

CABLE PROBLEMS: what individual recourse is there for Canadian consumers?

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The masculine is used generically in this report.

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Union des consommateurs, *Strength through Networking*

Union des consommateurs (UC) is a non-profit organization comprised of several ACEFs (*Associations coopératives d'économie familiale*), the *Association des consommateurs pour la qualité dans la construction* (ACQC), and individual members.

UC's mission is to represent and defend the rights of consumers, with special emphasis on the interests of low-income households. Its activities are based on values cherished by its members: solidarity, equity and social justice, and improving consumers' economic, social, political and environmental living conditions.

UC's structure enables it to maintain a broad vision of consumer issues while developing in-depth expertise in certain programming sectors, particularly via its research efforts on the emerging issues confronting consumers. Its activities, which are nation-wide in scope, are enriched and legitimated by its field work and the deep roots of its member associations in the community.

UC acts mainly at the national level, by representing the interests of consumers before political, regulatory or legal authorities or in public forums. Its priority issues, in terms of research, action and advocacy, include the following: household finances and money management, energy, issues related to telephone services, radio broadcasting, cable television and the Internet, public health, food and biotechnologies, financial products and services, business practices, and social and fiscal policy.

Lastly, in the context of market globalization, UC works in cooperation with several consumer groups in English Canada and abroad. It is a member of *Consumers International* (CI), an organization recognized by the United Nations.

Introduction

We find that people generally feel well served by the programming diversity. However, some are frustrated with the unaffordability of cable and satellite services, and with the package choices. New tools are required to provide recourse.

Jean-Pierre Blais, CRTC Chairman¹

Despite the rise of over-the-top television services, the cable and satellite television (hereinafter “cable”) industry is flourishing and far from disappearing in the short term in Canada, one of 10 countries where the percentage of pay television subscriptions is the highest in the world². Indeed, in 2013, the penetration rate of cable services was 85%³. And yet, very little recourse is available to Canadians who experience problems with cable services. Although the subject is off-mandate for him, the Commissioner for Complaints for Telecommunications Services (CCTS) recorded no less than 3,496 complaints about (television) cable services in fiscal 2013-2014 – almost twice as many as in fiscal 2011-2012, and more than one third of all off-mandate complaints⁴. The Canadian Radio-television and Telecommunications Commission (CRTC) also reports having received more requests for information and complaints in the cable sector than in telecommunications:

In the 12-month period ending 31 March 2013, the Commission received 31,300 enquiries and complaints. Of these, 55% concerned broadcasting issues and 45% pertained to telecommunications issues⁵.

Why are so many consumers making complaints? It’s difficult to know specifics about those grievances, because the CCTS can only handle telecommunications complaints and the CRTC doesn’t provide details about complaints it receives on this subject.

¹ **RADIO-CANADA.** *Le CRTC veut revoir les règles télévisuelles*, Radio-Canada, Montreal, Canada, November 7, 2013. [Online] <http://www.radio-canada.ca/nouvelles/Economie/2013/11/07/011-crtc-blais-television.shtml#> (Page consulted on July 31, 2014). Our translation.

² **MARKETINGCHARTS STAFF.** *US Among Top 10 Countries by Pay-TV Penetration*, Marketing Charts, Thetford Center, Vermont, United States, July 11, 2013. [Online] <http://www.marketingcharts.com/television/us-among-top-10-countries-by-pay-tv-penetration-34936/> (Page consulted on July 29, 2014).

³ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** *Communications Monitoring Report 2014: Broadcasting System*, CRTC, Ottawa, Ontario, October 16, 2014, Table 4.3.4. [Online] <http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2014/cmr4.htm> (Page consulted on September 15, 2014).

⁴ **COMMISSIONER FOR COMPLAINTS FOR TELECOMMUNICATIONS SERVICES.** *Driving Positive Change - Annual Report 2013-14*, CCTS, Ottawa, Ontario, Canada, 2014, 42 pages. See p. 33. [Online] <http://www.ccts-CCTS.ca/wp-content/uploads/pdfs/en/2013-2014/CCTS-Annual-Report-2013-2014.pdf> (Document consulted on January 15, 2015).

⁵ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** *Communications Monitoring Report 2013*, Ottawa, Ontario, Canada, September 2013. [Online] <http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2013/cmr.htm> (Document consulted on November 17, 2014).

The CRTC can take into account consumers' views on cable services when it renders decisions in this sector. Still, no recourse appears to exist federally to settle the individual cases of consumers who don't reach an agreement with their cable operator.

Complaints about the content of TV and radio broadcasts can be submitted, notably, to the Canadian Broadcast Standards Council (CBSC). Questions and problems related to the content of broadcasts and to competition between companies will be discussed very briefly herein, but are not the central object of our study. What are the complaints about the cable service itself, and about contract issues involved in this type of subscriptions?

Recourses exist of course under provincial laws regarding contracts and consumer protection; but this type of recourse generally implies that the consumer goes to court. In fact, not all provincial agencies mandated to apply consumer protection laws offer individual complaint handling services or mediation services that could help settle disputes. Thus, in terms of available recourses, cable subscribers are at a major disadvantage compared to telecommunications subscribers, who have the same recourses provincially, but also have access to mediation services federally.

It is of course essential that consumers know their rights, but also that if wronged they have the means to assert those rights. What problems do consumers encounter with cable services?

What organizations do consumers approach when experiencing problems with their cable contracts? Are they satisfied with how their complaints are handled? No detailed data exist on this subject among the various organizations that reveal the existence of complaints – the reports disclose only the number rather than the nature of complaints. So we found it essential to conduct a study on the matter, to detect problems that consumers may experience regarding access to complaint handling services, and if applicable to propose corrections that may appear necessary.

Our first chapter draws a general portrait of the cable market in Canada (definitions, service penetration, popular types of offers, etc.), and then of consumer complaints about those services (number and nature of the complaints).

The second chapter details the various available services for handling consumer complaints about their cable service operator. We first examine the internal recourses offered by cable companies, then those offered by federal organizations that receive cable complaints, and lastly the recourses available to consumers under provincial laws. In that chapter, we present in particular the results of consultations with cable companies and with federal and provincial organizations that receive cable complaints.

The third chapter contains an overview of the various recourses available abroad, i.e., in the United States, France, Belgium, Australia and the United Kingdom, regarding cable services.

The last part of our study examines solutions to ensure that complaint-resolution services offered to consumers with regard to their cable services are accessible and effective. This part presents a summary and the conclusions of our research.

Throughout the report, we will discuss the results of a telephone survey conducted to learn about the reasons that lead consumers to make complaints about a problem with a cable operator, consumers' knowledge of the various complaint-resolution services, and their satisfaction with those services.

The summary and conclusions of our research will be followed by our recommendations.

1 The Cable Television Market in Canada

1.1 Portrait of the Cable Television Market in Canada

Communications include a variety of services. As its name indicates, the Canadian Radio-television and Telecommunications Commission is responsible for broadcasting as well as telecommunications, both of which are subject to distinct laws. Telecommunications include landline and wireless telephony, along with Internet access. Among broadcasting services is “cable television” – broadcasting by means of wired or wireless telecommunications, i.e., the transmission of visual or audio programs to users through cable, satellite or IP protocol networks. Canadian law distinguishes between distribution companies and programming companies: the first receive signals and redistribute them, and the second transmit content, either directly or to distributors. Those two types of companies are included in the broader term “broadcasting undertakings”⁶.

For 2013, the CRTC noted that almost 85% of Canadian households subscribed to a cable service (number of subscriptions/total number of households in Canada)⁷. In the previous year, the percentage of subscriptions was essentially the same.

In 2012, the number of households that subscribed to basic television service increased by 1% to 12 million. Over 68 percent of Canadian television subscribers obtained this service from a cable company, 24% from a satellite company and 8% from companies that deliver television programming over telephone lines (known as an Internet Protocol television service). Canadian families spent an average of \$52 per month on television services, which was a few cents less than what they spent a year earlier⁸.

The rate of subscription to cable services in Canada exceeds that of many European countries, where we find, according to Deloitte, percentages of 35 to 60%⁹ (whereas some member states have exceptional, if not absolute, penetration rates, as shown in the following table).

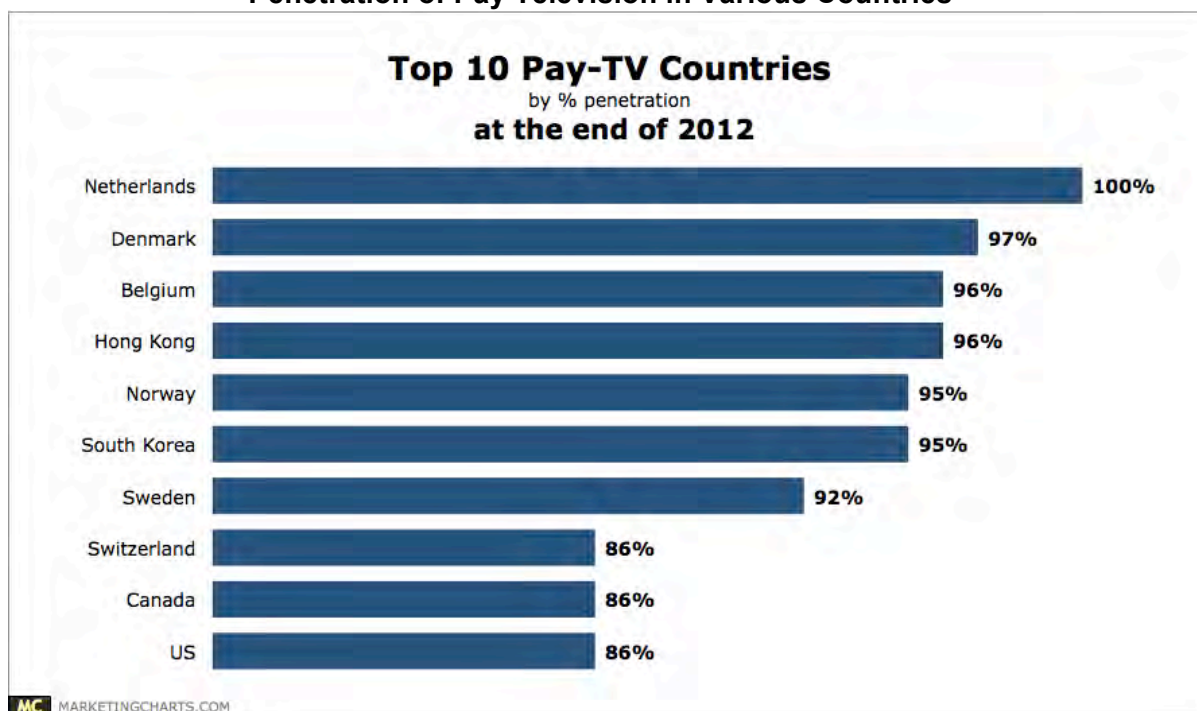
⁶ *Broadcasting Act*, S.C. 1991, ch. 11, Section 2, Definitions.

⁷ *Op. cit.*, note 3. **CRTC**, *Monitoring Report 2014*. The Canadian household subscription rate was 83.0% in 2009, 84.5% in 2010, 85.8% in 2011 and 85.6% in 2012. It was 84.9% in 2013.

⁸ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION**. *CRTC issues annual report on the state of the Canadian communication system*, Ottawa, Ontario, Canada, September 26, 2013. [Online] <http://www.crtc.gc.ca/eng/com100/2013/r130926.htm> (Page consulted on January 18, 2015).

⁹ **DELOITTE**. *The reality of “cord cutting” in North America*, London, United Kingdom, 2013, 2 pages. [Online] http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Technology-Media-Telecommunications/dttl_TMT_Predictions2013_RealityofCordCuttingNA.pdf (Document consulted on January 15, 2015).

Table 1
Penetration of Pay Television in Various Countries¹⁰



Demonstrating that the industry is in good shape, the revenues of broadcasting undertakings in Canada is constantly rising, as indicated in Table 2.

Table 2
Revenues of Basic and Optional Services
of Broadcasting Undertakings¹¹

Years	2009	2010	2011	2012	2013	Compound Annual Growth Rate 2009-2013
Total revenues (\$ millions)	7,440.9	8,129.7	8,585.8	8,757.0	8,989.6	4.8

If broadcasting services are so popular in the country, it's because television plays an essential role for millions of Canadians: it gives them access to information, entertainment, culture, and offers an opening to the world.

However, the relations between Canadians and their cable television providers are not always smooth. Given the importance of those services, Canadians who experience a problem need an accessible and effective resolution method.

¹⁰ *Op. cit.*, note 2, **MARKETINGCHARTS STAFF**. *US Among Top 10 Countries*

¹¹ *Op. cit.*, note 3. **CRTC**, *Monitoring Report 2014*.

1.2 Portrait of Cable Television Complaints in Canada

To obtain an accurate portrait of cable television complaints, we consulted the available data published by the CRTC and CCTS, but also the submissions made before the CRTC as part of its consultation *Let's Talk TV*, as well as other data publicly available.

To obtain more first-hand information on cable television complaints, we also mandated an external firm to conduct a survey of consumers. A total of 1,503 adult Canadians subscribing to a cable service answered that telephone survey, conducted between July 28 and August 30, 2014¹². The margin of error is 2.5% 19 times out of 20.

Our questionnaire contained 13 questions, to which were added a few information requests in order to classify respondents and establish their socioeconomic profile.

Our questions pertained to problems encountered by respondents with regard to their cable services, their preferred resolution methods, and their appreciation of available recourses, and we also sought their viewpoints on additional recourses they think should be available.

1.2.1 The Number of Complaints

Many Canadian consumers face disputes with their providers; as we have seen, the CRTC and CCTS record several thousand complaints each year. In fact, broadcasting appears to generate many more complaints to the CCTS (although the CCTS doesn't have the mandate to handle this type of complaints) than several telecommunications sectors.

¹² The survey was conducted by Passages Marketing. The survey's questionnaire is reproduced in Annex 1.

Table 3
Subjects of Complaints to CCTS 2012-2013¹³

Line of Business	Number of Issues Raised	Percentage of Total (rounded)
Wireless	11,633	50%
Broadcast	3,856	17%
Internet	3,758	16%
Local Phone	3,172	14%
Long Distance	699	3%
Other (white pages, directory)	5	0%
TOTAL	23,123	100%

The CCTS, in its submission as part of the CRTC's *Let's Talk TV* consultation, provided some data on complaints received about broadcasting services:

CCTS analyzed all of the in-scope telecommunications complaints that reached the Investigation level in the first three quarters of 2013-14, and in which a broadcasting issue was also raised. Over 60% of these complaints included broadcast services as part of a bundle with telecommunications services. [...]

Despite the fact that broadcasting services are not within the CCTS mandate, our 2012-13 Annual Report notes that broadcasting issues (primarily related to television) were raised by consumers in complaints to CCTS 3,856 times. This compares to 19,297 issues about in-mandate telecommunications services (in 13,692 complaints). This puts broadcasting second only to wireless in terms of the "most complained about" lines of business in 2012-13¹⁴.

The Rogers company presented, as part of that same consultation, numbers regarding the broadcasting complaints it receives. In particular, Rogers reported the following:

[...] our records show that the volume of complaints related to TV service has sharply declined since 2011, when the Commission [CRTC] forwarded to Rogers approximately 160 complaints. In both 2012 and 2013, the total was less than half that, and 2014 is so far tracking at a similar pace. In addition to tracking the total volume, we also track the key issue that drives each complaint. The charts below [Table 3] describe the top 5 issues that drove complaints that Rogers received from the Commission related to TV service:

¹³ **COMMISSIONER FOR COMPLAINTS FOR TELECOMMUNICATIONS SERVICES.** CCTS's intervention as part of the consultation *Let's Talk TV: A Conversation with Canadians*, CCTS, Ottawa, Canada, June 27, 2014. Available on the CRTC website. [Online] <https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=218359&en=2014-190&dt=i&S=C&PA=b&PT=nc&PST=a> (Document consulted on February 5, 2015).

¹⁴ *Ibid.* CCTS's Annual Report 2013-2014 (*op.cit.*, note 4) reported 3,496 complaints about broadcasting (television) and 13 about broadcasting (radio).

Table 4
Drivers of Complaints Forwarded to Rogers by the CRTC between 2011 and 2014

2011 Drivers		%
QUALITY OF SERVICE ISSUES	32	38%
SERVICE AVAILABILITY ISSUES	19	23%
DISPUTING CHARGE	14	17%
DISPUTING ONE TIME FEES	10	12%
30 DAY DISCONNECT	9	11%

2012 Drivers		%
QUALITY OF SERVICE ISSUES	12	41%
SERVICE AVAILABILITY ISSUES	7	24%
DISPUTING CHARGE	4	14%
COLLECTIONS ISSUES	3	10%
DISPUTING ONE TIME FEES	3	10%

2013 Drivers		%
Technical Support	16	36%
Plan/Service Changes	15	33%
Simultaneous Substitutions	7	16%
Billing disputes	4	9%
Cancellation	3	7%

2014 Drivers		%
Technical Support	9	41%
Plan/Service Changes	5	23%
Equipment Repairs/Swaps	3	14%
Access to Personal Information	3	14%
Cable repairs	2	9%

As is apparent from these charts, we simply do not receive from the Commission a significant volume of complaints on the particular issues noted above. In fact, volume levels are in decline. The top issue category each year, by volume, relates to either technical support or quality of services issues, which could include a variety of factors such as cable outages or concerns over the volume of commercial messages on television services¹⁵.

In its 2013 annual report, the *Council of Better Business Bureaus, Inc.* (CBBB), an organization for the promotion of relations of trust between businesses and consumers, presented consumers' main subjects of complaint: it appears that television is the object of a great number of complaints. Table 5 presents the most common subjects of complaint in 2013.

¹⁵ **ROGERS COMMUNICATIONS Inc.** *Broadcasting Notice of Consultation CRTC 2014-190, Let's Talk TV, Comments of Rogers Communications Inc.*, Ottawa, Ontario, Canada, June 27, 2014. Intervention English version. [Online] <https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=218412&en=2014-190&dt=i&S=C&PA=b&PT=nc&PST=a> (Document consulted on January 10, 2015).

Table 5
Top 10 Most Common Complaints in 2013¹⁶

1. Cellular Telephone Service & Supplies
2. Telephone Communications
3. Television - Cable, CATV & Satellite
4. Auto Dealers - New Cars
5. Collection Agencies
6. Auto Dealers - Used Cars
7. Internet Shopping
8. Furniture - Retail
9. Banks
10. Auto Repair & Service

For 2014, the CBBB reports similar results, comparing the number of complaints in that year with the previous year: cellular: 33.2% (12% less); telephony: 29.7 (5% less); television, cable-satellite: 27.6% (3% more)¹⁷.

Among the 1,503 adult Canadians subscribing to a cable service who participated in our survey, 24% reported having experienced a problem, of whatever nature, with their cable service provider (Q2. *Have you ever experienced a problem, of whatever nature, whether regarding installation, billing, customer service, etc., with your cable television service or provider?*). (Our translation)

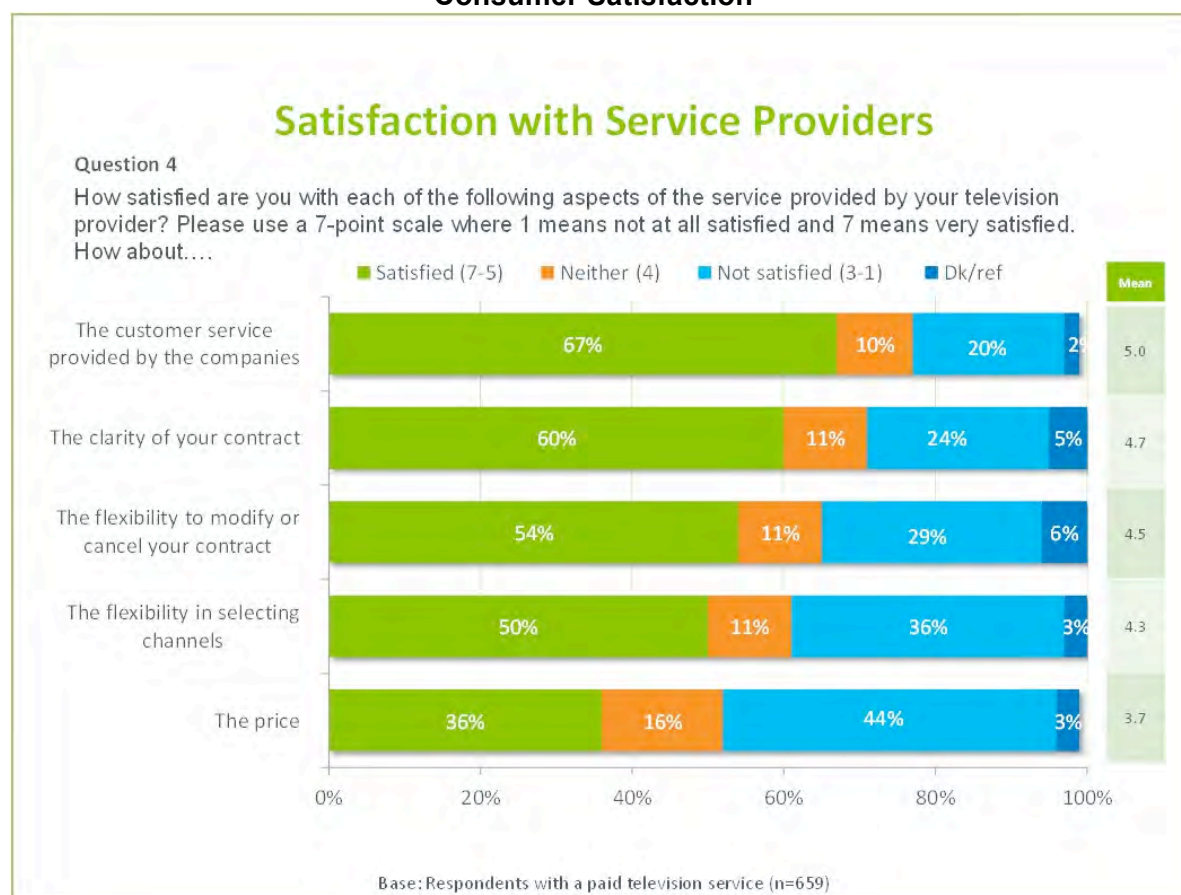
1.2.2 The Nature of Complaints

As part of the *Let's Talk TV* consultation, Harris/Decima presented the results of a telephone survey conducted in December 2013 among 801 Canadian adults, that notably asked respondents about their level of satisfaction with certain aspects of their television service. To the 659 respondents who subscribe to a pay television service, price and the lack of flexibility top the list of dissatisfactions.

¹⁶ **COUNCIL OF BETTER BUSINESS BUREAUS Inc.** 2013 Annual report. Arlington, Virginia, United States, 20 pages. [Online] http://www.bbb.org/globalassets/local-bbbs/council-113/media/annual-reports/cbbb_annual_report_2013-final.pdf (Document consulted on November 15, 2014).

¹⁷ **COUNCIL OF BETTER BUSINESS BUREAUS INC.** *USA Today Snapshot - Most Complaints Filed with BBB in 2014*, Arlington, Virginia, United States, March 27, 2015. [Online] <http://www.bbb.org/council/news-events/bbb-in-the-news/2015/03/usa-today-snapshot-most-complaints-filed-with-bbb-in-2014/> (Page consulted on May 27, 2015).

