

December 19, 2018
Filed via GCKey

Mr. Claude Doucet
Secretary General
Canadian Radio-television and
Telecommunications Commission
Gatineau, QC
K1A 0N2

Dear Mr. Doucet

Re: Telecom Notice of Consultation CRTC 2018-422 – Call for comments – Proceeding to establish a mandatory code for Internet services – Intervention of Distributel Communications Limited

1. Distributel Communications Limited (“Distributel”) hereby files its intervention to Telecom Notice of Consultation CRTC 2018-422, *Proceeding to establish a mandatory code for Internet services* (“TNC 2018-422”) that is reviewing the appropriateness of implementing a new mandatory code of conduct for Internet services (“Internet Code”) and the Internet Code working document (“Model Internet Code”).
2. Distributel is limiting its comments at this time to comments on the appropriate objective of an Internet Code and specific questions set out in TNC 2018-422 regarding issues raised when Internet services are purchased as part of a service bundle, considerations related to the application of the Internet Code to Internet Service Providers (“service providers”), and certain terms contained in the Model Internet Code. Distributel reserves the right to comment on the positions of other interveners on these and other issues set out for comment in TNC 2018-422 in its reply comments.
3. To the first point referenced above, Distributel is of the view that the primary objective of the Internet Code under consideration should be to ensure that customers are provided with all material terms, conditions, and policies associated with an Internet service offering on a clear and easily understandable basis. Moreover, this information should be easily accessible to customers when they are shopping for an Internet service to enable them to compare the terms offered by competing service providers and make an informed selection of their service provider of choice.
4. Such an outcome will accrue greater benefits to customers than the prescription of obligations governing how certain terms may be applied to an Internet service by a service provider. Put another way, the goal should not be to impose additional retail type regulations on retail services offered by a service provider that may not wish to adhere to such requirements. Instead, the objective should be to empower customers to leverage

the benefit of a competitive market and consumer choice to select the service provider that offers terms that are acceptable to them.

5. With respect to the fact that Internet services are often offered as part of a bundle of services, it is notable that the potential implementation of an Internet Code raises unique considerations that were not present when the existing codes of conduct for television services¹ (the “Television Code”) and wireless services² (the “Wireless Code”) were established. Specifically, as Internet services are commonly offered as part of a bundle with television services, the current proceeding represents the first time that a code of conduct under consideration would apply to a service (i.e. Internet service) that is commonly bundled with another service (i.e. television service) that is subject to a separate code of conduct.
6. This raises the possibility that the terms applicable to the Internet component of a service bundle per an Internet Code will differ from those that apply to the television component of the same service bundle per the Television Code. Distributel is concerned that such an outcome may lead to confusion and disputes as customers may be required to navigate differing terms related to items such as service cancellation, disconnection, changes to contract terms and other important matters for each service that is included in their service bundle.
7. Distributel is therefore of the view that the terms contained in the codes of conduct applicable to services that are commonly offered as part of a service bundle (i.e. Internet and television services in the present case) should be symmetrical to the greatest extent feasible. While beyond the scope of this proceeding, Distributel is also of the view that a future process could look to synthesize service-specific codes of conduct into a single service-agnostic code of conduct that includes service-specific differences only where necessary.
8. With regard to the application of the code to service providers, Distributel is of the view that if an Internet Code is applied in a broader fashion than contemplated in 2018-422 then follow-up proceedings should be initiated to determine the responsibilities of competitive service providers that provide retail services using wholesale high-speed access (“HSA”) service and incumbent HSA service providers in relation to specific terms contained in the Model Internet Code.
9. As one example, if competitive service providers are subject to the broader trial and cooling off period obligations contained in the Model Internet Code it will be necessary to consider issues of responsibility where a customer cancels service during these periods due to issues that are within control of the incumbent HSA service provider. For example, in some cases a customer will terminate service with a competitive service provider because the access facility over which the service is delivered is not capable of delivering the speed specified in the retail service offering. This would not be an issue if competitive service providers were provided with the necessary tools and information about the capability and quality of an access facility to

¹ Established in Broadcasting Regulatory Policy CRTC 2016-1, *The Television Service Provider Code*.

² First established in Telecom Regulatory Policy CRTC 2013-271, *The Wireless Code* and subsequently amended in Telecom Regulatory Policy CRTC 2017-200, *Review of the Wireless Code*.

properly qualify customers and determine the speeds that their access facility can support. However, as this is not the case, it would be necessary to determine which party would absorb the installation and activation costs in these scenarios. Follow-up process would similarly be required to ensure that competitive service providers can provide equivalent levels of required information, such as specific and accurate time frames for installation and repairs, as the incumbent HSA provider is able to provide its own retail customers.

10. Turning to the proposed terms contained in the Model Internet Code, Distributel submits that revisions are required to the two terms identified below to ensure that they do not have inadvertent negative consequences on customers.

Model Internet Code – G. Contract cancellation and extension – 1. Early cancellation fees – General – i.:

11. Distributel is concerned that the proposed terms do not speak to how early termination fees may be calculated when a customer enters into either a fixed or indeterminate term contract that includes a subsidized device, such as a modem, or an equipment purchase plan, such as a rent-to-own modem agreement.
12. In this context, Distributel notes that ISPs often offer different payment and purchase plan options for modems and other Internet service related equipment in order to allow customers to select the option that best suits their needs. These options include, but are not limited to, monthly rental options, purchase options, rent-to-own options, and device subsidization options.
13. However, unlike the Wireless Code³ and the Television Code⁴, the proposed terms do not speak to how equipment related costs may be recovered if a customer cancels their service prior to the completion of an equipment related commitment, such as a rent-to-own agreement or the device subsidy period. Absent the ability to fairly recover equipment related costs in such scenarios, Distributel is concerned that service providers will not be able to offer the variety of payment and subsidy options that they make available today and, in turn, result in the inadvertent removal of consumer choice.

Model Internet Code – G. Contract cancellation and extension – 3. Cancellation date – ii.:

14. This proposed term requires that a service provider cancel a customer's service on the date that a notice of cancellation is received pursuant to the obligations set out in Broadcasting and Telecom Regulatory Policy 2014-576, *Prohibition of 30-day cancellation policies*. However, this proposed term does not reflect that a customer may also choose to submit a notice of cancellation that designates a future date as the date on which they wish their service to be cancelled. This is a common practice that allows a customer to align the date of their service cancellation with a future event, such as the date on which they are moving or transferring their service to another provider.

³ Regulatory Policy CRTC 2017-200, *Review of the Wireless Code*, Appendix 1, G. 2.

⁴ Broadcasting Regulatory Policy CRTC 2016-1, *The Television Service Provider Code*, Appendix 1, VII, 4.i.

15. Distributel is concerned that if interpreted plainly, the proposed term could restrict a customer from providing a notice of cancellation that designates a date in the future as the date on which they would like to cancel their service. This term should therefore be revised to make clear that cancellation takes effect on the date requested by the customer, whether that is the date on which the notice of cancellation is provided, or another date requested by the customer.

All of which is respectfully submitted,

Original signed by

Christopher Hickey
Director, Regulatory Affairs

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