensive service to consumers, and need to be discussed not only as optional services but as integral to the most popular varieties of mobile device on the consumer market. However, the code should also recognize that while mobile data services are often bundled with voice services, they are also sold as standalone products (e.g. USB mobile broadband devices, personal hotspots). These standalone products require the same clarity of information as is needed for voice-only or bundled voice and data services. UK service providers have formed the Mobile Broadband Group, and have articulated their Principles of Good Practice for selling and promoting mobile broadband.⁶ A Canadian code should require providers to outline the information provided in these principles (coverage, factors influencing speed, pricing transparency) for their customers.

⁵ See for example, Telstra's pricing plans: <http://www.telstra.com.au/mobile-phones/mobile-plans/every-day-connect/>

⁶ <http://www.vodafone.co.uk/cs/groups/public/documents/webcontent/vftst062577.pdf>;
http://www.mobilebroadbandgroup.com/documents/mbg_mobile_broadband_gpp_010609.pdf

Other

14. In addressing the needs of specific groups such as youth and seniors, it is important that a wireless code include explicit mention of certain vulnerable groups so that they are not disadvantaged by unfair or unclear contracts, fee structures, or privacy policies. Service providers in the UK, such as Orange, offer a number of directed resources for youth, the elderly, and the disabled. For example, and in conjunction with other national service providers, Orange has developed Good Practice Guides for service delivery involving elderly or disabled customers.⁷ In Australia, The Brotherhood of St. Laurence, an NGO working to reduce poverty, produced a report in 2011⁸ articulating the financial consequences of youths' mobile phone use. This report was funded by the Australian Communications Consumer Action Network (ACCAN) and provides excellent insights into specific challenges faced by youth as consumers of wireless services.

III. How the Wireless Code should be enforced and promoted

15. The promotion and enforcement of the Wireless Code on the supplier side would be greatly enhanced by complementary resources for consumers. Independently of service providers, the CRTC should develop impartial resources and tools that help Canadians understand wireless services, and recognize whether a supplier is adhering to the code.
16. One model for the development of tools for consumers can be found in the series of guides compiled by UK federal regulator Ofcom on its consumer website.⁹ These guides include:
- Call costs guide¹⁰
 - Using mobile service abroad¹¹
 - Lost and stolen phones¹²
 - Mobile voice and data allowances¹³
 - Billing problems¹⁴
 - Disabled people and communications services¹⁵
 - Maximizing mobile coverage¹⁶

⁷ http://www1.orange.co.uk/about/regulatory_affairs.html - good-practice

⁸ Fieldgrass, L. and The Brotherhood of St. Laurence (2011) *Mobile Matters: The Youth Advocates Project*. (Sydney: Australian Communications Consumer Action Network).

⁹ <http://consumers.ofcom.org.uk/guides/>

¹⁰ <http://consumers.ofcom.org.uk/2009/10/how-much-does-a-phone-call-really-cost/>

¹¹ <http://consumers.ofcom.org.uk/2012/03/using-your-mobile-abroad-4/>

¹² <http://consumers.ofcom.org.uk/2012/03/lost-or-stolen-mobile-phone/>

¹³ <http://consumers.ofcom.org.uk/2012/03/mobile-voice-and-data-allowances/>

¹⁴ <http://consumers.ofcom.org.uk/2012/03/billing-problems/>

¹⁵ <http://consumers.ofcom.org.uk/2011/06/disabled-people-and-communications-services/>

