

Comments
to
Canadian Radio-television and Telecommunications
Commission

by
Vaxination Informatique
regarding

MVNO Tariffs

8740-B38-202104686	TN-6	Bell Mobility
8740-S22-202104610	TN-372	Sasktel Telecommunications
8740-T66-202104876	TN-563	Telus Communications
8740-R28-202104636	TN-72	Rogers Communications

Jean-Francois Mezei
Vaxination Informatique
jfmezei@vaxination.ca
Montréal, Québec
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Introduction

1. Pursuant to the CRTC decision 2021-130, Bell Mobility, Rogers Wireless, Telus Mobility and Sasktel Mobility filed tariffs compliant with the new policy on MVNOs. Vaxination files its comments on the filed tariffs knowing full well in which file the comments will be filed.
2. While the 2021-130 decision, by design, limits the potential for increased market forces, it is important to not set precedents which would hamper efforts to increase market forces should the Policy be changed to no longer protect multi-billion dollar incumbents from competition.
3. As filed, the tariffs impose various restrictions and usage based billing which will set dangerous precedents and prevent the very limited use of MVNO from being successful.
4. This filing is being made because incumbents are calling their roaming tariffs MVNO tariffs. If the system being implemented were called "permanent roaming", Vaxination would not have filed this document as this would not set precedents for a future time when real MVNOs are needed.
5. As such, if the Commission wants "MVNO" tariffs, then it should ensure that filed tariffs are devoid of restrictions that prevent an MVNO from operating its own retail service without micro management from the incumbent that ensure the MVNO cannot compete. We all know what happened the last time an incumbent tried to force UBB onto wholesale. The Commission should not waste time by even contemplating such a scheme for MVNOs.

Process Fairness

6. Tariffs having been filed, the standard public process has begun. However, due to the proposed Rogers-Shaw merger whose outcome is not publicly known, the Commission must ask whether it is possible to build a complete public record without input from the eventual suitor of Freedom Mobile.
7. Deutsche Telekom had left T-Mobile for dead while seeking a buyer and while negotiating with AT&T, knew the T-Mobile network would be shutdown so there was no point spending more money improving it. Blocking the deal was akin to a defibrillator jolt that brought T-Mobile back from the dead, hungry to rebuild its network and regrow customer base.
8. Similarly, should the Rogers-Shaw deal be blocked, Shaw would likely change its strategy as did T-Mobile, so its current view on the tariffs does not reflect the view it may have should the merger be blocked. Should the wedding go ahead, creating a nice couple with a number of flanker kids, the Commission needs to wonder how it would treat the submission of a company which no longer exists and which no longer qualifies for use of those MVNO tariffs.
9. Rumours abound about potential suitors for Freedom Mobile. However, until an offer is made public, the purchaser or bidder should there be more than one cannot make a public filing that would reveal its intentions and potentially affect bidding/negotiations/lobbying for its acquisition.
10. Should the Commission process this file without waiting, once the merger is approved/rejected, there would be a case for and R&V due to "a fundamental change in circumstances or facts since the decision". So there isn't much of a point in proceeding in this period of uncertainty.
11. Since CRTC Telecom decision now take years to become public, delaying close of record by a couple of months won't make much of a difference.
12. It would therefore make sense to postpone the deadline for filing comments on these MVNO tariffs until the fate of Freedom Mobile is known publicly.
13. Not waiting to give the Freedom Mobile's suitor a chance to comment would be akin to the Commission knowingly preventing an important party to participate in the public process.
14. Note: as the commission's web site shows a 404 error to procedural requests, Vaxination cannot be aware of similar requests and due to the 404, decided to include this in comments instead of filing a separate procedural request guaranteed to be ignored.

Network Neutrality and Competition

Rogers TN 72: 1.4

- b) The MVNO Access is designed and implemented based on retail mobile wireless services offered to individuals and small business, and
- c) The MVNO Access does not include access for IoT or M2M devices.

Telus TN563

Definitions

"MVNO End-Customer" shall mean a Person

- a. that is an individual or small business, and

Conditions of Service

- 3. The MVNO Wholesale Access Service cannot be used to enable fixed wireless, wireline | or Wi-Fi services, nor can it be used to enable Internet of Things or Machine-to-Machine | communications.

Bell Mobility TN 6

Definitions

(13)"End-user" means a retail consumer or small business mobile wireless subscriber with a valid subscription

Sasktel TN 372

Definitions

"End-User" shall mean individuals and small businesses...

