

# CONSUMERS COUNCIL OF CANADA

Before the Canadian Radio-television and  
Telecommunications Commission

Broadcasting and Telecom Notice of Consultation  
CRTC 2018-246

Report regarding the retail sales practices of  
Canadas large telecommunications carriers (LTCs)

## **Comments**

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## I Executive Summary

- ES 1 Re: Broadcast and Telecom Notice of Consultation CRTC 2018-246, Report regarding the retail sales practices of Canada's large telecommunication carriers. These are the reply comments of the Consumers Council of Canada on the interventions submitted at August 30, 2018. The Council is a not-for-profit organization that supports an improved marketplace, and focuses its advocacy on the rights and responsibilities of consumers.
- ES 2 Our comments relate primarily to the Rogers, Telus, and Bell interventions at August 30, 2018.
- ES 3 Our comments and recommendation are made in the context of the objective of an improved and more efficient marketplace that ultimately benefits consumers.
- ES 4 There is strong and significant evidence that significant misleading and aggressive sales practices of the large telecommunications carriers exist, and furthermore that it may be systemic. Such evidence includes:
- A significant number of individuals submitting to this process; more than 1,000
  - The clear recommendation that this hearing be held, as ordered by the Governor in Council's OIC
  - OpenMedia's list of more than 1,072 individual complaints in their intervention
  - A significant number of consumer interested individuals in the Consumer Council's Public Interest Network indicating in detail issues with LTCs.
  - Unifor's assertions that their employees are subject to pressure to "informally" conduct such practices".
  - The CCTS's assessment of significant mismatch in customer and service provider expectations in sales complaints.
- ES 5 The view stated by the LTCs is that there is neither a significant nor systemic issue with such misleading or aggressive sales practices.
- ES 6 In the absence of an objective evidence-based response from the LTCs regarding the extent, nature and cause of such practices, or an acknowledgment of such significant and systemic malpractices, we recommend that the Commission take on the responsibility of determining through an independent and comprehensive statistically sound survey of Canadians, their degree of satisfaction with the LTCs sales practices, and their specific experiences in order to determine the extent, nature and causes of such sales practices.

- ES 7 The telecommunications carriers largely believe that there is certainly no need to significantly change the consumer protection or enforcement regime, other than an expansion of the responsibilities of the CCTS, an ostensibly independent complaints organizations funded by the telecommunications companies. They say the protection regime in place is adequate, as they have adequate prohibitions in place regarding such practices. They neglect to discuss or assess the efficacy of these regimes and indicate their prevention capabilities.
- ES 8 Consumer protections cannot be determined solely by a synthesis by the LTCs of the “rules” in place but a clear effort made by the CRTC to determine not only what is prohibited, but what is effectively prevented, and the degree to which the prohibitions are enforced.
- ES 9 There is support among the LTCs for the expansion of the CCTS’s role to include complaints relating to misleading and aggressive sales practices. Prima facie, we agree, subject to concerns listed in our comments.

## **II Clear evidence of misleading and aggressive sales practices**

- 7 There is clear evidence presented that there is a significant problem with misleading and aggressive sales practices amongst LTCs. The direction that the CRTC hold this consultation and hearing came from significant concern regarding such misleading and sales practices.
- 8 More than one thousand submissions/interventions from Canadian telecommunications customers were submitted, many well categorized in PIAC’s Intervention displaying the severity and breadth of such concerns and practices.
- 9 1,072 individual submissions from Canadian telecommunications regarding their concerns with misleading or aggressive sales practices were identified and/or documented through OpenMedia’s intervention.
- 10 Many specific practices and concerns were detailed in the Consumer Council’s intervention, from consumer interested Canadians of the Council’s Public Interest Network.
- 11 Unifor’s intervention claims systemic efforts regarding such practices, through information gleaned from employees of the LTCs.