¹⁶ <http://consumers.ofcom.org.uk/2010/11/maximising-your-mobile-coverage/>

- How to get the best mobile phone deal¹⁷
17. The Australian Communications and Media Authority also offers advice on choosing products and services, including specific information on pricing, contracts, and roaming.¹⁸
 18. The Australian Communications Consumer Action Network offers a consumer-friendly guide¹⁹ to that country's consumer protection code. This guide provides clear advice as to questions consumers should ask prior to signing a contract, things to look for in a contract, and what to do if problems arise when using a wireless service. This sort of simple, accessible information should be available to Canadian consumers.
 19. Another important resource for consumers would be an independent analysis of wireless service prices, made available to the public in a price comparison tool. Such a tool was proposed in Canada as early as 2007 by then-Industry Minister Maxime Bernier, but has since been abandoned.²⁰ A revival of this project would provide an important consumer education tool. Alternately, Canada could follow the example of the UK, where there are several accredited price comparison websites that empower consumers by clarifying the differences and similarities between fee structures and service plans.²¹ It would be helpful for Canadians to know whether comparison sites²² offer unbiased advice, and an accreditation process would assist in this regard.
 20. We also note that although "the Commission considers that competition in the mobile wireless market continues to be sufficient to protect the interests of users with respect to rates and choice of competitive service provider,"²³ data presented below (and by other respondents to this consultation) suggest that additional action is needed to ensure that the interests of Canadian consumers are well-served by our wireless service providers.

¹⁷ <http://consumers.ofcom.org.uk/2010/05/how-to-get-the-best-mobile-phone-deal/>

¹⁸ http://www.acma.gov.au/WEB/STANDARD/pc=PUB_CONS_TEL_MOBILE

¹⁹ Australian Communications Consumer Action Network (2012). *Making the Right Call: Your Rights as a Phone & Internet Customer* (Sydney: ACCAN):

http://accan.org.au/index.php?option=com_content&view=article&id=488&Itemid=363

²⁰ Tencer, D. (2012) Cellphone Price Calculator Scrapped after Industry Lobbying: Report. *The Huffington Post*. Business, February 27: http://www.huffingtonpost.ca/2012/02/27/cellphone-price-calculator-lobbying_n_1304632.html

²¹ <http://consumers.ofcom.org.uk/price-comparison/>

²² e.g. <http://www.comparecellular.com/>

²³ Canadian Radio-television and Telecommunications Commission (2012) CRTC Telecom Decision 2012-556: <http://crtc.gc.ca/eng/archive/2012/2012-556.htm>

Part Three – Background research

A. Consumer rights in wireless communication in Canada

Background

21. The issue of consumer rights in wireless communication practices has mainly been studied empirically from the point of view of privacy.²⁴ But the practical concerns of consumers are much broader, and often come down to economic concerns around the cost of wireless communication.
22. In Canada, the issue of cost has been particularly important for consumers, since our wireless costs are among the world's highest,²⁵ and our coverage area vast. The task of providing wireless infrastructure to a relatively sparsely distributed population across a vast land area is challenging, which has resulted in only larger conglomerates being able to exercise country-wide network coverage.²⁶
23. Canada's wireless industry is dominated by three established telecommunications firms (the "big three"): Rogers Communications, Inc.; BCE's Bell Mobility, Inc.; and Telus Communications Company. According to a 2010 report, these "big three" players account for 95% of the Canadian market and enjoy the highest profit margins of any wireless corporations in the developed world.²⁷ The average revenue per user for Canadian carriers is among the highest in the OECD,²⁸ with one Canadian provider referring to its customers as "revenue generating units" in a 2011 quarterly update.²⁹

²⁴ King, N.J., and Jessen, P.W. (2010) Profiling the Mobile Customer: Privacy Concerns when Advertisers Target Mobile Phones, Part I. *Computer Law & Security Review* 26: 455-478; Kotzanikolaou, P. (2008) Data Retention and Privacy in Electronic Communications. *IEEE Security & Privacy* 6(5): 46-52; Shilton, K. (2009) Four Billion Little Brothers? *Communications of the ACM* 52(11): 48-53; Phillips, D.J. (2003) Beyond Privacy: Confronting Locational Surveillance in Wireless Communication. *Communication Law and Policy* 8(1): 1-23.

