



16 February 2017

Danielle May-Cuconato
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

Re: *Review of the Wireless Code*, Telecom Notice of Consultation CRTC 2016-293 (Ottawa, 28 July 2016) and 2016-293-1 (Ottawa, 23 September 2016) – response to Exhibit 1 questions

The Forum's response to the questions set out by the CRTC in Exhibit 1 in the above-noted proceeding are set out below. The CRTC's questions appear in bold font.

Bill shock due to overage fees:

Q1. Some WSPs enable customers to buy additional data (for additional fees) prior to hitting their data cap and paying overage fees. Some WSPs have argued that customers that pay more to increase their data limit should not have their overage fees capped when they hit their limit – can you comment on that proposal? Should the additional purchase price count toward the data overage fees?

The Forum's response, below, uses the terminology of the CRTC with respect to "customers" (rather than introducing the more precise term of 'account holder').

The Forum does not agree that wireless service providers should not cap overage fees for customers who have bought additional data for additional fees: agreement to the first term (buying more data) does not equate to agreement with the second (rejecting data caps).

In other words, even if a customer has purchased additional data, the provider should cap the data once the *Code's* limit is reached.

The *Code* should, however, accommodate contract flexibility by permitting users who know they will use data in excess of the limit, to opt out of the cap.

If customers consent to the removal of data overage caps, they should expressly affirm that

- they have been made aware that their consent may limit, if not remove, their subsequent ability to obtain redress from CCTS if the removal of overage caps lead to unusually high bills, and that

- they have been expressly notified about the tools available at the time they form their contract with their provider, for checking data usage.

Given the possibility of bill shock in such cases, we believe that wireless service providers should subsequently mail or e-mail customers a reconfirmation of their decision to waive data caps, as this would be an amendment to a key term of their contract or agreement with their wireless service providers. We also assume that wireless service providers will retain recorded or written confirmation of this express affirmation.

That said, the Forum also notes that it is likely that many people are unfamiliar with the distinction between megabytes and gigabytes, thereby limiting their ability to provide informed consent to terms of the contract related to the pricing of data. Being aware (for example) that a gigabyte is the equivalent of 1000 or 1024 megabytes may inform account holders' and customers' willingness to pay an extra \$50 (say) for one more gigabyte, or an extra \$5 (say) for each additional megabyte: if 1GB = 1,000 MB, the cost of buying a gigabyte of data one megabyte at a time would be \$5,000; if 1GB = 1,024 MB, the cost to buy an additional gigabyte of data one megabyte at a time would be \$5,120.

The *Code* should therefore require the CIS to include data and conversion examples to ensure that customers and account holders are providing their informed consent to additional data charges.

Q2. Should the *Code* add and define the term 'account holder' in the *Code*? In what provisions should the term 'customer' be replaced with 'account holder'?

(a) As the Forum argued in its 3 October 2016 submission in the 2016-293 proceeding (at paragraphs E27-E28, ¶¶104-108, Forum Recommendations 8 and 9 and Appendix 3, "Revisions proposed by the Forum for the *Wireless Code*"), the *Code* should add and define the term, "account holder". Our reasons for making this argument were and are that adding and defining the term, 'account holder' to and in the *Code* will

- Reflect the popularity of family wireless plans by helping families manage their wireless costs, so as to minimize the risk of bill shock
- Ensure that the person who is actually a signatory to the contract, or party to the agreement, grants any required consent – which is a standard requirement in Canadian contract law
- Reduce the chances that wireless service providers are unjustly benefitting from billing arrangements (instead of from competition with respect to their networks and their plans) – unjust benefits being inappropriate for public policy reasons, and will

- Address the CCTS' position that wireless service providers should apply data caps at the account level, rather than at the level of the device

(b) The term, 'customer', should be replaced by 'account holder' as indicated in the table below, which is based on Appendix 3 of the Forum's 3 October 2016 submission. Please note that at times, the Forum believes it may be appropriate to add 'account holder' to a given section of the *Code*, while retaining 'customer':