*“Unifor submits that the decision-makers and management within the major telecommunications companies are the main culprits behind the misleading and aggressive retail sales practices that Canadian consumers encounter. Systemic company policies and practices create a hostile work environment for employees – an environment where employees are pit against one another based on their performance and where customers are used as pawns in the process. (Unifor, p2)*

*“The extensive system of performance management (including metrics that put employees’ jobs at risk) and stack ranking employed by the major companies (Bell Canada in particular) is a large contributor to the hostile environment and pressure on employees to use problematic sales strategies with customers.” (Unifor, p2)*

*“Sales employees are constantly monitored and encouraged to use questionable tactics with customers in order to reach sales targets. Employees who install hardware for services are also dragged into the issue of sales tactics, as they are required to install services regardless of the customer’s real need for the service.” (Unifor, p2)*

12 CCTS observed (CCTS, p12) in a limited sample that there is a mismatch between a customers understanding and the service providers, for three main reasons:

- Agreement conflicts with what customer agreed to
- Expiry of promotions
- Non-disclosure or ineffective disclosure of the service provider’s right to make unilateral changes by the service provider

13 CCTS does not conclude that these resulted from misleading or aggressive sales practices, but a reasonable person would concede that there is a strong possibility that such practice may have led to this and that further investigation is warranted.

### **III Carriers do not see misleading/aggressive sales practices as significant or systemic**

14 The three largest telecommunications carriers (LTCs) made it clear that they do not believe there is any significant or systemic misleading or aggressive sales practices in their organizations:

*The issues are, rather, a reflection of the complexity that exists within Canada’s competitive telecommunications and broadcasting distribution industry, where consumers are offered a wide variety of products, services and plans. Given the choices available to consumers, there may occasionally (sic) be some miscommunications or misunderstandings.” (Rogers, p3)*

*Despite the inherent complicated nature of many of our products and services, and the large volume of customer interactions, Rogers has experienced very few issues regarding our sales practices. (Rogers, p18)*

*"...such behaviour is extremely rare at Rogers" (Rogers, p4)*

*"Given the relatively small number of complaints we received, it is clear that the issues outlined in the OIC and in TBNC 2018-246 are not indicative of a systemic problem within the Rogers organization. Nor is there any type of organized attempt to mislead customers or to encourage them to purchase products and services that they do not want or need." (Rogers, p3)*

*"If, based on the evidentiary record of the proceeding, there is a need to strengthen or expand the scope of existing consumer protection measures, we are prepared to play an active role in determining how best to go about that on an industry-wide basis so as to benefit all consumers of telecommunications services." (Bell, p3)*

*"In rare instances where inappropriate practices are discovered..." (Telus, p1)*

- 15 While some do discuss their incentive/quota/sales targets they make it clear that they do not lead to misleading or aggressive practices, and can actually contribute to mitigating or eliminating them

*"The most direct incentive for agents is the clawback of sales commissions if there is a cancellation or deactivation within a certain timeframe." (Bell, p14)*

*"Like almost every company in Canada that is engaged in sales, Rogers employs sales targets to incent our agents to sell our products and services. These targets are achievable and the methods used by our agents to meet them are fair and transparent. In fact, we have embedded customer satisfaction metrics into our agents' sales performance objectives, in large part, to encourage clear, simple, and fair sales practices. This applies to every team member, at every level. Rogers has a zero tolerance policy for unethical or misleading sales practices." (Rogers, p4)*

*"TELUS invests considerable resources in training agents to sell to customer need as opposed selling to targets." (Telus, p28)*

#### **IV What LTCs say they do to mitigate such practices**

- 16 By and large the LTCs take no individual responsibility for any of these "purported" misleading or aggressive sales practices. They explain :

**17 We have ethics, they say...**

*"At Bell, everyone has a responsibility to meet the highest standards of ethical conduct. This is enshrined in the Bell Code of Business Conduct (the Code)." (Bell, p4)*

*"...a Business Code of Conduct that establishes rules relating to organizational risks, such as conflicts of interest, ethics, confidentiality and compliance with laws." (Rogers, p8)*

*"...all sales interactions are expected to align with expectations outlined in the Code of Ethics and Conduct." (Telus, p28)*