²⁵ Li, C. & Ninan-Moses, B. (2010) An International Comparison of Cell Phone Plans and Prices. New America Foundation:

http://newamerica.net/publications/policy/an_international_comparison_of_cell_phone_plans_and_prices

²⁶ Senate Canada (2010) *Plan for a Digital Canada*: <http://planfordigitalcanada.ca/images/stories/pdf/report.pdf>

²⁷ Nowak, P. (2010) Canadian wireless firms still tops in profit: report. *CBC News*. July 19: <http://www.cbc.ca/technology/story/2010/07/19/canada-wireless-profit.html?ref=rss>.

²⁸ Organisation for Economic Co-Operation and Development (2011) *OECD Communications Outlook 2011*. Paris: OECD.

²⁹ Videotron (2011) More Than 210,000 Mobile Customers: Videotron Posts Record-Breaking Quarterly Growth for Mobile Services: <http://www.marketwire.com/press-release/more-than-210000-mobile-customers-videotron-posts-record-breaking-quarterly-growth-mobile-tsx-qbr.a-1548223.htm>

24. The high costs to Canadian wireless consumers coincides with large profits for the big three telecom firms. A report for Canadian Wireless Telecommunications Association (CWTA) states that this industry generated CDN\$43 billion for the Canadian economy in 2010, and it invests billions in infrastructure each year.³⁰ But while wireless companies are “enjoying tremendous profits,”³¹ wireless consumers in Canada have been confronted with high costs, manipulative bundling of services, confusing billing packages, and dropped service. Consumer frustrations with this state of affairs has been indicated by investigative media reports on the industry, including a Canadian Broadcasting Corporation series about “Canada’s Worst Cell Phone Bill.”³² Such public dissatisfaction with the way that Rogers, Bell, and Telus have exploited their market share and charge prices among the highest in the OECD,³³ has led the CRTC to consider strategies for increasing competition between wireless service providers, as a means of lowering the cost of wireless service to consumers.
25. The main mechanism used to increase competition has been through a relaxation of foreign ownership restrictions, since traditionally, restrictions on foreign ownership have prevented major global competitors from entering the market. The relaxation of these restrictions has followed from the Canadian government’s recommendations for a “national digital strategy” to involve the liberalization of foreign ownership restrictions in telecommunications.³⁴
26. One of the first steps to reducing the restrictions on foreign ownership was the auctioning off of wireless spectrum licenses. In 2008, Industry Canada held an Advanced Wireless Services spectrum auction that reserved the 40 MHz portion of the electromagnetic spectrum—one of a series of wavelengths that carry wireless signals—for licensing to new entrants to the market.³⁵

³⁰ Ovum Consulting (2012) *The Benefit to the Canadian Economy from the Wireless Telecommunications Industries: An Economic Impact Assessment*. Report Prepared for the Canadian Wireless Telecommunications Association: <http://cwta.ca/wordpress/wp-content/uploads/2012/06/Ovum2012.pdf>

³¹ Canadian Wireless Telecommunications Association (2008) *2008 Wireless Attitudes Study* (Ottawa: Harris-Decima).

³² Marketplace (2010) Canada’s worst cell phone bill. *CBC.ca*: http://www.cbc.ca/marketplace/2010/canadas_worst_cellphone_bill/main.html

³³ Organisation for Economic Co-Operation and Development (2011) *OECD Communications Outlook 2011*. Paris: OECD; Senate Canada (2010) *Plan for a Digital Canada*: <http://planfordigitalcanada.ca/images/stories/pdf/report.pdf>

³⁴ Government of Canada (2010) *Speech from the Throne: A stronger Canada, a stronger economy*. March 3: http://www.discours.gc.ca/grfx/docs/sft-ddt-2010_e.pdf

³⁵ Senate Canada (2010) *Plan for a Digital Canada*: <http://planfordigitalcanada.ca/images/stories/pdf/report.pdf>

27. The spectrum auction generated over \$4 billion in profit for the federal government and ended with the big three companies retaining and expanding their spectrum licenses, while new entrants (Shaw, Quebecor-Videotron, Bragg, DAVE Wireless – now operating as Mobilicity, Public Mobile, and Globalive Wireless – operating as Wind) were able to bid for a share of the 40 MHz spectrum.³⁶ This resulting shift in the landscape of wireless providers in Canada reflects the federal government’s emphasis on wireless communications and the promotion of a “digital economy.”³⁷
28. The 2008 spectrum auction, along with subsequent auctions, have only provided a partial solution to the lack of competitiveness in Canada’s wireless industry, however, since most of the new entrants have located their businesses in urban areas such as Toronto and Montreal.