Table 6
Consumer Satisfaction¹⁸



The major difference between levels of satisfaction (only 36% of participants express satisfaction with the prices) and the number of complaints reported demonstrates clearly that dissatisfaction does not necessarily lead to a complaint. The CRTC's report, which summarizes the observations made during its *Let's Talk TV* consultation, briefly focuses on the comments about customer service:

Some participants feel that BDUs provide poor or inconsistent customer service. They identify long wait times when calling the customer service line, a lack of follow-up from customer service representatives (CSRs), or a seeming unwillingness of CSRs to address complaints and find solutions within the organization. Others think that the service that CSRs provide over the phone is not as good as that provided by in-store representatives¹⁹.

¹⁸ CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION. *Let's Talk TV: Quantitative Research Report*, CRTC, Ottawa, Ontario, Canada, April 24, 2014. [Online]

<http://www.crtc.gc.ca/eng/publications/reports/rp140424.htm> (Document consulted on November 12, 2015).

¹⁹ CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION. *Let's Talk TV: a report on comments received during Phase I*, CRTC, Ottawa, Ontario, Canada, January 29, 2014. [Online]

<http://www.crtc.gc.ca/broadcast/eng/hearings/2013/2013-563oc2.htm> (Document consulted on November 12, 2015).

The CRTC also discusses the comments expressed about cable services, notes that some participants made comparisons with lower prices paid in other countries, and summarizes some comments as follows:

In any event, participants clearly want to have access to content at a reasonable cost. Some feel that market forces can control these costs. However, many consider that in the current environment, where large players control most BDUs, some sort of rate regulation, whether for services offered in a basic package or on a service-by-service basis is necessary²⁰.

As part of the same consultation, the CRTC, which was soliciting users' views, asked consumers: *Do you have enough information to make informed choices and seek solutions if you're not satisfied?* The answers reveal a lot of dissatisfaction about available packages, found to be too highly priced and not offering real choices, but also that venues for making complaints are not clearly indicated. Among the comments (which we are reproducing verbatim) are:

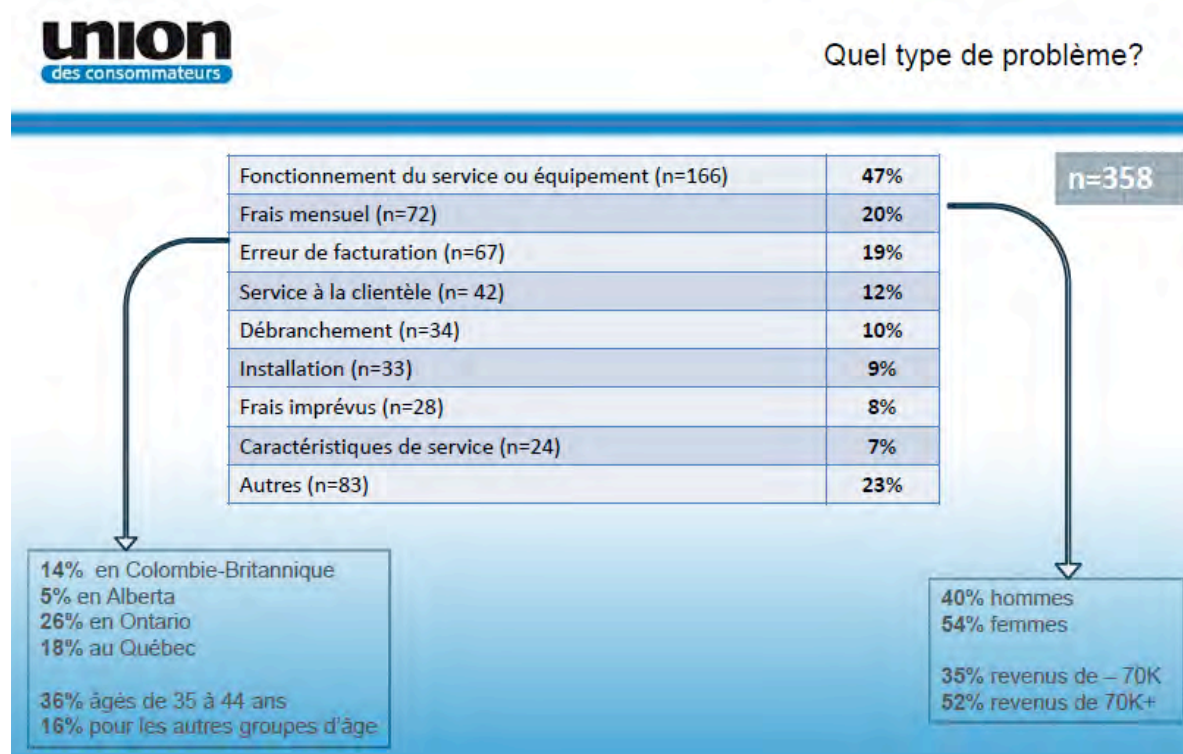
I usually just call in and complain if there's an issue. Sometimes I end up being on hold for awhile and have to talk to more than one person but usually everything gets sorted out... eventually (with a lot of patience)... [...] Most people probably do not know that they can complain to the CRTC about television content, television services and bills. [...] And no I have no idea who to complain to. [...] il n'y a aucun forfait nul part avec un contenu un peu intéressant en bas de 30.00 [...] Tout est calculé pour que vous preniez leur forfait qui ne vous sert à rien²¹.

In our survey, we asked respondents to mention the types of problems they had experienced, if any. Table 7 presents the types of problems reported by respondents. Those who had encountered more than one problem specified the different types. Based on the absolute number of times a type of problem was identified by respondents, the table includes a classification according to frequency.

²⁰ *Ibid.*

²¹ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** *Let's Talk TV: A Conversation with Canadians (Phase I)*, CRTC, Ottawa, Ontario, Canada, 2014. [Online] <http://consultation.crtc.gc.ca/en/consultation/10/parlons-t-l-conversation-les-canadiens%3Ca%20href%3D> (Page consulted on May 15, 2015).

Table 7
Cable Service Problems Encountered



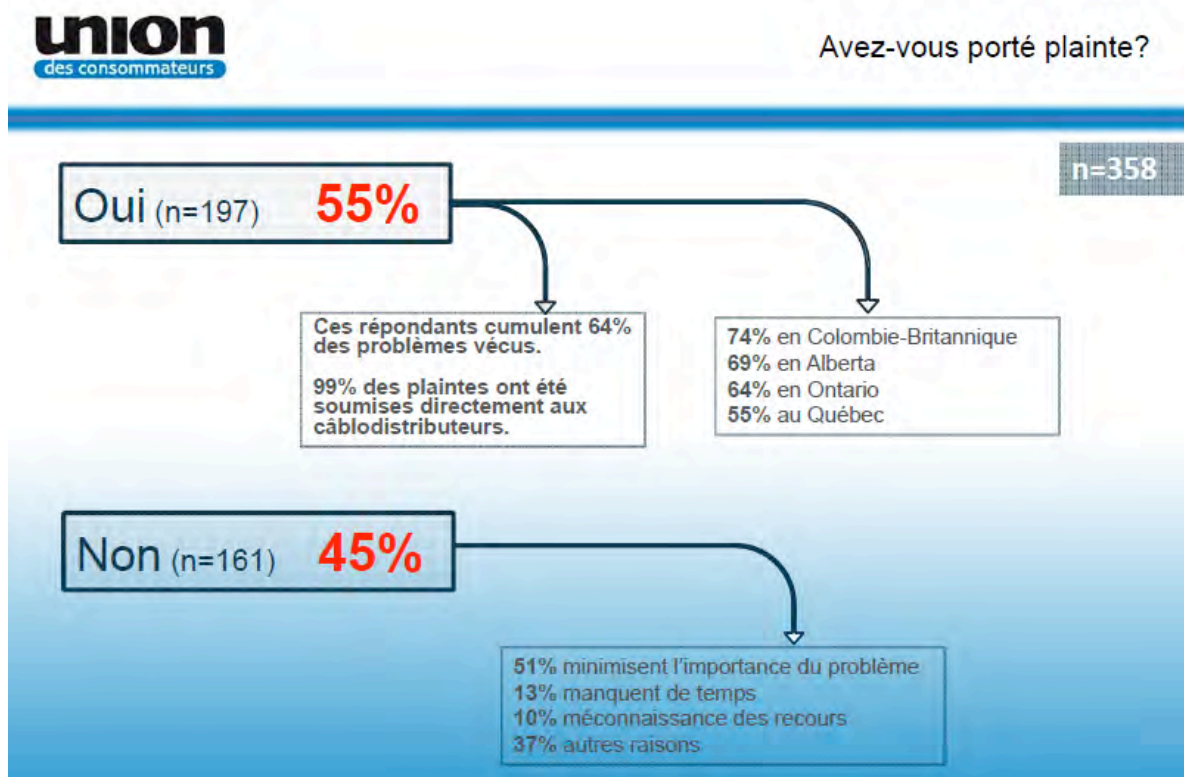
Generally, the operation of service and equipment thus constitutes, by far, the main problem reported by respondents.

Among the problems classified in the *Others* category, respondents mentioned, in particular: price changes during the term of a contract (6.4%), changes in the choice of channels during the term of a contract (3.0%), service changes during the term of a contract (2.5%) and cancellation fees (2.2%).

1.3 Making a Complaint about a Cable Television Service and Customer Satisfaction

As part of our survey, 358 respondents (24%) reported having experienced a problem with their cable television service²². Slightly less than one half had made a complaint (197 respondents, i.e., 55% of the total). Of 228 complaints in total, almost all, i.e., 226, were addressed directly to the service provider, and the two others submitted to the CRTC.

Table 8
Number of Respondents Who Experienced a Problem and Made a Complaint

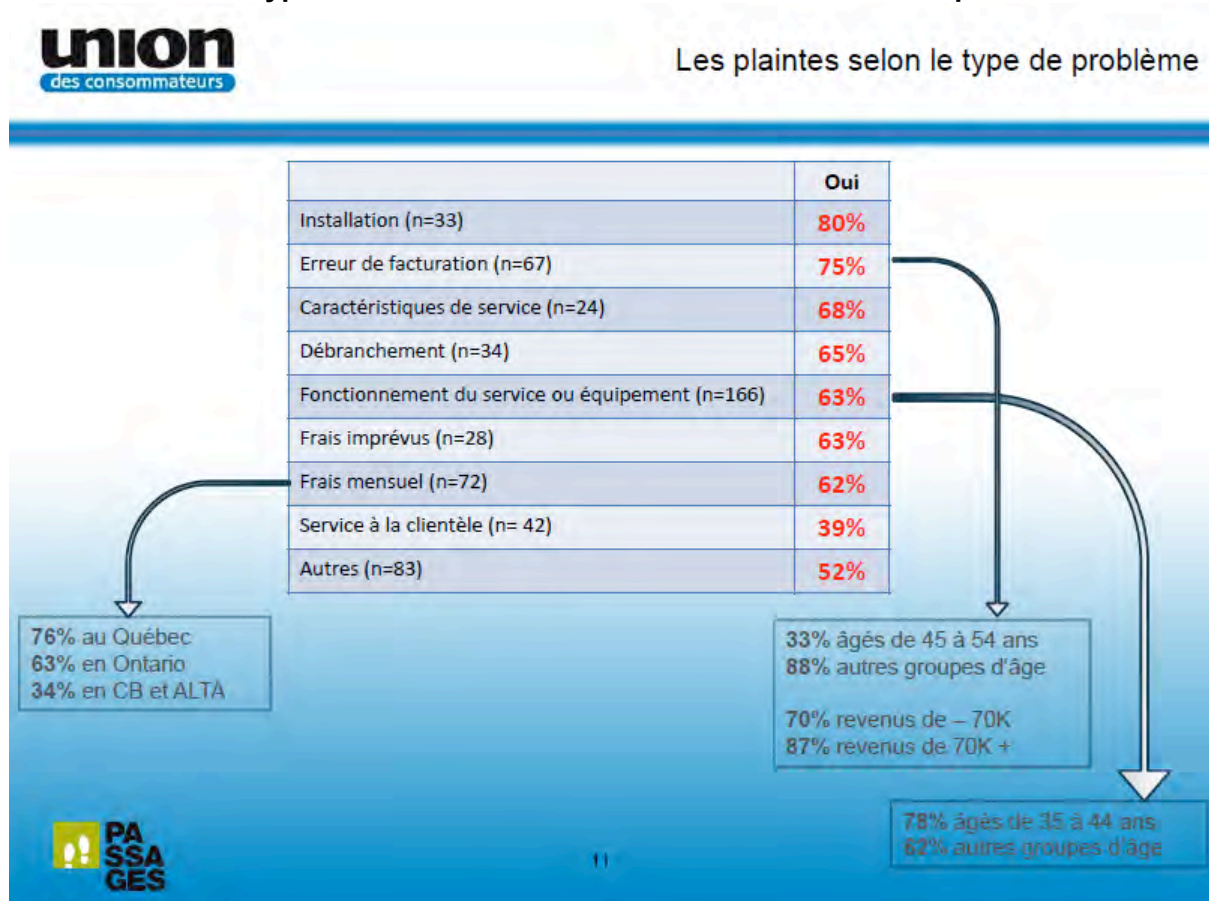


It should be noted that almost half of respondents who did not make a complaint about their problem neglected to do so because they thought the problem was not important enough to the service provider... yet found it important enough to report it in a survey.

What are the types of problems about which consumers make a complaint? Based on the problems our respondents reported, we tried to determine whether certain problems were more likely than others to lead them to make a complaint.

²² Our telephone survey was conducted among 1,503 adult Canadians subscribing to a cable service.

Table 9
What Type of Problem Leads Consumers to Make a Complaint?



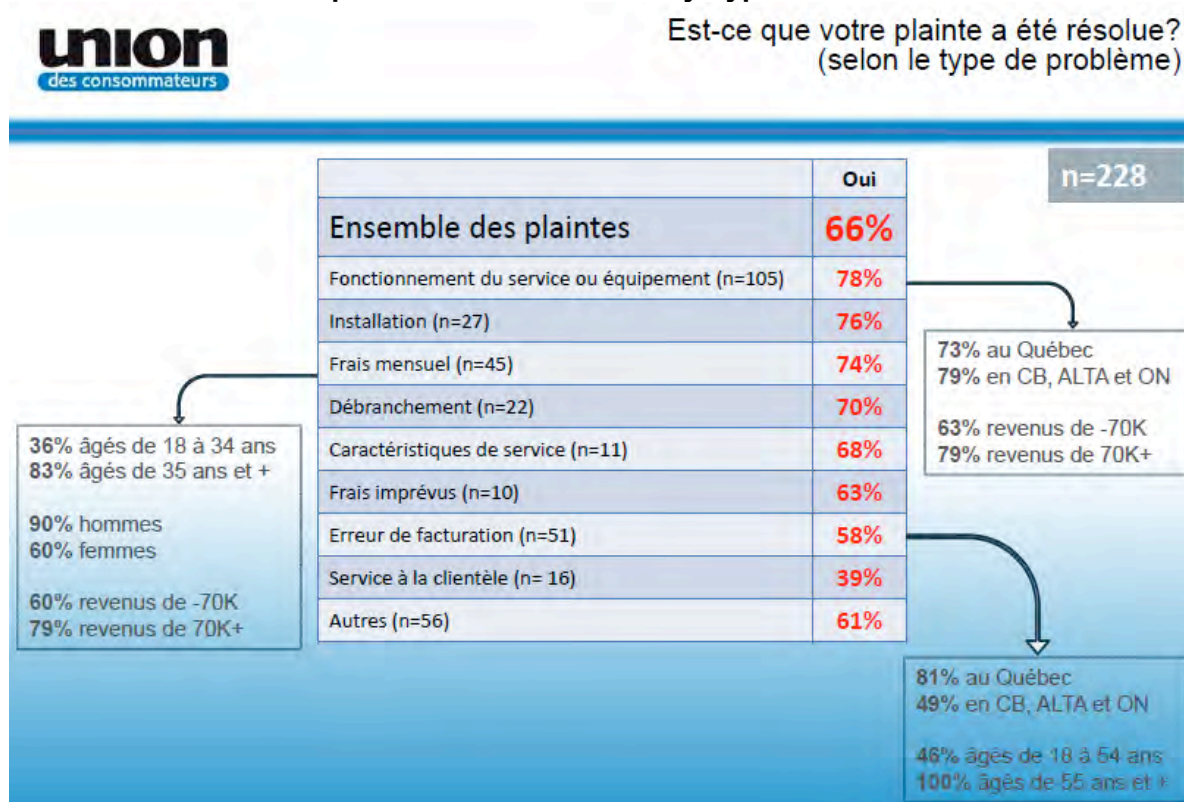
We see immediately that the variances between the types of problems that prompted formal complaints are generally very low, whatever the number of problems reported in each category. The nature of a problem is thus not, at first sight, a determining factor in the decision to make a complaint or not.

With a much lower ratio of complaints, customer service problems stand out, as well as other problems mentioned by respondents, such as: price changes during the term of a contract (n=23), changes in the choice of channels during the term of a contract (n=11), service changes during the term of a contract (n=9) and cancellation fees (n=8)²³.

We asked respondents whether their complaint had been resolved and we tried to verify whether rates of resolution were likely to vary according to the types of problems complained about.

²³ In total, 32 problems were reported as “other,” without further details.

Table 10
Complaint Resolution Rates by Type of Problem



Here again, the variances are quite low between the overall resolution rate and the rate for each type of complaint. Given that of the 197 respondents who made those 228 complaints, almost all addressed themselves to the service provider, our respondents' rate of complaint resolution corresponds to the overall rate of dispute resolution by the companies' complaint processing service.

In the dispute resolution jargon, a resolved (or settled) complaint does not automatically mean a complaint resolved to the customer's satisfaction. The resolution only means that the case is closed and the complainant's representations end. So we asked respondents how satisfied they were with the resolution of their complaint. The results confirm unfortunately how this misleading definition of "settlement" is widespread. Indeed, Table 11 indicates that almost half of consumers estimated that their case had not been resolved satisfactorily.

Table 11
Level of Satisfaction with the Resolution



Quel est votre degré de satisfaction à l'endroit de la résolution de cette plainte?
(selon le type de problème)

Sur une échelle de 1 à 10 où 10 signifie que vous êtes très satisfait et 1, très insatisfait.

n=182

	1 à 6	7-8	9-10	Moy
Ensemble des plaintes	42%	40%	18%	6.5
Installation (n=20)	24%	30%	46%	8.1
Fonctionnement du service ou équipement (n=81)	36%	42%	22%	6.7
Frais mensuels (n=33)	63%	30%	7%	5.5
Erreur de facturation (n=29)	36%	53%	11%	6.7
Service à la clientèle (n= 6)	80%	20%	0	4.9
Débranchement (n=16)	20%	63%	17%	7.2
Frais imprévus (n=8)	81%	19%	0	5.9
Caractéristiques de service (n=8)	40%	60%	0	6.4
Autres (n=30)	53%	33%	13%	3.9

In short, although 66% of complaints were resolved, a high percentage of consumers end up dissatisfied or not entirely satisfied. According to our survey data, less than one out of five consumers is very satisfied with the complaint resolution.

Would the percentage of complainants be higher if consumers knew that an independent organization was likely to handle those complaints as a last resort? Would the level of satisfaction with dispute resolutions be higher if such an organization were made available to consumers?

2. Portrait of Dispute Resolution Services in the Canadian Cable Television Sector

In Canada, the division of powers between federal and provincial levels of government results in the cable sector being regulated simultaneously by the two levels of government, depending on the issues examined. Thus, what belongs strictly to cable television (the activity itself) falls under exclusive federal jurisdiction, notably through the Broadcasting Act and the CRTC's regulatory decisions. On the other hand, contracts and business practices are covered by civil law, which falls under exclusive provincial jurisdiction; so relations between cable companies and consumers are subject to consumer protection laws. For their part, competition issues are also handled by the federal government. As we mentioned in the introduction, issues and problems related to the content of broadcasts and to competition will be discussed only very briefly herein, since our research focuses on the cable service itself and related contract issues.

Television content is governed both by the Canadian Broadcast Standards Council (CBSC), an independent non-profit organization established by the Canadian Association of Broadcasters and, to a lesser extent, by the CRTC.

Accordingly, in addition to companies themselves, to which consumers can submit their complaints, federal and provincial organizations can be approached, depending on the subject of the complaint.

So where should consumers turn to make a complaint about a problematic situation regarding a service or product offered by their cable service provider?

2.1 Dispute Resolution among Cable Television Service Providers

It is well established that the availability of effective complaint handling services is essential for satisfying and retaining customers²⁴. The existence of such a service is thus to the advantage of customers and businesses alike. So not surprisingly, all cable companies have this type of services.

Federal lawmakers have established that all financial institutions under federal jurisdiction must have such an internal complaint handling process and assign personnel to it²⁵, and that consumers dissatisfied with how their complaints are handled by it must be referred to an external complaint resolution organization; but federal lawmakers have required nothing of the kind in the broadcasting sector. Has the complaint handling process of cable companies nevertheless developed effectively, and has it been harmonized to a certain extent?

We consulted the websites of Bell, Rogers, Shaw, Videotron and Cogeco to see how their complaint handling service was designed and presented, and how consumers could have access to that information. While they are not the only ones offering cable services, we chose those companies because they are the largest in the country.

2.1.1 Bell

Bell's website does not specifically indicate access to any complaint handling service or procedure. The heading "Support" highlighted in the upper menu leads to instructions for using services and devices and for understanding invoices. The "Contact us" links at the bottom of the pages lead to a page that offers, regarding Bell TV services, telephone support for programming, receivers and equipment²⁶.

²⁴ **CENTRE DE SERVICES PARTAGÉS**. *Service à la clientèle Gestion des plaintes*, Centre de leadership et de développement des compétences, government of Quebec, Québec City, Quebec, Canada, July 19, 2013. [Online]

<https://www.cldc.cspq.gouv.qc.ca/Default.aspx?tabid=127&CategoryID=112&Level=a&List=1&SortField=ProductName,ProductName&Language=fr-CA> (Page consulted on September 23, 2014). Standard ISO 9001:2008 on Quality Management Systems was adopted on that basis, notably.

²⁵ See notably the Bank Act (S.C. 1991, ch. 46), sec. 455 and 456, and the Guidance of the Commissioner of the Financial Consumer Agency of Canada, *CG-12 Internal Dispute Resolution*, April 10, 2013 [Online] <http://www.fcac-acfc.gc.ca/Eng/forIndustry/publications/commissionerGuidance/Pages/CG12Inte-DC12Proc.aspx> (Page consulted on September 23, 2014).

²⁶ **BELL.CA**. *Bell Support - Contact Bell Customer Service*, Bell Canada, Montreal, Quebec, Canada, 2015. [Online] <http://support.bell.ca/Contact-us> (Page consulted on February 15, 2015). We consulted the pages of Bell's website while selecting the province of Quebec.

At the bottom of that “Contact us” page we find under the title “Already contacted us?” the following text box:

*We're confident that our customer service representatives can handle your service needs. In the unlikely event that your concern was not addressed to your satisfaction, you can **escalate a complaint**.*²⁷

The text box's link leads to a “Bell Residential Complaint Form.” To indicate the reason for his “concern,” the customer may check one of the following:

- *I have a concern with my bill*
- *I have a question about my products and/or services*
- *I have a technical concern with one of my products and/or services*
- *I have a concern with a recent sale or order*

However, using the website's search tool to search the word “complaint” results in a link to a page titled “How to escalate a complaint”²⁸, which at last provides an overview of the company's complaint handling procedure.