**18 We are customer focused, they say...**

*"Customer service resides at the centre of our goal to be recognized as Canada's leading communications company." (Bell, p4)*

*"Rogers has developed a high-performance culture by investing in sales and service teams that are focused on meeting our customers' needs and creating best in class customer experiences." (Rogers, p8)*

*"TELUS has a singular focus on the customer throughout the company." (Telus, p1)*

**19 We have training, they say...**

*"We provide rigorous training to all of our sales agents and require the third party sales agents we commission to do the same." (Bell, p4)*

*"...hosting best practices training sessions;" (Rogers, p4)*

*"Our employee training supports the needs-based approach" (Rogers, p8)*

*"TELUS provides specific training to all sales agents on how best to determine and address the needs of potentially vulnerable customers." (Telus, p4)*

*"Another aspect of delighting customers in the sales process is training door-to-door sales agents to seek feedback on TELUS services to which a person is already subscribed." (Telus, p13)*

*"Onboarding, ongoing training and regular coaching sessions;" (Telus, p26)*

## 20 Good service pays off, and customers stay, they say...

*"The reason for this is simple: Customers that do not feel misled or pushed into unwanted products are more likely to maintain their services with us. In today's highly competitive environment customer satisfaction and retention is a critical imperative." (Bell, p4)*

*"Our objective in developing and implementing all of these training, monitoring and complaint mechanisms is to ensure that our number one priority is the needs of Rogers' customers. We have a relationship with nearly 13 million Canadians. We put our customers' needs first in everything we do and treat them in a fair and respectful manner. Not only is that the right thing to do, but it is at the core of our business strategy to develop and maintain positive long-term relationships so that our business will continue to grow by connecting Canadians to what matters to them." (Rogers, p5)*

*"Throughout the last 10 years, TELUS has carefully measured those key metrics and has found that a focus on the customer at every stage of the relationship, including at the sales phase, has paid off." (Telus, p18)*

*"...adopting a multi-channel sales methodology, which teaches agents to succeed by building long-lasting relationships with customers;" (Rogers, p8)*

## 21 We have monitoring processes, they say...

*"A high incidence of cancelled or deactivated services will also trigger an investigation..." (Bell, p4)*

*"We also continuously monitor employees through call listening, auditing and by requesting feedback from our most important resource, our customers." (Bell, p5)*

*"regularly reviewing our calls and sales interactions via call listening and quality assurance programs and by providing coach back opportunities;" (Rogers, p4)*

*"employing mystery shoppers to monitor the quality of service our customers receive and their experience at retail stores;" (Rogers, p4)*

*"conducting quarterly and annual audits of both field and sales incentive programs." (Rogers, p4)*

*"TELUS' contact centre agents are subject to a rigorous compliance program. Compliance analysts and managers monitor..." (Telus, p30)*

## 22 We have disciplinary processes, they say...



*"In all cases, investigations may lead to disciplinary action which, depending on the severity of the incident, may include a verbal warning, a written warning, a suspension or the dismissal of the employee." (Bell, p5)*

*"This action includes termination of an employee or vendor contract, when an investigation concludes that an employee's conduct or that of a third party agent has violated Rogers' policies and procedures and business code of conduct." (Rogers, p17)*

*"TELUS' contact centre agents are subject to a rigorous compliance program. Compliance analysts and managers monitor." (Telus, p31)*

## **23 We regularly, and in varied ways, ask our customers for feedback, they say...**

*"Customer feedback from post-service interaction surveys as well as complaints are also a crucial element of our customer experience and allow our customers to let us know directly if we did not get things right." (Bell, p5)*

*"...customer satisfaction survey metrics – Likelihood to Recommend (LTR) and Own the Experience (OTE). Similarly, the two new metrics are evaluated using customer survey questions which reflect feedback regarding agent performance." (Rogers, p13)*

*"TELUS also has many ways of receiving customer feedback and complaints including by telephone, email, online, at the door and to any TELUS employee regardless of function." (Telus, p3)*