Table 1. The wireless market in Canada, as of February, 2011³⁸

OPERATOR	SERVICE BRAND	SUBSCRIBER MARKET SHARE
Bell Mobility	Northwestel, NMI Mobility, Virgin Mobile, Solo Mobile	30%
Rogers Wireless	Fido, Chat’r	37%
TELUS Mobility	Koodo Mobile, Mike	28%
Public Mobile		Unknown
Globalive	Wind Mobile	Unknown
Mobilicity (former DAVE Wireless)		Unknown
SaskTel Mobility		Unknown
Videotron		Unknown

29. Despite recent attempts to open up the wireless market, Canada continues to have some of the highest cell phone costs in the world.³⁹ In Canada, access to mobile phones is often made

³⁶ The Canadian Press. (2008). Bidding in Canada’s Wireless Spectrum Auction hits \$4B. *CBC News*. June 24: <http://www.cbc.ca/news/technology/story/2008/06/24/spectrum-four-billion.html>

³⁷ Sawchuk, K. and Crow B. (2010) Talking ‘costs’: Seniors, cell phones and the personal and political economy of telecommunications in Canada. *Telecommunications Journal of Australia* 60(4): <http://tja.org.au/index.php/tja/article/view/4/20>

³⁸ Shepherd, T. and Shade, L.R. (2012) Mobile Phones as a ‘Necessary Evil’: Canadian Youth Talk About their Mobile Phones. In Vannini, P., Budd, L., Fisker, C., Jiron, P. and Jensen, O. (eds.), *Mobility and Communication Technologies in the Americas* (New York: Peter Lang): 199-213.

³⁹ Triplett, J. (2004) Handbook on Hedonic Indexes and Quality Adjustments in Price Indexes: Special Application to Information Technology Products. OECD Science, Technology and Industry Working Papers: <http://dx.doi.org/10.1787/643587187107>; International Telecommunications Union (2012) Measuring the Information Society 2012 (Geneva: ITU): <http://www.itu.int/ITU->

available through bundles of cable, Internet, landline and wireless services through a single provider. The wireless services offered in many of these packages come with three-year contracts and a handset.⁴⁰ While Canadians are eager adopters of broadband services, including those that are bundled together to include mobile devices, internationally Canada ranks close to the bottom – 22nd out of 30 nations included in a 2010 study – when costs and services are measured.⁴¹ This is especially important considering the growing adoption of mobile Internet services.

Table 2. Comparison of Mobile Data Plans, as of April 2012⁴²

Mobile Data Plans	Average Monthly Cost (2GB/month)
Canada	\$53.00
U.S.	\$52.00
U.K.	\$27.00
France	\$39.00
Australia	\$31.00
Japan	\$55.00

Prices adjusted to CDN dollars

Canadian youth and seniors negotiate wireless communication

30. The shape of Canada’s wireless industry, which still evidences high costs to consumers when compared to other global markets, has had especially important ramifications for more vulnerable populations when it comes to accessing the wireless communications infrastructure. Our research has examined two such populations – youth and seniors – but other considerations include rural and remote populations, the disabled, as well as groups with lower socioeconomic status in general.

[D/ict/publications/idi/material/2012/MIS2012_without_Annex_4.pdf](#); Li, C. & Ninan-Moses, B. (2010) An International Comparison of Cell Phone Plans and Prices. New America Foundation: http://newamerica.net/publications/policy/an_international_comparison_of_cell_phone_plans_and_prices; Middleton, C. (2011). Canada's Telecommunications Policy Environment. *Telecommunications Journal of Australia*, 61(4), 69.61-69.14.

