

CCTS Annotated Guide to the CRTC

Wireless Code

Abbreviations

The following abbreviations appear throughout this document:

CCTS	Commissioner for Complaints for Telecommunications Services
CIS	Critical Information Summary
CRTC	Canadian Radio-television and Telecommunications Commission
ECF	Early Cancellation Fee
TOS	Terms of Service
WSP	Wireless Service Provider

Important Considerations

Please note the following while reviewing the CCTS Annotated Guide to the Wireless Code:

- The CRTC’s Wireless Code appears in black.
- CCTS annotations to the Wireless Code appear highlighted in turquoise.
- **When reviewing the complaint summaries:**
 - Each complaint summary provides the necessary facts in order to identify the breach of that particular section of the Code. We recognize that some complaints may disclose additional breaches beyond the ones identified. For the purposes of this document, the complaint summaries have been drafted to focus on the breach related to the section under which they appear.
 - We consider a complaint to be resolved when a customer and a WSP agree on a way to conclude the complaint in a manner that is satisfactory to both. Some of the complaint summaries in this document describe the manner in which the complaint was concluded. In those cases it should be noted that the outcome does not necessarily reflect the recommendation that CCTS would make following a formal investigation and based on a full analysis of the Code’s application to the facts of that complaint.

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Preamble

The Canadian Radio-television and Telecommunications Commission ([CRTC](#)) has created this Wireless Code (the Code) so that consumers of retail mobile wireless voice and data services (wireless services) will be better informed of their rights and obligations contained in their contracts with wireless service providers (service providers).

The Wireless Code will

- i. make it easier for individual and small business customers to obtain and understand the information in their wireless service contracts;
- ii. establish consumer-friendly business practices for the wireless service industry where necessary; and
- iii. contribute to a more dynamic wireless market.

The Code applies to all wireless services, whether purchased on a stand-alone basis or as part of a bundle, and whether purchased in person, online, or over the phone. All service providers must comply with the Code. All sections of the Code apply to postpaid services. The following sections of the Code also apply to prepaid services: A. 1-3; B. 2; E. 1, E. 4, and E. 5; F. 1-4; G. 1-4; and J. 1.

Definitions of terms used in the Code are provided at the end of the Code. Defined terms are indicated in ***italics and bold*** the first time they appear in the Code.

If any part of the Code or the customer's contract is ambiguous, or if it is unclear how the terms of the Code or the contract are to be applied, then the Code and the contract must be interpreted in a manner that is favourable to the customer.

A customer who believes that their service provider is not adhering to the Code should first try to resolve the problem directly with the service provider. If the customer is not satisfied with the service provider's

response, they can contact the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) as follows:

Mail: P.O. Box 56067 Minto Place RO Ottawa ON K1R 7Z1

Website: www.ccts-cprst.ca

Toll-free: 1-888-221-1687

TTY: 1-877-782-2384

Email: response@ccts-crpst.ca

Fax: 1-877-782-2924

Annotation: CCTS' Role as Code Administrator

Our Comments: The Commission mandated that the CCTS administer the Wireless Code of Conduct as part of its complaint handling process. During the course of handling wireless complaints, if the CCTS finds breaches, it will identify them and work on resolving the issues during the investigation. As Code administrator, CCTS also reports on these breaches and any trends we see within complaints concerning the Code.

The Commission reiterated in [Broadcasting and Telecom Regulatory Policy CRTC 2016-102](#) that if any part of the Code or a customer's contract is ambiguous, or if it's unclear how to apply the Code, then the CCTS must interpret the Code or contract in a manner that's favourable to the customer. The Commission further confirmed that it is appropriate for the CCTS to make interpretations regarding the Wireless Code when resolving individual complaints.

The Commission further noted:

- it is not the responsibility of customers to identify Code breaches in their complaints; it is the responsibility of CCTS to do so
- CCTS is not expected to analyze complaints for Code breaches beyond the investigation required for the complaint resolution process
- The Commission's Part 1 process may be used in the event of a disagreement with CCTS' interpretation of the Code or for clarification of a Code provision

A. Clarity

A.1 Plain language

(i) A [service provider](#) must communicate with [customers](#) using plain language.

Annotation: How we determine whether WSPs used plain language

Context: Many customers have complained to us that their contract with their WSP is unclear, confusing, or hard to understand.

Issue: According to the [Preamble to the Code](#), the Code is intended to help individual and small business customers more easily obtain and understand the information in their wireless services contracts. To make wireless services contracts easier to understand, the Code requires that WSPs communicate with customers using plain language. According to the Government of Canada's [Canadian Style guide](#), plain language is oral and written communication that conveys information easily and unambiguously. Vocabulary and sentence structure must be straight-forward, and the material must be organized and presented clearly and logically. Plain language should not be confused with an oversimplified or condescending writing style. While WSPs are not prohibited from using technical language and the occasional use of jargon, they are expected to provide explanations in order to make it clear for the customer.

Our Comments: To determine whether the WSP complied with its obligation to use plain language, we will look at interactions between the WSP and the customer (for example: the language used in the contract or the words spoken in a phone call). To evaluate an interaction, we will ask the following questions:

- Is the language in a written contract easy to understand?
- Are the WSP's words simple enough for an average customer to understand?
- Is the interaction (whether in contract or by phone) loaded with legal terminology?
- Are definitions or explanations provided for complex phrases or technical terms? (e.g. "early device savings recovery fee")

A.1 Plain language

(ii) A service provider must ensure that its [written contracts](#) and [related documents](#), such as [privacy policies](#) and [fair use policies](#), are written in a way that is clear and easy for customers to read and understand.

Section A. Complaint Summary #1: Confirmed breach of Section A.1(ii)

Facts: A customer entered into a wireless postpaid, two-year contract effective December 2013 through to December 2015. The customer wanted to end his contract before his two-year term had passed, but he did not understand how the WSP would calculate his early cancellation fee. When the customer complained that his contract was unclear, the WSP argued that it believed his contract was written in plain language. So, the customer complained to us.

Investigation: We reviewed the customer's contract and found that the contract had not been written in plain language. Instead, the contract contained highly technical language, and terms were not clearly explained or defined. For example, the WSP used the terms "Device Savings Recovery Fee," "Additional Device Savings Recovery Fee," "Economic Inducement," and "No Term Price," among other phrases. The customer could not have been expected to understand his early cancellation fee or how the WSP would calculate it because the language in the contract was so technical.

Conclusion: We confirmed that the WSP breached section A.1(ii) because WSPs must write their contracts in plain language. Asserting a belief that the contract is written in plain language does not

necessarily make the contract clear or easy to understand. To resolve the complaint, the WSP agreed to credit some of the customer's balance, which included the early cancellation fee.

A.2 Prices

(i) A service provider must ensure that the prices set out in the contract are clear and must indicate whether these prices include taxes.

A.3 Unlimited Services

(i) A service provider must not charge a customer any overage charge for services purchased on an unlimited basis.

Section A. Complaint Summary #2: Confirmed breach of Section A.3(i)

Facts: A customer activated wireless services with a new device on December 3, 2013. The customer's contract included an unlimited data plan. However, two weeks later, the customer received a text message explaining that he had incurred more than \$50 in data overage fees. The WSP admitted that it had mistakenly included unlimited data in the customer's contract, and instead, actually placed the customer on a 1GB data plan. The WSP explained that when the customer used more than his allotted 1GB of data, the WSP charged the customer overage fees.

Investigation: We reviewed the customer's contract and discovered that the contract listed two different data plans:

- 1) a 1GB plan, which was included under the "key terms" of the contract; and
- 2) an unlimited data plan, which was included under the "Add-On" section of the contract.

Conclusion: CCTS determined that it was reasonable for the customer to believe that he had unlimited data included in his contract. Our decision was based on the Preamble to the Code, which states that when a customer's contract is ambiguous or unclear, the contract must be interpreted to favour the customer. Having unlimited data is more favourable to the customer than having only 1GB of data. Thus, CCTS confirmed that:

- 1) the WSP breached Section A.3(i) of the Code;
- 2) the customer should have had unlimited data; and
- 3) since the customer should have had unlimited data, he should not have been charged \$50 in data overage fees.

The WSP offered the customer a one month service credit (valued at \$66) and waived the data overage fees, which resolved the complaint.

A.3 Unlimited Services

(ii) A service provider must not limit the use of a service purchased on an unlimited basis unless these limits are clearly explained in the fair use policy.

Section A. Complaint Summary #3: Confirmed breach of Section A.3(ii)

Facts: A customer activated a wireless service on an indeterminate term in April 2014. The customer's postpaid services included:

- a) unlimited talk, text, and data to anywhere in Canada and the US while on the WSP's network; and
- b) unlimited roaming (talk, text, and data) anywhere in the US.

The customer complained to us that even though she had a plan for unlimited roaming in the US, her WSP did not provide her with this feature while she was in the US in June and July 2014. The WSP explained that the customer exceeded the limits of her roaming plan according to its Fair Use Policy. In particular, the WSP cut off the customer's voice feature while roaming in the US after she had reached this limit.

Investigation: Section A.3(ii) of the Wireless Code explains that a WSP must not limit a service that has been purchased on an unlimited basis unless the WSP has clearly explained the limits of that service in its Fair Use Policy. We asked the WSP to demonstrate that it explained the limits of the customer's unlimited roaming service in its Fair Use Policy. The WSP was unable to do so.

Conclusion: We determined that the WSP breached section A.3(ii) of the Code and should not have limited the customer's unlimited roaming service because:

- 1) the customer had purchased the service on an unlimited basis; and
- 2) the WSP's Fair Use Policy did not clearly explain the limits of that service in its Fair Use Policy.

The WSP limited the customer's unlimited US roaming feature (which included voice, text, and data), but the WSP's Fair Use Policy did not clearly explain these limits. To resolve the complaint, the WSP:

- 1) waived the customer's monthly service charges for the days that the customer was out of service (\$30);
- 2) gave the customer \$100 as compensation; and
- 3) allowed the customer to cancel her contract with the WSP without incurring an early cancellation fee, and allowed her to return the device in order to get a refund of what she had paid towards the device.

B. Contracts and related documents

B.1 Postpaid service contracts

(i) A service provider must give the customer a permanent copy of the contract and related documents at no charge in the following circumstances:

- a. If the contract is agreed to in person, the service provider must give the contract and related documents to the customer immediately after the customer agrees to the contract.
- b. If the contract is not agreed to in person (i.e. if it is agreed to over the phone, online, or otherwise at a distance), the service provider must send the contract and related documents to the customer

within 15 calendar days of the customer agreeing to the contract. If a service provider fails to do this, or if the terms and conditions of the permanent copy of the contract conflict with the terms and conditions that the customer agreed to, the customer may, within 30 calendar days of receiving the permanent copy of the contract, cancel the contract without paying an [early cancellation fee](#) or any other penalty.

Annotation: Service providers are not required to give customers with indeterminate contracts a permanent copy of the contract each billing cycle

Context: Indeterminate contracts do not have a set duration. Rather, indeterminate contracts are automatically renewed with each billing cycle. Since customers' indeterminate contracts are "renewed" each month, WSPs have questioned whether or not they must provide customers with a copy of their contract each month.

Our Comments: CRTC confirmed in [Telecom Regulatory Policy 2013-598](#) that WSPs are not required to provide a permanent copy of the indeterminate contract at the beginning of every billing cycle (i.e. when the customer's contract is automatically renewed each month).

Annotation: When WSPs must provide a permanent copy of the contract and related documents

Context: We have seen many cases where the WSP failed to demonstrate that it provided its customers with a **permanent copy** of the **contract** and **related documents** (e.g. privacy policy, Fair Use Policy, etc.) at the point of sale. In these situations, customers have complained that their WSPs reassured them that certain information would be detailed in their contracts, but when we look into some of these complaints, we often find that these WSPs have not fully disclosed to their customers all of the terms in their contract and related documents. In other words: WSPs often cannot demonstrate that they have disclosed all of the required information to their customers.

Issue: The Code requires that WSPs provide a permanent copy of the contract and related documents to the customer upon entering into an agreement. This means that:

- 1) if the agreement is made in person, the WSP must provide the customer with a permanent copy of the contract and related documents at that point in time; and
 - 2) If the agreement is made from a distance (i.e. over the phone or online), then the WSP must send the customer a permanent copy of the contract and related documents within 15 calendar days.
- According to [Telecom Regulatory Policy 2013-271](#), a permanent copy of the contract and related documents can be either:
- a) a paper copy; or
 - b) an inalterable and easily-read electronic copy (e.g. PDF file format).

The policy also states:

51. Many consumers maintain electronic records and conduct much of their business online. For these consumers, an electronic copy of the written contract and related documents may be more convenient, as long as the copy still acts as a permanent record and does not rely on links to websites that can be changed by the WSP. The Commission considers that a permanent copy can be a paper copy or an

electronic copy, as long as the electronic copy cannot be altered and can be easily read by the customer.

52. However, not all Canadians will be able to use an electronic version of the written contract and related documents. Some consumers may require a paper copy, while Canadians with disabilities may need a copy in an alternative format. While providing these format options may impose some costs on WSPs, the Commission considers that this burden is not undue given the central importance to Canadians of understanding their wireless service contracts. It is important that Canadians have equal access to their contract documents and it would therefore be inappropriate for them to face any additional charges to obtain the documents in these formats. Due to the nature of prepaid card services, it is not necessary to require WSPs to provide a paper copy of the prepaid card contract upon request.

[Bolding by CCTS for emphasis.]

WSPs must provide to customers a permanent copy of the contract and related documents upon entering into a new agreement with the customer (i.e. upgrading the customer's hardware, renewing an existing contract with the customer, extending a customer's fixed term contract, or amending a key contract term or condition).

Our Comments: To investigate these types of complaints, we will ask the WSP to provide evidence that it provided the customer with a permanent copy of the contract and the related documents at the point of sale. If the WSP cannot demonstrate that it provided a permanent copy of the contract and related documents to the customer at the point of sale, then we will conclude that the WSP breached this section of the Code.