<p>The Wireless Code</p> <p><i>Italics and yellow highlighting indicate changes proposed by the Forum in its 3 October 2016 submission</i></p> <p><u>Underlining indicates places where 'customer' should be replaced by 'account holder'</u></p>	
Preamble	<p>The Canadian Radio-television and Telecommunications Commission (CRTC) has created this <i>Wireless Code</i> (the <i>Code</i>) so that <u>account holders and consumers of retail mobile wireless voice and data services (wireless services)</u> <i>and retail mobile wireless voice and data service providers</i> will be better informed of their rights and obligations contained in their contracts with wireless service providers (service providers).</p> <p>The <i>Wireless Code</i> will</p> <p>(i) make it easier for individual and small business customers <u>and account holders</u> to obtain and understand the information in their wireless service contracts;</p> <p>(ii) establish consumer-friendly business practices for the wireless service industry where necessary; and</p> <p>(iii) contribute to a more dynamic wireless market.</p> <p>The <i>Code</i> applies to all wireless services, whether purchased on a stand-alone basis or as part of a bundle, and whether purchased in person, online, or over the phone. All service providers must comply with the <i>Code</i>. All sections of the <i>Code</i> apply to postpaid services. The following sections of the <i>Code</i> also apply to prepaid services: A. 1-3; B. 2; E. 1, E. 4, and E. 5; F. 1-4; G. 1-4; and J. 1.</p> <p>Definitions of terms used in the <i>Code</i> are provided at the end of the <i>Code</i>. Defined terms are indicated in italics and bold the first time they appear in the <i>Code</i>.</p> <p>If any part of the <i>Code</i> or the customer's contract is ambiguous, or if it is unclear how the terms of the <i>Code</i> or the contract are to be applied, then the <i>Code</i> and the contract must be interpreted in a manner that is favourable to the customer <u>or account holder</u>.</p> <p><i>You can find a copy of the Code with examples of its interpretation on the website of the Commissioner of Complaints for Telecommunications Services (CCTS): http://www.ccts-cprst.ca/wp-content/uploads/pdfs/AWC/en/Annotated-Guide-to-the-Wireless-Code.pdf</i></p> <p>A customer who believes that their service provider is not adhering to the <i>Code</i> should first try to resolve the problem directly with the service provider. If the customer is not satisfied with the service provider's response, they can contact the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) as follows:</p> <p>Mail: P.O. Box 81088, Ottawa ON K1P 1B1 Website: www.ccts-cprst.ca Toll-free: 1-888-221-1687 TTY: 1-877-782-2384 Email: response@ccts-cprst.ca Fax: 1-877-782-2924</p>

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	<p>Customers who are dissatisfied with the CCTS' response or its process may contact the CRTC at:</p> <p>Telecommunications – Wireless Services CRTC Ottawa, ON K1A 0N2</p>
Purpose and objectives of this Code	
1. Purpose	<p><i>The purpose of this Code is to ensure that wireless service users are able to obtain information about their wireless service contracts and agreements before and after wireless service is purchased, the charges that may and may not be imposed as part of those contracts and agreements, the changes that may and may not be made to the services they are buying, the steps wireless service users may take if their mobile phones are lost or stolen, and means of contacting the industry ombudsman responsible for dealing with complaints about telecommunications services in Canada.</i></p>
2. Objectives	<p><i>The objectives of this Code are, over time, to increase wireless service users' satisfaction with the terms of the wireless service they obtain in Canada including but not limited to the price they pay for wireless service, and to provide conditions in which the number of wireless service companies competing for wireless service users' business increases.</i></p>
A. Clarity	<p>(i) A service provider must communicate with <u>account holders and customers</u> using plain language.</p> <p>(ii) A service provider must ensure that its written contracts and related documents, such as privacy policies and fair use policies, are written in a way that is clear and easy for <u>account holders and customers</u> to read and understand.</p>
1. Plain language	
2. Prices	<p>(i) A service provider must ensure that the prices set out in the contract are clear and must indicate whether these prices include taxes.</p>
3. Unlimited services	<p>(i) A service provider must not charge <u>an account holder or a customer</u> any overage charge for services purchased on an unlimited basis and described as "Unlimited".</p> <p>(ii) A service provider must not limit the use of a service purchased on an unlimited basis unless these limits are clearly explained in the fair use policy.</p> <p><i>(iii) A service provider must describe a service that may result in additional charges as "Generally unlimited" if it has levied overage charges for that service on 2.5% or more of its users in the previous calendar year.</i></p>
B. Contracts and related documents	<p>(i) A service provider must give the <u>account holder customer</u> a permanent copy of the contract and related documents at no charge in the following circumstances:</p> <p>a. If the contract is agreed to in person, the service provider must give the contract and related documents to the <u>account holder customer</u> immediately after the <u>account holder customer</u> agrees to the contract.</p> <p>b. If the contract is not agreed to in person (i.e. if it is agreed to over the phone, online, or otherwise at a distance), the service provider must send the contract and related documents to the <u>account holder customer</u> within 15 calendar days of the <u>account holder's customer</u> agreeing to the contract. If a service provider fails to do this, or if the terms and conditions of the permanent copy of the contract conflict with the terms and conditions that the account holder <u>customer</u> agreed to, the account holder <u>customer</u> may, within 30 calendar days of receiving the permanent copy of the contract, cancel the contract without paying an early cancellation fee or any other penalty.</p>
1. Postpaid service contracts	

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c. The service provider must also provide the account holder ~~customer~~ with a paper copy of the contract upon request at no charge, at any time during the **commitment period**.