Devices Network and Facilities

- 4. SaskTel reserves the right to exclude complex devices from its network. If the Full-MVNO allows devices that a) have a very distinct purpose that is different from any of the devices offered by SaskTel to its own subscribers

- 15. In an MVNO environment, the host network has no business deciding what the MVNO's traffic contents should or shouldn't be nor limit who can and cannot be the MVNO's customers. Whether the user is a parking meter or a teenager playing video games makes no difference as the host network's job is to deliver packets between a GSM device and the MVNO's core.
- 16. Whether the device near the "Faking Sanity" coffee shop on 103rd in Dawson's Creek is associated to a large corporate account or to a teenager whose bill is paid by parents makes no difference to the host carrier who has no means to know what type of business relationship exists between the MVNO and the end user. The host carrier must remain agnisting to content type and MVNO's retail relationship with its end users.

Network Neutrality and Competition (cont)

36 Except where the Commission approves otherwise, a Canadian carrier shall not control the content or influence the meaning or purpose of telecommunications carried by it for the public.

17. The restrictions imposed by the proposed tariffs on types of use or types of devices breach Section 36 because the host carrier wants to control content of communications (limiting certain types of data or types of devices), as well as meaning of communications since it deems a end user's communications to be more important when the end user is associated to a corporate account (needs to be blocked via tariffs) versus individual retail account even if both generate the exact same amount of data. As the host carrier has no relationship with the end user (no installation, no support, no billing), it has no business dictating who the end user can and cannot be. This is not a resale arrangement, this is wholesale "full MVNO" arrangement mandated by a regulator whose role is to foster increased market forces.
18. As long as the MVNO and end user devices meet GSM specifications, the host carrier has no business trying to control the MVNO's devices, types of content transmitted by end users, or the types of end users. If the MVNO competitively wins a contract to serve parking metres, the host network has no business blocking this as long as the parking metres are GSM compliant.

27 (2) No Canadian carrier shall, in relation to the provision of a telecommunications service or the charging of a rate for it, unjustly discriminate or give an undue or unreasonable preference toward any person, including itself, or subject any person to an undue or unreasonable disadvantage.

19. In preventing an MVNO from selling certain services which the host carrier sells (such as IoT, commercial contracts etc), the host carrier is giving itself an undue preference and giving the MVNO undue discrimination for the purposes of preventing the MVNO from competing.
20. Let the MVNO innovate with new uses, new customers, new types of business relationships because in the end, as long as the devices used by the MVNO's end users meet standards the host carrier's job is to deliver packets between the MVNO's core and end user's device. The content of packets or type of business relationship are irrelevant to the host network which provides a wholesale service.

Voice Service

21. The incumbent's tariffs are unclear with regards to voice service. In an roaming environment, it is expected that outgoing voice calls will be handled by the visited carrier who then bills the home carrier, while incoming voice calls first reach the home carrier who then hands the call to the visited carrier to deliver to handset.
22. However, for data transmission (since GPRS days), the handset provides Access Point Name (APN) to the visited network, and after translation to a network address, all the user's traffic is tunnelled to the home network's APN which does usage accounting and connection to the Internet.
23. As the 2021-130 decision contemplates only carriers with an existing core network, the Commission should insist that voice calls for both 3G (UMTS) and LTE/5G (VoLTE) flow through transparently to/from the MVNO and the host carrier not handle any calls. As the MVNO is expected to connect to each Tier 4 areas where service is envisaged, it is up to the MVNO to decide how to process local and long distance calls within, to and from that service area.
24. As such, just as Bell Canada's wholesale wireline tariffs stipulate that the ISP needs to have L2TP, PPPoE capabilities as well as a RADIUS (or equivalent) server to assign IP addresses to end users, the MVNO wholesale tariff should stipulate the types of interfaces the host carriers expect the MVNO to support for voice calls (UMTS and VoLTE) as well as the translation of "IMS" APN so the host carrier can program its infrastructure to forward "IMS" packets to the MVNO's IMS.

Voice Usage

25. During the 2016-192 Notice of consultation on differential pricing carriers (notably Rogers) argued that they had to zero rate VoLTE voice calls because that traffic did not flow through the data APN and instead goes to the IMS gateway/APN that doesn't count data. While TRP 2017-104 does not explicitly mention this, the carriers have continued to zero-rate VoLTE voice calls while counting data used by competing applications such as Skype etc.
26. Should host carriers end up billing MVNO's VoLTE traffic by the byte, something they argued they can't do for themselves, it would generate an undue preference/discrimination (27(2)) as their own retail VoLTE is exempt from data charges while competitors using MVNO would be subjected to such charges.
27. This is another reason why a proper MVNO service needs to be capacity based and let the MVNO choose how much capacity to purchase. Otherwise, it is just a roaming service and should be called such.