If he encounters a problem and wants to make a complaint or obtain help, a subscriber to Bell's cable services must (Step 1) contact a customer service representative (the page invites us to click the link “Contact us”).

If the complaint is not resolved satisfactorily in the first step, Bell invites (Step 2) the subscriber to contact the “Bell Customer Relations Centre” by sending it the “Bell Residential Complaint Form,” which leads to the link “Submit a complaint.”

The page finally indicates that if the problem is still not resolved, additional measures can be taken (Step 3), i.e., “Contact the Bell Escalation Team” at the toll free telephone number indicated.

It is possible to click “View the additional steps you can take” if the problem persists: this leads to a mention of the existence and role of the CCTS, accompanied by a link to its website. Additional information states that the CCTS may assist the subscriber at no charge: “If you have a complaint about our services, including local or long distance phone service, mobile phone service or Internet service.” It should be pointed out that no mention is made of a cable service complaint.

²⁷ **BELL.CA.** *Bell support – Bell Residential Complaint Form*, Bell Canada, Montreal, Quebec, Canada, 2015. [Online] http://support.bell.ca/Escalation_WebForm (Page consulted on February 2, 2015).

²⁸ **BELL.CA.** *How to escalate a complaint*, Bell Canada, Montreal, Quebec, Canada, 2015. [Online] http://support.bell.ca/Billing-and-Accounts/How_to_escalate_a_complaint (Page consulted on April 2, 2015).

2.1.2 Rogers

The “Support” heading displayed in the upper menu of the Rogers’ website’s home page²⁹ leads to a selection of services (wireless, Internet, TV, etc.), and then to a selection of options (TV: Discover, Setup, Not Working, Packages, etc.). Choosing “Not Working” leads to links regarding setup (for Ontario or the Atlantic Provinces), troubleshooting, technical support, and “General TV Articles.” On each of those pages is a “Contact us” link, at times with the mention “Get in touch with us via Live Chat, over the phone, or in store.”

The “Support – Contact us” page invites us to choose a description of the problem (Product & Services, Billing & Accounts, Technical Support, Shop), which leads to a new page where one can indicate the product or service for which help is required. The TV option leads to a page offering “Products and Services Information” and, “For more information on Rogers TV products and services,” live chat access to a Customer Service advisor, an e-mail address and a toll free telephone number.

A text box does mention “Share a concern” with a link to a page where one can, after choosing one’s profile, report a problem by filling out a form³⁰, on which the consumer is invited to indicate how he would like the company to contact him (E-mail, Phone, No follow-up required). On the support pages, an invitation to report a problem leads to that same page.

Under the page title is the following mention: “If you have an unresolved issue or concern, you can escalate by asking for a manager during a call or live chat, or by submitting your concern online. We will try to respond to concerns submitted online within 1 business day.”

At the bottom of the page is a link inviting the customer to “Contact the ombudsman.” Clicking that link opens the text box “Customer Feedback” summarizing Rogers’ complaint handling procedure.

Customers who have “comments” to submit are invited to contact the company’s customer service team to try to resolve the problem, and then, if the team cannot do so, to contact the management team or the Office of the President.

If the problem is still unresolved, Rogers finally invites the customer to write the Office of the Ombudsman:

Rogers is the only telecommunications carrier in North America to have an Ombudsman to provide an independent review of customers’ problems. Our goal is to make it easier for our customers to do business with Rogers.

²⁹ **ROGERS.COM.** Home page, Rogers Communications Inc., Toronto. Ontario, Canada, 2015. [Online] <https://www.rogers.com/consumer/home?setLanguage=en> (Page consulted on March 12, 2015). We consulted the Rogers website pages while selecting the province of Quebec.

³⁰ **ROGERS.COM.** Share a Concern, Rogers Communications Inc., Toronto. Ontario, Canada, 2015. [Online] https://www.rogers.com/web/Rogers.portal?_nfpb=true&_pageLabel=contactUsShareAConcern&_nfls=true&setLanguage=en (Page consulted on March 12, 2015).

Using the website's search tool to search the word "complaint" leads us directly to a page titled "Support – What do you need help with?" and also to a page titled "Office of the Ombudsman"³¹, which details the scope (and limits) of its mandate. (A search of the word "complaints" leads only to this link.)

The Ombudsman makes "an independent review of customers' problems" and "provides an impartial review of unresolved complaints," but his "Recommendations are non-binding and parties are free to pursue other avenues if an agreement is not reached." Complaints are made in writing and specify the problem, the applicable dates, and the names of employees involved. The customer is also invited to provide a copy of all relevant documents.

In those two sections about the Office of the Ombudsman, Rogers mentions, after indicating the Ombudsman's contact information, the CCTS's existence, role and contact information, without however specifying that complaints about cable services are excluded from the CCTS's mandate.

2.1.3 Shaw

The "Support" link on the home page of Shaw's website³² leads to a page presenting articles on the various services: "Welcome to the Shaw Support Community. Join now to follow, share and participate in the conversation with Shaw experts and users like you."

Using the website's search tool to search the word "complaint" gives access to documents (pdf) without an apparent link to consumer complaints, except the link "Commissioner for Complaints for Telecommunications," which leads to a document about the Disconnection Code. Behind the "Shaw Communications Inc." link is the "BC Electronic Equipment–Stewardship Plan," which does discuss complaints, but in another context. A search of the keyword "complaints" doesn't yield more-conclusive results.

Starting with the website's home page, the "Contact" link opens a window listing a telephone number, a link to the "chat" and another to the e-mail option, along with a link to "Support" that brings us back to the "Shaw Support Community." A closer examination of that page reveals an additional link after "Contact Us" at the bottom of the page, under the text "Want more contact details?" A new "CONTACT US" button leads to a page where, after again giving the telephone number and the chat and e-mail links, we find the beginning of a "Customer Advocacy Commitment" followed by a link for consulting the full text³³.

³¹ **ROGERS.COM.** *Support - How can we help you?*, Rogers Communications Inc., Toronto. Ontario, Canada, 2015. [Online] https://www.rogers.com/web/Rogers.portal?_nfpb=true&_pageLabel=faq_content_page&_nfls=true&setLanguage=en (Page consulted on March 12, 2015).

³² **SHAW.CA.** *Home page*, Shaw Communications Inc., Calgary, Alberta, Canada, 2015. [Online] <http://www.shaw.ca/store/> (Page consulted on March 12, 2015). We consulted Shaw's website pages while selecting the province of Quebec. The website is in English only.

³³ **SHAW.CA.** *Customer Advocacy Commitment*, Shaw Communications Inc., Calgary, Alberta, Canada, 2015. [Online] <http://www.shaw.ca/contact-us/customer-advocacy/> (Page consulted on February 4, 2015).

Clients who have a concern or want to share their feedback are invited to contact Customer Service (at the addresses we mentioned above). Additional steps are then presented:

Step 1: If Customer Service is unable to support the customer to his satisfaction, he is invited to contact the Shaw Resolution Team. A link leads to a complaint form that will be processed by a supervisor or senior support representative. A response should follow within 24 hours.

Step 2: The customer is invited to contact the Regional Leadership Team, if his concerns have not been resolved to his satisfaction or his concern has not been followed up on by the Resolution Team. To contact the Regional Leadership Team, the customer must again fill out an online form. A link leads to a complaint form identical to the previous one, but addressed this time to the Regional Leadership Team.

Step 3: The customer is invited to contact the Executive Leadership Team, if concerns persist. A link is provided to contact the Vice President of Operations Shaw Communications... This leads, again, to the same form, addressed to the new recipient.

At the bottom of the page, Shaw's website offers two other paths to customers whose complaint has not been resolved satisfactorily: contact the CRTC or CCTS (there is no explicit mention that cable services are excluded from the CCTS's mandate).

The fact that the website carefully avoids using the term "complaint" makes the search for a complaint handling service much more laborious for consumers.

2.1.4 Videotron

With its "Support" link, Videotron's website doesn't present a clearer link than the others to any complaint handling service. Under "Contact us" is the customer service's contact information (For general questions related to: your invoice, your move, your appointment(s)); Technical Support (For technical problems related to: The installation of your equipment, configuration, Technical problems); and access to Chat. But at the very bottom of the page is a clear link: "Filing a complaint."

The "Customer Service" page to which that link leads³⁴ describes the steps a consumer can follow to make a complaint. Videotron first invites its customers (step 1) to contact Customer Service at the telephone numbers indicated. If those steps are not successful, Videotron proposes (step 2) to "request to speak with a supervisor who will promptly take your call or call you back within 24 hours if not immediately available. The supervisor will analyze your request and/or the proposed solution."

³⁴ **VIDEOTRON.COM.** *Customer Service - Complaints*, Videotron GP, Montreal, Quebec, Canada, 2015. [Online] <https://www.videotron.com/vcom-ext/secur/forms/plainteCourriel.action?locale=en#> (Page consulted on March 22, 2015).

If the problem is still not resolved after that step, Videotron invites (step 3) the customer to fill out an online form, to which the text provides a link. Within 24 hours of receipt, a specialized agent will contact the customer by telephone.

If, following step 3, the customer is still not satisfied, Videotron invites its customers to send a letter to Customer Service Management (step 4) while specifying the extent to which the proposed solutions have not been satisfactory. Within 48 hours of receipt, a specialized agent will call the customer to handle his request.

Like the websites of the other companies examined, that of Videotron refers customers to the CCTS if they are still dissatisfied with their complaint resolution. At the time of our visit to the websites of the various companies examined, Videotron was one of the rare companies to clearly specify that the CCTS doesn't handle cable television complaints.

2.1.5 Cogeco

On Cogeco's website, as on the others we examined, the page to which the "Support" link leads does not appear to offer evident recourse to a customer who would want to make a complaint. However, the "Contact us" section that appears at the bottom of the home page provides an explicit link: "Making a complaint." The page to which that link leads details the procedure³⁵.

Before instructing how to make a complaint, Cogeco explains:

What do we mean by a complaint?

A complaint is when you want to tell us that you are not satisfied with our product, service or interaction with us.

You should make a complaint when:

- *You think our service is not up to standard.*
- *You have not been treated politely.*
- *You think we have not followed the correct procedures.*
- *A service you have asked for has not been provided and we have not given you a reasonable explanation.*

Step 1: Customer Service. "If you have a concern contact our Customer Services Team who can help. Most problems can be resolved quickly, and effectively." Cogeco invites the customer to contact Customer Service by telephone or e-mail (contact information provided), or by using its online complaint form (link provided).

Step 2: Office of the president. As can be seen, Cogeco does not multiply intermediaries for resolving complaints. The customer can write the Office of the president, whose postal

³⁵ **COGECO.CA.** *Making a Complaint - Step 1*, Cogeco Inc., Montreal, Quebec, Canada, 2015. [Online] http://www.cogeco.ca/web/qc/en/residential/support/making_a_complaint (Page consulted on February 2, 2015). We consulted Cogeco's website pages while selecting the province of Quebec.

address is provided. The company pledges to contact the customer within 48 hours of receipt.

Step 3: CCTS. If the company's internal dispute handling procedures have not satisfied the customer, COGECO refers him to the CCTS, while expressly mentioning that the latter does not handle complaints about broadcasting or cable services.

2.2 Federal Dispute Resolution Mechanisms

On their respective websites, some cable companies refer consumers to federal organizations, i.e., the CRTC or CCTS. But if the internal settlement is not deemed satisfactory, neither of those organizations handles individual cases regarding cable services, although both record complaints in this sector.

What do the federal organizations actually do when receiving a complaint about a cable service?

2.2.1 Canadian Radio-television and Telecommunications Commission (CRTC)

The CRTC is an administrative tribunal mandated to regulate and monitor the fields of broadcasting and telecommunications.

Accordingly, the CRTC must keep an eye on the activities of broadcasting companies (more than 2,000 broadcasters, i.e., television and AM/FM radio services, as well as companies distributing those services) and of telecommunications companies (including the major telephone companies).

The CRTC's activities are multiple:

- *Licensing. We issue, renew and amend broadcasting licences. We also issue licences for international telecommunications services whose networks allow telephone users to make and receive calls outside of Canada.*
- *Promoting compliance with regulations. We promote compliance with the Unsolicited Telecommunications Rules, including the National Do Not Call List, and Canada's anti-spam legislation.*
- *Making ownership decisions. We make decisions on mergers, acquisitions and changes of ownership in the broadcasting sector.*
- *Approving tariffs. We approve tariffs and certain agreements for the telecommunications sector.*
- *Encouraging competition. We encourage competition in telecommunications markets to ensure that Canadians have a choice of innovative and affordable services.*

- *Providing information. We respond to requests for information and concerns about broadcasting and telecommunications issues*³⁶.

Role and mandate

The CRTC assures that it is “dedicated to ensuring that the needs and interests of Canadians are at the centre of the system that provides those services³⁷.” How?

- *Create*. Ensuring access to creative, attractive and diverse content on a variety of platforms.
- *Connect*. Ensuring access to quality and innovative and quality communication services at affordable prices.
- *Protect*. Enhancing the safety and interests of Canadians by promoting compliance with and enforcement of its regulations.

The CRTC does not intervene regarding broadcast quality and content, or retail rates.

Complaint handling procedures

Access to the CRTC’s complaint handling procedure is simple. On the “TV & Radio” tab of its website, the CRTC, under the heading “Ask a Question or Make a Complaint³⁸,” states that it will forward a copy of the complaint to the companies involved, and to the Canadian Broadcast Standards Council (CBSC), when appropriate. The CRTC adds that if it requires a broadcasting licensee to respond to the complaint, the latter will be placed in a public file.

After accepting the conditions, choosing the “question” or “complaint” section, indicating the type of service for which the CRTC is being contacted, and the means of communication through which the CRTC can contact the complainant, the latter may fill out the fields intended for collecting his personal information, and, finally, describe his complaint (and attach files). The CRTC states that it responds to most questions within 10 working days.

To know what the CRTC will actually do after receiving a complaint, the “TV & Radio” link has to be followed, which, after indicating the processing time, further explains how the CRTC handles complaints.

³⁶ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** *About Us*, CRTC, Ottawa, Ontario, Canada, September 2, 2014. [Online] <http://www.crtc.gc.ca/eng/acrtc/acrtc.htm> (Page consulted on September 2, 2014).

³⁷ *Ibid.*

³⁸ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** *Ask a Question or Make a Complaint*, CRTC, Ottawa, Ontario, Canada, April 21, 2015. [Online] <https://services.crtc.gc.ca/pub/rapidscdm/Default-Default.aspx> (Page consulted on April 28, 2015).

On that long page³⁹, the CRTC discusses various reasons for making broadcasting complaints – notably, complaints about the content of programs, CBC (or Radio-Canada, in the French version of the page) news or journalistic practices, advertising, the accessibility of services – and indicates the organization that will be responsible for receiving any one of those types of complaints.

Under the heading *Filing a broadcasting complaint with the CRTC*, the CRTC, after specifying that all complaints must be made in writing, indicates that “CRTC Client Services receives and reviews your complaint, and responds to you directly or forwards your complaint.”

The entity to which the complaint is forwarded may be the company providing the service that is the object of the complaint. Here is how the CRTC will follow up on the handling of the complaint.

Forwarding your complaint

Your complaint may be forwarded to one of the following:

[...]

- *The company involved, to resolve the issue with you. Sometimes no follow up by the CRTC is necessary.*
- *The company involved, asking it to respond to you (with a copy to the CRTC) within 20 calendar days. CRTC staff review your concerns and the response to decide whether any regulatory action is needed. If not, the CRTC may not contact you again.*

Following up

If the company doesn't respond within 20 calendar days, the CRTC sends a written reminder. If there's still no answer, the CRTC raises all unanswered complaints with the company when it applies to renew its licence.

If your complaint alleges that the company violated the Broadcasting Act or CRTC policies or regulations, CRTC staff will decide if any further process or regulatory action is required.

[...]

follow up if you are dissatisfied

If you're not satisfied with the response to a complaint handled by the CRTC or by the CBSC, you can ask, in writing, that the CRTC review the complete file and issue a decision.

Also, a broadcaster's performance is reviewed when it applies to renew its licence, and you can submit comments or intervene at that time⁴⁰.

³⁹ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** *How to make a broadcasting complaint*, CRTC, Ottawa, Ontario, Canada, January 26, 2015. [Online] http://www.crtc.gc.ca/eng/info_sht/g8.htm (Page consulted on April 28, 2015).

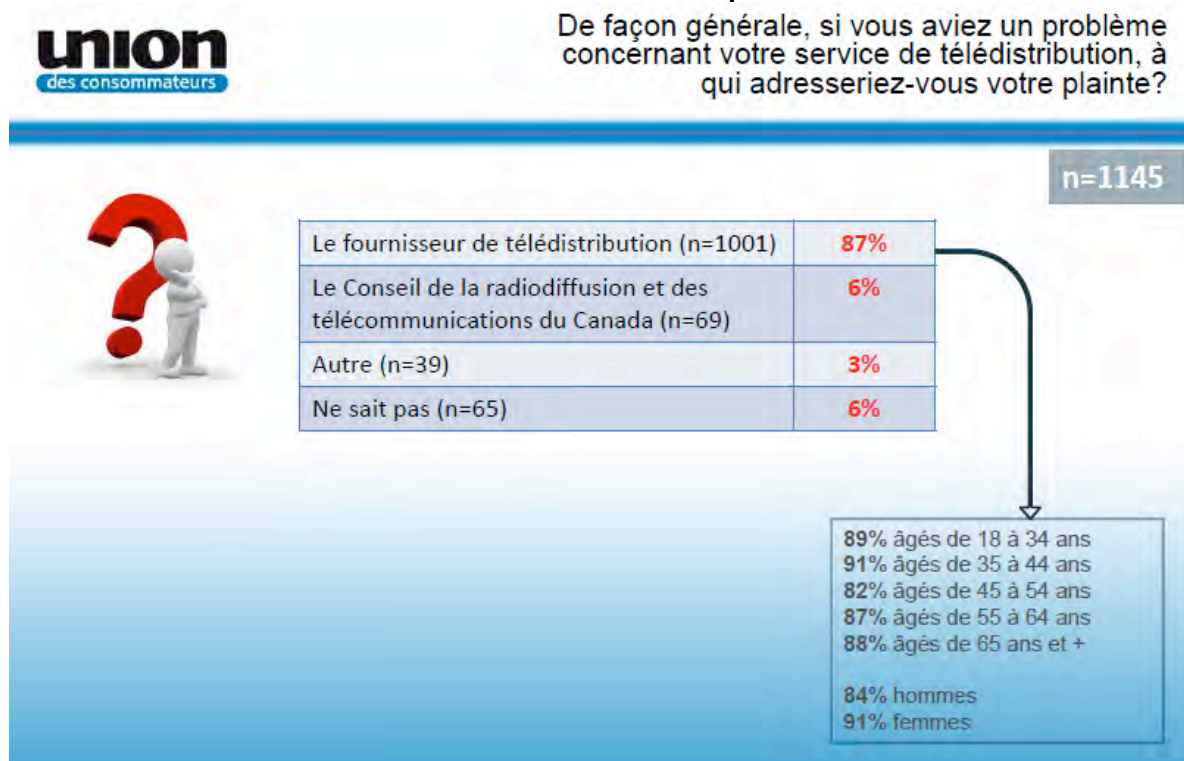
⁴⁰ *Ibid.*

Consumers' knowledge of the service

As part of our survey, we asked all respondents where they would file their complaint if they experienced a cable service problem. Not surprisingly, a large majority of them answered that they would address themselves directly to their service provider. As indicated by the following table, the entity that received the second highest number of mentions is very far behind in popularity.

Table 12
Where to Address a Complaint?

De façon générale, si vous aviez un problème concernant votre service de télédistribution, à qui adresseriez-vous votre plainte?



It thus appears that the CRTC is the only federal entity known to our survey's respondents. It is also possible, although unlikely, that the respondents knew about the other organizations while also knowing that the latter were not mandated to receive cable television complaints⁴¹.

⁴¹ The pollsters were not to present a list to respondents. Moreover, after a respondent's spontaneous answer, the pollster had to probe until the respondent had nothing left to say. Thus, the interviewer didn't easily accept "Don't know" answers, and if the respondent mentioned something, the interviewer asked him again if he had something to add. Among the "Others" answers collected are: parents, Google, TVA, housing cooperative owner...

2.2.2 Commissioner for Complaints for Telecommunications Services (CCTS)

The Commissioner for Complaints for Telecommunications Services (CCTS) is an independent organization that works in concert with service providers to resolve customer complaints about their telecommunications services, by first searching for amicable solutions. If such a solution is not reached, the CCTS reviews the complaint and submits its view and solution paths to be explored⁴².

Role and mandate

The CCTS's mandate is limited to telecommunications services (home telephone, long distance, wireless phone services, Internet access services, etc.); the CRTC has given it no jurisdiction to handle broadcasting complaints.

The CCTS handles disputes pertaining, for example, to the compliance of services with contract terms and commitments, to billing disagreements and errors, to provider services (installation, repairs, disconnections, but also service quality, interruptions, etc.)⁴³, i.e., the same types of disputes as those that arise in broadcasting.

Complaint handling procedures

In a text box titled "Have a complaint?" the CCTS, on its website, suggests that consumers first try to settle their complaint directly with their service provider. It then suggests that the consumer consult its "Guide for Making a Complaint"⁴⁴.

That guide provides the consumer with the necessary information for filing a complaint (consumer and provider identification and contact information, account number, complaint details – particularly the product or service involved – and details of representations made to the provider and the response received. The CCTS will invite the consumer to give an indication of what would constitute an acceptable resolution.

Complaints made to the CCTS may be submitted on the Internet, by fax, mail, telephone or teletypewriter⁴⁵.

⁴² **COMMISSIONER FOR COMPLAINTS FOR TELECOMMUNICATIONS SERVICES.** *CCTS at a glance*, CCTS, Ottawa, Ontario, Canada, 2015. [Online] <http://www.ccts-CCTS.ca/> (Page consulted on February 5, 2015).

⁴³ **COMMISSIONER FOR COMPLAINTS FOR TELECOMMUNICATIONS SERVICES.** *Mandate*, CCTS, Ottawa, Ontario, Canada, 2015. [Online] <http://www.ccts-CCTS.ca/complaints/mandate> (Page consulted on February 5, 2015).

⁴⁴ **COMMISSIONER FOR COMPLAINTS FOR TELECOMMUNICATIONS SERVICES.** *Guide To Making a Complaint*, CCTS, Ottawa, Ontario, Canada, 2015. [Online] <http://www.ccts-CCTS.ca/complaints/guide> (Page consulted on February 5, 2015).

⁴⁵ **COMMISSIONER FOR COMPLAINTS FOR TELECOMMUNICATIONS SERVICES.** *How to Make a Complaint*, CCTS, Ottawa, Ontario, Canada, 2015. [Online] <http://www.ccts-CCTS.ca/complaints/how-to> (Page consulted on February 5, 2015).

2.2.3 Canadian Broadcast Standards Council (CBSC)

The Canadian Broadcast Standards Council (CBSC) is an independent non-profit organization established by the Canadian Association of Broadcasters (CAB) in the late eighties. Its members number around 790 channels and stations, specialized services, and private television and radio networks across Canada⁴⁶.

Role and mandate

A self-regulatory organization, the CBSC handles the public's complaints and questions about the actual programming of private broadcasters and cable operators in Canada. It particularly monitors compliance with the standards established by the Canadian Association of Broadcasters and the Radio Television News Director Association with regard to ethics, journalistic independence, and violence in program content.

One of the CBSC's objectives is to inform the public about the existence of standards and to offer recourse to the general public regarding their application.