Section B. Complaint Summary #1: Confirmed breach of Section B.1(i)a

Facts: In August 2014, a customer agreed to two new wireless service contracts with device subsidies. The customer was unsatisfied with the devices and the service, so she tried to return both devices a few days later under the buyer's remorse policy. The WSP refused to honour the policy because she had exceeded the trial period usage limits as detailed in the WSP's TOS. The customer contended that the WSP did not inform her about the trial period limits when she entered into the contracts.

Investigation: We asked the WSP to provide evidence that it gave the customer her contracts and related documents according to Section B.1(i)a of the Code. The WSP demonstrated that it had sent a copy of the contract for one of the customer's devices, but not the other one.

Conclusion: We determined that the WSP breached section B.1(i)a of the Code because the WSP was unable to demonstrate that it had sent the customer one of her contracts. Without a copy of her contract and related documents, the customer could not have known about the trial period limits associated with her device.

Section B. Complaint Summary #2: Confirmed breach of Section B.1(i)b

Facts: A customer had two wireless accounts. In January 2014, the customer switched one of her phone numbers from a postpaid service to a prepaid service. In May 2014, the customer switched that phone number back to a postpaid service because she wanted the long distance calling feature associated with the postpaid service. As of May 2014, the customer was on an indeterminate contract for postpaid services. She complained that she did not receive a contract or invoice that reflected the changes to her service. She also complained that when she activated her postpaid subscription, the WSP should have provided her with a new agreement.

Investigation: Since the WSP's transaction with the customer occurred over the phone, we asked the WSP to demonstrate that it had sent the contract and related documents to the customer. The WSP was unable to do so.

Conclusion: We confirmed that the WSP breached section B.1(i)b of the Code, which requires WSPs to send the customer their contract and related documents when the customer enters into a new agreement over the phone.

c. The service provider must also provide the customer with a paper copy of the contract upon request at no charge, at any time during the [commitment period](#).

Section B. Complaint Summary #3: Confirmed breach of Section B.1(i)c

Facts: A customer entered into a postpaid indeterminate contract for wireless services on December 31, 2012 and had a device subsidy. The customer asked the WSP for a copy of his contract in December 2014, but the WSP did not provide one, which prompted the customer to complain to us.

Investigation: We reviewed the customer's account records and confirmed that the WSP failed to provide the customer with a copy of his contract. CCTS informed the WSP it was required to provide the customer with a copy of the contract, and the WSP eventually did provide it in April 2015.

Conclusion: We confirmed that the WSP breached section B.1(i)c of the Code because the WSP failed to give the customer a copy of his contract upon request.

B.1 Postpaid service contracts

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

Annotation: WSPs providing electronic version of customer contracts – Issues 1 and 2

Context: This section of the Code permits a customer to choose to receive electronic copies of the contract and related documents instead of paper copies. The default is for the WSP to provide the customer with a paper copy of the contract and related documents. We have been finding that WSPs are not providing a paper copy of the contract and related documents as the default.

Issue 1: Some WSPs have created provisions in their contracts which, in effect, force the customer to choose an electronic copy of the contract and related documents instead of a paper copy in order to sign up for service. In other words, some WSP contracts state that by signing the contract, the customer not only agrees to receive service from the WSP, but the customer also agrees to receive an electronic copy of their contract and related documents instead of a paper copy of those documents.

By requiring customers to consent to an electronic copy of their contract and related documents and wireless services, customers are not "expressly and knowingly" opting out of their right to receive a paper copy. These WSPs are not giving customers an opportunity to contract for services from the WSP while still receiving a paper copy of their contract and related documents.

Our Comments regarding Issue 1: When examining complaints related to this provision of the Code, we will look for evidence that the customer was actually informed of their right to a paper copy, and that the customer knowingly waived this right. The customer must have had an actual choice – i.e. the WSP must have been willing to provide service to the customer even if the customer wanted to receive a paper copy of the contract and related documents. If the WSP cannot demonstrate that the customer expressly and knowingly consented to receiving an electronic copy of their documents, then we will determine that the WSP breached this section of the Code.

Issue 2: We have come across situations in which the customer can choose to waive his/her right to obtain a paper copy of the contract and/or related documents. Instead, these customers are directed to access the documents on the WSP's website.

For example, we have seen cases in which the TOS is in an inalterable form and is placed as a PDF on the WSP's website. If the customer expressly and knowingly consented to access the TOS as a PDF on the WSP's website, then we would **not** consider this a breach of the Code.

However, we've also seen cases in which the TOS could be easily altered by the WSP. When we come across these situations where the TOS is placed directly on the WSP's website and/or is made available to the customer in an alterable form, we consider this a breach of the Code.

Our Comments regarding Issue 2: Failing to provide customers with a permanent copy of the contract and related documents contravenes paragraph 51 of the CRTC's [Telecom Regulatory Policy 2013-271](#), which explains that electronic copies cannot be altered.

Section B. Complaint Summary #4: Confirmed breach of Section B.1(ii)

Facts: A customer agreed to a wireless contract over the phone in May 2014. The customer had a postpaid service and was on an indeterminate contract. The customer complained that she didn't receive a copy of her contract.

Investigation: We asked the WSP to:

- 1) explain the WSP's process for activating new wireless postpaid accounts over the phone;
- 2) explain how the WSP provides its customers with a copy of their contracts; and
- 3) demonstrate that the customer expressly and knowingly agreed to receive an electronic copy.

The WSP explained that by default, the customer obtains a permanent copy of the contract via email unless the customer requests that the WSP send a paper copy instead. However, the WSP could not demonstrate that the customer had expressly and knowingly agreed to receive an electronic copy.

Conclusion: We confirmed that the WSP breached section B.1(ii) of the Code because the customer had not expressly and knowingly agreed to receive an electronic copy of the contract and related documents.

Section B. Complaint Summary #5: Confirmed breach of Section B.1(ii)

Facts: A customer signed a contract for postpaid indeterminate wireless services on February 20, 2014. The customer later got into a dispute with his WSP over a device repair charge. The customer complained that the WSP did not explain the potential charge when he entered into his contract with the WSP.

Investigation: We reviewed a copy of the customer's contract and discovered that the customer did not consent to receiving an electronic copy of the WSP's TOS.

Conclusion: We confirmed that the WSP breached section B.1(ii) of the Code because WSPs must provide a paper copy of the contract and related documents unless the customer expressly and knowingly decides that an electronic copy is acceptable. The customer's contract showed that the

customer had not agreed to waive his right to a permanent copy of the contract and related documents.

Section B. Complaint Summary #6: Confirmed breach of Section B.1(ii)

Facts: A customer purchased a device and signed a postpaid indeterminate contract for wireless phone services on February 19, 2015, and then exchanged her device for a different one on February 21, 2015. After entering into the agreement, the customer noticed that her service was very weak at home and at her workplace. Unsatisfied, the customer immediately reported the poor signal strength to her WSP, tried to cancel her service, and asked to return her second device. In response, the WSP led the customer to believe that with time, the WSP could fix its network issues. The customer waited for the WSP to fix its network issues, but the WSP did not do so. So the customer tried to cancel her service again on March 23, 2015. She wanted to return her device and get a refund, but the WSP refused to accept her return and refused to cancel her contract without penalty. The WSP gave the customer three reasons for refusing to grant her request:

- 1) The customer was no longer covered by the WSP's return policy;
- 2) According to the WSP's TOS, the WSP does not guarantee uninterrupted service;
- 3) Upon cancellation, customers are responsible for paying any unpaid tab balance on their respective devices.

In response, the customer complained with the following issues:

- 1) The WSP failed to inform her that it does not guarantee uninterrupted service;
- 2) She believed that if the WSP could not fix its network issues, she would be able to return her device outside the buyer's remorse period; and
- 3) She did not receive a permanent copy of the WSP's TOS when she entered into the contract.

Investigation: We asked the WSP to demonstrate that it had informed her of the terms and conditions that constitute her wireless agreement – namely that it doesn't guarantee uninterrupted service. The WSP explained that the customer's contract required her to obtain the TOS from the WSP's website, which was in an alterable form. According to the Code, however, WSPs must provide a **permanent copy** of the contract and related documents to the customer unless the customer expressly and knowingly waives their right to a permanent copy.

Conclusion: We confirmed that the WSP breached section B.1(ii) of the Code because it failed to provide the customer with a permanent copy of her contract and related documents, which includes the TOS, in an inalterable format. Since the WSP did not provide this information to the customer as a permanent copy, we concluded that the customer could not have been expected to have the information that:

- 1) the WSP did not guarantee uninterrupted service;
- 2) she may be subject to an early cancellation fee for cancelling her service before the end of her contract term; and
- 3) the amount of that early cancellation fee.

B.1 Postpaid service contracts

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

Section B. Complaint Summary #7: Confirmed breach of Section B.1(iii)

Facts: A visually impaired customer activated two wireless service contracts (with two-year terms) online at the end of December 2013. During an online chat session with a WSP representative, the customer informed the WSP of his disability and requested large print documents. The WSP did not provide the customer with large print documents, so the customer complained about it to us.

Investigation: We found that the WSP had not provided the customer with a large print format of his contract, as the customer had requested. The WSP also admitted to us that it did not provide the large print version to the customer, at his request.

Conclusion: We confirmed that the WSP breached section B.1(iii) of the Code because the WSP must provide a copy of the contract in an alternative format upon the customer's request.

B.1 Postpaid service contracts

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

Key contract terms and conditions

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

Annotation: "The services included in the contract"- Where does data fit in?

Context: Prior to the launch of the Wireless Code, many service providers offered mobile plans that included data as a component of the monthly price plan. Under this model, the customer would pay one monthly fee to obtain a certain number of voice minutes, texts, and data. The contracts provided to customers during this time clearly indicated that data was a component of the monthly plan. However, since the launch of the Wireless Code, we are now seeing that many service providers have removed the data component from the mobile plans and are now offering data as an "add-on" to the plan. Wireless service contracts have been updated to reflect this change in business practice with some service providers excluding data from the "key terms" of the contract and now adding it under a different section, sometimes called "add-ons", "optional services", or "promotions".

We note that the Wireless Code refers to wireless services as retail mobile voice and data services and does not differentiate between them.

Our Comments: Whether data is considered a "key term" or not has implications for the protections a customer will have should the service provider wish to change the parameters of the data feature – either the amount of data allotted to the customer, or the price of that allotment.

Section D details the following requirements for service providers when changing customers' wireless service contracts:

- [Section D1](#) prohibits service providers from changing the key contract terms of a postpaid wireless contract during the commitment period without the customer's informed and express consent.

- [Section D2](#) permits service providers to change “other contract terms and conditions” during the commitment period by providing at least 30 calendar days’ notice. In its decision, the Commission notes that other contract terms and conditions include items such as privacy policies, fair use policies and one-time costs.

Our understanding is that the intent of these two provisions was to distinguish between aspects of wireless services that were key or vital to most customers (i.e. the service itself) and those aspects that were ancillary, such as privacy policies and one-time costs. In making this distinction, the Commission clearly intended to prescribe a higher threshold of rights to consumers as it relates to services that are “key”, recognizing that customers require certainty that these key contract terms and conditions will not change during the course of a commitment period without their express and informed consent because these are the wireless services that most customers consider vital.

Since service providers have been referring to data as an “add-on”, they argue that they are permitted by Section D2 to change the terms of the data plan without the customer’s consent. All they need to do is provide 30 days’ notice. This change in business practice has had a considerable impact on consumers and the availability of the rights prescribed to them in Section D1 of the Wireless Code.

We’ve seen many complaints from customers about their service providers unilaterally changing the data feature of their wireless plan. Often times, the service provider and customer resolve the complaint informally, which essentially leads to avoiding confirmed breaches.

CCTS anticipates that this issue will be fully addressed in the CRTC’s forthcoming review of the Code. In the interim, when we receive complaints about service providers unilaterally changing the data feature, we do a case-by-case analysis as to whether based on all the circumstances the data service was in our view a “key term” or an “add-on”. (See for example Section D. [Complaint Summary #4](#))

Section B. Complaint Summary #8: Confirmed breach of Section B.1(iv)

Facts: A customer upgraded his wireless internet stick and agreed to a new two-year contract by phone in December 2013. Between January and April 2014, the customer incurred more than \$400 in overage charges because he exceeded the data limits in his plan. Although the customer acknowledged that he had received a copy of his contract from the WSP, the customer argued that he should not have to pay the overage charges because his contract was missing certain information which, according to the Code, must be included in his contract.

Investigation: We discovered that the contract did not contain any information about how much data the customer was allowed to use as part of his data plan before he would incur overage fees. We also noted that wireless internet was the only service in the customer’s contract.

Conclusion: We determined that the WSP breached Section B.1(iv)a of the Code because it did not explain, in the contract, how much data the customer could use before incurring overage fees. As a result, the customer had no way of knowing when he had used more data than his plan allowed. To resolve the complaint, the WSP agreed to refund to the customer all of the overage fees he had incurred. The WSP also agreed to provide the customer with a new Code-compliant version of his contract.

b. the [minimum monthly charge](#) for services included in the contract;

Section B. Complaint Summary #9: Confirmed breach of Section B.1(iv)

Facts: A customer upgraded his hardware and agreed to a new 24-month contract for a subsidized smartphone. The customer entered into the agreement on June 26, 2014 and made it clear that he wanted to keep his current monthly price plan. The WSP agreed that the customer's plan would remain the same. However, the WSP later told the customer that it would not honour the terms of his previous plan because it was incompatible with the device that he upgraded to. The customer complained to us.

Investigation: While investigating this complaint, we assessed the customer's contract and found a key term was missing from the customer's contract: the minimum monthly charge for services.

Conclusion: We concluded that the customer's contract needed to include this key term and informed the WSP that the contract was missing the information.

