

PREPAID WIRELESS SERVICES: protection from bill shock?

Executive summary
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Cell phone companies are constantly diversifying their wireless service (WS) offers across Canada. To improve the consumer protection measures benefiting WS customers, the Canadian Radio-television and Telecommunications Commission (CRTC) adopted the Wireless Code in 2013. But the Code treats postpaid services and prepaid services differently: the obligations of wireless service providers (WSPs) are less substantial for prepaid services. Prepaid service consumers thus enjoy less protection than users of postpaid services.

In addition to the Wireless Code, Canadian consumers are protected by consumer protection laws in certain circumstances. In the majority of existing regulatory frameworks, both federally and provincially, the legislative instruments have focused on consumer information. So we concentrated mainly on the issue of information dissemination.

Our research attempted to answer the following questions. Are existing protections in the wireless sector adequate for prepaid services, or are users of those services, who are less affluent in many cases, neglected? Are consumers adequately informed about the options of those services or about the circumstances that could entail nasty surprises? How do prepaid WS providers meet their obligations?

Our report draws a brief portrait of the Canadian market of wireless services, and identifies the various complaints of consumers using prepaid wireless services. We also identify the legislative measures for disclosing information likely to apply to WS. An overview of the regulatory framework of prepaid WS abroad (the United States, Australia, France, the United Kingdom) enables us to compare the Canadian regulatory framework with existing measures abroad. Lastly, a field survey enables us to verify how contracts and their terms are disclosed to the prepaid wireless consumer, as well as their level of compliance with the legal and regulatory framework.

Our study has revealed that consumers who opt for prepaid WS are less informed and less protected than those who use postpaid services. While the Code explicitly confers better protections to consumers of postpaid services, the approach to doing so causes confusion about the actual scope of measures applicable to prepaid services. The Code absolves prepaid services of certain obligations we think essential whatever the type of wireless service chosen by the consumer. Moreover, although WSPs have lesser obligations when selling prepaid services, our survey of the main providers reveals that many of them don't meet the few obligations to which they are subject.

Users of prepaid services, who are less affluent in many cases, benefit from lesser consumer protection measures than users of postpaid services, under the Wireless Code adopted by the CRTC. This asymmetry of protections is difficult to justify; we note that provincial laws don't discriminate in this way in regulating wireless services – some of the measures that the Code

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imposes only for postpaid services apply identically to the two types of services under provincial consumer protection laws.

For the Code to meet its objectives, i.e., to make certain WSP practices uniform and to better protect consumers, Union des consommateurs recommends notably that the CRTC revise the Code in order to ensure equal protection to consumers, both postpaid and prepaid WS users. For the sake of consistency, we propose that the CRTC review the terms “clear language” and “plain language” used in the Code and evaluate the relevance of forming a committee that would study ways of communicating more clearly with consumers about wireless services.

In addition, we strongly recommend that the CRTC make a thorough reassessment of the obligation regarding delivery of the summary of the contract’s essential elements. In particular, we think WSPs should be required to give the consumer such a summary before the conclusion of the contract, and the consumer’s direct recourses should be broadened in case of failure to meet the obligations regarding the summary of essential information. Lastly, we find it important that provincial lawmakers work to harmonize consumer protection laws applicable to WS, in order to ensure that all Canadian consumers benefit from the best possible protection.

French version available.

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