⁴⁰ Sawchuk, K. and Crow B. (2010) Talking ‘costs’: Seniors, cell phones and the personal and political economy of telecommunications in Canada. *Telecommunications Journal of Australia* 60(4): <http://tja.org.au/index.php/tja/article/view/4/20>

⁴¹ Benkler, Y., et al. (2010) *Next generation connectivity: A review of broadband Internet transitions and policy from around the world* (Cambridge, MA: Berkman Center for Internet and Society, Harvard University): <http://cyber.law.harvard.edu/pubrelease/broadband>, 66, 157.

⁴² Wall Communications Inc. (2102) *Price Comparisons of Wireline, Wireless and Internet Services in Canada with Foreign Jurisdictions*. Report prepared for the CRTC: <http://www.crtc.gc.ca/eng/publications/reports/rp120406.htm>

I. Youth

31. Young Canadians, who often fall into lower socioeconomic categories when they are students, for example, are targeted by wireless industry players because they are often early adopters of new technologies such as smartphones. Innovative ownership, control, and pricing structures are often introduced by wireless companies as they battle for the long-term loyalty of young consumers. For example, Rogers's takeover of Microcell's lower-priced Fido in 2004 served to reinstate the company's dominant market share by bringing in the lucrative 12- to 19-year-old demographic.⁴³ Now a subsidiary of Rogers, Fido—like Telus's Koodo and Bell's Virgin Mobile and Solo—operates through Rogers to attract younger consumers with discounted pricing plans, including student deals.
32. Attracting younger consumers has also been important for newer entrants to the market, including Globalive's WIND, Public Mobile, and DAVE Wireless's Mobilicity, which have been reticent to position themselves as direct competitors to the incumbents' "flanker" brands, but have explicitly framed themselves as "value" providers for lower-income consumers, such as young people.⁴⁴ Mobilicity, for example, has purchased spectrum licenses only for urban centres, seeking to attract customers in Canada's most populous and primarily youthful cities.
33. The youth market share has been a crucial site where recent changes to Canada's wireless industry have played out for consumers. This is especially true when it comes to the extra, add-on services that complement basic mobile phone service. Consumers spent an estimated \$176 million in 2008 on mobile content and applications, including \$43 million for personalized content (i.e., ringtones, wallpaper, logos, skins, and screensavers), \$39 million on games, \$23 million on music, \$17 million on TV, and an additional \$30 million on miscellaneous content.⁴⁵ Consumer revenues from such features is now even higher given the popularity of Apple and Android smartphones, the development of new applications, and the seamless integration of social networking sites such as Facebook, where a third of the

⁴³ Ross, R. (2004) Rogers fetches Fido for \$1.4 billion. *Toronto Star*, September 21, D01.

⁴⁴ Shepherd, T. and Shade, L.R. (2012) Mobile Phones as a 'Necessary Evil': Canadian Youth Talk About their Mobile Phones. In Vannini, P., Budd, L., Fisker, C., Jiron, P. and Jensen, O. (eds.), *Mobility and Communication Technologies in the Americas* (New York: Peter Lang): 199-213.

⁴⁵ Ovum Consulting Group (2010) *The benefit of the wireless telecommunications industry to the Canadian economy*: http://www.cwta.ca/CWTASite/english/pdf/OVUM_Study.pdf. Note that these data were not updated in the 2012 report.

site's 18.6 million users in Canada are under 25,⁴⁶ into these devices.