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

Section B. Complaint Summary #10: Confirmed breach of Section B.1(iv)

Facts: A customer purchased a basic wireless service package from a WSP. The customer complained that he had no way of knowing when the contract would end.

Investigation: We referred to the customer's contract and found that it did not contain a commitment period; the contract had a start date but no end date.

Conclusion: We confirmed that the WSP breached section B.1(iv)c of the Code because all contracts must include the start date and end date of the contract.

d. if applicable

i. the total early cancellation fee;

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

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

Annotation: What is the Early Cancellation Fee

Context: The Code defines an "early cancellation fee" as a "fee that may be applied when a customer's service is cancelled before the end of the commitment period." The Code limits what WSPs can charge as an early cancellation fee.

Issue: We have seen some complaints in which the WSP has charged other fees outside/beyond what the Code prescribes, such as an "account closing fee" and an "administrative fee," among others.

Our Comments: See [Section G](#) for further information on how an early cancellation fee needs to be calculated.

Annotation: What the Code and the Decision say about the 30-day fee

Issue: The CRTC makes it clear that WSPs should be able to recover the amount of the device subsidy that WSPs provide to customers, but only to the extent allowed by the early cancellation fee and the rules associated with that fee. [Telecom 2013-271](#) states:

Paragraph 226: *For both fixed term and indeterminate contracts, when a subsidized device is provided [...] **the early cancellation fee should not exceed the value of the device subsidy.** [...] The Commission further considers that **the early cancellation fee should be limited to the remaining balance of the device, which must decrease by an equal amount each month over a maximum of 24 months.***

Paragraph 234: *If a customer cancels a contract before the end of the commitment period, **a WSP must not charge the customer any fee or penalty other than the early cancellation fee,** which must be calculated in the manner set out below...*

Paragraph 262: *The Commission notes that before the proceeding, many WSPs required 30 days' notice before implementing service cancellation, including at the end of a contract term. The record of this proceeding shows that this practice has generally ended due to the many complaints it generated. **The Commission agrees with this development to minimize barriers to switching WSPs.***

Paragraph 266: *In light of the above, the Commission determines that **consumers may cancel their wireless services at any time by notifying their WSP, and that cancellation must take effect on the date on which the WSP receives this notice.** The Commission determines that **this requirement applies only to postpaid services.***

[Bolding by CCTS for emphasis.]

Annotation: How Early Cancellation Fees apply to tab contracts

Context: Section B.1(iv)d of the Code requires wireless contracts to include: “ii. The amount by which the early cancellation fee will decrease each month; and iii. The date on which the customer will no longer be subject to the early cancellation fee.”

Issue: Some WSPs have asked for clarification about how to apply these sections of the Code to tab contracts because:

- with regard to section B.1(iv)d.ii for tab contracts, the early cancellation fee will not decrease by a fixed dollar amount each month; and
- with regard to section B.1(iv)d.iii, tab contracts do not have a set date on which the customer will no longer be subject to a cancellation fee.

Our Comments: The CRTC confirmed in [Telecom Regulatory Policy 2013-586](#) that cancellation fee provisions do allow for variable monthly reductions, either over and above the minimum amount, or based on a fixed percentage of the customer's bill. For tab contracts, we will look at whether the WSP:

- a) Set out the minimum amount by which the cancellation fee will reduce each month;
- b) Set out the percentage amount that will be used to determine the monthly cancellation fee reduction.

The CRTC also explained that when the cancellation fee reduction is not a fixed dollar amount, WSPs must include, in both the contract and the Critical Information Summary (CIS), an example of how the amount will be calculated. WSPs must include a sample calculation in order to ensure clarity and transparency for the customer.

Section B. Complaint Summary #11: Confirmed breach of Section B.1(iv)

Facts: A customer upgraded her wireless phone in-store in August 2014. Unsatisfied with an aspect of her wireless service, the customer asked the WSP to cancel. The WSP said that if it did, she would be charged an early cancellation fee. The customer complained that she was not informed about a potential early cancellation fee.

Investigation: We found that the customer's contract did not include information about the early cancellation fee, which is required by the Code. We asked the WSP to explain how it could charge the customer a cancellation fee when the customer did not know that a cancellation fee existed, nor did she know the terms of that cancellation fee. The WSP could not justify applying its cancellation fee in these circumstances.

Conclusion: We concluded that the WSP breached Section B.1(iv)d of the Code because the following key terms and conditions were missing from the customer's contract:

- i) the total early cancellation fee,
- ii) the amount by which the early cancellation fee will decrease each month, and
- iii) when the customer will no longer have to pay that early cancellation fee.

To resolve the complaint, the WSP agreed to waive the early cancellation fee. The customer accepted the WSP's offer.

Section B. Complaint Summary #12: Confirmed breach of Section B.1(iv)

Facts: A customer entered into a two-year, postpaid, fixed-term contract for two wireless phone lines. The customer experienced many billing issues after activating his service, so he decided to end his contract with the WSP. When the customer told the WSP that he wished to end his contract, the WSP told the customer that he must pay over \$200 for the remaining balance of his wireless devices. The customer disputed the amount because he did not understand why the WSP was charging him \$200.

Investigation: We reviewed the customer's contract and found that the WSP had not disclosed any information about their early cancellation fee. The WSP acknowledged that its contract did not include any of that information.

Conclusion: We confirmed that the WSP breached section B.1(iv)d of the Code because the WSP failed to tell the customer:

- 1) the WSP's early cancellation fee;
- 2) the amount by which the early cancellation fee would decrease each month; and
- 3) the date on which the customer would no longer encounter an early cancellation fee.

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

i. the retail price of the device, which is the lesser of the manufacturer's suggested retail price or the price set for the

device when it is purchased from the service provider without a contract;

ii. the amount the customer paid for the device; and

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

Other aspects of the contract

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

Section B. Complaint Summary #13: Confirmed breach of Section B.1(iv)

Facts: A customer agreed to a postpaid wireless service contract in May 2014. His plan included unlimited usage of voice, text and data to anywhere in Canada and in the United States. At the end of June 2014, however, the customer received text messages stating that his services may be suspended because the customer had used more minutes for phone calls (i.e. voice services) than his plan allowed. The customer was confused because he had agreed to an unlimited plan. The customer did not understand how he could have gone over any limits.

Investigation: We reviewed a copy of the customer's contract and related documents. We found that the contract did not explain that the WSP had a Fair Use Policy that applied to its "unlimited" plans. According to the Code, WSPs must provide customers with an explanation of all related documents, including any limits to the customer's service.

Conclusion: The WSP breached Section B.1(iv)f of the Code because the WSP failed to provide the customer with an explanation of all related documents. The WSP could not charge the customer a fee for exceeding his talking time because the WSP had not informed the customer that his unlimited plan was subject to limits outlined in the Fair Use Policy.

g. all one-time costs, itemized separately;

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

Section B. Complaint Summary #14: Confirmed breach of Section B.1(iv)

Facts: A customer agreed to two new phone contracts in August 2014 and received two subsidized devices. The customer used the new phones for a few days and realized that both phones did not work well. The customer tried to return both phones because she was still within her 15-day trial period. The WSP, however, would not allow the customer to return her devices because she had

exceeded limits of the voice service during the trial period. The customer complained to CCTS that she was not informed about any usage limits during her trial period.

Investigation: We analyzed the customer's contract and did not find information about the trial period and the limits attached to that trial period. The WSP explained that this information was outlined in the TOS. However, the WSP could not show us that the customer received the TOS at the point of sale.

Conclusion: We confirmed that the WSP breached section B.1(iv)h of the Code because the WSP could not demonstrate that it had provided the customer with the TOS for the second device. The customer could not have known about the usage limits during her trial period without having received the WSP's TOS.

To resolve the complaint:

- 1) the WSP agreed to let the customer out of her contract;
- 2) the WSP waived the early cancellation fee for the customer's device; and
- 3) the customer agreed to the WSP's resolution.

i. rates for [optional services](#) selected by the customer at the time the contract is agreed to;

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

Section B. Complaint Summary #15

Facts: A customer agreed to a postpaid, fixed term three-year wireless contract in August 2014. She had a billing complaint regarding her data service.

Investigation: We asked the WSP to provide us with a copy of the customer's contract and other related documents. We found the WSP's contract did not explain whether the customer's postpaid contract would be extended automatically on a month-to-month basis, and if so, on which date.

According to the Code, the customer must know this information when entering into an agreement with the WSP.

Conclusion: We confirmed that the WSP breached section B.1(iv)j of the Code because the WSP failed to explain all of the terms related to the customer's postpaid service contract.

k. whether upgrading the device or otherwise amending a contract term or condition would extend the customer's commitment period or change any other aspect of the contract;

l. if applicable, the amount of any security deposit and any applicable conditions, including the conditions for return of the deposit; and

Section B. Complaint Summary #16

Facts: A customer entered into an indeterminate contract for postpaid wireless services on May 29, 2015. The customer activated the service in store and paid a security deposit. Twenty-four hours

later, the WSP deactivated the customer's international roaming feature and explained that international roaming is unavailable to customers who have paid a security deposit and who have received service from the WSP for less than six months. The customer complained that when he activated his service, the WSP did not inform him about the conditions attached to the security deposit.

Investigation: We asked the WSP to demonstrate that the customer's contract and/or the WSP's TOS clearly explained the conditions attached to the customer's security deposit. The WSP could not do so.

Conclusion: We confirmed that the WSP breached Section B.1(iv) of the Code because it failed to tell the customer that it would not provide international roaming service to customers who have a security deposit and who have been subscribed to its service for less than six months. To resolve the complaint, the WSP offered to activate the international roaming feature on the account and this satisfied the customer.

m. where customers can find information about

- i. rates for optional and [pay-per-use services](#);
- ii. the device manufacturer's warranty;
- iii. tools to help customers manage their bills, including notifications on data usage and [roaming](#), data caps, and usage monitoring tools;
- iv. the service provider's service coverage area, including how to access complete [service coverage maps](#);
- v. how to contact the service provider's customer service department;
- vi. how to make a complaint about [wireless services](#), including contact information for the [Commissioner for Complaints for Telecommunications Services Inc. \(CCTS\)](#); and
- vii. the Wireless Code.

Section B. Complaint Summary #17: Confirmed breach of Section B.1(iv)

Facts: A customer brought his own phone into a WSP store and signed a contract for postpaid wireless services with that WSP. While he was in the store, the customer asked the store

representative what the coverage was in his area. The WSP representative assured the customer that he would have adequate coverage. The customer acted on the WSP representative's assurance, and entered into the contract with the WSP. When the customer tried to use his phone in his area, service reception was so poor that the customer was unable to use his phone. The customer complained to us that he was misled about this service coverage.

Investigation: The WSP explained to us that it refers customers to the WSP's website in order to find a coverage map detailing where the WSP provides service. We reviewed the documents that the WSP had provided to the customer. We found that the customer's contract did not include information about how to access the WSP's coverage maps.

Conclusion: We confirmed that the WSP breached section B.1(iv)m.iv of the Code because the WSP failed to include information in its contract about how the customer could find information on the WSP's coverage area.

B.2 Prepaid service contracts

(i) A service provider must inform the customer of all conditions and fees that apply to the prepaid balance.

Annotation: Informing prepaid customers about the conditions and fees

Context: Customers have submitted complaints to us explaining they were not made aware of all the conditions and fees that apply to the prepaid balance.

Issue: When we investigated these complaints, we found several cases where the WSP has not been able to show us that it did inform the customer about the conditions and fees that apply to the prepaid balance.

Our Comments: The Code does not require WSPs to provide prepaid customers a written agreement. However, if a customer complains about their prepaid service, we will ask the WSP to provide evidence demonstrating that it informed the customer about all conditions and fees that apply to their prepaid balance. WSPs should consider providing customers with documentation that explains all the conditions and fees applicable to the customer's prepaid service. In the event that a customer complains about their prepaid service contract, the WSP will have evidence available to review in response to the complaint.

Section B. Complaint Summary #18: Confirmed breach of Section B.2(i)

Facts: A customer activated prepaid wireless services with a WSP. Two days later, the customer transferred (or "ported out") his existing number to a new service provider. Because the customer had paid for wireless services in advance (because he had a prepaid contract), he asked the WSP to refund him for the days that he did not use the WSP's services. The WSP refused to do so, and explained that according to its TOS, customers who port out their services (i.e. transfer to another WSP) are not entitled to refunds. The customer was unsatisfied with the WSP's response, so he complained to us.

Investigation: We asked the WSP to demonstrate that it had informed the customer about the conditions associated with his prepaid balance. The WSP could not do so.

Conclusion: We confirmed that the WSP breached section B.2(i) of the Code because it had failed to explain the conditions associated with porting out services for prepaid contracts. The customer was entitled to a refund because he had no way of knowing that porting out his services would mean that

the WSP would not refund the money remaining on his account. To resolve the complaint, the WSP refunded the customer for the days that he did not use the service.

B.2 Prepaid service contracts

(ii) A service provider must explain to the customer how they can

- a. check their usage balance;
- b. contact the service provider's customer service department; and
- c. complain about the service, including how to contact the CCTS.

B.2 Prepaid service contracts

(iii) A service provider must provide this information separately if it does not appear on a prepaid card or in the written contract.

B.2 Prepaid service contracts

(iv) If a device is provided as part of a prepaid service contract, a service provider must also inform the customer of

- a. where applicable
 - i. the total early cancellation fee;
 - ii. the amount by which the early cancellation fee will decrease each month; and
 - iii. the date on which the customer will no longer be subject to the early cancellation fee;
- b. the retail price of the device, which is the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the service provider without a contract;

- c. the amount the customer paid for the device;
- d. the fee to unlock the device, if any; and
- e. where customers can find information about device upgrades and the manufacturer's warranty.

B.2 Prepaid service contracts

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

C. Critical Information Summary

C.1 Critical Information Summary

(i) A service provider must provide a Critical Information Summary to customers when they provide a permanent copy of the contract for postpaid services. This document summarizes the most important elements of the contract for the customer.