(ii) The permanent copy of the contract and related documents must be a paper copy, unless the account holder ~~customer~~ expressly and knowingly decides that an electronic copy is acceptable.

(iii) A service provider must provide an account holder or a customer with a copy of the contract in an alternative format for people with disabilities upon request, at no charge, at any time during the commitment period.

(iv) Contracts for postpaid services must set out all of the information listed below in a clear manner (items a-m):

Key contract terms and conditions**a.1 the start and end date of the contract**

a.2 confirmation that the wireless service provider provides mobile service in the areas where the wireless service ~~user~~ customer is most likely to be using the mobile phone

a.3 the services **and data** included in the contract and any limits on the use of those services that could trigger overage charges or additional fees;

b. the **minimum monthly charge** for services included in the contract;

b.1 the minimum monthly charge for services and for data included in the contract when a customer uses his/her/its own device(s)

c. the commitment period, including the end date of the contract;

d. if applicable

i. the total early cancellation fee;

i.i fees for changing plans, if any (and there should be none, as this practice should be prohibited)

ii. the amount by which the early cancellation fee will decrease each month; and

iii. the date on which the account holder ~~customer~~ will no longer be subject to the early cancellation fee;

e. if a **subsidized or financed device** is provided as part of the contract,

i. the retail price of the device, which is the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the service provider without a contract;

ii. the amount the account holder ~~customer~~ paid for the device(s); and

iii. the fee to unlock the device, if any;

Other aspects of the contract

f. an explanation of all related documents, including privacy policies and fair use policies;

g. all one-time costs, itemized separately;

h. the trial period for the contract, including the associated limits on use;

i. rates for **optional services** selected by the customer at the time the contract is agreed to;

j. whether the contract will be extended automatically on a month-to-month basis when it expires, and if so, starting on what date;

k. whether upgrading the device or otherwise amending a contract term or condition would

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	extend the <u>account holder’s</u> customer’s commitment period or change any other aspect of the contract; l. if applicable, the amount of any security deposit and any applicable conditions, including the conditions for return of the deposit; and m. where <u>account holders and</u> customers can find information about i. rates for optional and pay-per-use services ; ii. the device manufacturer’s warranty; iii. tools to help <u>account holders and</u> customers manage their bills, including notifications on data usage and roaming , data caps, and usage monitoring tools; iv. the service provider’s service coverage area, including how to access complete service coverage maps ; v. how to contact the service provider’s customer service department; vi. how to make a complaint about wireless services , including contact information for the Commissioner for Complaints for Telecommunications Services Inc. (CRTC) ; and vii. the <i>Wireless Code</i> .
2. Prepaid service contracts	(i) A service provider must inform the <u>account holder and</u> customer of all conditions and fees that apply to the prepaid balance. (ii) A service provider must explain to the <u>account holder and</u> customer how they can a. check their usage balance; b. contact the service provider’s customer service department; and c. complain about the service, including how to contact the CCTS; (iii) A service provider must provide this information separately if it does not appear on a prepaid card or in the written contract. (iv) If a device is provided as part of a prepaid service contract, a service provider must also inform the <u>account holder</u> customer of a. where applicable i. the total early cancellation fee; ii. the amount by which the early cancellation fee will decrease each month; and iii. the date on which the customer will no longer be subject to the early cancellation fee; b. the retail price of the device, which is the lesser of the manufacturer’s suggested retail price or the price set for the device when it is purchased from the service provider without a contract; c. the amount the <u>account holder</u> customer paid for the device; d. the fee to unlock the device, if any; and e. where <u>account holders and</u> customers can find information about device upgrades and the manufacturer’s warranty. (v) A service provider must give the <u>account holder and</u> customer a copy of the contract in an alternative format for people with disabilities upon request, at no charge, at any time during the commitment period.
C. Critical Information	(i) A service provider must offer a Critical Information Summary to those who inquire about their wireless services, and must provide the Summary when they provide a permanent copy