## **24 We quickly resolve the few complaints we get, they say...**

*"When considering the issue the Government has asked the Commission to examine, context is critically important. Over the period under review by the Commission, we have received more than 54 million calls from customers. Of these, less than 0.05% (or 24,041) were related to sales practices and escalated to our Case Management, Executive Care or the Commission for Complaints for Telecom-Television Services (CCTS) complaints management teams. Our teams resolve disputes on a case-by-case basis and implement processes, systems or training changes as a result of trends observed in the handling of disputes and many of our customers leave positive feedback with our escalations teams once their dispute is resolved." (Bell, p5)*

*"If there is a complaint from a customer, Rogers makes every effort to resolve it to the satisfaction of the customer. We have procedures in place that are designed to reduce the burden on customers who have experienced a problem, by having a strict escalation process, first to managers, then to the Office of the President and finally to the Office of the Ombudsman." (Rogers, p5)*

*"All well-founded complaints received internally over the past year have been resolved to the satisfaction of our customers. In each case where a complaint has been made, Rogers has presented the customer with a fair and reasonable solution." (Rogers, p15)*

*"In rare instances where inappropriate practices are discovered, remedial action is immediately taken to make things right for the customer and prevent a recurrence of the conduct." (Telus, p2)*

*"Once a complaint is received, TELUS has the following internal tools and groups to ensure that complaints are addressed as quickly and efficiently as possible." (Telus, p36)*

## 25 We have whistleblower/employee feedback programs, they say...

*"Any submission made by an employee regarding unethical behaviour is treated on a confidential and anonymous basis, unless specifically permitted to be disclosed by the employee or unless required by law. Anonymity is ensured by a third party specialized in ethical reporting and whistleblowing solutions." (Bell, p10)*

*"Customers and employees can report their concerns by making a complaint to Rogers." (Rogers, p13)*

*"(we) are committed to an organizational culture that promotes open feedback." (Rogers, p16)*

*"TELUS also has a robust whistleblowing program that is accessible not only by employees, but by anyone on through EthicsPoint." (Telus, p63)*

## V Our Questions

### 26 Our questions, which we would expect to see the LTCs specifically address in their testimony, are simply:

- With the significant evidence of consumer concern in the more than 1000 individual responses on the CRTC 2018-246 Intervention page from individual Canadian consumers, the 1,072 individual complaints noted in OpenMedia's intervention, the detailed incidents and concerns noted in the Consumer Council's intervention, the CCTS indications of customer/LTC mismatch, and Unifor's aggregated comments, and clear concerns, of many LTC employees, how can the LTCs continue to state without any independent verification that there is neither significant nor systemic sales malpractice.

- Why, with all the efforts that the LTCs state they are making with respect to ethics, training, monitoring, disciplining, feedback, employee whistleblower programs and customer service focus, are so many Canadians still dissatisfied with their sales practices?
- What is the independent informed evidence to support these assertions?

27 In the absence of an objective evidence based response from the LTCs, or an acknowledgment of such significant and systemic malpractices, we recommend that the Commission take on the responsibility of determining through an independent and comprehensive statistically sound survey of Canadians, their degree of satisfaction with the LTCs sales practices, and their specific experiences in order to determine the extent and causes of such sales practices.

## VI Consumer protection regimes

28 The LTCs clearly state, in various ways, that the current range of consumer protections are appropriate. They refer to the nature of the regulations and laws, but ignore the often meagre degree of enforcement, the lack of awareness by consumers, and the significant effort required to access such remedies for an amount that is often not worth the effort.