Section C. Complaint Summary #1: Confirmed breach of Section C.1(i)

Facts: A customer agreed to a new wireless service contract over the phone in December 2013. The customer complained to us that the WSP did not send him a copy of his Critical Information Summary (CIS).

Investigation: We asked the WSP to demonstrate that it had sent the customer a copy of the CIS. The WSP was able to demonstrate that it had sent the customer a copy of the contract, but the WSP did not demonstrate that it had included a CIS.

Conclusion: We confirmed that the WSP breached section C.1(i) of the Code because the WSP failed to send the CIS to the customer. To resolve the complaint, the WSP agreed to send the customer a CIS. The customer accepted this resolution.

C.1 Critical Information Summary

(ii) A service provider must ensure that the Critical Information Summary contains all of the following:

- a. a complete description of all [key contract terms and conditions](#) (see item B.1(iv)a-e listed above);

Section C. Complaint Summary #2: Confirmed breach of Section C.1(ii)

Facts: In April 2014, a customer agreed to a postpaid two-year contract in-store. The customer had a dispute regarding a discount he was supposed to get on his monthly service fee. Eventually the customer just chose to cancel his contract with the WSP because it wasn't going to provide him the discount.

Investigation: We asked the WSP for the customer's contract to review what he was supposed to be charged for his monthly fee. Upon reviewing the contract, we found the CIS was missing a number of key contract terms:

- a) the early cancellation fee;
- b) the amount by which the early cancellation fee would decrease; and
- c) the date that the customer would no longer be subject to the cancellation fee.

According to section C.1(ii) of the Code, WSPs must include all of this information in the customer's CIS. Without this information, the customer could not be expected to know what it would cost to cancel his contract.

Conclusion: We confirmed that the WSP breached section C.1(ii) of the Code because it failed to include information about the customer's early cancellation fee in his CIS. To resolve this complaint, the WSP offered to credit part of the customer's cancellation fee. The customer accepted the WSP's offer and this resolved the complaint.

- b. the total monthly charge, including rates for optional services selected by the customer at the time the contract is agreed to;
- c. information on all one-time charges and additional fees; and
- d. information on how to complain about the service provider's wireless services, including how to contact the service provider's customer service department and the CCTS.

C.1 Critical Information Summary

(iii) A service provider must ensure that the Critical Information Summary

a. accurately reflects the content of the contract;

Section C. Complaint Summary #3: Confirmed breach of Section C.1(iii)

Facts: In April 2014, a customer upgraded her hardware and agreed to a two-year wireless contract by phone. During this transaction, the customer told the WSP that she wanted to keep her unlimited data package. The WSP confirmed that she could. However, when the customer received her first bill, she noticed that the WSP had charged her for exceeding her data usage. The customer disputed the charges with her WSP because her package included unlimited data. The WSP told the customer that her upgraded device was incompatible with her previous unlimited data package, so the WSP had switched her from an unlimited plan to a 4GB data plan.

Investigation: We listened to a recorded call between the WSP and the customer when she had agreed to upgrade her hardware and sign the two-year contract. During that call, we heard the WSP confirm that the customer could keep her unlimited data package after upgrading her phone. This phone conversation qualified as an agreement between the WSP and the customer that the customer would have unlimited data.

Conclusion: We confirmed that the WSP breached section C.1(iii)a of the Code because the customer's CIS did not reflect the agreement made over the phone between WSP and the customer. The customer's CIS stated that she had a 4GB data plan, but this was not what the WSP and the customer had agreed to when the customer entered into the contract. The customer reasonably expected that she would have unlimited data service.

b. is either provided as a separate document from the written contract or include prominently on the first two pages of the written contract; and

Annotation: The CIS is not a substitute for the contract

Context: The Code requires that a wireless contract must contain certain information ([See Section B](#)). We've been finding that some WSPs are using the Critical Information Summary (CIS) as a substitute for the customer's contract. For example, the customer is provided with a three page document at the point of sale. The first two pages serve as the CIS and the third page serves as the contract. The WSPs contend that this three-page document is both the CIS and the contract.

Issue: The CIS is intended to be a *summary* of the key points of the customer's agreement. However, some WSPs are providing a document that purports to serve as both a CIS and contract. We do not believe that was the Code's intent.

Our Comments: While the CIS may be attached to the front of the contract, the CIS must not replace or substitute the work involved in drafting a more elaborate and fully explained contract. In other words, the CIS is intended to summarize a more elaborately explained contract, not to replace an elaborately explained contract.

c. is clear and concise (does not exceed two pages), uses plain language, and is in an easily readable font.

Section C. Complaint Summary #4: Confirmed breach of Section C.1(iii)

Facts: A customer entered into a contract for a wireless device in mid-December 2013. The contract included an unlimited data plan. However, the WSP informed the customer he had a 1GB data plan. The customer complained to us.

Investigation: We reviewed the CIS that the customer had received when he signed up for service. Under “key contract terms”, the CIS stated that the customer had 1GB of data. However, on the CIS, the customer also had unlimited data as an add-on. We were uncertain about whether the customer had agreed to 1GB of data or unlimited data. According to Section C.1(iii)c, the CIS is supposed be clear and easy to understand.

Conclusion: We confirmed that the WSP breached section C.1(iii)c of the Code because the CIS was not clear and easy to understand. In this case, the CIS contained contradicting information. The customer had no way of knowing whether his plan included unlimited data or 1GB of data because the CIS referred to both.

D. Changes to contracts and related documents

D.1 Changes to [key contract terms and conditions](#)

(i) A service provider must not change the key contract terms and conditions of a postpaid wireless contract during the commitment period without the customer’s informed and express consent.

Section D. Complaint Summary #1: Confirmed breach of Section D.1(i)

Facts: In June 2014, a customer called his WSP to change his voice and text plan. The customer clearly told the WSP that he wanted to keep his 6GB data plan. In response, the WSP confirmed with the customer that it would keep his data plan. However, when he reviewed his next bill, the customer noticed that the WSP had changed his plan without his consent and so the customer complained to us.

Investigation: When asked why it had changed the customer’s data plan, the WSP explained that the customer’s new voice and text plan was incompatible with his 6GB data plan, so the WSP mistakenly removed the 6GB plan from his account, but then added it back. Nonetheless, the WSP did not receive the customer’s informed and express consent before removing the 6GB data plan from his account.

Conclusion: We confirmed that the WSP breached section D.1(i) of the Code because it had changed the customer’s data plan during the commitment period without the customer’s informed and express consent. To resolve the dispute, the WSP put the customer back on his old plan and credited all the charges he incurred during the period when he was on the smaller data plan.

Section D. Complaint Summary #2: Confirmed breach of Section D.1(i)

Facts: A customer entered into a new contract for postpaid wireless services on April 16, 2015. When she received her monthly invoice, the customer noticed that her tab amount (the amount of device subsidy she received) had increased. She complained that the WSP had incorrectly calculated her tab balance.

Investigation: We reviewed a copy of the customer's contract and discovered that the WSP had changed the way it calculated the customer's tab balance, which effectively changed the customer's key terms and conditions.

Conclusion: We confirmed that the WSP breached section D.1(i) of the Code because the WSP failed to obtain the customer's informed and express consent before it changed a key contract term and condition in the customer's contract (i.e. how the WSP would calculate the customer's tab).

Annotation: What happens when changes to *Related Documents* impact *Key Contract Terms and Conditions*

Context: For post-paid customers, the Code requires a WSP to provide customers with 30 days' notice if it wants to change the "Related Documents", defined by the Code as "any documents referred to in the contract that affect the customer's use of the service provider's services". However, when a WSP seeks to change the customer's "key contract terms", it must obtain the customer's informed and express consent. We have seen cases in which a WSP purports to make a change to "related documents", but that change has the effect of changing the key contract terms. Thus, when a WSP changes its related documents, such as its privacy policy or Fair Use Policy, and that change alters the "key contract terms and conditions" of the customer's contract, the WSP has effectively changed the key contract terms. In such cases WSPs must adhere to the requirements for making changes to key contract terms.

Issue: Some WSPs have questioned whether or not they must obtain consent before changing their related documents when those changes will, in effect, alter the customer's key contract terms and conditions.

Our Comments: If changes to a related document effectively change the key terms and conditions, the WSP must follow the rules outlined in Section D.1 of the Code (i.e. obtain the customer's informed and express consent before making those changes).

Section D. Complaint Summary #3: Confirmed breach of Section D.1(i)

Facts: A customer entered into a postpaid indeterminate contract with a WSP in May 2014. The customer's plan featured unlimited US roaming—which allowed for calls, texts, and data usage—from anywhere in the US. In July 2014, the customer travelled to the US. That same month, the WSP changed the terms in its Fair Use Policy for unlimited US roaming by placing limits on the unlimited calling that was part of its US roaming services. The customer complained to us about the change.

Investigation: We determined that even though the WSP had not changed the customer's contract directly, the WSP's changes to its Fair Use Policy had indirectly changed the key contract terms of the customer's contract. The Fair Use Policy changes effectively altered the customer's contract. We determined the WSP failed to obtain the customer's consent to change the terms, which it was required to do (and in this case it didn't even notify the customer of the changes).

Conclusion: We confirmed that the WSP breached section D.1(i) of the Code because the WSP had effectively changed a key contract term without obtaining the customer's informed and express consent. A direct change to a related document may indirectly change a key contract term and condition; when this happens, WSPs must notify their customers about these changes and must receive the customer's express and informed consent before implementing those changes.

Section D. Complaint Summary #4: Confirmed breach of Section D.1(i)

Facts: A customer signed up for a 3 year wireless service contract in July 2013 and her plan included unlimited data. In May 2015, the WSP notified her that it would be removing the unlimited data from her plan and the change would come into effect on July 1, 2015.

Investigation: The WSP told us that it considered the customer's data service to be an "add-on" feature of her contract, and thus it was allowed to remove the unlimited data feature and put her on a 3GB data plan, since it provided her with at least 30 days' notice. The customer disputed this and explained that she considered the data to be a "key term" of her contract and the WSP had no right to change it without her consent. The Wireless Code became applicable to this customer's contract on June 3, 2015. After carefully reviewing the contract, account notes, and other materials, we determined that the customer had agreed to a wireless service plan which included unlimited data as a key contract term. The WSP offered the customer with a resolution which she found satisfactory, and this informally resolved the complaint.

Conclusion: When the WSP unilaterally removed the unlimited data from her plan, it did so without obtaining her consent. As such, we confirmed a breach of D1(i).

D.1 Changes to *key contract terms and conditions*

(ii) When a service provider notifies a customer that it intends to change a key contract term or condition during the commitment period, the customer may refuse the change.

D.1 Changes to *key contract terms and conditions*

(iii) As an exception, a service provider may only change a key contract term or condition during the commitment period without the customer's express consent if it clearly benefits the customer by either

(iv) reducing the rate for a single service; or

(v) increasing the customer's usage allowance for a single service.

D.2 Changes to *other contract terms and conditions or related documents*

(i) If, during the commitment period, a service provider wishes to change other contract terms and conditions or the related documents, it must provide the customer with at least 30 calendar days' notice before making such changes.

D.2 Changes to *other contract terms and conditions or related documents*

(ii) This notice must explain the change and when it will take effect.

E. Bill management

E.1 International roaming notification

(i) A service provider must notify the customer, at no charge, when their device is roaming in another country. The notification must clearly explain the associated rates for voice, text messaging, and data services.

Section E. Complaint Summary #1: Confirmed breach of Section E.1(i)

Facts: A customer signed up for postpaid wireless service in May 2014, and then travelled to the US later that month. The customer was subsequently charged roaming fees. The customer complained that he did not know he was incurring roaming fees in the US.

Investigation: We asked the WSP to demonstrate that it had notified the customer when his device was roaming in the US. In response, the WSP provided us with a copy of a generic welcome text message that it sends to all of its customers. We asked the WSP to demonstrate that this customer received the message, but the WSP was unable to do so. The Code requires WSPs to inform customers when their device is roaming in another country, as well as the associated fees for voice, text messaging, and data use in that country.

Conclusion: We confirmed that the WSP breached section E.1(i) of the Code because the WSP failed to demonstrate that it informed the customer when his device was roaming in the US. In addition, the WSP's "generic" message failed to inform the customer what his roaming fees would be for voice, text messaging, and data services.

Section E. Complaint Summary #2: Confirmed breach of Section E.1(i)

Facts: A customer activated two wireless phones on a three-year contract with his WSP in May 2011. The customer and his wife travelled to the US from December 26-28, 2013. When the customer received his January 2014 invoice, he noticed that the WSP had billed him almost \$4,500 in international data roaming charges. The customer denied that he and his wife had used enough data to justify a \$4,500 charge. Specifically, the customer said that he and his wife:

- kept the data roaming turned off for most of their trip, and only turned on their roaming a few times a day in order to retrieve email and check one or two news websites;
- understood how their phones used data, and how the US roaming rates were charged, so they were both very cautious with their data use while in the US; and
- received a text message from the WSP on December 30, 2013 – after they had returned from their trip – which notified them about the US roaming rates.

Investigation: We asked the WSP to explain the \$4,500 charge, but it could not demonstrate the accuracy of the amount that it had billed the customer. The WSP also could not demonstrate that it had sent a roaming notification to the customer at the relevant time (i.e. while the customer was still in the US and his device was actually roaming there, rather than after the customer had already returned home from his trip). According to Section E.1(i) of the Code, WSPs must notify customers when they are using their devices in another country. This provision is meant to prevent customers from unknowingly incurring extremely high roaming charges.

Conclusion: We confirmed that the WSP breached section E.1(i) of the Code because the WSP failed to demonstrate that it notified the customer that he would incur roaming charges while the customer's device was actually roaming. The notification that the WSP had sent after the customer returned from his trip was not helpful because the customer:

- had already incurred the roaming fees;
- was no longer roaming with his device; and
- could not have known, during his trip, the exact charges that he would incur.