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Summary 1. Critical Information Summary	<p><i>of the contract for postpaid services. [Should be in Key Terms: This document summarizes the most important elements of the contract for the customer.]</i></p> <p>(ii) A service provider must ensure that the Critical Information Summary contains all of the following:</p> <ul style="list-style-type: none"> a. a complete description of all key contract terms and conditions (see item B. 1. (iv) a-e listed above); b. the total monthly charge, including rates for optional services selected by the customer at the time the contract is agreed to; c. information on all one-time charges and additional fees; and d. information on how to complain about the service provider's wireless services, including how to contact the service provider's customer service department and the CCTS. <p>(iii) A service provider must ensure that the Critical Information Summary</p> <ul style="list-style-type: none"> a. accurately reflects the content of the contract; b. is either provided as a separate document from the written contract or included prominently on the first two pages of the written contract; and c. is clear and concise (does not exceed two pages), uses plain language, and is in an easily readable font and font size.
D. Changes to contracts and related documents 1. Changes to key contract terms and conditions	<p>(i) A service provider must not change the key contract terms and conditions of a postpaid wireless contract during the commitment period without the <u>account holder's</u> customer's informed and express consent.</p> <p>(ii) When a service provider notifies <u>an account holder</u> a customer that it intends to change a key contract term or condition during the commitment period, the <u>account holder</u> customer may refuse the change.</p> <p>(iii) As an exception, a service provider may only change a key contract term or condition during the commitment period without the <u>account holder's</u> customer's express consent if it clearly benefits the customer <u>or the account holder</u> by either</p> <ul style="list-style-type: none"> a. reducing the rate for a single service; or b. increasing the customer's usage allowance for a single service.
2. Changes to other contract terms and conditions or related documents	<p>(i) If, during the commitment period, a service provider wishes to change other contract terms and conditions or the related documents, it must provide the <u>account holder</u> customer with at least 30 calendar days' notice before making such changes.</p> <p>(ii) This notice must explain the change and when it will take effect.</p>
E. Bill Management 1. International roaming notification	<p>(i) A service provider must notify the customer and account holder, at no charge, when their device is roaming in another country. The notification must clearly explain the associated rates for voice, text messaging, and data services.</p> <p>(ii) <u>Account holders</u> customers may opt out of receiving these notifications at any time.</p>
2. Cap on data roaming charges	<p>(i) A service provider must suspend national and international data roaming charges once they reach \$100 within a single monthly billing cycle, unless the customer account holder expressly consents to pay additional charges.</p> <p>(ii) A service provider must provide this cap at no charge.</p>
3. Cap on data overage charges	<p>(i) A service provider must suspend data overage charges once they reach \$50 within a single monthly billing cycle, unless the customer account holder expressly consents to pay</p>

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	additional charges. (ii) A service provider must provide this cap at no charge.
4. Unsolicited wireless services	(i) A service provider must not charge for any device or service that the <u>customer</u> <u>account holder</u> has not expressly purchased.
5. Mobile premium services	(i) If <u>an account holder or a customer</u> contacts their service provider to inquire about a charge for a mobile premium service, the service provider must explain to the <u>account holder or the customer</u> how to unsubscribe from the mobile premium service.
6. Bill contents	<i>(i) The bills that wireless service providers send to account holders must state their usage of data, voice, messages and roaming in the billing period, for each device that is part of the account holders' plan, contract or agreement</i>
7. Payment fees	<i>(i) wireless service providers must not levy charges or fees for <u>account holders</u> who or that want to pay their bills and do so within the payment period provided.</i>
F. Mobile device issues	(i) A service provider that provides a locked device to the customer as part of a contract must
1. Unlocking	a. for subsidized devices: unlock the device, or give the <u>account holder</u> customer the means to unlock the device, upon request, at the rate specified by the service provider, no later than 90 calendar days after the contract start date. b. for unsubsidized devices: unlock the device, or give the <u>account holder</u> customer the means to unlock the device, at the rate specified by the service provider, upon request.
2. Warranties	(i) A service provider must inform the <u>account holder</u> customer of the existence and duration of a manufacturer's warranty on a device before offering an extended warranty or insurance on that device.
3. Lost or stolen devices	(i) When <u>an account holder or a customer</u> notifies their service provider that their device has been lost or stolen, a. the service provider must immediately suspend the customer's service at no charge; and b. the terms and conditions of the contract will continue to apply, including the <u>account holder's</u> customer's obligation to pay i. all charges incurred before the service provider received notice that the device was lost or stolen; and ii. either the minimum monthly charge (and taxes), if the <u>account holder</u> customer continues with the contract, or the applicable early cancellation fee, if the <u>account holder</u> customer cancels the contract. (ii) If <u>the account holder or the customer</u> notifies the service provider that their device has been located or replaced and requests that their service be restored, the service provider must restore the service at no charge.
3.1 Replacing devices	<i>(i) A service provider must permit <u>account holders</u> to replace their device at any time, without signing up for a new commitment period, provided the account holder's device functions with the service provider's network.</i>
4. Repairs	(i) A service provider must suspend wireless service charges during device repairs upon request if all of the following conditions are met: a. the device was provided as part of a contract with the service provider and is returned to the service provider for repair; b. the device is under the manufacturer's or the service provider's warranty;