"Success" fees

28. In item 101 11 (c) Bell Canada's innovative fee-creation department came up with the "Network Planning Compensation Payment" when an MVNO exceeds usage in forecasts which must be constantly sent to Bell. Other incumbents provided similar penalties.
29. In a competitive environment a structurally separate provider generally lowers rates when usage grows. Here, incumbents use their market power to punish growth of a potential competitor.
30. In a competitive environment, the network provider would encourage its wholesale customers to grow traffic via practices such as 95th percentile which allows problem-free growth up to a specific limit (max speed of link). This removes the need for constant adjustments in forecasts etc. And protects the network's capacity planning since the MVNO has a cap on the link speeds which can't be exceeded.
31. It should also be understood that when an MVNO acquires a retail customer who was with the incumbent that provides the hosting, this does not add to network demand.
32. The heavy regulatory requirement of the tariff may not be necessary since the MVNO still has to deploy a connection from its core network to the host carriers geographical point of presence for the desired Tier 4 geography. This already gives the incumbent with the capacity planning information it needs, and de-risks the situation as the MVNO cannot exceed capacity of the link. Hence those success fees are unjustified.
33. It is important to note that in a capacity-based system, if the MVNO does not install/purchase sufficient capacity, only its own customers see degraded performance and this does not impact the host carrier's own customers. Again, this de-risks the situation as the MVNO cannot negatively impact performance of the incumbent's own customers due to growth.
34. Requiring the MVNO to frequently and constantly update usage forecasts with penalties for exceeding forecasts is akin to requiring the MVNO to divulge its promotional/marketing plans to the host carrier who is also a retail competitor. Until structural separation is implemented, there needs to be a clear firewall to ensure the retail side of a wholesale provider cannot be aware of retail strategies of a competitor.
35. This is why a capacity-based system would be far superior not only because 95th percentile is possible to greatly reduce fees and paper work, but also give the MVNO total freedom with its retail strategies while moving network capacity planning only to the MVNO where only its retail customers suffer when the MVNO has not planned for sufficient capacity, and hence, no need for punitive fees as are included in current tariffs.

TRP-2021-130 paragraph 182:

The Commission considers that there are significant functional differences between wholesale roaming service and wholesale MVNO access service. Each service addresses a different type of customer: wholesale MVNO access service addresses service providers seeking permanent RAN access to enable their retail services to be offered, while wholesale roaming service addresses wireless carriers seeking incidental RAN access to support their customers when they travel...

paragraph 185:

In light of the above, the Commission determines that the relevant product market for wholesale MVNO access service is permanent access to the RAN and that the relevant geographic market is the tier 4 area.

paragraph 285:

A fundamental question in this proceeding is whether mandated wholesale MVNO access would result in innovative plans and pricing options for consumers, thus leading to lower prices overall.

36. Glorified roaming rates and restrictions does not allow an MVNO to enter a market with its home network pricing, home network innovations and home network flexibility. Usage Based Billing inherently gives the wholesale provider, who is also a retail competitor, control over the MVNO's retail strategy and ensure the MVNO cannot compete fiercely.
37. If the goal is to allow the MVNO to enter a geographical area and competitively acquire enough customers to justify the building of facilities in that areas, then the MVNO must be given tools to compete without incumbent micro managing and limiting its retail/commercial potential. It is when a carrier enters a market with 0 customers that it is the most competitive and aggressive to acquire customers.
38. In allowing the tariffs as written, the Commission creates a self fulfilling prophecy that this endeavour will not result in significant improvement in market forces. While the Commission has decided to greatly limit the scope of who can use this wholesale service, it must ensure that in the limited circumstances where such a service is permitted, the tariffs need to give the MVNO the maximum potential to compete aggressively.
39. Moreover, the Commission must not allow glorified roaming tariffs to become the baseline precedent that will hinder adoption of MVNO once the government realizes that protecting multi-billion dollar incumbents from competition does not achieve policy objectives, neither does helping incumbents maintain their #1 ranking in the world as most expensive.

40. As was said in the start, should the Commission wish to keep the tariff's restrictions, then it should at the very least force incumbents to rename them to permanent roaming tariffs and strike any reference to "MVNO" in them.
41. Otherwise, the tariffs need to provide true competition potential if the Commission wants to claim it is allowing MVNO in Canada, even if in very limited circumstances.

Jean-François Mezei
Vaxination Informatique
CP 1016 Succ Pointe Claire
Pointe Claire, Québec H9S 4H9
514-394-0348
jfmezei@vaxination.ca

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