E.1 International roaming notification

(ii) Customers may opt out of receiving these notifications at any time.

E.2 Cap on data roaming charges

(i) A service provider must suspend national and international data roaming charges once they reach \$100 within a single monthly billing cycle, unless the customer expressly consents to pay additional charges.

E.2 Cap on data roaming charges

(ii) A service provider must provide this cap at no charge.

Section E. Complaint Summary #3: Confirmed breach of Section E.1 and E.2

Facts: A customer signed a postpaid, fixed-term contract for wireless services on October 5, 2014. At the end of January 2015, the customer travelled to India. On her way, she made a stop in France where she received calls from her husband. The customer knew that she would pay for those calls. In February 2015, the customer received an invoice that reflected both voice and data roaming charges. The customer disputed the data roaming charges, claiming that:

- 1) she didn't use the data while she was abroad;
- 2) the WSP didn't notify her that she was roaming in another country; and
- 3) the WSP didn't notify her that she had gone over her data limit for the month.

The WSP explained that it had notified the customer when she was roaming, but did not provide the \$100 data cap because the customer's account was under a corporate plan. The WSP did not believe that the Code applied to customers with corporate plans.

Investigation: We reviewed the WSP's documents and determined that:

- the WSP had not notified the customer when she was roaming abroad; rather, it had sent a data usage alert to the customer when she had used 90% of her monthly data;
- even though the customer had a corporate plan, the account was under her own name, which meant that she was responsible for paying the bills and managing her account with the WSP; and
- the WSP demonstrated that the customer had actually used data when she was roaming.

In [Telecom Decision 2014-528](#), the CRTC clarified that the Code applies to “corporate individual plans and employee purchase plans” because in both cases, “the agreement is between a service provider and an individual who is responsible for some or all of the charges associated with the wireless contract.” So, the data cap applies to corporate plans.

Conclusion: We confirmed that the WSP breached section E.1 and E.2 of the Code because it failed to:

- 1) notify the customer when her device was roaming in another country;
- 2) notify the customer about what the roaming rates were;
- 3) apply a data cap on the customer’s account; and
- 4) notify the customer when she had exceeded the data cap amount.

E.3 Cap on data overage charges

(i) A service provider must suspend data overage charges once they reach \$50 within a single monthly billing cycle, unless the customer expressly consents to pay additional charges.

E.3 Cap on data overage charges

(ii) A service provider must provide this cap at no charge.

Section E. Complaint Summary #4: Confirmed breach of Section E.3(i)

Facts: A customer entered into a postpaid, three-year fixed term contract for a wireless phone on January 30, 2014. In April 2015, the customer received an invoice for over \$300 in data overage fees. The following month, the customer received another invoice for approximately \$69 in the same fees. The customer complained to us that she didn’t consent to incur additional data overage fees beyond the \$50 cap.

Investigation: We asked the WSP to demonstrate that it had capped the customer’s data overage limit once she had incurred \$50 in overage fees. The WSP was unable to do so. Section E.3(i) of the Code requires WSPs to suspend data overage charges once the customer has reached \$50 in data overage charges in a single monthly billing cycle, unless the customer expressly consents to pay additional charges.

Conclusion: We confirmed that the WSP breached section E.3(i) of the Code because the WSP failed to cap the customer’s data overage fees at \$50 in April and May 2015.

Section E. Complaint Summary #5: Confirmed breach of Section E.3(i)

Facts: A customer complained about incurring over \$1,000 in data overage charges in January and February 2014. She did not know why the WSP had not suspended her data overage charges once she had reached \$50 in data overage fees.

Investigation: We found that the customer had a contract which began in November 2012. However, the customer had called and changed her monthly price plan – which is a key contract term -- right after the Code had come into effect in early December 2013. As a result, the Code applied to the customer thereafter. We found that the customer was indeed entitled to a cap on her data charges once she had incurred \$50 in data fees. When we asked the WSP why it had not capped the customer’s charges, the WSP explained that it simply did not apply the data cap to the customer, which is why she was billed a significant amount of fees.

Conclusion: We confirmed that the WSP breached section E.3(i) of the Code because the WSP failed to cap the customer’s data fees once she reached \$50. According to the Code, the customer was entitled to this cap. To resolve the dispute, the WSP offered to credit the data overage charges to the customer, which the customer accepted.

Annotation: Data Caps - Who is the Customer? (Section E2 and E3)

Context: We have seen many complaints in which WSPs have been sending data cap notifications as a text message to the individual wireless devices. Some individuals or small businesses may have an account with multiple devices and/or shared services (e.g. a family “share” data plan). When the data limit is reached, the WSP is sending a notification to the device that is using the data at the time the threshold is reached. And, in some circumstances, the WSPs are interpreting the Code as permitting them to allow the \$50/\$100 overage on each device on the plan. So a customer who has multiple lines on an account will be charged more than the \$50 / \$100 spending cap because the WSP multiplies the cap by the number of lines on the account.

- **Example 1:** A parent has a shared family plan with 3GB of data usage per month. The parent’s children, who are minors, have their own wireless phones under the parent’s account. The family exceeds their 3GB of data for the month, and the WSP sends a text message notification to one of the child’s devices. The text message informs the child about the \$50 data cap, and asks the child for consent to continue incurring data charges over the \$50 cap. This is the only notification that the WSP provides to the family. The child agrees to continue incurring data overage charges (the child may or may not understand the consequences of providing this consent), and then the following month, the parent receives a bill for over \$500 in data overage fees. The parent – who is the account holder – is now responsible for paying the bill even though the parent did not agree to incur data overage charges above the \$50 data cap.
- **Example 2:** A small business owner and a few of his employees share a plan with 10GB of data per month. The business owner is the account holder, and he pays for all of the charges incurred on the account. The group exceeds their 10GB of data for the month, and the WSP sends a text message notification to one of the employee’s devices. The text message informs the employee about the \$50 data cap, and asks the employee for consent to continue incurring data charges over the \$50 cap. This is the only notification the WSP provides to the employer and his employees. The employee agrees to continue incurring data overage charges. The next month, the business owner receives an invoice for over \$1,000 in data overage charges and is now responsible for paying the bill even though the business owner did not agree to incur charges above the \$50 data cap.
- **Example 3:** One WSP applies the data cap at \$50 x the number of devices on the account and only suspends the wireless service when the aggregate amount has been reached. See example identified in Complaint Summary #7.

In the first two examples, the WSP expects the accountholders to pay the data overage charges even though neither account holder provided consent to incur data overage charges above the data cap. Instead, the end users (i.e. the individuals using the device, who are not necessarily the account holders) provided this consent to the WSP, quite possibly without the actual account holder's knowledge. In the third example, some WSPs are not suspending the customer's data overage charges once the customer reaches the \$50 / \$100 limit, which is not compliant with the Code.

Issue: Sections E.2 and E.3 of the Code require WSPs to implement data caps unless “the customer” expressly consents to pay additional charges. These sections of the Code have led to the question, “Who is the customer?”

Our Comments: The policy objective of this provision is to protect customers from “bill shock” – extremely high data and roaming charges that may have been incurred unknowingly.¹ The Code defines customers as “individuals or small businesses subscribing to retail mobile wireless services,” which means that the customer is the person who signed up for the service and will be legally responsible for paying the WSP's bill. When data caps are applied on the individual devices rather than at the account level, the accountholder (which is the person who is considered the customer) does not receive this protection. WSPs must ensure that the accountholder consents to the additional charges above the data cap and that the data cap is applied at the account level rather than on each device.

WSPs must:

- send notifications about international data roaming and data overage charges to the “customer”, i.e. the account holder;
- apply the data cap at the account level, rather than at the device level.

Section E. Complaint Summary #6: Confirmed breach of Section E.3(i)

Facts: A customer entered into a fixed term contract for two wireless phones on September 30, 2014. The two phones shared a data plan of 1GB per month. In January and February 2015, the WSP billed the customer over \$50 in data overage charges. The customer complained that the WSP did not notify him about the data overage charges.

Investigation: We asked the WSP to demonstrate that it had notified the customer about the data overage charges. In response, the WSP provided evidence that the WSP had sent a data cap notification to one of the phones on the customer's plan. However, that phone was operated by an end user, so the account holder did not receive the notification. The evidence showed that the end user consented to the additional data overage charges. Section E.3(i) of the Code requires WSPs to obtain express consent from the “customer” before the WSP continues to charge data overage fees above the data cap amount. The “customer” is the account holder with the WSP (i.e. the person responsible for paying bills to the WSP), which means that the account holder must provide consent to incur additional data overage charges. This also means that end users (those who use devices

¹ According to Telecom Regulatory Policy 2013-271, the CRTC intended this provision to prevent customers from experiencing bill shock, and to help customers manage their data charge expenses. The CRTC states: “113. The Commission recognizes that bill shock is a serious problem for all consumers. When a consumer receives a bill that is unexpectedly many times greater than their normal monthly bill, it can be a source of considerable concern. 114. The record of the proceeding indicates that data usage is less intuitive for consumers than voice and text usage. The complexity of data usage is illustrated by the variability in bandwidth requirements for a number of commonly accessed online services. The Commission considers that, at this time, the average consumer may not be able to fully understand the implications of their use of online services on the amount of data they are using and how these services relate to the data limits of their wireless service plan.”

under the account holder's plan) are not necessarily customers. So WSPs must send data cap notifications to the account holder rather than to a device which may be operated by an end user. **Conclusion:** We confirmed that the WSP breached section E.3(i) of the Code because the WSP failed to obtain the customer's express consent before charging the customer for additional data overage fees above the data cap amount. To resolve the complaint, the WSP credited the customer for the data overage charges.

Section E. Complaint Summary #7: Confirmed breach of Section E.3(i)

Facts: A customer had a family shared data plan and complained about the data overage charges on his December 2015 and January 2016 bills. The customer had a total of 9 phone lines on the account, all under his name. In December 2015, he was charged \$175 in data overage charges and in January 2016, he was charged an additional \$105.

Investigation: We asked the WSP to demonstrate that it suspended the customer's data overage charges once the customer reached \$50 in December and January. The WSP acknowledged that it did not suspend the customer's data overage charges at \$50. Rather, it explained that its policy is that it won't apply the data cap until the customer reached \$50 x the number of lines on the account. In other words, this customer had 9 phone lines on the account and the WSP would only suspend the customer's data overage charges once he hit a total of \$450 in data overage charges (\$50 x 9 lines).

Conclusion: We concluded that the WSP breached section E.3(i) of the Code as the WSP failed to demonstrate that it suspended the customer's data overage charges once he reached \$50 in December 2015 and in January 2016.

Section E. Complaint Summary #8: No breach of Section E.3(i)

Facts: A customer complained to us that he incurred over \$1,500 in wireless data overage charges from July – December 2015.

Investigation: The WSP demonstrated that the customer had used the data on his phone and as a result, incurred the charges. We also discovered that the customer called the WSP in July 2015 and asked that the WSP stop suspending his data and applying the data cap on his account. The WSP explained to the customer that by doing so, he would continue to incur data overage usage charges above the \$50 data cap. The customer consented to unblock the data and consequently incurred significant data overage charges.

Conclusion: As Section E3(i) explains, the WSP must suspend the customer's data overages unless the customer expressly consents to pay additional charges. Since the customer expressly consented to pay the additional charges, we determined there was no breach of the Code.

E.4 Unsolicited wireless services

(i) A service provider must not charge for any device or service that the customer has not expressly purchased.

Section E. Complaint Summary #9: Confirmed breach of Section E.4(i)

Facts: A customer had two wireless devices. In March 2014, the customer had issues with his phone and asked his WSP to replace the SIM (Subscriber Identity Module) card of one of his phones, and replace his second device, both under the manufacturer's warranty. In April 2014, the customer received his invoice and noticed that he had been billed approximately \$1,000 for two hardware

upgrades. The customer complained that he should not have been charged for the upgrades because he did not agree to receive those upgrades; he just wanted to repair his phones.

Investigation: We asked the WSP to explain why it had billed the customer for two hardware upgrades. The WSP could not demonstrate that the customer had expressly consented to any early hardware upgrades. Instead, the WSP explained that it had made a mistake.

Conclusion: We confirmed that the WSP breached section E.4(i) of the Code because it had charged the customer for an early hardware upgrade, which the customer had not consented to receiving. According to section E.4(i) of the Code, WSPs cannot charge customers for a device or service that the customer has not expressly purchased. In this case, the customer did not expressly agree to receive any early hardware upgrades. To resolve the dispute, the WSP offered to credit the hardware upgrade fees that it had charged the customer. The customer accepted this resolution.

E.5 Mobile premium services

(i) If a customer contacts their service provider to inquire about a charge for a mobile premium service, the service provider must explain to the customer how to unsubscribe from the mobile premium service.

F. Mobile device issues

F.1 Unlocking

(i) A service provider that provides a locked device to the customer as part of a contract must

- a. for subsidized devices: unlock the device, or give the customer the means to unlock the device, upon request, at the rate specified by the service provider, no later than 90 calendar days after the contract start date.
- b. for unsubsidized devices: unlock the device, or give the customer the means to unlock the device, at the rate specified by the service provider, upon request.

Section F. Complaint Summary #1: Confirmed breach of Section F.1(i)a

Facts: A customer signed up for wireless service with a subsidized device in June 2014. The customer became dissatisfied with his service and decided to switch to a new provider. The customer requested that the WSP provide the code to unlock his phone and the WSP refused, so the customer complained to us.

Investigation: We found that the customer's request to unlock his device was made after the 90 day period referred to in section F.1(i)a. The WSP didn't provide the unlock code to the customer. The customer asked for the unlock code again and the WSP took at least 16 additional days to provide it to the customer.

Conclusion: We confirmed that the WSP breached section F.1(i)a of the Code because the WSP failed to provide the code to unlock the customer's device upon the customer's request. To resolve this complaint, the WSP provided the customer with the code to unlock his device.