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	<p>c. the service provider did not provide a free replacement device for use during the repair; and</p> <p>d. the <u>account holder</u> or customer would incur an early cancellation fee if they were to cancel their wireless services.</p>
G. Contract cancellation and extension 1.1 Downgrading or upgrading plans	<p><i>(i) If an <u>account holder</u> wishes to change plans before the end of the commitment period, the service provider must not charge the customer any fee or penalty for the change.</i></p>
1.2 Early cancellation fees – General	<p>(i) If <u>an account holder</u> a customer cancels a contract before the end of the commitment period, the service provider must not charge the <u>account holder</u> customer any fee or penalty other than the early cancellation fee. This fee must be calculated in the manner set out in sections 2. And 3. Below.</p> <p>(ii) When calculating the time remaining in a contract to determine the early cancellation fee, a month that has partially elapsed at the time of cancellation is considered a month completely elapsed</p> <p><i>(iii) when <u>account holders</u> cancel a service or services, wireless service providers must not continue to charge <u>account holders</u> for services they do not receive after the date of cancellation for services (s)he does not receive.</i></p>
2. Early cancellation fees – Subsidized device	<p>(i) When a subsidized <u>financed</u> device is provided as part of the contract,</p> <p>a. for fixed-term contracts: The early cancellation fee must not exceed the value of the device subsidy. The early cancellation fee must be reduced by an equal amount each month, for the lesser of 24 months or the total number of months in the contract term, such that the early cancellation fee is reduced to \$0 by the end of the period.</p> <p>b. for indeterminate contracts: The early cancellation fee must not exceed the value of the device subsidy. The early cancellation fee must be reduced by an equal amount each month, over a maximum of 24 months, such that the early cancellation fee is reduced to \$0 by the end of the period.</p> <p>(ii) When calculating the early cancellation fee,</p> <p>a. the value of the device subsidy is the retail price of the device minus the amount that the <u>account holder</u> or customer paid for the device when the contract was agreed to; and</p> <p>b. the retail price of the device is the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the service provider without a contract.</p>
3. Early cancellation fees – No subsidized device	<p>(i) When a subsidized device is not provided as part of the contract,</p> <p>a. for fixed-term contracts: The early cancellation fee must not exceed the lesser of \$50 or 10 percent of the minimum monthly charge for the remaining months of the contract, up to a maximum of 24 months. The early cancellation fee must be reduced to \$0 by the end of the period.</p> <p>b. for indeterminate contracts: A service provider must not charge an early cancellation fee.</p>
4. Trial period	<p>(i) When <u>an account holder</u> a customer agrees to a contract through which they are subject to an early cancellation fee, a service provider must offer the <u>account holder</u> customer a trial</p>

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	<p>period lasting a minimum of 15 calendar days to enable the customer to determine whether the service meets their needs.</p> <p>(ii) The trial period must start on the date on which service begins.</p> <p>(iii) A service provider may establish reasonable limits on the use of voice, text, and data services for the trial period.</p> <p>(iv) During the trial period, <u>account holders or</u> customers may cancel their contract without penalty or early cancellation fee if they have</p> <ol style="list-style-type: none"> a. used less than the permitted usage; and b. returned any device provided by the service provider, in near-new condition, including original packaging. <p>(v) If <u>an account holder or</u> a customer self-identifies as a person with a disability, the service provider must extend the trial period to at least 30 calendar days, and the permitted usage amounts must be at least double the service provider's general usage amounts for the trial period.</p>
5. Cancellation date	<p>(i) <u>Account holders or</u> customers may cancel their contract at any time by notifying their service provider.</p> <p>(ii) Cancellation takes effect on the day that the service provider receives notice of the cancellation.</p>
6. Contract extension	<p>(i) To ensure that customers are not disconnected at the end of the commitment period, a service provider may extend a contract, with the same rates, terms and conditions, on a month-to-month basis.</p> <p>(ii) A service provider must notify <u>an account holder and</u> a customer on a fixed-term contract at least 90 calendar days before the end of their initial commitment period whether or not the contract will be automatically extended.</p> <p>(iii) At the time that a service provider offers a customer a device upgrade, the service provider must clearly explain to the <u>account holder and the</u> customer any changes to the existing contract terms caused by accepting the new device, including any extension to the commitment period.</p>
H. Security deposits 1. Requesting, reviewing, and returning a security deposit	<p>(i) If a service provider requires a security deposit from <u>an account holder</u> a customer, the service provider must</p> <ol style="list-style-type: none"> a. inform the <u>account holder</u> customer of the reasons for requesting the deposit; b. keep a record of those reasons for as long as the service provider holds the deposit; c. specify in the written contract the conditions for the return of the security deposit; d. review the continued appropriateness of retaining the deposit at least once per year; and e. return the security deposit with interest to the customer, retaining only any amount owed by the customer, no more than 30 calendar days after <ol style="list-style-type: none"> i. the contract is terminated by either the <u>account holder</u>, the customer or the service provider; or ii. the service provider determines that the conditions for the return of the security deposit have been met. <p>(ii) A service provider must calculate interest on security deposits using the Bank of Canada's overnight rate in effect at the time, plus at minimum one percent, on the basis of the actual</p>