The CBSC's complaint handling process seeks to encourage, whenever possible, the resolution of disputes between broadcasters and their audience. When the resolution process does not succeed, the CBSC issues rulings and tries to give public access to them.

Complaint handling procedures

The complaints, which identify the programming and the broadcaster involved in a dispute, are submitted in writing to the CBSC, by the customer filling out the form available on the organization's website or mailing or faxing the complaint to the CBSC's Ottawa offices⁴⁷. The CBSC will forward a copy of the complaint to the broadcaster involved and will ask it to respond to the complainant's concerns. If the broadcaster's response does not satisfy the complainant, he may send the CBSC a *Ruling Request* to have the organization review and rule on the dispute⁴⁸.

⁴⁶ CANADIAN BROADCAST STANDARDS COUNCIL. *Welcome to the CBSC*, CBSC, Ottawa, Ontario, Canada, no date. [Online] <http://www.cbsc.ca/english/index.php> (Page consulted on February 5, 2015).

⁴⁷ CANADIAN BROADCAST STANDARDS COUNCIL. *Making a Complaint*, CBSC, Ottawa, Ontario, Canada, no date. [Online] <http://www.cbsc.ca/english/complaint/> (Page consulted on February 5, 2015).

⁴⁸ CANADIAN BROADCAST STANDARDS COUNCIL. *Questions Concerning the Complaints Process*, CBSC, Ottawa, Ontario, Canada, no date. [Online] <http://www.cbsc.ca/english/faqs/complaints.php> (Page consulted on February 5, 2015).

2.2.4 Competition Bureau

The Competition Bureau ensures that companies and Canadian consumers do business in a competitive and innovative market.

Role and mandate

On the *Enquiries and Complaints*⁴⁹ page of its website, the Competition Bureau makes certain clarifications.

The Bureau states that it is mainly responsible for the administration and application of the Competition Act and that it is not a consumer protection organization. Thus, its mandate does not include requiring refunds or intervening in contractual disputes between companies and consumers.

The Competition Bureau clearly states that it will not examine complaints about certain matters, including: bad service dealings with a person or business; billing problems; contractual disputes; refund issues.

Complaint handling procedures

A consumer may make a complaint against a company or organization whose business practices do not comply with, for example, the Competition Act.

To make a complaint, the consumer must provide a certain amount of personal information (unspecified on the website) and indicate the company's name and the object of the complaint. It is possible to make a complaint by filling out a form on the website, by phoning the Bureau, or by mailing or faxing the complaint. Upon receipt of the complaint, the Competition Bureau will investigate, if the complaint is within its purview⁵⁰.

⁴⁹ **COMPETITION BUREAU.** *Enquiries and Complaints*, Competition Bureau, federal government, Ottawa, Gatineau, Quebec, Canada, January 11, 2012. [Online] http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h_00019.html (Page consulted on February 5, 2015).

⁵⁰ *Ibid.*

2.2.5 Cable Television Standards Council (CTSC)

From its establishment in 1988 and until 2006, an organization was mandated to, notably, handle cable television complaints: the Cable Television Standards Council (CTSC).

Role and mandate

The Cable Television Standards Council was a three-member, independent organization established by Canada's cable TV companies to administer Standards, Codes and Guidelines that ensure high standards of customer services⁵¹. In a 1992 public notice, the CRTC announced that the CTSC's mandate would be to administer the Standards previously accepted by the CRTC and to handle subscriber complaints, and it described as follows the organization's new role:

The Council is responsible for resolving disputes arising between those cable television licensees who are members of the Foundation and their subscribers or other parties. The Commission notes the emerging role of the Council in the adjudication of complaints, and is confident that the Council will provide an increasingly important and useful mechanism for addressing complaints about compliance by Foundation members with the requirements of the Standards, as well as related operational matters. Accordingly, the Commission announces that it intends to refer to the Council, for its consideration and resolution, all complaints it may receive in future from members of the public regarding the practices of Foundation members in areas that fall within the scope of the Standards.

Nevertheless, the Commission wishes to emphasize that any interested party may, at any time, choose to approach the Commission directly. The Commission also notes that it will continue to deal directly with alleged breaches of the Cable Television Regulations, 1986, as well as with complaints about matters that are not covered by the Standards⁵².

In 1994, in the context of amendments to the Cable Television Regulations, the CRTC reviewed the history of the process:

Although some comments opposed this proposal, most agreed in principle with the introduction of such a mechanism, but suggested some amendments. Several parties suggested that, in the event of a dispute between licensees of programming and distribution undertakings regarding access, the Cable Television Standards Council (CTSC) could serve as the first forum for the mediation of such disputes⁵³.

⁵¹ **PUBLIC WORKS AND GOVERNMENT SERVICES CANADA.** *Cable Television Standards Council*, BTB, Ottawa, Ontario, Canada, May 1, 2015. [Online] http://www.btb.termiumplus.gc.ca/tpv2alpha/alpha-eng.html?lang=eng&i=1&index=frt&_index=frt&srchtxt=Conseil+des+normes+de+t%E9I%E9vision+par+c%E2ble+&comencsrch.x=0&comencsrch.y=0 (Page consulted on May 5, 2015).

⁵² **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** ARCHIVED - *Public Notice CRTC 1992-22 - Cable Television Standards Council*, CRTC, Ottawa, Ontario, Canada, March 16, 1992. [Online] <http://www.crtc.gc.ca/eng/archive/1992/pb92-22.htm> (Page consulted on January 4, 2015).

⁵³ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** ARCHIVED - *Public Notice CRTC 1994-7 - Amendments to the Cable Television Regulations, 1986*, CRTC, Ottawa, Ontario, Canada, February 13, 1994 [Online] <http://www.crtc.gc.ca/eng/archive/1994/pb94-7.htm> (Page consulted on January 4, 2015).

In 2000, the CRTC again stated that the CTSC could act as an ombudsman in cases involving customer complaints⁵⁴. Thereafter the CTSC, to which consumers could file their complaints, ceased to exist in 2006. In its response to the questionnaire we sent to the various federal organizations, the CBSC stated the following:

Prior to 2006, this type of complaints [cable television complaints] was handled by the Cable Television Standards Council, a self-regulatory body funded by the CCTA, the Canadian Cable Telecommunications Association. Those two organizations were dissolved, in 2006, following withdrawal from the CCTA by the major cable companies, Rogers, Shaw, Videotron and Cogeco [...].

Given that the CTSC was an organization with the specific mandate of handling the type of complaints for which this report is searching for redresses, we will briefly examine the complaint handling procedures of that organization whose absence the CRTC again underlined in 2010, as well as the need for an organization to handle complaints regarding cable television, a sector that already was prompting its share of complaints at the time:

That being said, the Commission notes that there has been no centralized self-regulatory body for BDUs since the Cable Television Standards Council (CTSC) ceased operations in April 2006. The Commission also notes that following the decision to alter the framework for forbearance of local telecommunications services, the Government called for the creation of an industry self-regulatory body to deal with consumer's telecommunications complaints, as referred to in Order in Council P.C. 2007-533. This resulted in the creation of the Commissioner for Complaints for Telecommunications Services (CCTS). The Commission considers that, in light of the consumer dissatisfaction expressed in this public proceeding, it would be appropriate to provide consumers with a similar avenue to raise issues and concerns related to broadcasting distribution services

[...]

Accordingly, the Commission recommends that the Government issue an Order in Council enjoining the CRTC to seek establishment by BDUs of an independent self-regulatory body to address complaints regarding broadcasting distribution services, and that this self-regulatory body work with the CCTS to provide consumers with a single point of contact for consumer complaints⁵⁵.

⁵⁴ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** Archived - *Public Notice CRTC 2000-162 - Proposed exemption order for small cable systems*, CRTC, Ottawa, Ontario, Canada, [Online] <http://www.crtc.gc.ca/eng/archive/2000/pb2000-162.htm> (Page consulted on January 4, 2015).

⁵⁵ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** The implications and advisability of implementing a compensation regime for the value of local television signals, CRTC, Ottawa, Ontario, Canada, March 23, 2010. [Online] <http://www.crtc.gc.ca/eng/publications/reports/rp100323.htm> (Page consulted on January 25, 2015).

Complaint handling procedures

Complaints received by the CTSC were forwarded to the company concerned, which was requested to respond to them within 10 days. The CTSC had established a follow-up call system among a sample of consumers chosen at random, to ensure that their complaints had been resolved to their satisfaction.

If the consumer was still dissatisfied following the company's response, the CCTS handled the issue directly with the company. Then, if the consumer was still dissatisfied with the handling of his complaint, the CTSC proposed informal mediation. If that failed, the consumer was offered a disposition hearing before the CTSC. The ruling then made by the Standards Council was binding on the company, whereas the consumer could appeal the ruling before the CRTC (or before the Privacy Commissioner for issues concerning the cable industry's Personal Privacy Code, which reflected the Personal Information Protection and Electronic Documents Act).

A company that refused to apply the tribunal's ruling could be compelled to withdraw from the Cable Television Standards Foundation, with the consequence of being subject to regulations under the CRTC's direct authority (which cable providers wanted specifically to escape by establishing the Foundation).

The complaint resolution process was free of charge for consumers, and the Standards Council was entirely funded by the cable television industry⁵⁶.

2.3 Comments of Federal Organizations and Companies

To better identify the cable complaint handling services offered to consumers, we directly approached the appropriate federal organizations as well as various companies (Bell, Rogers, Shaw, Videotron and Cogeco) from which we tried to obtain complementary information. To that end, we sent them a questionnaire on the number and types of complaints they received, on the handling of those complaints and on the solutions offered to consumers. We also asked them what they thought would be the ideal system for handling cable television complaints⁵⁷.

In October 2014, we sent our questionnaire to the companies and to the Canadian Broadcast Standards Council (CBSC), the Commissioner for Complaints for Telecommunications Services (CCTS), The Competition Bureau, and the Canadian Radio-television and Telecommunications Commission (CRTC).

⁵⁶ **INDUSTRY CANADA.** *Market-driven Consumer Redress - Case Studies and Legal Issues*, IC, federal government, Ottawa, Ontario, Canada, 2002, 72 pages. [Online] [http://cmcweb.ca/eic/site/cmc-cmc.nsf/vwapj/redress_case_studies_e.pdf/\\$FILE/redress_case_studies_e.pdf](http://cmcweb.ca/eic/site/cmc-cmc.nsf/vwapj/redress_case_studies_e.pdf/$FILE/redress_case_studies_e.pdf) (Document consulted on 15 décembre 2014).

⁵⁷ The questionnaire is reproduced in Annex 2.

Both the CBSC and CCTS told us they did not handle cable television complaints. The Competition Bureau, which also does not directly handle this type of complaint, nevertheless reported that of the 9,000 complaints it received each year, a very small proportion pertained to cable services.

For its part, the CRTC gave us more-precise data, for the period from April 1, 2013 to March 31, 2014. During that period, the CRTC received 4,665 cable service complaints, i.e., 15.11% of the total number of complaints received by the organization. The CRTC also gave us a breakdown by subject of those cable service complaints.

Table 13
CRTC: Breakdown of Cable Television Complaints
(from April 2013 to March 2014)

Subject of the Complaint	Number of Complaints
Billing	1427
Distribution	1212
CRTC rulings and policies	451
Service quality	430
Rate increase	290
Service terms	305
Service installation	269
Misc. subjects *	281
Total complaints	4665

* Groups numerous entries that displayed a small number of complaints – advertising (misleading advertising, noisy advertisements, etc.), competition (accessibility, lack of competition, end user choice, etc.), etc.

None of the companies to which we sent our questionnaire answered us. We can assume that this is because during the same period, the CRTC was holding, as part of a vast initiative, *Let's Talk TV*, launched in October 2013, consultations on similar subjects. We studied the companies' answers to the questions asked by the CRTC during those consultations, to determine whether we could find answers there to some of our questions.

The CRTC notably asked participants if they thought it necessary or desirable to create the position of an ombudsman for the cable television industry, with a mandate, for example, similar to the CCTS's in matters of telecommunications. The CRTC also asked the participants if they thought it appropriate to establish a code of conduct for cable companies.

Here is what we have excerpted from the companies' answers to those questions. The cable service providers agree that, if the CRTC deemed it necessary that an ombudsman monitor consumers' cable service complaints, the CCTS would be the appropriate entity for playing that role; the providers also agree in disparaging the necessity of the CRTC adopting a code of conduct for cable companies:

BELL

With respect to complaints, we believe it would be appropriate for the CCTS to become the Ombudsman for BDU-related consumer complaints, including for complaints pertaining to the provision of notice of programming changes. The CCTS already has a wealth of experience handling consumer related complaints pertaining to telecommunications services.

Given the trend whereby an ever-increasing number of Canadians purchase their telecommunications and broadcasting distribution services in bundles, having the CCTS become the ombudsman for resolving consumer complaints pertaining to BDU services makes sense from a "one-stop shopping", consumer convenience and administrative efficiency standpoint.

[...]

Bell does not believe a Code of Conduct is required, but agrees to an expanded role for the CCTS where BDUs are unable to resolve issues with subscribers directly⁵⁸.

ROGERS

Rogers supports the Commission's view that Canadian consumers should have recourse and clear processes to address service issues and resolve disputes. We do not, however, consider that formal guidelines or a code of conduct addressing issues such as early termination fees are necessary for the BDU market because the volume of actual complaints is low, we have a well-structured complaints escalation process and we have our own in-house ombudsman. We expand on each of these points below. That being said, we believe that all BDUs should develop in-house mechanisms that better assist their customers when disputes arise [...] Rogers does not believe an industry ombudsman is necessary⁵⁹.

SHAW

Currently, the CRTC complaints team handles broadcasting service customer complaints. Shaw has no visibility into the volume of complaints received through this process; however, we note the process has worked effectively for many years. The BDU market is more intensely competitive now than it has been since inception. There are more service providers and over-to-top options for consumers. This market choice and flexibility combined with the ability to easily transition to a competitive provider should negate the need for an ombudsman for the BDU market. The majority of complaints handled by the CCTS related to wireless service contract disputes and fees. This was mainly due to consumer perception that there were not enough wireless options in Canada and that service terms were not consumer friendly. There is little evidence that this problem exists in the BDU market. If the Commission were to proceed with a BDU ombudsman, it could use the existing CCTS to avoid duplicating processes and costs. However, funding for the CCTS would need to be modified to be

⁵⁸ **BELL.CA**. Broadcasting Notice of Consultation CRTC 2014 190, *Let's Talk TV: A Conversation with Canadians*, Phase 3, Comments of Bell Canada, Bell Canada, Montreal, Quebec, Canada, June 27, 2014, [Online] <https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=218717&en=2014-190&dt=i&S=C&PA=b&PT=nc&PST=a> (Document consulted on February 10, 2015).

⁵⁹ **ROGERS COMMUNICATIONS Inc.** Broadcasting Notice of Consultation CRTC 2014-190, *Let's Talk TV*, Comments of Rogers Communications Inc., Rogers, Toronto, Ontario, Canada, June 27, 2014. [Online] <https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=218412&en=2014-190&dt=i&S=C&PA=b&PT=nc&PST=a> (Document consulted on February 10, 2015).

complaint-based rather than on revenue percentages. It should be those providers that garner the most complaints that bear the burden of the ombudsman costs⁶⁰.

VIDEOTRON

In our view, there is no need to apply guidelines or a code of conduct addressing issues such as early termination fees to BDUs because the Consumer Protection Act already applies to television distribution and already contains provisions similar to the Commission's Wireless Code.

[...]

A position of this type is not necessary as the number of complaints received does not warrant it (for Videotron, 19 complaints about television distribution received in 2013 and only 11 in 2014). The current complaints process and the small number of complaints received confirm that the existing process is amply sufficient for the proper treatment of complaints⁶¹.

COGECO

Cogeco submits that there does not seem to be a significant issue with customer complaints relating to the provision of cable-delivered broadcasting services, and that it should not be necessary to implement an ombudsman regime for broadcasting distribution services

Should the Commission decide however that such a regime is necessary, the CCTS is an independent organization dedicated to working with consumers and the telecommunications service providers (TSP) to resolve complaints, including complaints relating to BDU telecommunications services.

Instead of creating a separate ombudsman for the BDU industry with a mandate similar to the CCTS, Cogeco submits that it may be more efficient and cost effective to mandate the CCTS, if feasible, to deal with BDU-subscriber complaints as well⁶².

⁶⁰ **SHAW COMMUNICATIONS Inc.** *Broadcasting Notice of Consultation CRTC 2014-190 – Let's Talk TV*, Shaw Communications Inc., Calgary, Alberta, Canada, June 27, 2015. [Online]
<https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=218469&en=2014-190&dt=i&S=C&PA=b&PT=nc&PST=a> (Document consulted on February 10, 2015).

⁶¹ **QUEBECOR MEDIA Inc.** *Broadcasting Notice of Consultation CRTC 2014-190, Let's Talk TV*, Intervention of Quebecor Media Inc. in its own name and on behalf of Videotron GP and TVA Group Inc., Quebecor Inc., Montreal, Quebec, Canada, June 27, 2015. [Online]
<https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=218467&en=2014-190&dt=i&S=C&PA=b&PT=nc&PST=a> (Document consulted on February 10, 2015).

⁶² **COGECO.CA.** *Broadcasting Notice of Consultation CRTC 2014-190, Let's Talk TV*, Submission of COGECO CABLE INC, Cogeco Inc., Montreal, Quebec, Canada, June 27, 2015. Intervention English version. [Online]
<https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=218718&en=2014-190&dt=i&S=C&PA=b&PT=nc&PST=a> (Document consulted on February 10, 2015).

2.4 Comments of Provincial Consumer Protection Organizations

To better identify the place of provincial consumer protection organizations in the field of cable television, we approached them directly to obtain complementary information. To that end, we sent the appropriate organizations of Canada's ten provinces and three territories a questionnaire on the number and type of complaints they were receiving, on the handling of those complaints, and on the solutions offered to consumers⁶³. We also asked the organizations what they thought would be an ideal system for handling cable television complaints.

The questionnaires were sent in January 2015, and then a reminder in April. We received the last answers in April 2015. In total, seven provinces answered us.

The Financial and Consumer Services Commission, in **New Brunswick**, told us that it did not collect cable television complaints and thus did not have statistics about those services. Consumers reporting such problems are referred to the CRTC.

In **Manitoba**, the number of complaints received about cable services is very low. At the Department of Tourism, Culture, Sport and Consumer Protection, the Consumers' Bureau reported having received 25 complaints on this subject between 2012 and 2014 (and three between January and April 2015). Given that all those complaints are classified in a single category ("cable services"), it was impossible for the organization to specify the precise object of the complaints (billing, installation, customer service, etc.).

In that province, when a complaint falls under the jurisdiction of the Consumers' Bureau, the organization contacts the company concerned, and then attempts mediation between the two parties in order to find a solution. If the parties don't reach an agreement, the organization cannot impose a settlement; the consumer must go to court. But if a review of the complaint has revealed an infraction against the relevant laws (*Consumer Protection Act* or *Business Practices Act*), the company is exposed to fines or lawsuits.

If the cable service complaint brought to the attention of the Consumers' Bureau falls instead under the federal organization's jurisdiction, the consumer is redirected to the CRTC. The Manitoban organization told us that the CCTS's experience with mobile telephony complaints should inspire confidence in the CCTS's ability to handle cable service complaints.

In **British Columbia**, Consumer Protection BC told us it did not distinguish when compiling telephony or cable complaints. In 2014, 182 complaints were filed regarding communications.

When a consumer contacts the organization, he will, depending on the object of the complaint, be referred to the service provider or the CRTC, or be informed of his rights. If the company that is complained about participates in the *Online Dispute Resolution* service, the

⁶³ The questionnaire is reproduced in Annex 3.

consumer will be invited to use that service in an attempt to resolve his dispute with his service provider.

Consumer Protection BC advocates the establishment of an independent organization that would be mandated to handle cable service complaints, and estimates that the CCTS could well carry out that mandate.

In **Saskatchewan**, the Consumer Credit Division, Financial and Consumer Affairs Authority of Saskatchewan reports that it receives very few cable service complaints, i.e., less than 2% of all complaints received – less than ten complaints annually.

When it receives a complaint, the organization first verifies if the complaint falls within its mandate or within federal jurisdiction; in the latter case, the consumer is redirected to the CRTC or CCTS. Otherwise, the organization examines the complaint and attempts to resolve it; it may also assess the option of penalizing the company.

The organization doesn't find it necessary to establish a new independent organization to resolve this type of complaint. It estimates that the CRTC could be the ideal organization for handling cable service complaints, but that the CCTS could also be mandated to receive such complaints.

In **Newfoundland**, Service NL indicates that in 2013-2014, 15 cable service complaints were recorded (i.e., 11% of all complaints), along with ten written requests for information (7%) and 80 telephone calls (8%). The organization specifies that 80% of those complaints, requests for information and calls concerned *Newfoundland's Bill 6*, which pertains to bundled services including cable and satellite television services, and which was amended in 2012 to include provisions for distance services; and that the remaining 20% concerned billing problems. The Newfoundland organization offers mediation services and, should they fail, refers consumers to various agencies that could likely handle the complaint (CRTC, CCTS, Credit Counselling Canada, ombudsmen, etc.).

Like many other provincial organizations, the Newfoundland organization would approve mandating the CCTS to handle cable service complaints.

In **Ontario**, Consumer Protection Ontario, Ministry of Government and Consumer Services received 170 complaints and information requests about cable services in 2014, i.e., 0.5% of all complaints and information requests received by the organization. In 2013, 237 complaints and information requests were recorded (0.6 % of the total). One third of all complaints and information requests pertained to billing problems (frequently, unilateral changes made to the contract), 17% to contract terminations, 11% to provider misconduct, 9% to false representations regarding services, 8% to service quality and 4% to services or products not provided (non-exhaustive list).

The Ontario organization refers consumers directly to the CCTS if the broadcasting service that is the object of the complaint is part of a service bundle (with telephone or Internet services, for example). If the complaint refers exclusively to the cable service, the *Ontario Consumer Protection Act, 2002* may be applicable, given provisions on false

representations, for example. If the consumer cannot resolve his dispute directly with his provider and there is an infraction of that law, the organization may offer a mediation service. If that fails, the consumer may be advised to go to court. Consumer Protection Ontario may, for its part, employ its authority to monitor and apply the law, and may take other measures: inspection, investigation, accusation, criminal proceedings, etc.

The Ontario organization did not want to opine on the appropriateness of mandating the CCTS to handle cable service complaints, or on what might be an ideal system for handling such complaints.

In **Quebec**, the Office de la protection du consommateur (OPC), in 2014, recorded 89 complaints classified under the *Television Services* category, and 467 complaints under the *Communications Services Package* category. The latter category groups digital and terrestrial television and related services provided by cable, satellite or any other means. Belonging to this category are service bundles (telephone, Internet and television, for example). The *Television Services* category was 42nd in importance for all complaints received by the OPC, whereas the *Communications Services Package* category came in 18th. That same year, the organization also received and handled 946 information requests about cable services: 40% on contract cancellation by the consumer, 25% on service delivery and conformity, and 8% on the content of contracts. In 2014, out of 803 infractions detected by the OPC in the cable sector, 32% concerned service delivery and conformity, 19% contract cancellation, 13% contract formalism, 8% false representations, and 1 to 5% infractions related to various other subjects (prohibited pricing practices, forced sale, omission of important facts, etc.). The OPC compiles the public's complaints and denunciations and, if an infraction of a law is recorded, it may conduct administrative verifications, inspections on company premises, investigations, and issue infraction notices, undertake criminal proceedings, etc.