F.2 Warranties

(i) A service provider must inform the customer of the existence and duration of a manufacturer's warranty on a device before offering an extended warranty or insurance on that device.

F.3 Lost or stolen devices

(i) When a customer notifies their service provider that their device has been lost or stolen,

- a. the service provider must immediately **suspend** the customer's service at no charge; and
- b. the terms and conditions of the contract will continue to apply, including the customer's obligation to pay
 - i. all charges incurred before the service provider received notice that the device was lost or stolen; and
 - ii. either the minimum monthly charge (and taxes), if the customer continues with the contract, or the applicable early cancellation fee, if the customer cancels the contract.

F.3 Lost or stolen devices

(ii) If the customer notifies the service provider that their device has been located or replaced and requests that their service be restored, the service provider must restore the service at no charge.

F.4 Repairs

(i) A service provider must suspend wireless service charges during device repairs upon request if all of the following conditions are met:

- a. the device was provided as part of a contract with the service provider and is returned to the service provider for repair;
- b. the device is under the manufacturer's or the service provider's warranty;
- c. the service provider did not provide a free replacement device for use during the repair; and
- d. the customer would incur an early cancellation fee if they were to cancel their wireless services.

G. Contract cancellation and extension

G.1 Early cancellation fees – General

(i) If a customer cancels a contract before the end of the commitment period, the service provider must not charge the customer any fee or penalty other than the early cancellation fee. This fee must be calculated in the manner set out in sections 2. and 3. below.

Section G. Complaint Summary #1: Confirmed breach of Section G.1(i)

Facts: A customer complained about his service provider charging additional fees when he requested to cancel his wireless service.

Investigation: In December 2015, the WSP cancelled the customer's wireless service upon the customer's request. The service provider charged the customer for 6 days of service after the cancellation. The service provider explained that its policy is that once a customer has paid the monthly service fees, which are billed in advance, it does not provide a pro-rated refund to the customer for the period between the cancellation and the end of the monthly bill cycle, when he didn't have service. During our investigation, we reminded the WSP that when a customer cancels a contract before the end of the commitment period, the Code prohibits the WSP from charging the customer any fee or penalty other than the early cancellation fee. In this complaint, the WSP

cancelled the customer's account on the day he requested, however, it charged him a fee other than the early cancellation fee. The WSP refunded the pro-rated amount and the complaint was resolved. **Conclusion:** We confirmed a breach of Section G1(i) in this complaint because when a customer cancels the contract before the end of the commitment period, the service provider must not charge the customer any fee or penalty other than the early cancellation fee.²

Annotation: How Early Cancellation Fees apply to Telus T-UP and Rogers Next programs

Context: These WSPs offer early device trade-in and upgrade programs for customers with two-year, postpaid wireless service contracts. After 12 consecutive monthly payments, these WSPs offer customers the opportunity to trade in or upgrade their devices. If a customer chooses to trade in or upgrade their device, the customer must sign a new two-year postpaid contract associated with the upgraded device. The customer is not required to pay an early cancellation fee, but must pay a non-refundable early device upgrade fee in order to enter into the program.

Issue: Some WSPs questioned how the Code's early cancellation fee rules apply to early device upgrade programs. In particular, these WSPs want to know whether or not their early device upgrade programs comply with the Code, since the fees associated with early device upgrade programs are non-refundable. These WSPs have expressed concern that their non-refundable early device upgrade fees [may be mistaken as early cancellation fees](#) and breach the Code's early cancellation rules.

Our Comments: In [Telecom Decision 2015-212](#), the CRTC confirmed that these early device upgrade programs are consistent with the Code's contract cancellation and extension rules. By paying an early device upgrade fee, the customer is paying for services as part of the early device upgrade program and specifically, "the option to upgrade a wireless device in the middle of a two-year postpaid contract without having to pay an [early cancellation fee]." Additionally, the CRTC noted that the early device upgrade program fee operates independently from the early cancellation fee mechanism and the customer's device subsidy, and is an optional program; customers are informed of the terms and conditions when they enroll, so the program fees do not violate the Code's early cancellation rules.

G.1 Early cancellation fees – General

(ii) When calculating the time remaining in a contract to determine the early cancellation fee, a month that has partially elapsed at the time of cancellation is considered a month completely elapsed.

Annotation: Early Cancellation fees as of June 3, 2015

Context: As of June 3, 2015 the Wireless Code applied in its entirety to all individual consumers and small business customers, regardless of when they entered into their contracts.

Issue 1: WSPs and consumers often ask us how the Code applies to customers who still have contracts with unexpired three-year commitments, and who have not upgraded their device or otherwise amended their contracts (which would trigger the Code's application). In particular, they want to know:

1) Do these types of contracts automatically "expire" on June 3, 2015?

² Our decision in this complaint is also in line with [Telecom Decision CRTC 2016-171](#).

2) If the contracts do not expire, but customers wish to cancel their contracts, will these customers incur an early cancellation fee?

Our Comments to Issue 1: Contracts with unexpired three-year commitments which have not been upgraded or otherwise amended do not expire on June 3, 2015. Neither the Code's language nor [Telecom Regulatory Policy 2013-271](#) suggests that these contracts expire. Rather, [Telecom Regulatory Policy 2013-271](#) confirms that the Code applies to these contracts as of June 3, 2015. So, if a customer with an unexpired three-year contract wishes to cancel their contract after June 3, 2015, then the Code's early cancellation fee rules will apply.

G.2 Early cancellation fees – Subsidized device

(i) When a subsidized device is provided as part of the contract,

- a. for [fixed-term contracts](#): The early cancellation fee must not exceed the value of the [device subsidy](#). The early cancellation fee must be reduced by an equal amount each month, for the lesser of 24 months or the total number of months in the contract term, such that the early cancellation fee is reduced to \$0 by the end of the period.
- b. for [indeterminate contracts](#): The early cancellation fee must not exceed the value of the device subsidy. The early cancellation fee must be reduced by an equal amount each month, over a maximum of 24 months, such that the early cancellation fee is reduced to \$0 by the end of the period.

Annotation: How to calculate *Early Cancellation Fees* - Contracts with a Device Subsidy **(For contracts without a device subsidy, please see here)**

The formula to calculate the ECF depends on when a contract was entered into.

Contracts Entered Into Before June 3, 2013

The Code requires that ECFs be reduced to zero within 24 months. Thus for contracts entered into before June 3, 2013, 24 months have passed so the ECF is zero.

Contract Entered Into Between June 3 and December 2, 2013 with a Device Subsidy

For fixed-term contracts entered into between June 3 and December 2, 2013 (the day before the Code came into force), the Code also applies, and likewise requires that the ECF for these contracts be reduced to zero within 24 months of being entered into, and prohibits the ECF from exceeding the "device subsidy."

If there is an outstanding device subsidy, the service provider is entitled to recover it, but it must be calculated according to the requirements of the Code.

This is our approach to determining the amount of any ECF:

1. Determine the amount of the customer's device subsidy at the time the contract was entered into and divide it by 24 (the number of months permitted under the Code for the re-payment of the subsidy). This gives you the amount by which the subsidy is required to have been reduced each month³;
2. Assume notionally that the customer has been re-paying the device subsidy based on the 24-month schedule, effective the date the contract was entered into; and
3. Subtract the amount of the notional repayment from the amount of the device subsidy. If there is an outstanding balance, the service provider is entitled to recover that amount as an ECF.

EXAMPLE: ECF calculation formula for contracts with device subsidy

- 1) Customer's contract start date = November 5, 2013
- 2) Customer's contract end date = November 4, 2016
- 3) Device subsidy at sign-up = \$240
- 4) Customer cancels service on June 10, 2015

The customer's early cancellation fee would be:

$\$240$ (device subsidy) \div 24 (max. number of months as per The Code) = $\$10$ /month decrease of device subsidy 20 months of contract have expired, thus customer has notionally repaid $\$200$
 $\$240$ subsidy MINUS subsidy deemed to have been repaid ($\$200$) = $\$40$ ECF

Should CCTS receive customer complaints about this issue, we will expect service providers to demonstrate the amount of the device subsidy (as it may not be disclosed in the contract), if they wish to charge an ECF to a customer who cancels their contract before the expiry of the term commitment. CCTS will consider any other calculation of ECF in these circumstances to be a breach of the Wireless Code.

Section G. Complaint Summary #2: Confirmed breach of Section G.2(i)

Facts: A small business entered into a postpaid 36 month contract for wireless services on December 27, 2013. In July 2015, the small business ported its wireless services to another service provider. The WSP charged the small business an early cancellation fee that had reduced the device subsidy by an equal amount each month for 36 months. The WSP explained it did not believe the Code applied to the small business. The small business disputed the ECF calculation and complained to us that the WSP incorrectly calculated the termination fee.

Investigation: We investigated the complaint and determined that the Code applied to this small business. When we looked at the WSP's ECF calculation, we found that the WSP had charged the small business an early cancellation fee that was reduced by an equal amount over 36 months and not 24 months as required by the Code.

³ Paragraph 369 of TRP 2013-271 states "The Commission finds that where an obligation relates to a specific contractual relationship between a WSP and a customer, the Wireless Code should apply if the contract is entered into, amended, renewed, or extended on or after **2 December 2013**. In addition, in order to ensure that all consumers are covered by the Wireless Code within a reasonable time frame, the Wireless Code should apply to all contracts, no matter when they were entered into, by no later than **3 June 2015**."

Conclusion: We confirmed that the WSP had breached section G.2(i)a of the Code because the WSP failed to charge the customer an early cancellation fee according to the formula set out in the Code. Section G.2(i)a requires WSPs to reduce their early cancellation fees to zero by the end of 24 months. To resolve the dispute, the WSP offered a credit to the customer's account (over \$3,800), which the customer accepted.

G.2 Early cancellation fees – Subsidized device

(ii) When calculating the early cancellation fee,

- a.** the value of the device subsidy is the retail price of the device minus the amount that the customer paid for the device when the contract was agreed to; and
- b.** the retail price of the device is the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the service provider without a contract.

Annotation: How cancellation fee reductions apply to tab contracts

Context: The cancellation fee for some tab contracts is reduced based on the amount of the customer's monthly service charges, which means that the cancellation fee could reduce by varying amounts each month. Although the formula for calculating the reduction would be constant and predictable, some WSPs expressed concern that this type of reduction might nonetheless breach the Code because the Code requires that cancellation fees be reduced "by an equal amount" each month.

Issue: How do the Code's cancellation fee provisions apply to tab contracts?

Our Comments: The CRTC confirmed in [Telecom Regulatory Policy 2013-586](#) that cancellation fee reductions can, in any given month, exceed the minimum monthly amount set out in the Code, as long as the Code's requirements are otherwise met. The CRTC also confirmed that using a constant, equal percentage to calculate fee reductions is sufficiently transparent and predictable for customers.

G.3 Early cancellation fees – No subsidized device

(i) When a subsidized device is not provided as part of the contract,

- a.** for fixed-term contracts: The early cancellation fee must not exceed the lesser of \$50 or ten percent of the minimum monthly charge for the remaining months of the contract, up to a maximum of 24 months. The early cancellation fee must be reduced to \$0 by the end of the period.

- b. for indeterminate contracts: A service provider must not charge an early cancellation fee.

Annotation: How to calculate Early Cancellation Fees – Contracts without a Device Subsidy

Contract Entered Into Between June 3 and December 2, 2013 without a Device Subsidy

For customers who entered into three year contracts and did not receive a device subsidy, the Code requires that the ECF be reduced to zero within 24 months. If the contract is cancelled before 24 months have passed, the ECF is limited to the lesser of \$50 or “10% of the minimum monthly charge for the remaining months of the contract.”

The calculation in these cases is as follows:

EXAMPLE: ECF calculation formula – contracts without device subsidy

- 1) Customer’s contract start date = November 5, 2013
- 2) Customers contract end date = November 4, 2016
- 3) Minimum monthly charge = \$65
- 4) Customer cancels service on June 10, 2015

The customer’s early cancellation fee would be:

Contract should be reduced to zero by November 4, 2015.

This means there are 4 months remaining between the customer’s contract cancellation date and the date that the ECF needs to reach zero.

So 10% of \$65 (minimum monthly charge) = \$6.50 MULTIPLIED by 4 (number of months left) = \$26.00

Annotation: Other fees are prohibited when cancelling a contract

Context: The Code prohibits any other fees to be charged when terminating a contract.

Issue: We have seen some cases in which “other fees” were charged to a customer when the customer asked to cancel their contract.

Our Comments: The Code defines an [early cancellation fee](#) as a “fee that may be applied when a customer’s service is cancelled before the end of the commitment period.” The CRTC explains that while WSPs are entitled to recover for the amount of their device subsidy, any early cancellation fees should be limited to the remaining balance of the device subsidy. According to [Telecom Regulatory Policy 2013-271](#):

226. ***For both fixed term and indeterminate contracts, when a subsidized device is provided ... the early cancellation fee should not exceed the value of the device subsidy ... The Commission further considers that the early cancellation fee should be limited to the remaining balance of the device, which must decrease by an equal amount each month over a maximum of 24 months.***

234. ***If a customer cancels a contract before the end of the commitment period, a WSP must not charge the customer any fee or penalty other than the early cancellation fee, which must be calculated in the manner set out below...***

262. ***The Commission notes that before the proceeding, many WSPs required 30 days’ notice before implementing service cancellation, including at the end of a contract term. The record of this proceeding shows that this practice has generally ended due to the many complaints it***

generated. **The Commission agrees with this development to minimize barriers to switching WSPs.**

266. **In light of the above, the Commission determines that consumers may cancel their wireless services at any time by notifying their WSP, and that cancellation must take effect on the date on which the WSP receives this notice. The Commission determines that this requirement applies only to postpaid services.**

[Bolding by CCTS for emphasis.]