34. In a study with young Canadians aged 20 to 24, participants reported that mobile communication was indispensable for their lifestyles, which involved coordinating meetings, making calls, and feeling safe.⁴⁷ Texting was the most-used function (consistent with 2010 data on U.S. youth⁴⁸), but participants also used smartphone capabilities like GPS maps, translation applications, online resources, and social media platforms. This group of participants also reported that owning a mobile device was the norm, and that it was highly unusual to know someone without a mobile device.
35. When asked about their attitudes toward wireless service providers, the Canadian youth in this study reported a general distrust of service providers and their advertising.⁴⁹ Skepticism about the advertising, pricing schemes, and customer service of mobile providers came from participants' experience with wireless companies both domestically and abroad. Some participants had experience dealing with mobile providers in other countries while travelling, for example, and by comparison, they found Canadian service overly expensive, convoluted in terms of pricing schemes and feature packages, and unreliable in customer service. Through their experiences in Canada, participants found mobile advertising untrustworthy, especially in regard to prices quoted in advertisements; one participant offered the formula that one should expect the cost to be 50% higher than the figure cited in the ads. Participants also reported finding mobile pricing schemes complicated and subject to unannounced fee and billing changes. These experiences and resulting distrust can be seen in part as an effect of the wireless industry structure in Canada, with little competition available other than the big three.

II. Seniors

36. The significance of the youth age group for the wireless industry's expansion in Canada is matched by the significance of the 'seniors'

⁴⁶ <http://www.socialbakers.com/facebook-statistics/Canada>

⁴⁷ Shepherd, T. and Shade, L.R. (2012) Mobile Phones as a 'Necessary Evil': Canadian Youth Talk About their Mobile Phones. In Vannini, P., Budd, L., Fisker, C., Jiron, P. and Jensen, O. (eds.), *Mobility and Communication Technologies in the Americas* (New York: Peter Lang): 199-213.

⁴⁸ Lenhart, A., Ling, R., Campbell, S., & Purcell, K. (2010) *Teens and mobile phones*. The Pew Internet and American Life Project: <http://www.pewinternet.org/Reports/2010/Teens-and-Mobile-Phones.aspx>

⁴⁹ Shepherd, T. and Shade, L.R. (2012) Mobile Phones as a 'Necessary Evil': Canadian Youth Talk About their Mobile Phones. In Vannini, P., Budd, L., Fisker, C., Jiron, P. and Jensen, O. (eds.), *Mobility and Communication Technologies in the Americas* (New York: Peter Lang): 199-213.

age group for debates around national telecommunications policy, as the number of seniors in Canada is predicted to double from 4.2 million at present to 9.8 million by 2038.⁵⁰ It is expected that in ten years, by 2021, 6.7 million Canadians will be over the age 65.⁵¹ It is not only the size of this demographic that is increasing, but their paid work participation and life expectancy, which is currently at its highest in Canada at 80.7 years, up from 78.4 years a decade ago. Men's life expectancy has risen by 2.9 years, while for women it has increased by 1.8 years.⁵²

37. At the same time that more of the Canadian population is aging, it is also growing less economically wealthy. Between 1997 and 2003, the average income of senior households increased by \$4,100 while the income of other Canadian households increased, on average, by \$9,000.⁵³ Only a small percentage of families, 25 percent, hold 84 per cent of all private retirement savings, while three out of ten families have no private pension assets.⁵⁴ The situation is even more pronounced for seniors living alone, particularly for senior women: fully two-thirds of senior women live below the low-income cut-off line.⁵⁵
38. In addition, and despite the rhetoric of "active aging,"⁵⁶ there is little discussion of the role of communication technology in the lives of a growing senior population. In a study with Canadians aged 65 and up, participants expressed a strong desire to remain engaged with new communication technologies as they advanced in age.⁵⁷ Yet participants' main concern about mobile communication was its high cost: they shared many stories about exceptionally high cell phone bills. Through a series of focus groups, these seniors went on to discuss strategies for negotiating the cost with carriers, including calling customer service,

⁵⁰ Statistics Canada (2007) *A portrait of seniors in Canada*. Government of Canada: <http://www.statcan.gc.ca/ads-annonces/89-519-x/index-eng.htm>

⁵¹ Canadian Institutes of Health Research (2006) *The future is aging: The CIHR Institute of aging strategic plan 2007-2012*. Government of Canada: <http://www.cihr-irsc.gc.ca/e/34013.html>, 9.