The OPC estimates that a consumer complaint handling system should be based on two fundamental findings:

- Consumers are not always prepared to make individual representations for relatively modest claims;
- Such individual representations have limited capacity to compel a company to change its practices and the content of its contracts.

Ideally, according to the OPC, a consumer whose rights have not been respected in the context of a consumer contract should be able to make a complaint to an authority responsible for monitoring the application of consumer protection regulations. That authority should have the necessary powers to compel the company to cease practices that don't comply with those regulations, so that other consumers are not victimized by such practices: investigation and inspection powers, power to make voluntary commitments, request injunctions, undertake criminal proceedings and levy administrative fines. That authority should also be able, for example by establishing monitoring programs, to act against a company at fault before its practices generate consumer complaints.

2.5 Provincial Protections and Dispute Resolution

The consumer recourses under provincial laws for cable services are heterogeneous. While consumer protection laws offer protection measures of general application to cable service and other contracts, those measures vary enormously between provinces. Some regulatory frameworks apply more specifically to this type of services: for example, in Quebec, regulations of service contracts of successive performance (hereinafter “distance service contracts”) apply to mobile phone, alarm system and cable services. But no specific provision regulates cable service contracts between consumers and providers in Canada.

To have consumer protection provisions applied, consumers may go to court in an attempt to settle a dispute with their service provider.

As we have seen, the approaches taken by the various government consumer protection agencies (GCPAs) to handle consumer complaints differ enormously. For example, some GCPAs offer a mediation service to a consumer making a complaint against a merchant, while others don’t. In some jurisdictions, the parties may, following an application to a court of law, have access to the mediation service offered by the court.

2.5.1 Overview of Provincial Consumer Protection Laws

As mentioned above, the federal government and the provincial and territorial governments share jurisdiction over cable television. In complex fashion, sections 91 and 92 of the *Constitution Act, 1867* assign jurisdiction over cable services to each level of government. The federal government has jurisdiction under section 91(29) – covering categories expressly excluded from provincial power – and 92(10)a), which denies the provinces jurisdiction over telegraph work and companies and over other work and companies linking a province to others, or extending beyond a province’s limits. Moreover, the provinces regulate cable services through legislative instruments regarding consumer protection and civil law, over which they hold exclusive jurisdiction under sections 92(13) (property and civil rights) and 92(16) (purely private matters).

What specific provincial measures protect consumers experiencing problems with their cable service provider?

As we have seen, the Union des consommateurs survey revealed that those problems are mainly as follows: service or equipment operation (47%), monthly charges (20%), billing error (19%), customer service (12%), disconnection (10%), installation (9%), unexpected fees (8%), service features (7%) and others (23%). Our consultation of GCPAs also yielded data on the nature of cable service complaints they receive. In the light of the most prevalent sources of cable disputes, we will summarize the provincial provisions likely to protect consumers in such circumstances.

General application laws and cable problems

Fees not specified in the contract

Billing errors are among the problems most often encountered by cable subscribers. Unexpected fees belong to this category.

The consumer should never have to experience the nasty surprise of being billed fees other than agreed to when a contract was entered into – even small fees, as for sending a paper invoice. In Quebec, the *Consumer Protection Act* prohibits a merchant from charging the consumer fees of which the precise amount is not mentioned in the contract (sec. 12 CPA). Our research indicates that only Quebec has adopted a provision that so explicitly prohibits charging the consumer fees not precisely mentioned in the contract.

Accordingly, cable providers, like other merchants, must mention the exact amounts they charge Quebec consumers. A consumer charged amounts not specified in his contract can avail himself of legal remedies.

Unilateral amendment of the service contract

The issue of unilateral contract amendments brought by merchants has long been a major irritant to consumers. In Ontario, in 2014, one third of complaints and information requests made by consumers to their GCPA pertain to billing problems following a unilateral contract amendment.

Although the unilateral amendment of cable service contracts is not specifically regulated, certain provisions of general application regulate a service provider's amendment of consumer contracts, in most Canadian provinces.

For example, since 2010, Quebec law stipulates that a merchant cannot provide in his contract a right to unilaterally amend the essential elements of a fixed-term contract, so that he is not allowed to make such an amendment (sec. 11.2 CPA-QC).

On the other hand, the merchant may amend “non-essential” elements while meeting certain conditions, including that of providing in the contract the amendments he reserves the right to make (sec. 11.2(1) CPA-QC). Of course, this provision of general application also covers cable service contracts. Those rules are based on good faith principles in contractual matters (sec. 6 CCQ) and on the exercise of civil rights according to good faith requirements (sec. 6 CCQ). Thus, any amendment attempted by the merchant without observing the parameters under the law would be unenforceable against the consumer (sec. 11.2(3)).

In the common law provinces, unilateral contract amendments are also regulated, but in a slightly different way from Quebec law. In Ontario, the *Consumer Protection Act, 2002* states that “If a consumer is receiving goods or services on an ongoing or periodic basis and there is a material change in such goods or services, the goods or services shall be deemed to be unsolicited from the time of the material change forward unless the supplier is able to

establish that the consumer consented to the material change” (sec. 13(4) CPA-ONT). The Ontario law allows the consumer to demand, within a year following payment, a refund of amounts paid for the unsolicited service (sec. 13(6) CPA-ONT). He may also go to court if the merchant fails to make the required refund (sec. 13(8) CPA-ONT). But this is a very rare measure in the common law provinces: British Columbia is the only other province that has a similar measure (see sec. 13(2), *Business Practices and Consumer Protection Act*).

The case of Newfoundland and Labrador presents a significant peculiarity. While the regulations for the merchant’s right to amend a contract unilaterally resembles closely those found in Quebec, Newfoundland has chosen to apply such regulations only to distance service contracts. Following an amendment to the *Consumer Protection and Business Practices Act* (CPBPA) that came into effect in 2012, CPBPA section 35.5 provides henceforth that a merchant cannot introduce in such a contract a term allowing him to amend the contract unilaterally, unless the following conditions are met:

35.5 (1) [...] the clause

- (a) *states the elements of the distance service contract that may be amended unilaterally;*
- (b) *provides that the supplier must send written notice to the consumer, at least 30 days before the effective date of the amendment, stating*
 - (i) *the new or amended clause,*
 - (ii) *the former version of the clause,*
 - (iii) *the effective date of the amendment, and*
 - (iv) *the consumer's rights where he or she does not agree with the amendment; and*
- (c) *provides that where the amendment increases the consumer's obligations or reduces the supplier's obligations the consumer may refuse the amendment and cancel the distance service contract without cost, penalty or fees, provided the consumer gives written notice to the supplier no later than 30 days after the effective date of the amendment.*

In addition, this clause prohibits the merchant from unilaterally amending “*the price, term or nature of the goods or services of a fixed term distance service contract*” (sec. 35.5(2)). The province goes a little further than the others by also granting the consumer the right to amend at any time, without charge or penalty, the optional services provided in the distance service contract (sec. 35.6(1)).

Legal warranty: quality and fitness

During our survey, 7% of respondents reported having experienced problems with service features, and 47% with service or equipment operation.

What is purchased must serve its intended purpose. Under the consumer protection laws of the Canadian provinces and territories, consumers have a right, when purchasing a good and, generally, a service, to a guarantee of fitness in relation to the contract and the merchant’s representations, and to a guarantee of quality.

As with problems related to service operation, those related to service characteristics are highly likely to be covered by the legal warranty (as it is called in Quebec) or the implied warranty (as it is called in the common law provinces). The guarantee of fitness requires the merchant to provide the consumer with a service that conforms to the description made of it, whether in the contract, the advertising, or the representations made by the merchant or one of his representatives. This guarantee seems very normal: the consumer reasonably expects to receive as agreed upon the service he's paying for.

In Quebec, the legal warranty applies to goods as well as services (sec. 34 and fol. CPA-QC). Whereas in Quebec, the good must be fit for its intended purpose, some common law provinces expressly add that the product that is the object of the warranty must be fit for the specific use expected by the consumer, so long as the latter has notified the merchant of his expectations of the product. Manitoba's Consumer Protection Act states that "Unless otherwise expressly agreed in writing signed by the buyer, there shall be implied in every retail sale of services a condition, on the part of the seller, that the services sold shall be provided in a satisfactory manner" (sec. 58(6) CPA-MB).

To delimit the scope of the guarantee of quality, several common law provinces specify that the product must be "of merchantable quality" (see for example, section 18 of British Columbia's *Sale of Goods Act* (SOGA-BC)) or "of a reasonably acceptable quality" (see section 9(1) of Ontario's *Consumer Protection Act, 2002* and section 48(d) of Saskatchewan's *Consumer Protection Act*, S.S. 1996). Another example, section 26(5) of Nova Scotia's *Consumer Protection Act* (R.S.N. 1989, c. 92) states that "There shall be implied in every consumer sale of service a condition, on the part of the seller, that the services sold shall be performed in a skilful and workmanlike manner." This is another expression of the merchant's obligation to ensure that the consumer receives a service of the acceptable quality to which he is entitled.

Legal guarantees of usage and quality that cover only goods (such as those that cover both goods and services) apply of course when goods are acquired from a cable service provider. For example, if a consumer acquires a decoder to have access to the cable service, in Quebec, the seller must respect those guarantees. So equipment operation problems are normally covered by the legal warranty. Quebec law also stipulates, explicitly, that the good must serve its purpose for a reasonable period (sec. 38 CPA-QC). For their part, the common law provinces estimate that the guarantee of durability is implied in the other guarantees.

As mentioned above, not all legal warranties apply to the acquisition of goods or services. Guarantees of fitness and durability, for example, apply only to goods. This doesn't mean that consumers face a total absence of protection regarding the quality of services provided. Indeed, some provincial laws provide guarantees "of product merchantability" (see for example SOGA-BC, sec. 18).

The majority of Canadian provinces regulate unfair practices, and those regulations may be invoked in case of poor quality services or other problems. In fact, the regulatory framework of "unfair practices" applies to services as well as goods. For example, in British Columbia, section 4 of the *Business Practices and Consumer Protection Act* (British Columbia:

Business Practices and Consumer Protection Act, SBC 2004, c 2) states that the prohibition against “*deceptive acts or practices*” applies both to goods and services. Alberta takes the same approach in the *Fair Trade Act*, (R.S.A. 2000, c. F-2, sec. 6).

Prohibited practices

Given that good faith must be at the centre of commercial transactions and that contracts must make the parties’ obligations predictable, the provincial lawmakers have decided to include, in consumer protection laws, provisions expressly prohibiting certain reprehensible commercial practices, to prevent merchants from making abusive use of the imbalance of power between the parties. The lawmakers thus attempted, through certain prohibitions, to establish a certain balance by ensuring, for example, that the consumer has necessary and truthful information before deciding to enter into a contract.

Whether the term is “prohibited practices” in Quebec or “unfair practices” in the rest of Canada, the prohibited commercial practices are very similar, despite a few differences, particularly in terms of remedies: for instance, Quebec’s *Consumer Protection Act* assumes that had the consumer been aware of such a practice, he would not have contracted or paid so high a price (sec. 253 CPA-QC).

The prohibition against demanding a higher price than advertised

Consumers who encounter problems with monthly fees (for example, higher fees or fees not corresponding to the information disclosed when the contract was signed) – 20% of respondents to our survey report having experienced this type of problem – may be victims of prohibited practices. On one hand, as mentioned above, the law requires the service to fit the description made of it in the contract; differences regarding elements as essential as monthly fees would doubtless constitute a violation. The Quebec law also prohibits (sec. 224(c) CPA) the seller from demanding a greater amount than advertised.

False and misleading representations

Based again on the principle of good faith, lawmakers prohibit merchants from making false, misleading, unfair or abusive representations.

The Quebec law does not allow such representations to be made in any manner whatsoever (sec. 219 CPA-QC). It specifies that any statement, behaviour or omission may constitute a representation (sec. 216 CPA-QC) and that “To determine whether or not a representation constitutes a prohibited practice, the general impression it gives, and, as the case may be, the literal meaning of the terms used therein must be taken into account” (sec. 218 CPA-QC).

Quebec's Office de la protection du consommateur, in response to our consultation of GCPAs, reported that 18% of the 803 cable service infractions of the Quebec CPA in 2014 concerned false representations.

In the common law provinces, such as Ontario, unfair practices are false, misleading, deceptive or unconscionable representations (statement, declaration, offer, request or proposal) (sec. 14(1), 15(1), 17(1) CPA-Ont).

Omission of an important fact

Quebec law expressly provides that "No merchant, manufacturer or advertiser may fail to mention an important fact in any representation made to a consumer." (sec. 228 CPA-QC).

While the common law provinces don't provide a particular provision to that effect, it is often, as in Ontario, because silence is part of the false, misleading or deceptive representations made by a merchant who makes a "representation using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if such use or failure deceives or tends to deceive." (sec. 14(2) 14) CPA-ONT).

Consumer remedies

Despite the difficult access to justice that persists in the provinces and territories of Canada, the consumer protection laws provide remedies for consumers whose rights are violated during the conclusion of a service contract or during delivery of the service.

Consumers avail themselves of those remedies before civil courts that evidently have a broad power to issue orders: they may force the merchant to fulfil his obligation, reduce the consumer's obligation or even order that the contract be rescinded or annulled (sec. 272 CPA-QC).

In the common law provinces, a consumer whose service provider uses unfair practices may demand that the contract be terminated. As mentioned above, some provinces provide specific remedies: in Ontario, for example, the consumer may demand a refund after a material change is made to a service provided continuously.

Additionally, the governmental consumer protection agencies of the provinces and territories may launch criminal proceedings when observing infractions of the laws under their surveillance (e.g.: sec. 277 and fol. CPA-QC; sec. 116 and fol. CPA-Ont.).

Specific regulatory framework for cable services

Apart from the general provisions of consumer protection laws, we have identified in Canada no legislative measure adopted by the provinces for the sole purpose of regulating more specifically the conclusion of cable service contracts.

However, since 2010, several Canadian provinces have adopted measures regulating distance service contracts of successive performance (hereinafter “distance service contracts”). The Quebec National Assembly’s adoption of that law in 2009 had a domino effect across Canada. Since then, several provinces have adopted similar measures, but their application varies enormously. Ontario, Nova Scotia⁶⁴ and New Brunswick⁶⁵ apply those measures only to wireless service contracts, whereas Quebec as well as Newfoundland and Labrador have adopted a regulatory framework of broad application covering all services provided continuously (cellular, cable, Internet, etc.). Manitoba, which had originally adopted measures applying only to wireless service, has since broadened the scope of its law to cover all communications services⁶⁶; but a year after its adoption, that law is still not in effect⁶⁷.

Moreover, the terms used for describing this type of contract are not identical: Quebec refers to “contracts involving sequential performance for a service provided at a distance” while Newfoundland and Labrador refers to “*distance service contracts*”⁶⁸.

Given that only the provinces of Quebec and of Newfoundland and Labrador have a legislative instrument that applies to all distance service contracts, the following analysis of specific provisions will pertain only to those two provinces. The regulatory frameworks adopted elsewhere are limited to mobile service contracts and thus are not relevant here.

In the light of the survey of Canadian consumers and the consultation of Canadian GCPAs, we identified two types of issues often encountered by consumers and covered by regulations for distance service contracts: contract cancellation and compliance with rules of form.

⁶⁴ Bill No. 65 - *An Act to Amend Chapter 92 of the Revised Statutes, 1989, the Consumer Protection Act, to Ensure Fairness in Cellular Telephone Contracts*. This bill came into effect on May 1, 2013. Website of the Nova Scotia Legislature. [Online]

http://nslegislature.ca/index.php/fr/proceedings/bills/consumer_protection_act_amended_-_bill_65 (Page consulted on March 12, 2015).

⁶⁵ New Brunswick’s Bill 35 does not appear to be in effect to date.

⁶⁶ Bill 62, *the Consumer Protection Amendment Act (contracts for Distance Communication Services)*, received royal assent on June 12, 2014 [Online] https://web2.gov.mb.ca/laws/statutes/index_chap.php (Page consulted on June 16, 2015).

⁶⁷ **GOVERNMENT OF MANITOBA.** *The Consumer Protection Act-Proclamation status (for provisions in force by proclamation)*. Manitoba Laws, government of Manitoba, Winnipeg, Manitoba, Canada, no date. [Online] <http://web2.gov.mb.ca/laws/statutes/ccsm/c200e.php> (Page consulted on June 1, 2015).

⁶⁸ *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1, sec. 35.1-35.16.

Contract cancellation

During our consultation, the Ontario GCPA reported that 17% of the 170 cable complaints and information requests received concerned contract cancellation. Quebec's Office de la protection du consommateur reports a higher proportion – 40% of the 946 cable complaints and information requests received in 2014 concerned contract cancellation, but by the consumer and not the merchant, the OPC points out.

The legislative rules we will examine now are based on the principles of binding force and contract stability. Once a contract is concluded, the parties should be able to expect that it is respected and that they will benefit from the advantages it provides.

In Quebec, CPA section 11.3 regulates as follows the merchant's cancellation of contracts:

11.3. Any stipulation under which the merchant may unilaterally cancel a fixed-term service contract involving sequential performance is prohibited, except under articles 1604 and 2126 of the Civil Code and, in the latter case, only in accordance with article 2129 of the Code.

A merchant who intends to cancel an indeterminate-term service contract involving sequential performance must notify the consumer in writing at least 60 days before the date of cancellation if the consumer has not defaulted on his obligation.

Although this is a provision of general application (Title I, Chapter I CPA-QC), it was adopted as part of the same bill as the sections regulating the consumer's cancellation of distance service contracts (CPA sec. 214.6 to 214.8). So whether a cable service contract or any other type of consumer contract is involved, the merchant cannot (with a few exceptions) insert, in a fixed-term service contract, a clause allowing him to cancel the contract unilaterally.

The province of Newfoundland and Labrador has adopted the same approach, but only for cancellation of the distance service contract. The *Consumer Protection and Business Practices Act* prohibits the merchant from inserting in a fixed-term contract a clause allowing him to unilaterally cancel the contract, unless the consumer defaults in his obligations or it is technically impossible for the provider to provide the service (sec. 37.5(2)). As in Quebec, in the case of an open-ended contract, the provider may avail himself of a unilateral cancellation clause by giving the consumer prior notice of 30 days.

Compliance with rules of form

During our consultation of GCPAs, Quebec's OPC indicated that 13% of the 803 infractions identified by the organization concerned the rules of form of distance service contracts. It should be kept in mind out that the purpose of the rules for the form and disclosure of certain provisions of distance service contracts is to ensure that all necessary information is available to the consumer, so that he can make an informed decision about entering into the contract.

The Quebec law (sec. 214.2 CPA-QC/ sec. 79.8 RRACPA-QC) and the law of Newfoundland and Labrador (sec. 35.2 and 35.3 C.P.B.P.A) provide similar rules for mandatory disclosure of certain information and for the form of distance service contracts.

Apart from the mandatory written form and the obligation that the contract be written legibly and clearly, distance service contract must notably contain the following elements: the name and contact information of the consumer and merchant, the location and date of the contract as well as its term and expiry date, a detailed description of each service, the monthly rates of each service, the total amounts that the consumer must pay monthly, the usage restrictions of each service, the nature of the economic benefits agreed to, and the circumstances allowing the consumer to rescind, cancel or amend the contract and the related terms and costs or indemnity. Although the Newfoundland law goes a little further than the Quebec law, the consumer protection measures are essentially the same.

Provincial dispute resolution procedures available to consumers

While provincial laws offer consumer protection measures by means of various legislative instruments, implementing the majority of those measures requires going to court. There are exceptions, of course: for example, measures fully entitling consumers to cancel the distance service contract without going to court. But going to court remains the rule for asserting one's rights under consumer protection laws. And as we know, the justice system, everywhere in Canada, has major shortcomings in terms of consumer access to justice.

Are there dispute settlement procedures between consumers and service providers that make it simpler to apply consumer rights under the law?

The actors best able to help consumers who experience problems with their cable provider may be governmental consumer protection agencies. Indeed, some offer complaint mediation services.

Only Manitoba explicitly states in its consumer protection law that its GCPA provides a mediation service in disputes about a term or warranty (sec. 58(10) CPA-MB) (a measure that could thus apply to cable services):

58(10) In any transaction to which this Act refers where there is a dispute between a buyer and seller or a lender and borrower as to any condition or warranty, either or both parties may refer the dispute to the director who shall endeavour by mediation to settle the dispute.

As Manitoba's Consumers' Bureau reminded us during our consultation of GCPAs, mediation implies an agreement freely reached between the parties; the GCPA cannot impose a settlement, however well founded the parties' positions. If mediation fails, the parties will thus have to go to court in search of a settlement.

During our consultation of Canadian GCPAs, Ontario reported that it is able to attempt mediation between the parties after a consumer makes a complaint. Likewise for Saskatchewan and Newfoundland.

In British Columbia, the procedure is different. If the company providing television services participates in the *Online Dispute Resolution* service put online by *Consumer Protection BC*, the consumer may use that dispute resolution service in an attempt to settle his dispute with the merchant.

Until a few years ago, Quebec's Office de la protection du consommateur played the role of mediator between consumer and company when a consumer made a complaint. Since then, the organization has handled consumer complaints differently: it focuses its resources on penal remedies and provides consumers with useful information for defending their case (for example, information kits containing applicable provisions, formal notice and petition templates), but on their own.

However, other measures likely to help the consumer resolve a dispute with his cable service provider are in place in Quebec. A consumer who takes legal action at the Small Claims Court may have access to the mediation service offered by that Court. But "only 4.3% of contested cases go to mediation and only half of mediations end with an agreement!"⁶⁹

Although private methods⁷⁰ enabling a Canadian consumer to settle a dispute with a service provider are rare or unsuitable for consumer disputes, the software *Plateforme d'aide aux règlements des litiges en ligne* (PARLe⁷¹) of the Université de Montréal's Laboratoire de Cyberjustice, similar to the *Online Dispute Resolution* service offered by British Columbia's GCPA, could be a practical tool for a consumer wanting swift resolution of his conflict with his cable service provider without having to take legal action.

It should be pointed out that dispute resolution by means of a mediation service has little or no effect on the community and doesn't help other consumers experiencing an identical problem. It's clear that a mediation's primary objective is to settle the case, often through a compromise between the parties. Despite the advantages, such as swiftness, that this recourse offers consumers allowed to use it, we may object that, in terms of consumers' collective interest, it is deplorable that in some cases, a consumer resolving a case through

⁶⁹ **AUDET, PIERRE E.** *Session IV: Le processus de résolution des différends (PRD): un préalable obligatoire à la saisine du juge? La médiation obligatoire pour les petites créances d'au plus 15 000 \$ découlant d'un contrat de consommation*, Les entretiens Jacques Cartier, Montreal, Quebec, Canada, October 3, 2014, 12 pages. Our translation. [Online] http://www.tribunaux.qc.ca/c-quebec/Communiqués/Documentation/EntretiensJC_MediationObligatoire_oct14.pdf (Document consulted on December 11, 2014). Quebec has adopted new measures providing mandatory mediation for the parties when a claim is filed before the Small Claims Court. Although those new provisions are not yet in effect, a pilot project is underway in the judicial districts of Terrebonne and Gatineau. [Online]

http://www.justice.gouv.qc.ca/english/programmes/mediation_creances/accueil-a.htm

⁷⁰ **LABELLE, ME YANNICK.** *Consumer Arbitration: A Fair and Effective Process?*, Union des consommateurs, Montreal, Quebec, Canada, June 2009, 130 pages. See page 67 and following. [Online] http://uniondesconsommateurs.ca/docu/protec_conso/arbitrageE.pdf

CARREAU, SIMON. *Consumers and Access to Justice: One-Stop Shopping for Consumers?*, Union des consommateurs, Montreal, Quebec, Canada, June 2011, 113 pages. See pages 33-34. [Online] http://uniondesconsommateurs.ca/docu/protec_conso/02-Tribunal-consommation-e2.pdf

⁷¹ **LABORATOIRE DE CYBERJUSTICE.** *PARLe – Plateforme d'aide aux règlements des litiges Online*, Cyberjustice.ca, Montreal, Canada, 2015. [Online] <http://www.cyberjustice.ca/logiciels/parle/> (Page consulted on March 20, 2015).

mediation has to accept, in a compromise, a lesser violation of his rights, and that the merchant can still profit, although less so, from such a violation. For example, if a consumer wanting to settle a case agrees to pay a lesser amount than that originally claimed by the merchant, the consumer wins to a certain extent. But it remains offensive that he agrees to pay any amount if the merchant had no legal right to receive any. So it may seem strange that an organization mandated to ensure the application of consumer protection laws participates in a process that risks supporting *de facto* violations of the laws – of public order – it is supposed to uphold. Shouldn't such a service, offered by an organization with a legal mandate, be systematically accompanied by a power to issue orders?