*"It is also important to appreciate the panoply<sup>1</sup> of consumer protection measures that are available today." (Bell, p5)*

*"These formal and informal, means of redress are of course in addition to perhaps the single most effective form of consumer protection: the highly competitive telecommunications market place in which customers are free to switch providers in the event that they are dissatisfied." (Bell, p6)*

*"There is no evidence that would support any proposal to strengthen or expand the scope of existing consumer protections or to create new protections that would further empower consumers to make decisions with respect to their telecommunications and broadcasting distribution services." (Rogers, p5)*

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1 "a wide-ranging and impressive array or display", Dictionary.com

*"Misleading and aggressive sales practices are illegal under existing rules. There are a number of statutes and regulations that address and prohibit aggressive and misleading sales practices that are of concern to the Governor in Council and the Commission." (Telus, p38)*

29 We believe that the effectiveness of this "panoply" of consumer protections cannot be determined solely by a synthesis by the LTCs of the "rules" in place but a clear effort made by the CRTC to determine not only what is prohibited, but what is effectively prevented, and the degree to which the prohibitions are enforced. The responses of the LTCs indicate a comprehensive prohibition regimen, but we question the true degree of protection actually provided.

30 The Commission in the consultation asked "Should the CCTS's role be expanded to help customers resolve complaints about their broader communications services, including sales practices?"

31 Both Telus and Bell suggested the expansion of such a responsibility would be an effective approach:

*"...consistent with the mandate and purpose of the Commission for Complaints for Telecom-Television Services ("CCTS"), a new code of conduct can clarify the CCTS mandate with respect to misleading and aggressive sales practices and ensure that it is able to properly and fairly permit consumers to seek redress if they have been misled in the sales process or were otherwise subject to poor sales practices." (Telus, p38)*

*"With respect to telecommunications services that are forborne from regulation by the Commission and to TV services, the CCTS also constitutes an effective venue for consumer complaints. Its mandate is to resolve complaints about Canadian telecommunications and television services and includes the ability to receive disputes about misunderstandings regarding the particulars of a contract." (Bell, p23)*

32 Prima facie, we would agree with this expansion of CCTS responsibility, given that currently there is no real objective ombudsperson service available nationally, but do so with caution, as:

- The CCTS is theoretically independent of the LTCs, but in practice we believe it has proven not to be.
- The CCTS would require significant funding to take on this added responsibility at a time when they are currently expanding into their added responsibility for resolving

broadcasting complaints. Furthermore, it is our opinion that CCTS funding has not been adequate for the true number of unresolved telecommunications complaints of Canadians.

- The LTCs in the past, have not met their requirements of informing consumers of the role of the CCTS, particularly at times when the consumer most needs to be informed. This is evidenced by survey results conducted by the CCTS in their 2015 review by the Commission.
- We would expect a more independent, and effective, approach to conduct of CCTS responsibilities and the LTCs efforts in enabling the capture of such complaints.

33 Rogers' response befuddles us. Either we misunderstand their stance, or Rogers has confused the current responsibilities of the CCTS. Rogers appears to imply that the current responsibilities of the CCTS are adequate for dealing with complaints of misleading or aggressive sales practices.

*"For all of these reasons, Rogers believes that the current protections that are in place – which include the Wireless and TVSP Codes of Conduct, the processes established under the Commission for Complaints for Telecom-television Services (CCTS), the Competition Act provisions on marketing and other applicable requirements, as well as our own internal complaint, monitoring and training processes – are sufficient to ensure that customers are treated fairly when they purchase services from Canadian telecommunications carriers" (Rogers, p6)*

*All of these mechanisms for resolving complaints are disclosed and promoted by Rogers through various means. This includes providing contact information in the following places: (i) each customer's service agreement and on our various terms of service documents; (ii) on the contact links of our websites, where we explain how customers can share a concern with Rogers or contact the CCTS as an avenue for unresolved complaints, and describe our Office of the Ombudsman; (iii) each customer's invoice; which includes (four times each year) a bill message notification (or SMS for wireless prepaid subscribers) that promotes the CCTS as an avenue to pursue unresolved complaints; and (iv) written correspondence to a customer who has filed a complaint with the Office of the President informing them that we have referred the case to the Office of the Ombudsman and that they may also raise their concern with the CCTS" (Rogers, p15)*

34 If Rogers is implying that misleading or aggressive sales practices are currently within the remit of the CCTS they are wrong. Telecom Decision CRTC 2007-130 clearly states that claims of false or misleading advertising is excluded from the responsibilities of the CCTS.