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	number of days in a year, accruing on a monthly basis. (iii) A service provider may apply the security deposit toward any amount past due and may require <u>account holders</u> customers to replenish the security deposit after such use in order to continue providing service.
I. Disconnection 1. When disconnection may occur	(i) If the grounds for disconnecting a customer are failure to pay, a service provider can disconnect a customer’s postpaid service only if the <u>account holder</u> customer <ol style="list-style-type: none"> a. fails to pay an account that is past due, provided it exceeds \$50 or has been past due for more than two months; b. fails to provide or maintain a reasonable security deposit or alternative when requested to do so by the service provider; or c. agreed to a deferred payment plan with the service provider and fails to comply with the terms of this plan. (ii) Except with <u>account holder</u> customer consent or in other exceptional circumstances, disconnection may occur only on weekdays between 8 a.m. and 9 p.m. or on weekends between 9 a.m. and 5 p.m., unless the weekday or weekend day precedes a statutory holiday, in which case disconnection may not occur after noon. The applicable time is that of the customer’s declared place of residence. (iii) If a service provider disconnects a customer in error, the service provider must restore service to the customer by the end of the next business day and must not impose reconnection charges.
2. Notice before disconnection	(i) If a service provider intends to disconnect a customer, it must notify the <u>account holder and customer</u> before disconnection, except in cases where <ol style="list-style-type: none"> a. action is necessary to protect the network from harm; or b. the service provider has a reasonable suspicion that fraud is occurring or likely to occur. (ii) In all other cases, a service provider must give reasonable notice to the <u>account holder and customer</u> at least 14 calendar days before disconnection. The notice must contain the following information: <ol style="list-style-type: none"> a. the reason for disconnection and amount owing (if any); b. the scheduled disconnection date; c. the availability of deferred payment plans; d. the amount of the reconnection charge (if any); and e. contact information for a service provider representative with whom the disconnection can be discussed. (iii) A service provider must provide a second notice to advise <u>an account holder and a customer</u> that their service will be disconnected at least 24 hours before disconnection, except if <ol style="list-style-type: none"> a. repeated attempts to contact the customer have failed; b. action is necessary to protect the network from harm; or c. the service provider has a reasonable suspicion that fraud is occurring or likely to occur.
3. Disputing disconnection charges	(i) A service provider must not disconnect a customer if <ol style="list-style-type: none"> a. the customer notifies the service provider on or before the scheduled disconnection date listed in the notice that they dispute the reasons for the disconnection;

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<u>Underlining indicates places where 'customer' should be replaced by 'account holder'</u>	
	b. <u>the account holder or</u> the customer pays the amount due for any undisputed portion of the charges; and c. the service provider does not have reasonable grounds to believe that the purpose of the dispute is to evade or delay payment.
J. Expiration of prepaid cards 1. General	(i) A service provider must keep open the accounts of customers with prepaid cards for at least seven calendar days following the expiration of an activated card, at no charge, to give the <u>account holder or</u> customer more time to "top up" their account and retain their prepaid balance.
The Wireless Code – Definitions	
<u>Account holder</u>	<u>The person who, or the organization that, accepts responsibility for meeting the terms and conditions of an agreement or contract for wireless service, including the responsibility to make payments, to receive refunds and to approve changes to the contract.</u>
Canadian Radio-television and Telecommunications Commission (CRTC)	A public organization that regulates and supervises the Canadian broadcasting and telecommunications systems to ensure that Canadians have access to a world-class communication system.
Commissioner for Complaints for Telecommunications Services Inc. (CCTS)	An independent organization dedicated to working with <u>account holders</u> , customers and their telecommunications service providers to resolve complaints relating to their telecommunications services. The CCTS (i) responds to and resolves complaints from <u>account holders</u> customers in order to ensure that they are treated in a way that is consistent with the Wireless Code; and (ii) collects data on complaints related to the Wireless Code. This data will be published on the CCTS's website at www.ccts-cprst.ca.
Commitment period	The term or duration of the contract. For fixed-term contracts, the commitment period is the entire duration of the contract. For indeterminate contracts, the commitment period is the current month or billing cycle.
Contract and written contract	A contract is a binding agreement between a service provider and <u>an account holder</u> a customer to provide wireless services. A written contract is a written instrument that expresses the content of the contract.
Customers	Individuals or small businesses subscribing to retail mobile wireless services.
Device subsidy	The difference between (i) the lesser of the manufacturer's suggested retail price of a device or the price set for the device when it is purchased from the service provider without a contract; and (ii) the amount <u>an account holder</u> a customer paid for the device when they agreed to the contract.
Disconnection	The termination of wireless services by a service provider.
Early cancellation fee	A fee that may be applied when a customer's service is cancelled before the end of the commitment period.
Fair (or acceptable) use policy	A policy that explains what is considered to be unacceptable use of the service provider's