2.6 Conclusion

The cable companies offer complaint handling services. But those services are unequal, it's impossible to know their effectiveness, and consumers have little recourse if they fail. Some companies refer dissatisfied consumers to the CRTC, others to the CCTS, without specifying that the organization has no mandate to handle cable complaints.

Consumers can make a complaint before various federal organizations, none of which accepts or handles cable complaints. In the past, the Cable Television Standards Council had the mandate to handle such consumer complaints, but no other organization succeeded it when it was dissolved in 2006.

Provincial consumer protection laws offer protection measures that vary widely between provinces: measures of general application, which apply equally to cable service contracts; or measures applicable to distance service contracts and applied variously across Canada. To have those laws applied, consumers likely have to go to court; but due to the barriers to legal recourse in consumer matters, very few consumers take that path.

A few provincial organizations offer mediation services. Those individualized services may resolve particular cases, but unfortunately offer very little help to consumers as a whole and don't actually contribute to the assertion of their collective interest, except when the organization uses those individual cases as an opening to exercise its power of coercion or sanction against the company. It remains that mediation – if it results in the merchant settling a claim to his advantage and profiting from an infraction, while the consumer, knowingly or not, partially renounces the rights to which he is entitled – attenuates while supporting the imbalance of power between merchant and consumer.

In short, the analysis of company, federal and provincial recourses demonstrates the necessity of establishing a central organization mandated to handle cable complaints. Questioned on the subject, some companies and the majority of provinces said they favoured the idea of entrusting the CCTS with handling cable complaints.

As the OPC correctly pointed out, the authority responsible for handling complaints should have sufficiently broad powers to stop undesirable practices reported to it in consumer complaints. In our view, such an organization should also be able to impose a settlement when mediation risks wronging the consumer.

3. Overview of Dispute Resolution Services in the Cable Television Sector Abroad

3.1 United States

In the United States, the Federal Communications Commission (FCC) is responsible for regulating cable services. The organization responds to certain consumer complaints and provides dispute resolution information. Local franchising authorities and certain state organizations also have specific procedures for handling cable complaints:

The Federal Communications Commission and local franchising authorities are responsible for enforcing a variety of cable television regulations. A franchising authority is the local municipal, county or other government organization that regulates certain aspects of the cable television industry at the state or local level⁷².

With a range of organizations likely to respond to consumer complaints about cable services, where can consumers make a complaint about a cable service?

3.1.1 Federal Communications Commission (FCC)

Role and mandate

The Federal Communications Commission (FCC) is an independent agency of the American government. The FCC is the authority in matters of communications, with regard to laws or regulations and technological innovation⁷³. It regulates communications (by cable, television, satellite, radio) as well as radio, television and Internet content. The FCC has adopted a number of cable television regulations under the *Cable Television Consumer Protection and Competition Act of 1992* (the *Cable Act*).

⁷² **FEDERAL COMMUNICATIONS COMMISSION.** *Cable Television - Where to File Complaints Regarding Cable Service*, Washington, FCC, Washington DC, United States, August 15, 2013. [Online] <http://www.fcc.gov/guides/cable-television-where-file-complaints-regarding-cable-service> (Page consulted on January 12, 2015).

⁷³ **FEDERAL COMMUNICATIONS COMMISSION.** *What we do*, Washington, FCC, Washington DC, United States. [Online] <http://www.fcc.gov/what-we-do> (Page consulted on January 12, 2015).

Complaint handling procedures

The “Contact us” link at the bottom of the FCC Web pages leads to a page containing the heading “To File a Complaint or Get Help on Specific Topics or Systems” and a “File a complaint” link. This link leads to a page that in turn offers links for submitting a complaint form regarding several sectors under FCC authority (TV, Phone, Internet, Radio). Prominently displayed under the heading “How the FCC Handles Your Complaint” is the FCC’s explanation of the importance of its complaint process: “By filing a consumer complaint with the FCC, you contribute to federal enforcement and consumer protection efforts on a national scale” along with a link to resources, which notably indicate other organizations that can help the consumer, depending on the problem he faces.

However, the FCC mentions on its website that it cannot resolve all individual complaints, but can provide information about the steps that consumers can take with other organizations⁷⁴.

A consumer who would want to make a complaint about a telecommunications billing or service problem would have his complaint handled by the FCC’s Consumer Inquiries and Complaints Division. The complaint is examined to verify if a lawsuit is possible or if there was a violation of the law. When all the information is collected, the FCC forwards the complaint to the service provider concerned, which is then required to answer the complaint in writing within 30 days; the consumer must receive a copy of the response to the complaint. It is possible to make a complaint to the FCC online, by telephone, e-mail, postal mail or fax.

The FCC does not intervene in the same way regarding cable television. The page “Where to File Complaints Regarding Cable Service” clearly announces that cable services are among those for which it does not handle consumer complaints. The website indicates the types of complaints that must be forwarded to local franchising authorities, i.e., municipal, county or governmental organizations responsible for regulating certain aspects of the local or state cable television industry (the name of the appropriate franchise is generally indicated on cable invoices). Forwarded complaints include those pertaining to:

- *Rates for basic service and equipment, installation and service charges related to basic service;*
- *Rates for cable programming services tiers, also known as “enhanced basic”;*
- *Customer service problems, including billing disputes, office hours, telephone availability of personnel, installations, outages and service calls;*
- *Signal quality, including interference and reception difficulties;*
- *Etc.*⁷⁵

⁷⁴ **FEDERAL COMMUNICATIONS COMMISSION.** *Consumer Help Center Consumer Complaints at the FCC How the FCC Handles Your Complaint*, Washington, United States [Online] <https://consumercomplaints.fcc.gov/hc/en-us/articles/202752940?from=home> (Page consulted on March 10, 2015).

⁷⁵ **FEDERAL COMMUNICATIONS COMMISSION.** *Cable Television - Where to File Complaints Regarding Cable Service*, FCC, Washington DC, United States, August 15, 2013. [Online] <http://www.fcc.gov/guides/cable-television-where-file-complaints-regarding-cable-service> (Page consulted on February 5, 2015).

The FCC states that it expects providers to comply with the rules it has set. It informs consumers that they should always address themselves to their provider first, but that if dissatisfied with their cable company's response they should turn to their local franchise (whose name and contact information are written on subscribers' monthly invoices). In fact, certain issues are handled at the state level by public service commissions. Those issues are notably related to:

- *Burial of telephone or cable wires;*
- *No dial tone to local phone service;*
- *Stand-alone satellite TV billing, rates and programming;*
- *Installation of non-bundled service;*
- *Stand-alone cable TV service, rates and programming (not including basic tier);*
- *Utilities other than telecommunications*⁷⁶.

3.1.2 Local Franchising Authorities – LFA

Under sections 621 and following of the Communications Act of 1934, amended in 1996⁷⁷, local franchising authorities are mandated to regulate numerous cable service aspects, such as cable rates previously regulated by the FCC. Since 1996, those authorities regulate such things as basic cable rates (the minimum package, which includes local channels and public, educational and governmental channels) and accessories (equipment, installation)⁷⁸ as well as cable companies' customer service (problems with billing, installation, access to customer service, etc.). The franchising authorities also grant local licences to cable companies.

In the United States, the FCC handles disputes regarding satellite television, whereas the local franchising authorities receive complaints about cable television.

*Satellite television service providers are not regulated by state and local government authorities. Consumer complaints and concerns regarding satellite service should be filed with the FCC*⁷⁹.

⁷⁶ **FEDERAL COMMUNICATIONS COMMISSION.** *Consumer Help Center Consumer Complaints at the FCC Issues Outside the Jurisdiction of the FCC*, FCC, Washington DC, United States. [Online] <https://consumercomplaints.fcc.gov/hc/en-us/articles/202958440-Issues-Outside-the-Jurisdiction-of-the-FCC> (Page consulted on April 10, 2015)

⁷⁷ *Telecommunications Act of 1996*, Pub. LA. No. 104-104, 110 Stat. 56 (1996)

⁷⁸ **FEDERAL COMMUNICATIONS COMMISSION.** *Frequently asked questions regarding cable television regulations*, FCC, Washington DC, February 22, 1994. [Online] http://transition.fcc.gov/Bureaus/Cable/News_Releases/nrcb4009.txt (Page consulted on February 12, 2015).

⁷⁹ **GOVERNEMENT OF INDIANA.** *Cable television: Regulation and consumer concerns*, IN.gov, Indiana, United States. [Online] <http://www.in.gov/oucc/2404.htm> (Page consulted on March 12, 2015).

3.1.3 Procedures Specific to Certain States

In some American states, it is possible to make a complaint to organizations other than LFAs for a broadcasting service problem.

For example, in Massachusetts a consumer experiencing a problem with his cable provider may complain to the Office of Consumer Affairs & Business Regulation, the state's consumer protection organization. The organization's website notes that consumers having concluded a contract for a cable television service have rights regarding billing practices, rate increases, late fees, service disconnection, service interruption, security deposits and dispute resolution procedures. The complaints may be forwarded to the organization's consumer division by e-mail, postal mail or telephone⁸⁰.

In Georgia, it is possible to make a cable service complaint to the Governor's Office of Consumer Protection. In case of a problem, consumers are invited to contact their provider first. If the complaint is not settled then, the Board of Commissioners of the county where the consumer receives his residential service will handle most cable service complaints (excluding problems related to billing, appointments repeatedly missed by cable technicians, etc.)⁸¹ The Governor's Office points out that in cable television matters, service rates and decisions are largely set only on the basis of economics and free competition, but also that cable companies' misleading advertising is nevertheless prohibited by the Georgia Fair Business Practices Act.

The Indiana lawmakers amended the cable regulations in 2006. The state decided that the licences of cable companies and video service providers would henceforth be issued by the IUCR (Indiana Utility Regulatory Commission), rather than negotiated with local authorities⁸². Apart from certain service requirements, the website of the Indiana Office of Utility Consumer Counselor explains that new licensees are also subject to standards of customer service and practices. So the consumer has to verify, in case of a problem with a cable provider, if it is still operating under a local franchise agreement. If so, he should contact his local franchising authority for any problems related to fees and rates, customer service, signal quality, etc. If the cable service provider has obtained his licence from the state (i.e., by the IUCR), a consumer who has not succeeded in settling his dispute with the provider has to contact the Indiana Utility Regulatory Commission instead.

⁸⁰ **CONSUMER AFFAIRS AND BUSINESS REGULATION.** *File a Cable TV Complaint*, MASS.gov, Massachusetts, United States, 2015. [Online] <http://www.mass.gov/ocabr/government/oca-agencies/dtc-lp/competition-division/cable-tv-division/consumer-rights-fact-sheets/file-a-cable-tv-complaint.html> (Page consulted on January 25, 2015).

⁸¹ **GOVERNOR'S OFFICE OF CONSUMER PROTECTION.** *Cable service*, OCP.ga.gov, Georgia, United States. [Online] <http://ocp.ga.gov/consumer-topics/cable-service> (Page consulted on January 8, 2015).

⁸² **GOVERNMENT OF INDIANA.** *Cable television: regulation and consumer concerns*, N.gov, Indiana, United States. [Online] <http://www.in.gov/oucc/2404.htm> (Consulted on March 20, 2015).

3.2 France

In France, there is no single central organization where consumers can turn to make a complaint against their cable company. Whereas different organizations deal with various aspects of communications, it appears that a single organization specifically handles certain aspects of cable complaints: the *Direction générale de la concurrence, de la consommation et de la répression des fraudes*.

3.2.1 Direction générale de la concurrence, de la consommation et de la répression des fraudes (DGCCRF)

Role and mandate

The *Direction générale de la concurrence, de la consommation et de la répression des fraudes* has, within the ministry responsible for the economy, the following mandate: “*contribue à la conception et à la mise en œuvre de la politique économique, en veillant au bon fonctionnement des marchés sous tous leurs aspects, au bénéfice des consommateurs et des entreprises*”⁸³.

The DGCCRF has a role regarding regulations (over competition), safety (ensuring product safety) and consumer protection. The DGCCRF summarizes its consumer protection role as follows:

- *Fixer les règles relatives aux pratiques commerciales et à l'information des consommateurs;*
- *Contrôler la bonne application de la réglementation et sanctionner les fraudes et les pratiques commerciales illicites;*
- *Informer les consommateurs sur leurs droits et leurs intérêts économiques*⁸⁴.

The DGCCRF's mandate is threefold: regulation of competitive markets, economic protection of consumers, and consumer safety. The economic protection of consumers aims primarily to “*Informer de façon loyale les consommateurs et de contribuer ainsi à leur donner confiance dans l'acte d'achat*”⁸⁵.

The DGCCRF works to ensure product and service quality, particularly through product labelling, composition and description; supports and supervises product valuation (standards, labels, etc.); and monitors unusual price variations. Moreover, the DGCCRF “*recherche et constate les infractions et manquements aux règles de protection des*

⁸³ **DIRECTION GÉNÉRALE DE LA CONCURRENCE, DE LA CONSOMMATION ET DE LA RÉPRESSION DES FRAUDES.** *Mission*, Portail de l'économie et des finances, Paris, France, 2 pages. [Online] http://www.economie.gouv.fr/files/files/directions_services/dgccrf/dgccrf/mission_organ/Flyer1_Presentation_DG_CCRF.pdf (Document consulted on January 6, 2015).

⁸⁴ *Ibid.*

⁸⁵ **MINISTÈRE DES FINANCES ET DES COMPTES PUBLICS.** *Missions*, Portail de l'économie et des finances, Paris, France, April 29, 2014. [Online] <http://www.economie.gouv.fr/dgccrf/La-DGCCRF/Missions> (Page consulted on January 6, 2015).

consommateurs (publicités mensongères, faux rabais, abus de faiblesse...) et vérifie la bonne application des règles de publicité des prix⁸⁶.

Complaint handling procedures

On the DGCCRF's website, under the "Consommation" tab, is a link to a page titled *Résoudre un litige de consommation*.

As we will see, the DGCCRF itself doesn't handle consumer complaints. In line with its primary mission to inform, it instead offers detailed explanations on the steps a consumer has to take to settle a dispute. Thus, the DGCCRF first advises consumers to consult the practical information pages it offers on its website so that consumers may have a good knowledge of their rights. Then it recommends that consumers search for an amicable solution with the professional they are complaining about – the first of several steps that may be taken before going to court. Advice to the consumer stresses the importance of obtaining information from a consumer association⁸⁷, the departmental administration or the appropriate organization before taking any steps.

If the consumer doesn't succeed in settling his dispute amicably, the DGCCRF advises him to use mediation or conciliation in an attempt to avoid going to court.

If the consumer has still not succeeded in settling his dispute, he may contact the DGCCRF (by telephone or in writing) to ask a question or report his dispute. The website indicates the contact information of departmental administrations (for consumer questions) and regional administrations (for competition questions) to which the consumer can send his questions in writing. Online forms are also available, requiring the consumer to determine beforehand the subject of his question with sufficient precision.

For more-complex subjects, the DGCCRF advises the consumer to approach 3939 – *Allo Service-Public*, a paid service (€0.15 TTC/minute), which will put him in touch with *Info service consommation* (a DGCCRF service).

As a last resort, the DGCCRF advises consumers to take legal action; the organization explains the various recours available and repeats that a consumer association can help or represent consumers⁸⁸.

⁸⁶ *Ibid.*

⁸⁷ A hyperlink leads to a page identifying consumer associations, explaining what they do and can do, and providing a list and contact information of such associations likely to provide litigation assistance.

MINISTÈRE DES FINANCES ET DES COMPTES PUBLICS. *Les associations de consommateurs*, Portail de l'économie et des finances, Paris, France, no date. [Online] <http://www.economie.gouv.fr/dgccrf/Les-associations-de-consommateurs> (Page consulted on January 6, 2015).

⁸⁸ **MINISTÈRE DES FINANCES ET DES COMPTES PUBLICS.** *Résoudre un litige de consommation*, Portail de l'économie et des finances, Paris, France, November 15, 2013. [Online] <http://www.economie.gouv.fr/dgccrf/consommation/Resoudre-un-litige-de-consommation> (Consulted on January 6, 2015).

3.2.2 Médiateur des communications électroniques

Role and mandate

By means of various directives, the European Commission requested that alternative dispute settlement mechanisms (such as mediation) be established for consumer issues. Accordingly, the DGCCRF and ARCEP (*Autorité de Régulation des Communications Electroniques et des Postes*) have been involved in establishing and monitoring the activities of the *Médiateur des communications électroniques*⁸⁹.

The *Médiateur des communications électroniques* deals with disputes regarding landline telephony, mobile telephony and the Internet that involve customers of operators that have signed the mediation charter⁹⁰. Cable television disputes are thus excluded from the mandate of the *Médiateur*.

The mediation charter defines the operating rules that signatory operators must follow in mediations of electronic communications.

Although the complaint handling process overseen by the *Médiateur* do not apply to the type of disputes discussed in our study, we will summarize the steps of that process.

⁸⁹ **LE MÉDIATEUR DES COMMUNICATIONS ÉLECTRONIQUES.** *Qu'est-ce que c'est ?*, Association Médiation Communications Electroniques, Paris, France, 2001. [Online] http://www.mediateur-telecom.fr/mediation/qu_est_ce_que_c_est/ (Page consulted on February 23, 2015).

⁹⁰ **LE MÉDIATEUR DES COMMUNICATIONS ÉLECTRONIQUES.** *Qui est-il ?*, Association Médiation Communications Electroniques, Paris, France, 2011. [Online] http://www.mediateur-telecom.fr/mediateur/qui_est_il/ (Page consulted on February 23, 2015).

Complaint handling procedures

Table 14 presents the steps that consumers must take before addressing themselves to the *Médiateur*.

Table 14
Steps That Consumers Must Take before Addressing Themselves
to the Médiateur des communications électroniques⁹¹



The consumer must first contact his operator's customer service and then its consumer service before addressing himself to the *Médiateur des communications électroniques* by filling out a form⁹². It should be noted that in the absence of a response from the company's customer service, the consumer may approach the *Médiateur* directly, but only after a period of two months. Likewise for a lack of response to mail sent to the *Service Consommateurs*, after a month. Those no-response periods during which the consumer must wait before merely contacting the *Médiateur* may appear excessively and uselessly long.

⁹¹ **LE MÉDIATEUR DES COMMUNICATIONS ÉLECTRONIQUES.** *Les étapes*, Association Médiation Communications Electroniques, Paris, France, 2001. [Online] http://www.mediateur-telecom.fr/reclamation/les_etapes/ (Page consulted on February 23, 2015).

⁹² **LE MÉDIATEUR DES COMMUNICATIONS ÉLECTRONIQUES.** *Foire aux questions*, Association Médiation Communications Electroniques, Paris, France, 2001. [Online] <http://www.mediateur-telecom.fr/faq/> (Page consulted on February 23, 2015).

3.2.3 Autorité de régulation des communications électroniques et des postes (ARCEP)

Role and mandate

The *Autorité de régulation des communications électroniques et des postes* (ARCEP) was created by the law of July 26, 1996 to open electronic communications to competition and ensure that the universal telecommunications service is provided and funded:

[...] l'ARCEP veille, conjointement avec les administrations en charge de la protection des consommateurs, à ce que les utilisateurs finals, particuliers et entreprises, puissent accéder à des services de communications électroniques et postales de qualité, de manière transparente en ce qui concerne tant le contenu des services offerts que leurs prix. A ce titre, l'action de l'Autorité porte notamment sur la conservation des numéros, l'encadrement des prix des services téléphoniques à valeur ajoutée, et la publication d'indicateurs de prix et de qualité de service⁹³.

Cable television disputes are thus excluded from the ARCEP's mandate, and from the *Médiateur's* as well.

On its website, the ARCEP presents recourses to the consumer: companies' customer service departments, the *Médiateur des communications électroniques* and the DGCCRF. Nothing indicates that it is possible to complain directly to the ARCEP⁹⁴.

3.3 Belgium

In Belgium, an ombudsman, the *Service de médiation pour les télécommunications*, is expressly mandated to handle cable complaints (telecommunications thus include cable television). The other organizations dealing with communications don't seem to collect cable service complaints.

⁹³ **AUTORITÉ DE RÉGULATION DES COMMUNICATIONS ÉLECTRONIQUES ET DES POSTES.** *L'ARCEP régulateur des communications électroniques et postales, Présentation, chiffres clés et grands chantiers*, ARCEP, Paris, France, June 2014, 25 pages. [Online] http://www.arcep.fr/uploads/tx_gspublication/supplement-rapport-activite-2013.pdf (Document consulted on January 5, 2015).

⁹⁴ **AUTORITÉ DE RÉGULATION DES COMMUNICATIONS ÉLECTRONIQUES ET DES POSTES.** *J'ai un différend avec mon opérateur : les voies de recours possibles*, ARCEP, Paris, France, February 6, 2013. [Online] <http://www.telecom-infoconso.fr/j-ai-un-differend-avec-mon-operateur-les-voies-de-recours-possibles/> (Page consulted on January 9, 2015).

3.3.1 Institut belge des services postaux et des télécommunications (IBPT)

Role and mandate

The *Institut belge des services postaux et des télécommunications* (IBPT) is a Belgian federal administration, a semi-public organization regulating the electronic communications market, with the mandate to foster competition and protect users' interests. It also regulates the postal market, where it monitors rates and service quality. In addition, it manages the electromagnetic spectrum of radio frequencies.

The IBPT ensures compliance with legislation specific to postal mail and to telecommunications. It can levy administrative sanctions and make recommendations. It can also act as a conciliator in disputes⁹⁵. Cable service issues are not part of its mandate.

The IBPT's mandate is illustrated in Table 15.

Table 15
Mandate of the Institut belge des services postaux et des télécommunications⁹⁶



⁹⁵ **INSTITUT BELGE DES SERVICES POSTAUX ET DES TÉLÉCOMMUNICATIONS.** *Découvrir l'IBPT*, IBPT, Brussels, Belgium, no date. [Online] <http://www.ibpt.be/fr/consommateurs/ibpt/decouvrir-l-ibpt> (Page consulted on February 2, 2015).