Considering the CRTC's decision, we will consider that other fees charged to the customer because the customer transfers or cancels their service are not permitted.

Section G. Complaint Summary #3: Confirmed breach of Section G.3(i)

Facts: In August 2013, a customer agreed to two wireless service contracts. She paid for both devices in full at the time she entered into the contracts. In January 2014, the customer received a text message from the WSP which explained that she was being placed on an indeterminate contract in order for the WSP to comply with the Code. In February 2014, the customer called her WSP to cancel her service. During their call, the WSP told the customer that she would be charged a \$50 "account closing fee" for each device, and she would be charged an additional "30-day fee." She disputed the account closing fee. She explicitly agreed to pay the "30-day fee" because she would keep her service for an additional month. In response to the customer's refusal to pay the account closing fee, the WSP cancelled the customer's service the following day without her consent.

Investigation: We looked at the customer's most recent contract prior to the dispute. We determined that the Code applied to the customer as of January 2014. We also found that the WSP had indeed charged the customer an "account closing fee." Charging the customer an "account closing fee" is not permitted under the Code.

Conclusion: We confirmed that the WSP had breached section G.3(i)b of the Code because it improperly charged the customer a fee not permitted by the Code.

G.4 Trial period

(i) When a customer agrees to a contract through which they are subject to an early cancellation fee, a service provider must offer the customer a trial period lasting a minimum of 15 calendar days to enable the customer to determine whether the service meets their needs.

G.4 Trial period

(ii) The trial period must start on the date on which service begins.

G.4 Trial period

(iii) A service provider may establish reasonable limits on the use of voice, text, and data services for the trial period.

Section G. Complaint Summary #4: Confirmed breach of Section G.4(iii)

Facts: A customer entered into a postpaid indeterminate tab contract for wireless services on April 21, 2015. Two days later, the customer reported to her WSP that she did not have wireless service at her workplace. The WSP's technical support team could not resolve her issue, so the customer tried to cancel her contract and return her device since she was within the WSP's "buyer's remorse" period (15 days from the purchase date). The WSP rejected the customer's request and explained that she had exceeded the 30-minute voice limit outlined in the WSP's return policy. So, the customer ported her number to another service provider. In response, the WSP charged the customer her remaining tab balance. The customer disputed the charge and explained that when she agreed to the contract, the salesperson ensured her that if she was unsatisfied with her phone or wireless services, she would be able to return her phone anytime within 15 days of purchase. The customer argued that the salesperson waived the 30-minute voice limit which was included in the agreement's return policy. The customer provided proof that the salesperson had signed that particular clause to assure the customer that she would be able to return the phone within 15 days even if she talked for more than 30 minutes during the customer's trial period.

Investigation: We asked the WSP to provide a copy of the customer's contract. We noticed that the customer's contract had indeed been amended to waive the 30-minute voice limit during her trial period. Section G.4(iii) of the Code allows WSPs to establish reasonable limits for voice, text, and data service use during the trial period. Since the WSP's salesperson had waived the customer's 30-minute limit, the WSP was required to honour the customer's request to return the device under the buyer's remorse policy within the 15 days.

Conclusion: We confirmed that the WSP had breached section G.4(iii) of the Code because the WSP failed to honour the terms of the customer's trial period. Specifically, the WSP had agreed to waive the 30-minute voice limit, so it should have honoured that waiver. To resolve this dispute, the WSP credited the customer's tab balance.

G.4 Trial period

(iv) During the trial period, customers may cancel their contract without penalty or early cancellation fee if they have

- a. used less than the permitted usage; and
- b. returned any device provided by the service provider, in near-new condition, including original packaging.

Section G. Complaint Summary #5: Confirmed breach of Section G.4(iv)

Facts: A customer activated a wireless device in September 2014. The customer tried to cancel and return his device on September 11, 2014, during his trial period. The WSP did not allow the customer

to return his device and charged the customer an outstanding tab balance for his device. The customer was unsatisfied with the WSP's response, so he complained to us.

Investigation: We asked the WSP to explain why it refused to allow the customer to cancel and return his device within his trial period. The WSP could not demonstrate that the customer had either used more than his permitted usage, or had tried to return his device without the original packaging.

Conclusion: We confirmed that the WSP had breached section G.4(iv)a-b of the Code because the WSP did not allow the customer to cancel his contract and return his phone without penalty. The customer had followed the WSP's terms - he used less than his permitted usage during his trial period, and he returned his device in near-new condition, including the original packaging. To resolve the dispute, the WSP agreed to take back the customer's device and refund the customer the amount that he had paid for the device when he entered into the contract.

Section G. Complaint Summary #6: No breach of Section G.4(iv)

Facts: In June 2015, a customer agreed to 2 post-paid wireless service agreements with device subsidies. After about a week, the customer decided that he wasn't satisfied with the wireless service and devices, and attempted to return the devices within the 15 day trial period.

Investigation: The WSP refused to accept the return of the devices and explained to us that the customer had surpassed the permitted usage limits. The WSP provided us a copy of the customer's contract which stated he could return his device within 15 days of purchase as long as he had used less than 30 minutes of talk time. By the time the customer attempted to return both devices, he had already used 70 minutes of talk time on one device and 150 minutes on the other. Moreover, the customer's signed contract clearly disclosed the terms of the WSP's trial period, so the customer was not entitled to the benefits of this Code provision.

Conclusion: We found that the WSP had reasonably performed its obligations and that it had not breached Section G4(iv) of the Code.

G.4 Trial period

(v) If a customer self-identifies as a person with a disability, the service provider must extend the trial period to at least 30 calendar days, and the permitted usage amounts must be at least double the service provider's general usage amounts for the trial period.

G.5 Cancellation date

(i) Customers may cancel their contract at any time by notifying their service provider.

G.5 Cancellation date

(ii) Cancellation takes effect on the day that the service provider receives notice of the cancellation.

Annotation: WSPs must provide pro-rated refunds for cancelled services

Context: Many post-paid customers have complained about some WSPs not cancelling their service upon request.

Issue: CCTS has seen two different scenarios when customers call to cancel their service:

1. The WSP explains to the customer that it will cancel the service on that day but since the customer has already paid in advance for the entire month of service, it will not refund the customer for the days in which (s)he didn't use the service. So the WSP encourages the customer to stay until the end of the month and some customers do end up doing this, to avoid paying for wireless services with two providers; or
2. The WSP cancels the service on the day that the customer requests to cancel. But then the customer receives his/her bill and realizes that even though the WSP cancelled service, it continued to charge for services for the rest of the bill cycle. The customer complains to us after (s)he realizes that the WSP will not refund the pro-rated fees for the days in which (s)he didn't have service.

Our comments: The CRTC clarified in [Telecom Decision 2016-171](#) that WSPs are not only required to cancel the wireless services on the day they receive a cancellation request from the customer, but they must not continue to charge the customer for services (s)he does not receive. In addition, it clarifies that the WSPs are required to provide pro-rated refunds for the days when the customer didn't use the services.⁴

Section G. Complaint Summary #7: Confirmed breach of Section G.5(ii)

Facts: In August 2014 a customer upgraded her device and agreed to a two-year contract. After a few frustrating experiences with her WSP, in November 2014 she decided to switch to another provider. The customer called her WSP and asked to cancel her services. However, the WSP continued to send the customer invoices for services which she refused to pay. The customer then complained to us.

Investigation: When we reviewed the WSP's records on the customer's account, we confirmed that the WSP had not cancelled the customer's services at her request, and the WSP actually continued to send the customer invoices for those services. We told the WSP that it should have cancelled the customer's account on the day she asked the WSP to cancel her services. The WSP agreed that it had made a mistake.

Conclusion: We confirmed that the WSP had breached section G.5(ii) of the Code because it failed to cancel the customer's services on the day she asked the WSP to cancel her services. To resolve the dispute, the WSP removed all of the charges that it had applied following the day the customer asked to cancel. The WSP also offered the customer a credit, which she accepted.

G.6 Contract extension

(i) To ensure that customers are not disconnected at the end of the commitment period, a service provider may extend a contract, with the same rates, terms and conditions, on a month-to-month basis.

⁴ [TELUS submitted a Part 1 application](#) to the CRTC regarding [Telecom Decision 2016-171](#). To date, the Commission has not issued a response or decision regarding TELUS' submission.

G.6 Contract extension

(ii) A service provider must notify a customer on a fixed-term contract at least 90 calendar days before the end of their initial commitment period whether or not the contract will be automatically extended.

G.6 Contract extension

(iii) At the time that a service provider offers a customer a device upgrade, the service provider must clearly explain to the customer any changes to the existing contract terms caused by accepting the new device, including any extension to the commitment period.

H. Security deposits

H.1 Requesting, reviewing, and returning a security deposit

(i) If a service provider requires a security deposit from a customer, the service provider must

- a. inform the customer of the reasons for requesting the deposit;
- b. keep a record of those reasons for as long as the service provider holds the deposit;
- c. specify in the written contract the conditions for the return of the security deposit;

Section H. Complaint Summary #1: Confirmed breach of Section H.1(i)

Facts: A customer entered into a two-year wireless service contract in August 2014, and was required to provide a \$400 security deposit at the point of sale. At that time, the WSP explained to the customer that he would receive his deposit back after six months as long as he regularly paid his account balance. The customer followed the WSP's instructions and paid his account balance. However, after six months, the WSP did not return the customer's deposit. The customer asked the WSP about his deposit, and it explained that the customer had to fulfill other conditions before it would return the security deposit. The customer complained to us about the additional conditions.

Investigation: We asked the WSP to provide us with a copy of the customer's contract. After reviewing the contract, we found that the WSP had not outlined all of the terms and conditions which it now said related to the security deposit at the time the customer had entered into the contract. During our investigation, the WSP refunded the security deposit to the customer, which resolved the customer's complaint.

Conclusion: We confirmed that the WSP had breached section H.1(i)c of the Code because the WSP failed to specify in the customer's written contract all of the conditions attached to the security deposit.

- d. review the continued appropriateness of retaining the deposit at least once per year; and
- e. return the security deposit with interest to the customer, retaining only any amount owed by the customer, no more than 30 calendar days after
 - i. the contract is terminated by either the customer or the service provider; or
 - ii. the service provider determines that the conditions for the return of the security deposit have been met.

H.1 Requesting, reviewing, and returning a security deposit

(ii) A service provider must calculate interest on security deposits using the Bank of Canada's overnight rate in effect at the time, plus at minimum one percent, on the basis of the actual number of days in a year, accruing on a monthly basis.

H.1 Requesting, reviewing, and returning a security deposit

(iii) A service provider may apply the security deposit toward any amount past due and may require customers to replenish the security deposit after such use in order to continue providing service.

I. Disconnection

I.1 When disconnection may occur

(i) If the grounds for disconnecting a customer are failure to pay, a service provider can disconnect a customer's postpaid service only if the customer

- a. fails to pay an account that is past due, provided it exceeds \$50 or has been past due for more than two months;
- b. fails to provide or maintain a reasonable security deposit or alternative when requested to do so by the service provider; or
- c. agreed to a deferred payment plan with the service provider and fails to comply with the terms of this plan.

I.1 When disconnection may occur

(ii) Except with customer consent or in other exceptional circumstances, disconnection may occur only on weekdays between 8 a.m. and 9 p.m. or on weekends between 9 a.m. and 5 p.m., unless the weekday or weekend day precedes a statutory holiday, in which case disconnection may not occur after noon. The applicable time is that of the customer's declared place of residence.

I.1 When disconnection may occur

(iii) If a service provider disconnects a customer in error, the service provider must restore service to the customer by the end of the next business day and must not impose reconnection charges.

I.2 Notice before disconnection

(i) If a service provider intends to disconnect a customer, it must notify the customer before disconnection, except in cases where

- a. action is necessary to protect the network from harm; or

- b. the service provider has a reasonable suspicion that fraud is occurring or likely to occur.

Annotation: Disconnection provision and Customers with spending or credit limits

Context: Some customers have spending or credit limits attached to their wireless services account.

Issue: Some WSPs have questioned whether or not WSPs must notify these types of customers prior to interrupting their service.

Our Comments: In [Telecom Decision 2015-376](#), the CRTC clarified that customers with spending limits are exempt from the Code's disconnection provisions because these customers already know that a limit exists on their account, and they understand that in order to continue receiving service, they must not exceed their limits. As such, these informed customers do not need additional notice prior to a service suspension:

28. Suspensions due to a customer reaching a pre-established usage or credit limit are distinct from suspensions due to non-payment. In a case of suspension related to a pre-established usage or credit limit, the agreement entered into between a WSP and a customer ensures that a customer is aware of the conditions that could lead to service being temporarily suspended...

[Bolding by CCTS for emphasis.]

These customers who reach their spending or credit limit are not subject to the disconnection rules in Section I of the Code.

However, in the event that the customer does **not** know that their account has a spending limit, we believe the customer must be provided with Code-compliant notice prior to the disconnection.

Note that the exemption of these customers from the disconnection provisions applies only if the reason for the disconnection is related to the spending limit. If the WSP disconnects a customer with a spending limit for any other reason, the notice provisions of the Code will apply.

I.2 Notice before disconnection

(ii) In all other cases, a service provider must give reasonable notice to the customer at least 14 calendar days before disconnection. The notice must contain the following information:

- a. the reason for disconnection and amount owing (if any);
- b. the scheduled disconnection date;
- c. the availability of deferred payment plans;
- d. the amount of the reconnection charge (if any); and

- e. contact information for a service provider representative with whom the disconnection can be discussed.

Annotation: Providing Code-compliant notice prior to Disconnection

Context: Some WSPs take multiple steps prior to disconnecting a customer’s wireless services for nonpayment. After numerous attempts to collect an outstanding balance, these WSPs initially suspend a customer’s wireless service and then proceed with disconnection. Once the customer’s service is suspended, though, the customer is not able to use the wireless services. Some WSPs interpreted the Code provision as a requirement to provide advance notice only before the final disconnection of the customer’s service. These WSPs took the position that since the Code defines [suspension](#) and [disconnection](#) separately, they were only required to provide Code-compliant notice prior to a “disconnection” of wireless services and not a “suspension” of services.