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	wireless services and the consequences of unacceptable use (e.g. using the service to engage in an activity that constitutes a criminal offence). Violations of a fair or acceptable use policy may result in (i) disconnection or service suspension; or (ii) a modification of the services available to the customer.
Fixed-term contracts	Contracts that have a set duration (usually one, two, or three years).
Indeterminate contracts	Indeterminate contracts do not have a set duration. They automatically renew each month.
Key contract terms and conditions	The elements of the contract that the service provider cannot change without the <u>account holder's</u> customer's express consent. Key contract terms and conditions are listed in section B. 1. (iv) a-e of the Code.
Locked device	A wireless device that is programmed to work only with the network of the service provider that sold the device to the <u>account holder</u> customer .
Minimum monthly charge	The minimum amount that <u>account holders</u> customers will have to pay for wireless services each month if <u>customers</u> they do not use optional services or incur any additional fees or overage charges. This charge may be subject to taxes, as set out in the contract.
Mobile premium services (or premium text messaging services)	Text message services that <u>account holders</u> customers may subscribe to for an additional charge, usually on a per-message basis.
Optional services	Services that <u>an account holder</u> a customer can choose to add to their wireless plan, usually for an additional charge, such as caller ID or call forwarding
Overage charge	A charge for exceeding an established limit on the use of a service.
Pay-per-use services	Services that <u>an account holder</u> a customer can choose to add to their wireless plan, such as international roaming, which are typically measured and charged on a usage basis.
Permanent copy	An inalterable copy (e.g. a paper copy or PDF version) of the contract, as of the date of signing or the date of the latest amendment.
Postpaid services	Wireless services that are paid for after use, usually upon receipt of a monthly bill.
Prepaid services	Wireless services that are purchased in advance of use, such as the use of prepaid cards and pay-as-you-go services.
Privacy policy	A policy that explains how service providers will handle customers' personal information.
Related documents	Any documents referred to in the contract that affect the customer's use of the service provider's services. Related documents include, but are not limited to, privacy policies and fair use policies.
Roaming	The use of wireless services outside the service provider's network area.
Service coverage	An illustration of the extent of the service provider's network, showing where coverage is

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maps	available.
Service provider	A provider of retail mobile wireless voice and data services
Subsidized device	A wireless device that is sold to <u>an account holder</u> a customer by a service provider at a reduced price as part of a contract. A wireless device that is (i) purchased by the <u>account holder</u> or the customer at full price; or (ii) not purchased as part of the contract is not a subsidized device.
Suspension (of a customer's service)	A temporary halt in wireless service that can result from a lack of payment or hitting a pre-determined spending or usage limit. The customer's account and contract remain in force during service suspension.
Unlimited services	The unlimited use of specific services (e.g. unlimited local calling), for a fixed price.
Wireless services	Retail mobile wireless voice and data services.

Critical Information Summary (CIS):**Q3. Should the CIS include more info [sic] about the trial period, limits on any service purchased as 'unlimited', or unlocking fees for all devices (not just subsidized devices, the current requirement of the Code)?**

Yes.

To answer Q3 as set out above, the CIS should include additional information about

- The trial period, including but not limited to the allowed amount of data use by customers (rather than data used for automatic downloads not specifically requested by customers) – and highlighting the fact that data usage may be high for certain groups, including the deaf and hard of hearing, who may rely on data for video calls to a greater extent than other populations.
- Services described as 'unlimited' which are, in fact, limited at some point either by data levels, speed or other characteristics
- Unlocking fees, including
 - Whether the wireless service provider will or will not unlock devices it has or has not provided to customers
 - the time when customers may have their devices unlocked,
 - the fees charged for unlocking (at the time of contract formation)
 - whether such unlocking fees may change after the contract's formation, and

- the total cost of unlocking, if any taxes are imposed, or if any other charges are included.

Ensuring customers get permanent copies of contracts:**Q4. Should WSPs be required to send the contract to customers who opt for an electronic copy sooner than the current 15 day timeframe?**

Yes.