⁹⁶ *Ibid.*

Complaint handling procedures

On the *Plaintes et problèmes* page of its website, the IBPT indicates that consumers dissatisfied with the service provided by their operator must first approach that operator's customer service. If the operator's answer doesn't satisfy them, in case of a problem with a telecommunications operator (billing, contract cancellation, coverage...), consumers are invited to contact the *Service de Médiation pour les Télécommunications*. Nothing is mentioned about cable service complaints⁹⁷.

3.3.2 Direction générale de l'Inspection économique du SPF Économie

Role and mandate

The mandate of *SPF Économie, P.M.E., Classes moyennes et Énergie* consists of putting in place the conditions for a competitive, durable and balanced performance of the goods and services market in Belgium. In that context, SPF regulates the goods and services market to better stimulate it⁹⁸.

Complaint handling procedure

It is possible to make a complaint before the *Direction générale de l'Inspection économique* (one of the *Directions générales* of *SFP Économie*) about problems experienced in a wide range of sectors – energy, time-sharing, banking services, dating agencies, etc.⁹⁹ And yet, cable service problems don't appear to be included.

In matters within the purview of *Inspection économique*, a consumer may make a complaint online, or in person at an office of the *Direction générale de l'Inspection économique*¹⁰⁰.

⁹⁷ **INSTITUT BELGE DES SERVICES POSTAUX ET DES TÉLÉCOMMUNICATIONS.** *Plainte*, IBPT, Brussels, Belgium, no date. [Online] <http://www.ibpt.be/fr/consommateurs/ibpt/plaintes> (Page consulted on February 24, 2015).

⁹⁸ **SPF ÉCONOMIE, P.M.E., CLASSES MOYENNES ET ÉNERGIE.** *Mission, vision et valeurs*, e-economie, Brussels, Belgium, 2013. [Online] http://economie.fgov.be/fr/spf/Vision_mission/#.VPdqQHyG-1Y (Page consulted on February 17, 2015).

⁹⁹ **SPF ÉCONOMIE, P.M.E., CLASSES MOYENNES ET ÉNERGIE.** *Pour quelles matières puis-je porter plainte auprès de l'Inspection économique ?*, e-economie, Brussels, Belgium, 2013. [Online] http://economie.fgov.be/fr/litiges/plaintes/quelles_matières_plainte_aupres_ADCB/ (Page consulted on February 17, 2015).

¹⁰⁰ **SPF ÉCONOMIE, P.M.E., CLASSES MOYENNES ET ÉNERGIE.** *Où et comment introduire une plainte*, e-economie, Brussels, Belgium, 2013. [Online] http://economie.fgov.be/fr/litiges/plaintes/Ou_comment_introduire_plainte/ (Page consulted on February 17, 2015).

3.3.3 Service de médiation pour les télécommunications

The *Service de médiation pour les télécommunications* was established in 1991 at the *Institut belge des services postaux et des télécommunications* to handle complaints against, notably, operators; telephone information service providers; any operator of electronic communications systems; anyone performing other electronic communications activities and any provider of radio transmission and/or broadcasting, so long as the complaints are made by end users about interim bills, contract terms and the operator's general conditions.

The *Institut* manages operating fees; the companies involved pay annual royalties based on the service's financing costs and set on a pro rata basis of the company's share of the sales figure recorded in the previous year by all companies concerned regarding activities under the mediation service's jurisdiction; the first €1,240,000 of the sales figure of each company are not taken into account in the calculation¹⁰¹.

Role and mandate

The *Médiateur des télécommunications* thus has jurisdiction over the entire telecommunications sector, including cable television¹⁰².

The *Service de médiation* is a redress authority, but its purpose is not to replace the customer service of telecoms operators. It acts when a consumer is dissatisfied with his service provider's response to a complaint.

The *Service de médiation* operates independently of telecoms operators and, with the limits of its powers, does not receive instructions from any other authority¹⁰³.

Complaint treatment procedures

The *Service de médiation* can provide information by telephone, but accepts only written complaints, made by filling out forms provided on the mediator's website.

A complaint is accepted only if the consumer has already made representations to his operator. However, a mediator may refuse to handle a complaint that was made to the operator more than a year previously or that appears clearly vexatious.

¹⁰¹ **SERVICE DE MÉDIATION POUR LES TÉLÉCOMMUNICATIONS.** *À propos*, ombudsmantelecom.be Brussels, Belgium. [Online] <http://www.ombudsmantelecom.be/fr/a-propos.html?IDC=23> (Page consulted on February 17, 2015).

¹⁰² **SPF ECONOMIE, P.M.E., CLASSES MOYENNES ET ÉNERGIE.** *Service de médiation pour les télécommunications*, e-economie, Brussels, Belgium, 2013. [Online] http://economie.fgov.be/fr/litiges/litiges_consommation/Belmed/quoi/possibilites_reglement_alternatif/ombudsman/telecom/#.VXnJGPI_Oko (Page consulted on February 17, 2015).

¹⁰³ **SERVICE DE MÉDIATION POUR LES TÉLÉCOMMUNICATIONS.** *Nos missions*, e-economie, Brussels, Belgium, no date. [Online] <http://www.ombudsmantelecom.be/fr/nos-missions.html?IDC=19> (Page consulted on February 17, 2015).

When a complaint is declared admissible, the payment of the amounts in dispute and, if applicable, the collection procedure of those amounts are suspended for up to 4 months following the day when the complaint was filed, or until the mediation issues a recommendation, or until there is a settlement between the parties. The *Service de médiation* strongly advises paying the amounts that are not in dispute, to avoid unnecessary disagreements.

The mediator cannot examine a complaint that has not already appeared before the courts. It is still possible to file a complaint before the appropriate judicial authorities after the mediator's intervention¹⁰⁴.

3.4 Australia

As in Canada, consumer protection falls under the jurisdiction of the states and territories, whereas the regulation of communications falls under federal jurisdiction¹⁰⁵.

3.4.1 Australian Communications and Media Authority (ACMA)

Role and mandate

The Australian Communications and Media Authority is the independent regulatory authority responsible, in the public interest, for regulating media and communications and for applying most aspects of Australian legislation, related regulations and many codes of practice and standards covering those sectors¹⁰⁶. The organization is responsible for more than 25 laws, the main ones being the *Radiocommunications Act*, the *Telecommunications Act*, the *Telecommunications (Consumer Protection and Service Standards) Act* and the *Broadcasting Services Act*.

The ACMA can receive complaints on a wide range of subjects. With regard to broadcasting, it receives only complaints covered by a code of practice, a licensing term or a standard. It notifies consumers making complaints that are not covered by the authority complained to.

The object of the complaint must be covered by the *Community Radio Broadcasting Code of Practice* or by the *Community Television Codes of Practice*. The consumer must first address himself to the TV channel. In addition, the ACMA can receive complaints regarding a licence or a provision of the *Broadcasting Services Act 1992*.

¹⁰⁴ *Ibid.*

¹⁰⁵ AUSTRALIAN GOVERNMENT. *Fair trading laws*, business.gov.au, Australia, no date. [Online] http://www.business.gov.au/business-topics/selling-products-and-services/fair-trading/Pages/fair-trading-laws.aspx?utm_source=businessgovau-old-website&utm_medium=301-redirect&utm_campaign=Fair-Trading (Page consulted on January 17, 2015).

¹⁰⁶ AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY. *Introduction to the ACMA*, ACMA, Sydney, Australia, January 30, 2014. [Online] <http://www.acma.gov.au/theACMA/About/The-ACMA-story/Communicating/introduction-to-the-acma> (Page consulted on February 4, 2015).

The ACMA is not responsible for all broadcasting issues. For example, it does not handle complaints about program content, schedules or programming choices, or about broadcast advertising, false representations, or allegations of defamation. The ACMA also does not handle consumer complaints about faulty repairs or pay television billing¹⁰⁷.

Complaint handling procedures

The ACMA administers the complaint handling system put in place by the *Broadcasting Services Act 1992*.

L'ACMA examines all received complaints and evaluates whether an investigation of the matter would be in the public interest. The consumer is informed of the decision made by the ACMA, which may proceed to collect more information.

When the ACMA has all necessary information, the complaint is examined according to the rules in place¹⁰⁸.

The ACMA website explains how consumers may file a complaint depending on the problem involved. For example, for a problem related to:

- *Interference with television or radio reception: the ACMA may provide the consumer with a diagnostic and advisory service.*
- *Difficulty obtaining access to satellite digital television*¹⁰⁹.

¹⁰⁷ **AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY.** *Complaints the ACMA does not handle*, ACMA, Sydney, Australia, September 6, 2013. [Online] <http://www.acma.gov.au/Citizen/Take-action/Complaints/Broadcast-complaints/complaints-the-acma-does-not-handle> (Page consulted on February 21, 2015).

¹⁰⁸ **AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY.** *What the ACMA does with complaints*, ACMA, Sydney, Australia, October 20, 2014. [Online] <http://www.acma.gov.au/Citizen/Take-action/Complaints/Broadcast-complaints/what-the-acma-will-do-with-your-complaint> (Page consulted on February 21, 2015).

¹⁰⁹ **AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY.** *Broadcasting complaints*, ACMA, Sydney, Australia, October 20, 2014. [Online] <http://www.acma.gov.au/Citizen/Take-action/Complaints/Broadcast-complaints/broadcasting-complaints> (Page consulted on January 19, 2015).

3.4.2 Telecommunications Industry Ombudsman (TIO)

Role and mandate

The Telecommunications Industry Ombudsman (TIO) is a rapid, free and impartial dispute resolution service for small businesses and residential consumers complaining about their telephone or Internet service in Australia¹¹⁰. Its mandate does not include handling cable service complaints.

However, in its 2012 annual report, the TIO recommended that a dispute resolution service for that sector be made available to consumers, and pointed out that the TIO itself could handle this type of complaints:

We also received 1,336 enquiries about subscription television services, which are outside our jurisdiction. When we receive complaints about pay TV we refer consumers to their provider or to the relevant Fair Trading office for their state. In May 2012 we made a submission to the Australian Subscription Television and Radio Association (ASTRA) in which we outlined the number of enquiries made about Pay TV and common issues in them, highlighting the need for an external dispute resolution service that can take consumer complaints about them.

Our submission supported the recommendation made by the Productivity Commission that TIO's powers should be extended to accept complaints about subscription television, given the increased convergence of communications services and the nature of the issues in enquiries about Pay TV, which closely align to the issues we see in telecommunications services¹¹¹.

Complaint handling procedures

To file a complaint before the Ombudsman, the consumer must of course have attempted to settle the problem directly with the service provider. Absent an acceptable solution, the consumer may address himself to the Ombudsman, and inform the latter about his contacts with the provider regarding his complaint. It is also possible to update the complaint online by informing the Ombudsman of any new development¹¹².

¹¹⁰ **TELECOMMUNICATIONS INDUSTRY OMBUDSMAN.** *About us*, TIO, Melbourne, Australia, 2015. [Online] <https://www.tio.com.au/about-us> (Page consulted on March 23, 2015).

¹¹¹ **TELECOMMUNICATIONS INDUSTRY OMBUDSMAN.** *Telecommunications Industry Ombudsman 2012 Annual Report*, TIO, Melbourne, Australia, 2012. [Online] https://www.tio.com.au/_data/assets/pdf_file/0017/141263/AR_2012_complete.pdf (Page consulted on January 15, 2015).

¹¹² **TELECOMMUNICATIONS INDUSTRY OMBUDSMAN.** *Making a complaint*, TIO, Melbourne, Australia, 2015. [Online] <https://www.tio.com.au/making-a-complaint> (Page consulted on March 25, 2015).

3.4.3 Procedures Specific to Certain States (Fair Trading Offices)

As in Canada, consumer protection falls under the jurisdiction of the states and territories, which regulate certain types of activities related to the conclusion and execution of contracts.

As mentioned by the Ombudsman, the *Fair Trading offices* of the states and territories are responsible for hearing and handling pay television complaints.

For example, the Fair Trading Office of New South Wales intervenes on behalf of consumers, notably by enforcing the *Australian Consumer Law*, which covers refunds, warranties, defective products, door-to-door sales, etc.¹¹³

In case of a problem between a consumer and a company, the organization invites consumers to approach the company first, and if no resolution is possible, to contact their *Fair Trading office*, which can attempt mediation and provide information. If mediation fails, the consumer's only remaining option is to go to court.

Dispute resolution

We provide free information about your rights and options to resolve disputes with traders. In some cases our staff can contact the trader and attempt to negotiate a settlement.

If we are unable to successfully negotiate your matter, you can consider taking your dispute to the NSW Civil and Administrative Tribunal (NCAT).

The Tribunal provides independent, low cost and accessible dispute resolution in consumer or tenancy disputes. There is a fee to lodge an application. Application forms and the fee schedule can be obtained from the Tribunal's website [...]¹¹⁴.

Moreover, for most problems specific to telecommunications, such as connection times or billing problems, consumers are invited to address themselves to the Ombudsman (TIO)¹¹⁵.

¹¹³ **NSW GOVERNMENT FAIR TRADING.** *Our services*, Paramatta, Australia, April 3, 2014. [Online] http://www.fairtrading.nsw.gov.au/ftw/About_us/Our_services.page? (Page consulted on February 3, 2015).

¹¹⁴ *Ibid.*

¹¹⁵ **NSW GOVERNMENT FAIR TRADING.** *Telecommunications*, Paramatta, Australia, February 19, 2013. [Online] http://www.fairtrading.nsw.gov.au/ftw/Consumers/Buying_services/Telecommunications.page (Page consulted on February 3, 2015).

3.5 United Kingdom

In the United Kingdom, as in Belgium, a communications ombudsman handles cable service complaints. No other organization appears to handle complaints in this sector.

3.5.1 Office of Communications (OFCOM)

Role and mandate

Ofcom is the regulator of communications in the United Kingdom. Founded in 2002 by the *Office of Communications Act 2002*, it takes over the functions previously performed by OfTel, (the regulator of telecommunications), the Independent Television Commission, the Broadcasting Standards Commission, the Radio Authority and the Radio Communications Agency. Ofcom is the only organization that has since been regulating the television and radio sectors, fixed telecommunications lines, mobile communications, postal services, and wireless waves¹¹⁶.

With the primary task of promoting the public interest, Ofcom works to ensure that citizens obtain the best possible communications services and are protected from fraud and unfair practices, while not hindering competition. Ofcom is funded by industry contributions and government subsidies.

Ofcom must ensure that the United Kingdom has a broad range of electronic communications services and that a wide selection of television and radio programs are provided by various organizations. Ofcom must also protect the public from harmful or offensive content and from unfair presentations in television and radio programs.

Disputes between consumers and their telecommunications provider are excluded from Ofcom's jurisdiction¹¹⁷.

Complaint handling procedures

Given that the handling of disputes between consumers and their telecommunications provider is excluded from Ofcom's jurisdiction, the organization obviously provides no procedure in that regard. Redresses are provided for complaints about subjects under its jurisdiction, such as complaints about violations of content standards for television and radio; in those cases, the consumer may fill out a complaint form available on the organization's website.

¹¹⁶ **OFFICE OF COMMUNICATIONS.** *What is Ofcom?*, London, United Kingdom, no date. [Online] <http://www.ofcom.org.uk/about/what-is-ofcom/> (Page consulted on February 10, 2015).

¹¹⁷ *Ibid.*

Ofcom attempts to make an initial assessment of each complaint within 15 working days. If Ofcom's decision doesn't satisfy the consumer, he may contact the person or team who has handled his complaint and discuss the matter with them, and if the dissatisfaction persists, he may contact the organization's secretariat, which will try to respond to the complaint within 20 days.

A consumer who would still be dissatisfied may address himself through his Member of Parliament to the Parliament Ombudsman¹¹⁸.

3.5.2 Ombudsman Services

Role and mandate

Under the *Communications Act 2003*, residential customers and small businesses that are customers of communications companies may contact the Ombudsman to make a complaint if their provider doesn't succeed in resolving their complaint to their satisfaction. Ombudsman Services can help consumers experiencing a problem in various sectors, including communications. To ensure the independence of services, the Ombudsman is not linked to the communications industry, the regulator or consumer groups¹¹⁹.

Ombudsman Services handles complaints notably about: mobile and smart phones (postpaid and prepaid); landline telephones; broadband, Wi-Fi and dial-up Internet; satellite television, so long as the product or service has been provided by a company subscribing to Ombudsman Services.

Ombudsman Services does not handle complaints about, among other things, cable television services; digital television services received through an antenna (decoder); the location of telegraph poles and mobile phone antennas; the indoor cabling of properties; the content of websites, advertisements, calls, e-mails, SMS messages or any other type of message.

In addition, Ombudsman Services does not hear complaints that it thinks the courts, arbitration services or other complaint procedures should handle, or that are already before the courts or other complaint handling authorities, or that are considered malicious or unjustified¹²⁰.

¹¹⁸ **OFFICE OF COMMUNICATIONS.** *Complaints to or about Ofcom*, London, United Kingdom, no date. [Online] <http://www.ofcom.org.uk/about/policies-and-guidelines/complaints-about-ofcom/> (Page consulted on February 10, 2015) and **OFFICE OF COMMUNICATIONS.** *Procedures for investigating breaches of content standards for television and radio*, London, United Kingdom, June 1, 2011. [Online] <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/> (Page consulted on February 10, 2015).

¹¹⁹ **OMBUDSMAN SERVICES.** *About the Ombudsman*, ombudsman-services.org, Warrington, England, no date. [Online] <http://www.ombudsman-services.org/communications.html> (Page consulted on February 10, 2015).

¹²⁰ **OMBUDSMAN SERVICES.** *What can we deal with?*, ombudsman-services.org, Warrington, England, no date. [Online] <http://www.ombudsman-services.org/what-can-we-deal-with-communications.html> (Page consulted on February 10, 2015).

Regarding satellite television, Ombudsman Services specifically deals with complaints such as those concerning: customer service; subscription fees; payment problems; early cancellation; problems with pay television; problems related to a missed appointment with a technician; problems with the decoder or controller. It does not handle complaints related to programming, damage to property or equipment, or the incentives offered¹²¹.

Complaint handling procedures

The Ombudsman's work consists of investigating complaints fairly, particularly by hearing the arguments of both parties to the dispute. Once that is done, Ombudsman Services decides on the actions to be taken.

To make his complaint before Ombudsman Services, the consumer must first verify that the company he is dealing with subscribes to the organization's services. Then the consumer must attempt to settle his complaint directly with his service provider. If the problem is not resolved within 8 weeks after the consumer has reported the problem to the company or if he is dissatisfied with the response, he is invited to contact the Ombudsman online or by telephone. However, Ombudsman Services' website advises consumers that its role is not to *punish* companies¹²².

¹²¹ **OMBUDSMAN SERVICES.** *Complaints about Sky TV products and services*, ombudsman-services.org, Warrington, England, January 2013. [Online] <http://www.ombudsman-services.org/downloads/EDITFrequentlyaskedquestionsSKYJanuary2013.pdf> (Document consulted on January 10, 2015).

¹²² **OMBUDSMAN SERVICES.** *Complaining to a communications company*, ombudsman-services.org, Warrington, England, no date. [Online] <http://www.ombudsman-services.org/complaining-to-the-company-communications.html> (Page consulted on January 10, 2015).

Summary and Conclusions

The majority of Canadians subscribe to cable services. Television plays an essential role for millions of Canadians (information, entertainment, promoting the national culture, offering an opening to the world, etc.), particularly for those who seldom or never access the Internet.

Inevitably, problems may arise; thus the importance of establishing complaint resolution services that are accessible, effective and known to consumers.

Some participants [in the CRTC's Let's Talk TV consultation] do not know how to raise concerns with television service providers. Others are aware that they can register complaints about billing and content either through the CRTC or the Canadian Broadcast Standards Council (CBSC). While some express satisfaction, particularly about this process in providing Canadians a voice to raise concerns particularly with BDUs, some think that complaining to the CRTC doesn't generally provide satisfactory results. These participants think that the CRTC cannot or will not do anything with complaints¹²³.

The purpose of our study was to analyse complaint handling services in the cable television sector in order to determine whom consumers can approach in case of a problem. It appears that the recourse available for cable services are inferior to those in telecommunications, despite a penetration rate higher than that of the Internet and wireless phone service, and equal to that of landline phone service.

In Belgium and the United Kingdom, consumers can contact a single organization, a communications ombudsman, for any cable or telecommunications service. This greatly simplifies things and probably makes it easier to publicize available recourses – all the more so with the increasing convergence of communications services and the similarities between problems encountered by consumers in both sectors.

The Australian organization responsible for telecommunications issues has no mandate regarding cable services. It recommended in its 2012 annual report that a way of resolving cable disputes also be available in Australia. In the United States, the FCC provides consumers with information on the resolution of their cable disputes, and some American states have specific procedures for cable service problems. And in Canada? The solutions to those problems are disparate or nonexistent, and provincial recourses are unequal.

In our survey, we asked respondents who had reported never having encountered a problem with their cable provider (76% of respondents) if they thought Canadian consumers, faced with a cable problem, were sufficiently protected by the organizations in place: 68% of respondents said yes. So almost one third of respondents find the protections offered

¹²³ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** *Let's Talk TV: A report on comments received during Phase I*, CRTC, Ottawa, Ontario, Canada, January 29, 2014. [Online] <http://www.crtc.gc.ca/broadcast/eng/hearings/2013/2013-563oc2.htm> (Page consulted on February 20, 2015).

insufficient. It would be interesting to see whether their view would remain the same if ever a problem arose.

What organization handles cable complaints?

Currently, no Canadian organization has the explicit mandate to resolve cable disputes. But this is not because no need is felt: although the CCTS cannot intervene in cable disputes, it records a large number of complaints in that sector. Despite limited notoriety among consumers, the CCTS already receives many such complaints, and it has expertise in handling telecommunications complaints against the same companies that provide cable services. So would it not be logical, following the example of the United Kingdom and Belgium, to entrust that same organization with handling cable service complaints?

This is the position we presented to the CRTC in fall 2014 as part of the 2014-190 broadcasting consultation *Let's Talk TV*:

Le CCTS a déjà reçu de nombreuses plaintes au sujet des services de télédistribution, malgré son manque flagrant de visibilité et le fait qu'il ne fait pas partie de son mandat de traiter les plaintes à ce sujet. Les principales EDR sont toutes déjà membres du CCTS, qui connaît, dans une certaine mesure, un franc succès depuis sa mise en place, les consommateurs étant majoritairement satisfaits de la manière avec laquelle leur plainte est résolue. [...] Étant donné que la majorité des ménages sont abonnés à des services groupés de communication, il nous semble évident que pour régler les plaintes des consommateurs de manière efficace, le mandat de recevoir les plaintes en matière de télédistribution devrait être confié au CCTS plutôt qu'à un nouvel organisme qu'il resterait à mettre en place. Cela nous apparaît comme la solution qui, au plan pratique, au plan administratif et au plan économique, serait la plus logique¹²⁴.

This position was shared by numerous other participants. In fact, in addition to consumer rights groups, some cable companies also think that it would be logical to mandate the CCTS to handle cable service complaints.

Provincial consumer protection organizations would generally not object either to the CCTS being given the role of ombudsman regarding cable services.

As for the party concerned, the CCTS, it expressed, in CRTC's *Let's Talk TV* consultation, interest in playing such a role, and argued that it would be logical to unify the services handling telecom and cable ("broadcast distribution") complaints:

From our review of telecommunications complaints, as well as from publicly-available marketing materials, it is clear that those service providers which offer both telecommunications and broadcast distribution services:

¹²⁴ **UNION DES CONSOMMATEURS. OBSERVATIONS** - Address given by Sophy Lambert-Racine before the Canadian Radio-Television and Telecommunications Commission, Montreal, Canada, September 9, 2014. See *Annexe 1: Les propositions du document de travail commentées*, p. 29. [Online] http://uniondesconsommateurs.ca/wp-content/uploads/2014/09/2014-UC-CRTC-2014-190-obs-Final_Final.pdf

- a. *Often market their services with both telecommunications and broadcast services forming part of the same bundle; and*
 - b. *Encourage their customers to have these services billed together on the same invoice.*
- [...]