⁵² Statistics Canada (2007) *Deaths, 2007*. *The Daily*, February 23, 2.

⁵³ Government of Canada (2005) *National Advisory Council on Aging* (Ottawa: Minister of Public Works): <http://dsp-psd.pwgsc.gc.ca/Collection/H88-5-3-2005E.pdf>, 8.

⁵⁴ Government of Canada (2005) *National Advisory Council on Aging* (Ottawa: Minister of Public Works): <http://dsp-psd.pwgsc.gc.ca/Collection/H88-5-3-2005E.pdf>, 12.

⁵⁵ Government of Canada (2005) *National Advisory Council on Aging* (Ottawa: Minister of Public Works): <http://dsp-psd.pwgsc.gc.ca/Collection/H88-5-3-2005E.pdf>, 30.

⁵⁶ World Health Organization (2002) *Active ageing: A policy framework*: <http://www.who.int/ageing/publications/active/en/>; Special Senate Committee on Aging (2009) *Canada's aging population: Seizing the opportunity*. Government of Canada: <http://www.parl.gc.ca/40/2/parlbus/commbus/senate/com-e/agei-e/rep-e/AgingFinalReport-e.pdf>

⁵⁷ Sawchuk, K. and Crow B. (2010) Talking 'costs': Seniors, cell phones and the personal and political economy of telecommunications in Canada. *Telecommunications Journal of Australia* 60(4): <http://tja.org.au/index.php/tja/article/view/4/20>

restricting their use of mobile devices, and continuing to use a landline for long-distance calling.

39. In this group of Canadian seniors, one of the main reported uses of wireless communication was for emergencies: having a mobile device lent a feeling of comfort and security, especially for older women.⁵⁸ But emergencies were only one of many communicative functions that participants claimed were important, including day-to-day communication, and some features of smartphones. The high costs of service plans and extra features, however, meant that the participants often restricted those uses. When asked what they would like to see from wireless carriers into the future, these seniors said that: "They would like these communications devices to be affordable, they would like instruction manuals on how to use them and what the *real* costs are for the various services, they would like to have plain contract language, and they would like devices that are easy to operate with intuitive design; they would also like less expensive options, and better and more uniform customer service when things go wrong."⁵⁹

B. Best-practices for wireless service providers: A cross-cultural approach

I. Australia

40. In May 2012, Australian industry association Communications Alliance put forth a Telecommunications Consumer Protections (TCP) Code to serve as a code of conduct for the telecommunications industry, designed to ensure good service and fair outcomes for all consumers. Compliance with the code is mandatory for all service providers, and it is enforced by the Australian Communications and Media Authority, the national regulator.
41. The main framework guiding the TCP Code is to support consumer rights through the actions of suppliers. Suppliers make a number of key commitments to consumers, as stated in the TCP Code.⁶⁰

⁵⁸ Sawchuk, K. and Crow B. (2010) Talking 'costs': Seniors, cell phones and the personal and political economy of telecommunications in Canada. *Telecommunications Journal of Australia* 60(4): <http://tja.org.au/index.php/tja/article/view/4/20>

⁵⁹ Sawchuk, K. and Crow B. (2010) Talking 'costs': Seniors, cell phones and the personal and political economy of telecommunications in Canada. *Telecommunications Journal of Australia* 60(4): <http://tja.org.au/index.php/tja/article/view/4/20>

⁶⁰ Communications Alliance Ltd. (2012) Industry Code: Telecommunications Consumer Protection Code C628:2012: http://commsalliance.com.au/_data/assets/pdf_file/0017/33128/TCP-C628_2012_May2012-Corrected-July12.pdf, 1.