Customers who opt for an electronic copy of their contract are accustomed to prompt electronic notifications, and the failure to promptly provide customers with an electronic copy of their contract could confer unfair and unreasonable advantages to wireless service providers, possibly to the disadvantage of customers.

Implementation:**Q5. Should WSPs be required to complete implementation and compliance reports? How frequently should compliance reports be submitted? Only after the first year of implementation? Annually thereafter?**

(a) Wireless service providers should be required to complete and submit implementation and compliance reports to the CRTC, with a copy to CCTS. The information to be provided in the compliance reports should be established by the CRTC using input from a public consultation. The CRTC should publish unredacted versions of the reports on its website within 30 days of their receipt.

(b) Reports about wireless service providers' implementation of and compliance with the *Code* should be submitted quarterly (every three months), in the same way that almost all the companies announce their financial results. The fourth and final report for a given 12-month period (which should be the same for all wireless service providers, to facilitate comparisons of the sector's performance over time), should summarize non-compliance incidents over the preceding 12 months. Wireless service providers would be free to explain in their reports how they addressed any non-compliance issues.

(c) Wireless service providers should submit compliance reports on a quarterly basis until the next CRTC review of the *Code* and CCTS, in the interests of transparency and accountability, and to provide Canadians with an evidentiary foundation to understand whether the *Code* is or is not achieving its stated objectives.

Consumer awareness of the Code and their rights:**Q6. In terms of in-store promotion of the Code, should WSPs be required to visually display information about consumer rights under the Code or provide a leaflet of the simplified Code along with the contract and CIS?**

CRTC question 6 presents an either-or choice in informing the public about the *Code* and its protections, without explaining the rationale for this dichotomy.

The Forum submits that wireless service providers should be required to display information about consumers' rights under the *Code*, *and* should also be required to provide a leaflet setting out the main features of the *Code* and the *Code* itself. That leaflet should be provided to customers upon request, even if customers do not have a contract with the wireless service providers, or if they do not sign a new contract with the providers. The *Code* leaflet should also be provided with any wireless contract signed between a wireless service provider and individuals or small businesses, along with the CIS and contract.

Each of these steps – displaying information, providing information if requested, and providing information once contracts have been signed – serves three important functions.

First, reminders about the *Code* in stores (and kiosks, if these are not defined as 'stores'), as well as wireless service providers' websites and (as suggested by the Coalition) in the recordings played to those on hold in telephone calls with their wireless service providers, will help to increase awareness of the *Code* – much like television and radio advertisements that rely heavily on frequent plays to build awareness of a product or service. While awareness of the *Code* can be presumed to help Canadians in their dealings with their providers, survey research has established that Canadians' awareness of the *Code* is not high: further measures are therefore needed, if the CRTC wishes to ensure that awareness increases. We note that reminders at point of sale differ from ongoing advertising or marketing campaigns (*i.e.*, television or radio advertisements) in terms of efficiency: the latter are directed at Canadians in general; the former are directed specifically (situationally, if you will) at those who are interested in wireless services – because they wish to obtain it, have already obtained it and have questions, or are considering whether to renew their services.

In terms of in-store and in-kiosk 'visual' reminders, the Forum also respectfully submits that wireless service providers be required to provide each of their physical retail outlets with accessible versions of the notification about the *Code*. The providers should, as a cost of doing business in Canada according to Canadian law, train their customer-service representatives to ask blind or partially-sighted clients if they would like to hear some information about the *Code*, and ask deaf or hard-of-hearing clients if they would like to see a brief, signed video. Compliance with these provisions could readily be evaluated

through the mystery-shopper research for which the Forum has advocated, and which has previously been undertaken by the Union des consommateurs, and the legal research team of Professors Pavlović and Cavanagh.

Second, providing information upon request and as part of wireless service providers' contracts offers support for 'situational' awareness of the *Code*: those who ask for one of the *Code* leaflets may already have concerns that the *Code* may address; conversely, providing the *Code* leaflet as part of each contract will provide those who review their contracts after encountering a problem with useful guidance about the nature of their rights and responsibilities, as well as the process they must follow to have those problems addressed.

Third, providing visual notifications of the *Code's* existence and copies of the *Code* in leaflet form will help to reduce informational disparities between wireless service providers and their actual or potential customers. (The existence of these disparities is established *prima facie* by the *Wireless Code* itself: if the disparities did not exist, the *Wireless Code* would not have been established.) Many people retain copies of the contracts and agreements they sign, and refer to them when problems arise – attaching a copy of the *Code* to such contracts and agreements is an efficient way of providing wireless users with the situational information necessary to address such problems.

Sincerely yours,



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cc. 2016-293 distribution list