Issue: Many customers complained to us to us that their wireless service was cut off without notice. CCTS was not convinced that the WSPs’ interpretation was in line with the Code’s intention.

Our Comments: In our opinion, the Code-compliant notice obligation applied to any interruption of service for non-payment, no matter how the service provider characterized it.

The CRTC clarified in [Telecom Decision 2015-376](#) that WSPs must notify customers a) in all cases before a disconnection for nonpayment; b) before the first suspension in the disconnection cycle.

Annotation: Customers who fail to fulfill payment arrangements and Disconnection notice

Context: Some WSPs interpret [Telecom Decision 2015-376](#) as an exemption from providing Code-compliant notice to all customers who have failed to fulfill promise-to-pay-agreements.

Issue: The Commission clarifies that WSPs must provide Code-compliant notice to customers prior to the first suspension in a disconnection cycle.⁵ Sometimes, WSPs and customers make a “payment arrangement” or “promise-to-pay-agreement” in order to avoid service disconnection. A promise-to-pay-agreement is when the customer and the WSP come to an agreement by which the customer will pay the outstanding balance, for example, in a few installments and by a specific date. The Commission clarified that when a customer agrees to a promise-to-pay-agreement that constitutes sufficient notice to the customer that his /her service may be cut off again in the future.⁶

Our Comments: WSPs are not exempted from providing Code-compliant notice prior to the first suspension in a disconnection cycle. Let’s say a WSP first suspended the customer’s wireless service on February 1st. That same day, the customer calls the WSP and requests that the service be reconnected. The WSP agrees but only if the customer enters into a promise-to-pay arrangement. So the customer agrees to a promise to pay arrangement, and the WSP informs the customer that if (s)he doesn’t pay by February 15, the service will be suspended again. The customer doesn’t make all the payments required by February 15 and the WSP suspends the customer’s service that day. In this example, we expect the WSP to demonstrate that it had provided Code-compliant notice prior to the first suspension, which happened on February 1.

In other words, the Decision doesn’t exempt WSPs from providing Code-compliant notice to customers who fail to fulfill a promise-to-pay arrangement. Rather, WSPs must provide Code-

⁵ WSPs do not need to provide Code-compliant notice to pre-paid service customers or customers on credit-limited spending programs who are clearly made aware of their spending limits.

⁶ Telecom Decision CRTC 2015-376, Paragraph 30.

compliant prior to the first suspension in the disconnection cycle. And if, after that, the customer agrees to and fails to fulfill a promise to pay arrangement, then the WSP is not required to provide additional notice as long as the customer is made aware of the terms leading to further service suspensions.

Section I. Complaint Summary #1: Confirmed breach of Section I.2(ii)

Facts: A customer entered into a wireless postpaid, indeterminate contract which renewed on the 15th day of each month. The customer activated his service on July 10, 2014. On November 26, 2014, the WSP suspended the customer's service because he had exceeded the \$297 credit limit on his account. The customer complained to us that the WSP had not told him about any spending limits on his account.

Investigation: We discovered that the WSP had not informed the customer about any spending limits on his account. Because the customer did not know about any limits on his account, the customer had no way of anticipating or preventing the WSP's service suspension.

Conclusion: We confirmed that the WSP breached section I.2(ii) of the Code because it did not inform the customer about the \$297 credit limit on his account. The customer should not have been suspended for going over a limit that he did not know existed.

Section I. Complaint Summary #2: Confirmed breach of Section I.2(ii)

Facts: A customer entered into a postpaid, fixed term (24-month) contract for wireless phone and data stick services on August 19, 2014. The WSP disconnected her wireless services on July 16, 2015. The customer disputed the disconnection with her WSP and argued that she had paid her invoices up until February 2015 via pre-authorized payments. In February 2015, the pre-authorized payment process failed after numerous attempts to process the payment. The customer also alleged that the WSP had advised her not to make any payments in June 2015.

Investigation: The WSP was not able to demonstrate it had advised the customer not to make any payments in June 2015. Rather, we found that the WSP had contacted the customer a few times in May, June, and July 2015 in order to remind her to pay her bill. In June 2015, the customer made a partial payment, but did not make any additional payments after that time, which explained why the WSP disconnected her service on July 16, 2015. We determined that the service provider was allowed to suspend the customer's service because she had an outstanding balance that exceeded \$50, and she had been overdue for more than two months. However, the WSP was unable to demonstrate that it had properly notified the customer prior to disconnecting her service.

Conclusion: We confirmed that the WSP had breached section I.2(ii) of the Code because the WSP failed to notify the customer at least 14 calendar days before disconnecting her service, and providing the following information in that notice:

- a) the reason for disconnection and amount owing;
- b) the scheduled disconnection date;
- c) the availability of deferred payment plans;
- d) the amount of the reconnection fee (if any); and
- e) contact information if the customer wished to speak with a service representative about the disconnection;

Section I. Complaint Summary #3: Confirmed breach of Section I.2(ii)

Facts: A customer entered into a postpaid indeterminate contract for wireless services. On July 23, 2015, the WSP disconnected the customer's services because she did not pay an outstanding balance on her account. The customer disputed the disconnection and complained to us.

Investigation: We found that the WSP had provided notice to the customer regarding a) the reason for disconnection and amount owing; c) the availability of deferred payment plans; d) the amount of the reconnection fee; e) contact information of a service representative. However, the WSP was not able to demonstrate it had properly informed the customer of the scheduled disconnection date of July 23, 2015.

Conclusion: We confirmed that the WSP had breached section I.2(ii) of the Code because it failed to notify her of the scheduled disconnection date, which it is required to do under I.2ii(b).

I.2 Notice before disconnection

(iii) A service provider must provide a second notice to advise a customer that their service will be disconnected at least 24 hours before disconnection, except if

- a. repeated attempts to contact the customer have failed;
- b. action is necessary to protect the network from harm; or
- c. the service provider has a reasonable suspicion that fraud is occurring or likely to occur.

Section I. Complaint Summary #4: Confirmed breach of Section I.2(ii-iii)

Facts: A customer entered into an indeterminate contract for wireless services on March 6, 2015. On April 28, 2015, the WSP disconnected his services. The customer did not know why the WSP had disconnected his services, so he complained to us.

Investigation: The WSP explained that it disconnected the customer's service for nonpayment. We discovered that the WSP did not notify the customer before disconnecting his services.

Conclusion: We confirmed that the WSP had breached section I.2(ii - iii) of the Code because it failed to provide notice to advise the customer that the service would be disconnected at least 14 days and 24 hours before disconnection.

I.3 Disputing disconnection charges

(i) A service provider must not disconnect a customer if

- a. the customer notifies the service provider on or before the scheduled disconnection date listed in the notice that they dispute the reasons for the disconnection;
- b. the customer pays the amount due for any undisputed portion of the charges; and
- c. the service provider does not have reasonable grounds to believe that the purpose of the dispute is to evade or delay payment.

Section I. Complaint Summary #5: Confirmed breach of Section I.3(i)

Facts: A customer disputed the billing of airtime overage fees and the disconnection of her services. The customer disputed the airtime overage fees because she said those minutes were included in her plan. When the customer contacted her WSP, it adjusted some of the disputed charges. The customer continued to pay the undisputed portion of her bills, but the WSP ultimately suspended her services for non-payment in July 2014 without notifying the customer and without fully resolving the billing dispute. The customer complained to us.

Investigation: We reviewed the customer’s invoices and found that her account had been past due from October 2013 to July 2014, and most of the bills included charges that she disputed. We found that the customer routinely called her WSP to dispute various charges and she paid the undisputed portion of her bills.

Conclusion: We confirmed that the WSP had breached section I.3 of the Code because it had no basis to disconnect the customer’s service since:

- 1) the customer had disputed the reasons for the WSP’s service disconnection;
- 2) the customer had paid the amount due for the undisputed portion of her charges; and
- 3) the service provider had no reasonable grounds to believe that the purpose of the customer’s dispute was to evade or delay payment.

J. Expiration of prepaid cards

J.1 General

(i) A service provider must keep open the accounts of customers with prepaid cards for at least seven calendar days following the expiration of an activated card, at no charge, to give the customer more time to “top up” their account and retain their prepaid balance.

Annotation: Time limits on prepaid cards are still appropriate

Context: When creating the Code, the CRTC decided that WSPs may continue to keep time limits on prepaid calling cards (i.e. expiry dates on prepaid wireless service cards are not prohibited).

Issue: Some consumer groups have questioned the seven-day time limit on prepaid cards. Specifically, these groups have argued that the time limits on prepaid cards are inappropriate because:

- 1) WSPs do not inform customers about time limits; rather, WSPs focus on informing the customer about usage limits;
- 2) Customers risk losing any remaining usage balances when the time limit expires; and
- 3) Prepaid cards function similarly to gift cards or prepaid purchase cards, so prepaid cards should be treated consistently with how provincial legislation treats these other, similar cards.

Our Comments: In [Telecom Decision 2014-101](#), the CRTC confirmed Section J of the Code. In particular, the CRTC referred to [Telecom Regulatory Policy 2013-271](#) and explained that time limits on prepaid cards:

- 1) would not impose a significant burden on WSPs (to inform customers about the time limits associated with prepaid cards);
- 2) would provide customers with greater clarity regarding prepaid service billing and policies;
- 3) would balance consumer interests with current market realities; and
- 4) would provide more flexibility for those who use prepaid cards frequently.

In that decision, the CRTC also explained:

349. *The Commission considers that the evidence on the record of the proceeding does not support consumers' request for WSPs to carry over their prepaid unused minutes indefinitely. In this regard, the Commission notes that **wireless services, including prepaid card services, provide access to the network for a specific period of time with specific usage limitations that are distinct for each aspect of the service.** The Commission considers that **imposing a requirement that services be provided beyond the limitations set out in the service agreement would not be appropriate.***

[Bolding by CCTS for emphasis.]

In [Telecom Decision 2014-101](#), the CRTC confirmed that these reasons are still valid, and that the seven-day time limit on prepaid cards is still appropriate since customers know that they are paying for wireless services for a specific time period with specific usage limits.

The Wireless Code – Definitions

Canadian Radio-television and Telecommunications Commission (CRTC)	A public organization that regulates and supervises the Canadian broadcasting and telecommunications systems to ensure that Canadians have access to a world-class communication system.
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<p>Commissioner for Complaints for Telecommunications Services Inc. (CCTS)</p>	<p>An independent organization dedicated to working with customers and their telecommunications service providers to resolve complaints relating to their telecommunications services. The CCTS (i) responds to and resolves complaints from customers in order to ensure that they are treated in a way that is consistent with the Wireless Code; and (ii) collects data on complaints related to the Wireless Code. This data will be published on the CCTS’s website at www.ccts-cprst.ca.</p>
<p>Commitment period</p>	<p>The term or duration of the contract. For fixed-term contracts, the commitment period is the entire duration of the contract. For indeterminate contracts, the commitment period is the current month or billing cycle.</p>
<p>Contract and written contract</p>	<p>A contract is a binding agreement between a service provider and a customer to provide wireless services.</p> <p>A written contract is a written instrument that expresses the content of the contract.</p>
<p>Customers</p>	<p>Individuals or small businesses subscribing to retail mobile wireless services.</p>
<p>Device subsidy</p>	<p>The difference between (i) the lesser of the manufacturer’s suggested retail price of a device or the price set for the device when it is purchased from the service provider without a contract; and (ii) the amount a customer paid for the device when they agreed to the contract.</p>
<p>Disconnection</p>	<p>The termination of wireless services by a service provider.</p>

Early cancellation fee	A fee that may be applied when a customer's service is cancelled before the end of the commitment period.
Fair (or acceptable) use policy	A policy that explains what is considered to be unacceptable use of the service provider's wireless services and the consequences of unacceptable use (e.g. using the service to engage in an activity that constitutes a criminal offence). Violations of a fair or acceptable use policy may result in (i) disconnection or service suspension; or (ii) a modification of the services available to the customer.
Fixed-term contracts	Contracts that have a set duration (usually one, two, or three years).
Indeterminate contracts	Indeterminate contracts do not have a set duration. They automatically renew each month.
Key contract terms and conditions	The elements of the contract that the service provider cannot change without the customer's express consent. Key contract terms and conditions are listed in section B.1(iv) a-e of the Code.
Locked device	A wireless device that is programmed to work only with the network of the service provider that sold the device to the customer.
Minimum monthly charge	The minimum amount that customers will have to pay for wireless services each month if they do not use optional services or incur any additional fees or overage charges. This charge may be subject to taxes, as set out in the contract.
Mobile premium services (or premium text messaging services)	Text message services that customers may subscribe to for an additional charge, usually on a per-message basis.

Optional services	Services that a customer can choose to add to their wireless plan, usually for an additional charge, such as caller ID or call forwarding.
Overage charge	A charge for exceeding an established limit on the use of a service.
Pay-per-use services	Services that a customer can choose to add to their wireless plan, such as international roaming, which are typically measured and charged on a usage basis.
Permanent copy	An inalterable copy (e.g. a paper copy or PDF version) of the contract, as of the date of signing or the date of the latest amendment.
Postpaid services	Wireless services that are paid for after use, usually upon receipt of a monthly bill.
Prepaid services	Wireless services that are purchased in advance of use, such as the use of prepaid cards and pay-as-you-go services.
Privacy policy	A policy that explains how service providers will handle customers' personal information.
Related documents	Any documents referred to in the contract that affect the customer's use of the service provider's services. Related documents include, but are not limited to, privacy policies and fair use policies.
Roaming	The use of wireless services outside the service provider's network area.
Service coverage maps	An illustration of the extent of the service provider's network, showing where coverage is available.
Service provider	A provider of retail mobile wireless voice and data services.

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