- Consumers will enjoy open, honest and fair dealings with their Supplier, and have their privacy protected.
- Consumers will receive clear, accurate and relevant information on products and service from their Supplier; before, during and, where appropriate, after the point of sale.
- Consumers will have disputes resolved quickly and fairly by their Supplier.
- Promotion of products and services by Suppliers will be clear, accurate and not misleading.
- Disadvantaged and vulnerable consumers will be assisted and protected by appropriate Supplier policies and practices
- Consumers will receive an effective remedy from any Supplier who breaches the Code
- Suppliers will use monitoring and reporting tools to ensure successful implementation of the Code.

42. While the Code is currently in the process of being implemented across the Australian telecommunications industry, it offers a model for enhancing consumer rights and obligations through supplier actions. Anticipated benefits to consumers will arise from clearer language in advertising, itemized billing provisions, data usage notifications, financial hardship allowances, clarification of informed consent, streamlined complaint resolution, and obligatory compliance among industry stakeholders. In addition, benefits to industry are projected to include heightened customer satisfaction, increased customer retention, increased accessibility to the Code, and clarification of obligations.⁶¹

II. UK

43. The United Kingdom's federal regulator Ofcom has in the past stipulated a Code of Practice for the sales and marketing of subscriptions to mobile networks. This code includes provisions that ensure the compliance of carriers and resellers through contractual obligations. The practices addressed in the code include employee training, customer contact, entering into contracts, sales incentives, due diligence, and the handling of customer complaints.⁶² Particularly significant imperatives for suppliers are to not abuse the trust of vulnerable customers, such as the elderly or non-native English speakers, and to detail the

⁶¹ Communications Alliance Ltd. (2012) Telecommunications Consumer Protections Code Explanatory Statement: http://commsalliance.com.au/_data/assets/pdf_file/0018/33129/C628_2012-TCP-Code-Explanatory-Statement.pdf, 3-4.

⁶² Ofcom (2007) Code of Practice for the sales and marketing of subscriptions to mobile networks: <http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/mobile/cop.pdf>

terms and conditions of contracts in plain language, directly to the person entering into them.

44. In addition to the Code of Practice, Ofcom has more recently produced a number of resources for consumers, educating them on how to navigate mobile carriers' deals and pricing schemes,⁶³ how to interpret call costs,⁶⁴ how to deal with a lost or stolen mobile,⁶⁵ and how to file complaints.⁶⁶

⁶³ <http://consumers.ofcom.org.uk/2010/05/how-to-get-the-best-mobile-phone-deal/>;

<http://consumers.ofcom.org.uk/2012/03/mobile-voice-and-data-allowances/>

⁶⁴ <http://consumers.ofcom.org.uk/2009/10/how-much-does-a-phone-call-really-cost/>

⁶⁵ <http://consumers.ofcom.org.uk/2012/03/lost-or-stolen-mobile-phone/>

⁶⁶ <http://consumers.ofcom.org.uk/tell-us/telecoms/adr/>

Part Four – Conclusion

45. There are several relevant models for components of a wireless code that the CRTC can draw on from similar jurisdictions in Australia and the UK. We have found that these models offer potential solutions to the specific issues raised in research with populations of youth and seniors. The needs of these groups, along with those of rural and remote populations, the disabled, and lower income groups in general, deserve special acknowledgement in the development of a Wireless Code that will protect consumer rights.
46. We suggest that the CRTC consider the following in drafting a Wireless Code:
 - a provision requiring service providers to clearly state the full costs of a wireless contract over the total contract term (often 36 months in Canada)
 - a provision requiring standard language to be used in supplier terms and conditions industry-wide
 - an inclusion of specific considerations for vulnerable groups, such as youth and seniors, but also rural and remote populations, the disabled, and lower income groups in general
 - a broadening of the language around wireless service provision to include mobile data along with voice as central to wireless communications
 - a set of complementary resources for consumers that would include guides for how to understand wireless services and an accredited price comparison tool
47. Finally, it is important to note that many of the consumer issues raised in the development of a wireless code suggest that there remains a lack of sufficient competition in the Canadian marketplace. We believe that a more competitive market would help to resolve some of the concerns held by consumers in relation to fee structures and the fair pricing of services.

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