It is likewise clear that many customers subscribe to both telecommunications and broadcast services from providers within the same corporate family. [...]

Despite the fact that broadcasting services are not within the CCTS mandate, our 2012-13 Annual Report notes that broadcasting issues (primarily related to television) were raised by consumers in complaints to CCTS 3,856 times. This compares to 19,297 issues about in-mandate telecommunications services (in 13,692 complaints). This puts broadcasting second only to wireless in terms of the “most complained about” lines of business in 2012-13:

[...]

If the CRTC concludes that a broadcasting industry ombudsman should be created, CCTS would be pleased to participate in discussions about whether there is a role for CCTS in this endeavour. This could have potentially significant implications to CCTS’ governance, structure, funding and operations, and the CCTS Board of Directors would be pleased to address the issues at the appropriate time, if the Commission decides to require the creation of a broadcast industry ombudsman involving CCTS.¹²⁵

Such a broadening of the CCTS’s mandate should obviously include a public information campaign about the CCTS and its mandates – the organization remains shamefully unrecognized to this day. As proof, we asked respondents to our survey if they had at the federal level a recourse before the Commissioner for Complaints for Telecommunications Services (CCTS) for billing, contract and service problems encountered in their subscriptions to telephone and Internet services; only 28% answered yes.

We also asked respondents if they thought remedies equivalent to those provided for telecommunications services should be available for cable services across Canada. Not surprisingly, 85% of respondents think an organization with a mandate similar to the CCTS’s should be established to receive cable service complaints.

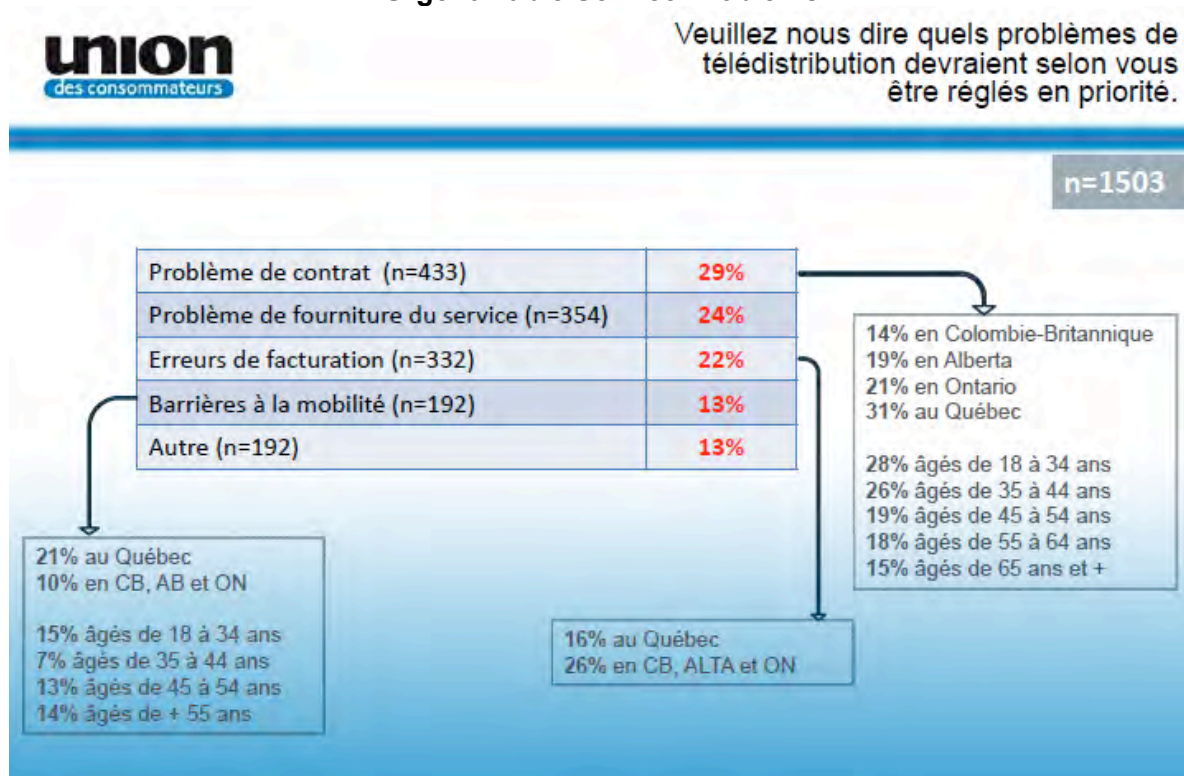
However, it should be remembered that cable services are subject to both federal and provincial regulations, depending on the aspects examined. Thus, although an ombudsman or other federal organization could receive the mandate to hear cable complaints, it remains that contract issues in particular must continue to be regulated by provincial or territorial organizations.

¹²⁵ **CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION.** *Related Documents*, CRTC, Ottawa, Ontario, Canada, November 21, 2014. [Online] <https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=218359&en=2014-190&dt=i&S=C&PA=b&PT=nc&PST=a> (Document consulted on January 12, 2015).

What types of problems should be covered by the mandate of the organization put in place?

The respondents to our survey indicated the cable problems they thought should be settled as a priority. The answers clearly demonstrate the overlaps that can exist between contract issues, which fall under provincial or territorial jurisdiction, and those related to the service itself or to competition, which fall under federal jurisdiction.

Table 16
Urgent Cable Service Problems



With regard to telecommunications, the CCTS already faces this duality, and this has not caused any major dispute to date. Moreover, the CRTC, during the hearings that led to the adoption of the Wireless Code, was invited by several stakeholders (by some cable service providers, essentially) to deem inapplicable the provincial regulations for areas that the Code was preparing to cover; the CRTC refused to take the bait, and the CCTS's application of the Code has taken place harmoniously to date, with provincial frameworks and recourses continuing to play their parallel role. So ideally, a complaint handling organization that would adopt the CCTS as a template could avoid conflicts and still improve consumers' recourse to a swift and effective dispute resolution process.

What information on complaint handling Should be offered to consumers?

Some of the organizations that handle or could eventually handle complaints are unfortunately little known to consumers. To facilitate consumer knowledge of an organization, we think it important to give it a broad mandate, enabling it to hear and handle all cable service complaints, except those pertaining to programming content.

The first reflex of consumers is often, when they experience a problem with a service provider, to try to see what the provider itself can do to resolve a problem. That reflex is strongly encouraged by complaint handling organizations: as we have seen, many of them require the consumer to try to resolve the problem with his provider before they even hear the case.

But, as we observed in the course of our research by exploring company websites, it's not always easy to find information about the admissibility, processing and forwarding of telecommunications complaints, and even less so about cable complaints. Nor is it easy to know clearly what types of complaints can be forwarded to what organization, if the company doesn't offer an acceptable resolution.

It would certainly be desirable that providers' Web pages include a visible and meaningful heading leading to a page that clearly and honestly explains the conditions and procedures for filing a complaint.

Such a heading, if it appeared systematically on providers' websites, would certainly help make consumer access easy and uniform.

Lastly, while clear information about remedies is a promising start, formulating a complaint should also be made easier so as to overcome some consumers' distrust or lack of time.

Perhaps the federal government could use as a model its own legislation for handling complaints in the banking sector? Under federal legislation, all financial institutions under federal regulation must: have a complaint handling process in place that includes information on how to contact the Financial Consumer Agency of Canada (FCAC); be a member of a federally regulated external complaints body; and display and make available in each of its branches, on its website and points of services, copies of a written statement disclosing the name of the external complaints body of which it is a member and the contact information for that external complaints body¹²⁶.

¹²⁶ **FINANCIAL CONSUMER AGENCY OF CANADA.** *Filing a complaint with a bank: Your rights and responsibilities*, Ottawa, Canada, October 31, 2013. [Online] <http://www.fcac-acfc.gc.ca/Eng/forConsumers/topics/yourRights/Pages/filCompB-depPlaiB.aspx> (Page consulted on January 5, 2015).

Recommendations

- Whereas the penetration rate of cable television services is very high in Canada;
 - Whereas the consumers who participated in the survey have reported many cable service problems;
 - Whereas consumers spontaneously complain first to their service provider;
 - Whereas it can be complicated to find information on the admissibility, handling and forwarding of telecommunications complaints on the websites of cable companies;
 - Whereas no regulations cover the complaint handling services offered by cable companies;
 - Whereas broadcasting companies offer unequal complaint handling services and that if dissatisfied, consumers have little recourse;
 - Whereas some cable companies refer to the CRTC consumers who have a complaint to make, while others refer them to the CCTS, without specifying that the organization does not have the mandate to handle cable complaints;
 - Whereas the federal government has already deemed it appropriate, given the importance of financial services, to regulate complaint handling by financial institutions under federal jurisdiction;
 - Whereas Canadians' access to television services is important (information, entertainment, promoting the national culture, offering an opening to the world, etc.);
1. **Union des consommateurs recommends that** the federal government regulate the complaint handling process of cable television companies to ensure that this process is uniform, complete, and brought to the knowledge of consumers.

- Whereas consumer complaint organizations report a high level of cable service complaints;
 - Whereas none of the federal organizations to which consumers can turn to make a complaint offers a dispute resolution process;
 - Whereas despite limited notoriety among consumers, the CCTS is already contacted about cable service problems, even though they are not clearly part of its mandate;
 - Whereas the CCTS has expertise in handling telecommunications complaints;
 - Whereas the example of Belgium and the United Kingdom, where consumers can address themselves to a single organization, a communications ombudsman, for any complaint about their communications services, demonstrates that this model greatly simplifies things;
 - Whereas the example of Belgium and the United Kingdom demonstrates that it is possible to entrust a single organization with cable as well as telecommunications complaints;
2. **Union des consommateurs recommends** that the CRTC give an independent organization the explicit mandate to hear and handle cable complaints;
 3. **Union des consommateurs recommends** that the CRTC give that organization a broad mandate to hear and handle all cable complaints and settle disputes;
 4. **Union des consommateurs recommends** that the CRTC study the possibility for that organization to receive the mandate to report systemic problems to the CRTC.
 5. **Union des consommateurs recommends** that the CRTC stop the undesirable practices of cable companies, according to the systemic problems that will be reported by the independent organization;
 6. **Union des consommateurs recommends** that the CRTC examine the possibility of mandating the CCTS to handle cable complaints;
 7. **Union des consommateurs recommends** that broadening the CCTS's mandate be accompanied by a major information campaign about the CCTS and its various mandates.

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ANNEX 1: Survey Questionnaire



A. Quelle est la langue que vous parlez le plus souvent à la maison?

- Français
- Anglais
- Autres

[SWITCH TO ENGLISH QUESTIONNAIRE]
[ASK Q.B]

B. Dans quelle province résidez-vous?

- Colombie Britannique 400
- Alberta 300
- Ontario 400
- Québec 400

C. Dans lequel des groupes d'âge suivants vous situez-vous ? (lire) (faire tranches plus petites)

- Moins de 18 ans
- 18 à 24 ans
- 25 à 34 ans
- 35 à 44 ans
- 45 à 54 ans
- 55 à 64 ans
- 65 à 74 ans
- 75 ans et plus

[REMERCIEZ ET TERMINEZ]

D. Vous êtes... (lire)

- ... un homme
- ... une femme

E. Êtes-vous abonné à un service de télédistribution (câble traditionnel, télévision numérique, satellite, fibre optique) à la maison?

- Oui
- Non

[REMERCIEZ ET TERMINEZ]

1. À quel type de service êtes-vous abonné? (lire)?

[LIRE LES CHOIX]

- Câble
- Satellite
- IP (incluant Fibre optique)
- Autre (préciser)
- Ne sait pas

2. Avez-vous déjà rencontré un problème, peu importe sa nature, que ce soit lors de l'installation, avec la facturation, le service à la clientèle, etc., avec votre service ou votre fournisseur de télédistribution?

- Oui
- Non

[SAUTER à Q9]

3. Quel type de problème avez-vous rencontré? [SONDER EN PROFONDEUR]

[NE PAS LIRE]

- Installation du service
- Fonctionnement du service ou de l'équipement (spécifiez si décodeur)
- Débranchement
- Frais mensuels (ex: trop élevés ou non conformes à l'information divulguée)
- Caractéristiques de service (ex: trop de chaînes...)
- Service à la clientèle
- Frais additionnels ou imprévus
- Frais de résiliation
- Problèmes ou erreurs de facturation
- Modification de prix en cours de contrat
- Modification dans le choix des canaux en cours de contrat
- Modification de services en cours de contrat
- Autre (préciser)

[POSER LES QUESTIONS 4 à 8 POUR CHACUN DES PROBLÈMES DE

Q3] –

4. Avez-vous porté plainte relativement au problème de [PROBLÈME MENTIONNÉ EN Q3]?

Oui

Non – Pourquoi ?

- Méconnaissance des recours
- Manque de temps
- Changement de fournisseur
- Minimise l'importance du problème
- Autre (préciser)

[SAUTER à Q9 ou au PROCHAIN PROBLÈME]

5. Àuprès de qui avez-vous porté plainte? (plus d'une réponse est possible)

[NE PAS LIRE]

- Fournisseurs de services
- Commissaire aux plaintes relatives aux services de télécommunication (CCTS)
- Canadian Radio-television and Telecommunications Commission (CRTC)
- Canadian Broadcast Standards Council (CBSC)
- Office de protection des consommateurs de votre province
- Organismes communautaires
- Autres (préciser)

6. Est-ce que votre plainte a été résolue?

- Oui
- Non

[SAUTER à Q9 ou plainte suivante]

7. Sur une échelle de 1 à 10 où 10 signifie que vous êtes très satisfait et 1, très insatisfait, quel est votre degré de satisfaction à l'endroit de la résolution de cette plainte?

[SI PLUS D'UNE MENTION EN Q5 ET SI RESOLUE EN Q6]

8. Qui a le mieux résolu votre plainte?

[CHOIX MENTIONNÉ EN Q5]

[SI "non" EN Q2 sinon passer à q11]

9. De façon générale, si vous aviez un problème concernant votre service de télédistribution, à qui adresseriez-vous votre plainte?

[SONDER POUR AUTRE QUE LE FOURNISSEUR]

- Le fournisseur de télédistribution
- Le Commissaire aux plaintes relatives aux services de télécommunication (CCTS)
- Le Canadian Radio-television and Telecommunications Commission (CRTC)
- Le Canadian Broadcast Standards Council (CBSC)
- L'organisme provincial de protection des consommateurs de votre province
- Un ou des organismes communautaires de défense collective des droits qui seraient en mesure d'intervenir pour des problèmes liés à la télédistribution?
- Autre (préciser)
- Ne sait pas

10. Toujours concernant les services de télédistribution, croyez-vous que les consommateurs canadiens sont suffisamment protégés par les organismes en place?

- Oui
- Non

[SAUTER à Q15]

11. Saviez-vous que vous disposez au fédéral de recours auprès du *Commissioner for Complaints for Telecommunications Services (CCTS)* pour vos problèmes de facturation, de contrat et de service pour vos abonnements à des services de téléphonie et d'accès à Internet?

- Oui
- Non

12. D'après vous, serait-il justifié que des recours équivalents soient disponibles pour les services de télédistribution dans l'ensemble du Canada?

- Oui
- Non

13. Veuillez nous dire quels problèmes de télédistribution devraient selon vous être réglés en priorité.

- Erreurs de facturation
- Problème de contrat (ex: modifications du service, changements de prix, frais de résiliation, etc.
- Problème de fourniture du service (problèmes avec le boîtier décodeur, la qualité du signal, problèmes d'installation, etc.
- Barrières à la mobilité (augmentation des prix et/ou frais important si changement de fournisseurs, manque de choix alternatifs)
- Autre (préciser)

Pour conclure, voici quelques questions qui nous permettront de classer vos réponses avec celles des autres répondants.

14. Êtes-vous abonné à Internet à la maison?

- Oui
- Non

15. Quel est le niveau de scolarité le plus élevé que vous avez complété?

- Élémentaire
- Secondaire
- Collégial
- Universitaire - 1er cycle
- Universitaire - 2e ou 3e cycle

16. Dans laquelle des catégories suivantes se situe le revenu annuel de votre ménage avant impôts ?

- Moins de 15 000\$
- 15 000\$ à 29 999\$
- 30 000\$ à 49 999\$
- 50 000\$ à 69 999\$
- 70 000\$ à 99 999\$
- 100 000\$ et plus
- Je préfère ne pas répondre

Annex 2: Questionnaire Addressed to Federal Authorities and Businesses that Receive Complaints about Cable Television Services

Questionnaire Addressed to Federal Authorities and Businesses That Receive Complaints about Cable Television Services

Bonjour,

Union des consommateurs (UC) mène actuellement une recherche au sujet des recours individuels qui sont à la disposition des consommateurs qui rencontrent des problèmes avec leur service de télédistribution.

Nous vous invitons à répondre à ce questionnaire qui a pour but de connaître votre point de vue sur certains sujets abordés dans le cadre de nos démarches.

La recherche d'UC, financée par le Bureau de la consommation d'Industrie Canada, a pour objectif de documenter la nature des problèmes que rencontrent les consommateurs avec leur service de télédistribution, la façon dont ils règlent ces problèmes et leur satisfaction par rapport aux règlements ou modes de règlement qui leur sont offerts. Nous nous intéresserons également aux différents organismes auprès desquels les consommateurs déposent des plaintes.

Prenez note que les réponses que vous fournirez à ce questionnaire ne seront utilisées qu'aux fins de la présente recherche; certains extraits de vos réponses pourront être inclus dans notre rapport et rendus publics au moment de la publication, qui est prévue à l'automne 2015.

Nous vous remercions pour votre collaboration.

**Si vous préférez, nous pouvons vous faire parvenir le questionnaire en anglais
If you prefer, we can send you the questionnaire in English**

Questions:

1. Combien de plaintes recevez-vous annuellement relativement à des problèmes liés aux services de télédistribution? (nombre de plaintes et proportion sur l'ensemble des plaintes)
2. Pouvez-vous indiquer le nombre et/ou la proportion des plaintes relatives aux services de télédistribution que représentent celles qui sont faites dans le cadre de services groupés ?
3. Classez-vous les plaintes que vous recevez relativement aux services de télédistribution en différentes catégories (installation du service, fonctionnement, facturation, modifications unilatérales, etc.) ? Si oui, est-t-il possible de nous donner le détail des plaintes selon ces catégories?
4. Lorsque vous recevez une plainte relative aux services de télédistribution, quel cheminement cette plainte suit-elle? En d'autres mots, quelle est la procédure interne de traitement d'une plainte dans votre organisme ou entreprise?

Question pour les fournisseurs uniquement:

5. Lorsque les consommateurs portent plainte auprès de vous, pour ses services de télédistribution ou de télécommunications, le cas échéant, sont-ils systématiquement informés de toutes les étapes, internes et autres, que peut suivre leur plainte afin de régler le différend?
6. Pouvez-vous nous indiquer, pour chaque catégorie de plaintes, les différentes étapes qui leur sont communiquées ?
7. Le traitement des plaintes relatives aux services de télédistribution est-il différent de celui des plaintes relatives aux services de télécommunications?
8. Quelles solutions proposez-vous aux consommateurs qui vous contactent pour un problème lié à leur service de télédistribution? Les solutions proposées varient-elles selon les catégories de problèmes rapportés (fonctionnement, contrat - modification, résiliation -, facturation, etc.?)

Le CCTS a indiqué récemment que, malgré le fait que la télédistribution ne fasse pas partie de son mandat, il a reçu 3856 plaintes qui portaient sur ce type de service. Ce nombre de plainte place la radiodiffusion en deuxième position, quant au nombre total de plaintes, juste après les services sans fil, qui ont fait l'objet du plus grand nombre de plaintes auprès du Commissaire en 2012-2013.

9. Quel serait d'après vous le système de traitement idéal en matière de plaintes liées aux services de télédistribution ?
10. Un organisme indépendant devrait-il être chargé de traiter les plaintes en matière de télédistribution?
11. Pensez-vous que le CCTS, qui est déjà responsable des plaintes en matière de télécommunications, pourrait être chargé de recueillir et régler les plaintes des consommateurs relatives à des services de télédistribution?

Merci pour votre participation

**ANNEX 3: Questionnaire Addressed to Provincial
Government Consumer Protection Authorities
Re: Complaints about Cable Television Services**

**Questionnaire Addressed to
Provincial Government Consumer Protection Authorities
Re: Complaints about Cable Television Services**

Bonjour,

Union des consommateurs (UC) mène actuellement une recherche au sujet des recours individuels qui sont à la disposition des consommateurs qui rencontrent des problèmes avec leur service de télédistribution.

Nous vous invitons à répondre à ce questionnaire qui a pour but de connaître votre point de vue sur certains sujets abordés dans le cadre de nos démarches.

La recherche d'UC, financée par le Bureau de la consommation d'Industrie Canada, a pour objectif de documenter la nature des problèmes que rencontrent les consommateurs avec leur service de télédistribution, la façon dont ils règlent ces problèmes et leur satisfaction par rapport aux règlements ou modes de règlement qui leur sont offerts. Nous nous intéresserons également aux différents organismes auprès desquels les consommateurs déposent des plaintes.

Prenez note que les réponses que vous fournirez à ce questionnaire ne seront utilisées qu'aux fins de la présente recherche; certains extraits de vos réponses pourront être inclus dans notre rapport et rendus publics au moment de la publication, qui est prévue à l'automne 2015.

Nous vous remercions pour votre collaboration.

Questions:

1. Combien de plaintes recevez-vous annuellement relativement à des problèmes liés aux services de télédistribution? (nombre de plaintes et proportion sur l'ensemble des plaintes)
2. Pouvez-vous indiquer le nombre et/ou la proportion des plaintes relatives aux services de télédistribution qui font partie d'un bouquet de services (services groupés) ?
3. Classez-vous les plaintes que vous recevez relativement aux services de télédistribution en différentes catégories (installation du service, fonctionnement, facturation, modifications unilatérales, etc.) ? Si oui, est-il possible de nous donner le détail des plaintes selon ces catégories?
4. Lorsque vous recevez une plainte relative aux services de télédistribution, quel cheminement cette plainte suit-elle? En d'autres mots, quelle est votre procédure de traitement d'une plainte?
5. Quelle solution offrez-vous aux consommateurs qui vous rapportent une plainte relativement à un service de télédistribution ?

Le CCTS a indiqué récemment que, malgré le fait que la télédistribution ne fasse pas partie de son mandat, il a reçu 3856 plaintes qui portaient sur ce type de service. Ce nombre de plaintes place la radiodiffusion en deuxième position, quant au nombre total de plaintes, juste après les services sans fil, qui ont fait l'objet du plus grand nombre de plaintes auprès du Commissaire en 2012-2013.

6. Quel serait d'après vous le système de traitement idéal en matière de plaintes liées aux services de télédistribution ?
7. Un organisme indépendant devrait-il être chargé de traiter les plaintes en matière de télédistribution?
8. Pensez-vous que le CCTS, qui est déjà responsable des plaintes en matière de télécommunications, pourrait être chargé de recueillir et régler les plaintes des consommateurs relatives à des services de télédistribution?

Merci pour votre participation