

Telecom Notice of Consultation CRTC 2018-246

Report regarding the retail sales practices of Canada's large telecommunications carriers

CRTC File No: 1011-NOC2018-0246

Intervention of Mary Cavanagh, Kristianne Anor, Sean Grassie, and Tara Hristov

(Cavanagh *et al*)

By submitting this intervention, we are indicating our intent to become parties to this proceeding.

We also request an opportunity to appear at the public hearing.

30 August 2018

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BIOGRAPHIES AND DISCLOSURES

Dr Mary Cavanagh is an Associate Professor at the School of Information Studies, Faculty of Arts at the University of Ottawa and is the member of the Center for Law, Technology and Society. Dr Cavanagh, along with Professor Marina Pavlovic (Common Law Section, Faculty of Law), has been a co-principal of a two-year research project “Mapping the Front End: Legal Information Seeking Practices,” which was funded by the Law Foundation of Ontario Responsive Grants Program. Dr Cavanagh studies action-nets, practice theory and organizational learning, information organizations, information relationships and interactions. Her current work focuses on the information practices and information and access needs of Canadian telecom consumers.

Kristianne Anor is a second-year JD student at the at the Common Law Section, Faculty of Law, University of Ottawa. Kristianne holds a BA in Anthropology from York University and is a Research Assistant with Professor Cavanagh’s and Professor Pavlovic’s research project.

Sean Grassie is a fourth-year student in the joint JD/MA program at the Common Law Section, Faculty of Law, University of Ottawa and Norman Paterson School of International Affairs, Carleton University. Sean holds a BA in Communications from Carleton University and is a Research Assistant with Professor Cavanagh’s and Professor Pavlovic’s project.

Tara Hristov is a second-year JD student at the Common Law Section, Faculty of Law, University of Ottawa. Tara holds a joint BA in Political Science and Communications from the University of Ottawa and is a Research Assistant with Professor Cavanagh’s and Professor Pavlovic’s research project.

The findings from our Law Foundation of Ontario funded project “Mapping the Front End: Legal Information Seeking Practices” form the basis of this intervention. However, this submission has been prepared independently from the project and without any additional funding, for the sole purpose of contributing to the CRTC Telecom Notice of Consultation CRTC 2018-246.

In June 2018, Professor Pavlovic (project co-lead) was appointed by the Ministers of Innovation, Science and Economic Development Canada and Canadian Heritage to the Broadcasting and Telecommunications Legislative Review Panel. While Professor Pavlovic has been engaged in the underlying research on the project, she is not contributing to the team’s participation in the CRTC Telecom Notice of Consultation CRTC 2018-246.

The views expressed in this submission are of the authors and not of the Law Foundation of Ontario or the University of Ottawa.

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INTRODUCTION

1. In accordance with the procedures set out in the Telecom Notice of Consultation CRTC 2018-246: Report regarding the retail sales practices of Canada’s large telecommunications carriers, CRTC File No: 1011-NOC2018-0246, we are pleased to offer our intervention in this proceeding. We are a research team from the University of Ottawa, working on information needs of Canadian telecom consumers. By submitting this intervention, we are indicating our intent to become parties to this proceeding. We also request an opportunity to appear at the Commission’s planned public hearing that will begin on 22 October 2018 in Gatineau, Quebec.
2. Our intervention is based on the findings from our two-year research project and, in particular, the findings of two rounds of mystery shopper research study which gathered what information mobile telecommunications consumers are given at the point of sale in a retail outlet. With the primary focus on consumer information, our study fits squarely within this Notice of Consultation and the Order in Council PC 2018-0685, in particular the OIC’s definition of the misleading sales practices as “incomplete, unclear or misleading information regarding service terms and conditions or selling [...] telecommunications services that are unsuitable for [consumers].”¹

ABOUT THE PROJECT

3. Our project “Mapping the Front End: Legal Information Seeking Practices” is a two-year project (January 2016–August 2018) funded by the Law Foundation of Ontario Responsive Grants Program. Using consumer rights in mobile telecommunications services as a case-study, the project studied consumers’ everyday information seeking practices with an aim of connecting information users with information sources by developing consumer information literacy, awareness, and empowerment. Currently there are no frameworks or associated resource toolkits to assist people in identifying, accessing, and taking advantage of information resources and services to empower themselves to perceive “injurious experiences” (that is, experiences in which their rights are being infringed) and take action to resolve legal problems in a diffuse and often dizzying information landscape. This project addresses this knowledge gap by mapping everyday information seeking practices of mobile telecommunications consumers and by creating a toolkit

¹ Order in Council PC 2018-0685 at p 4.

for core information mediators, which are directly engaged in mediation of information seeking and access services. The project findings will be a first step in developing an evidence-based information needs, access, and uses framework and an effective community-situated ‘first response’ infrastructure assisting in strengthening people’s capacity for self-guided information seeking, access, and evaluation of a complex array of information sources.

4. For the purpose of our project, as well as for framing our intervention, we identified three key phases of consumer transaction: pre-purchase information seeking, purchase (transaction) itself, and post-purchase problem solving. Our project focused primarily on mapping consumer information seeking practices during the pre-purchase stages. Our data collection included two rounds of mystery shopper research study (2016 and 2018), several consumer focus groups, and follow-up interviews.
5. The project team participated in the CRTC Telecom Notice of Consultation CRTC 2016-293: Review of the Wireless Code, presenting the first round of the mystery shopper research. This present intervention provides a broader focus on information seeking than the team’s submission in the Review of the *Wireless Code*.
6. We believe that the results of our project could assist the Commission in improving consumer literacy, identifying various stakeholders which are already providing direct-to-consumer support (and education), and in building a mediated consumer support network of information mediators.

FRAMEWORK

7. Our work is premised on the reality that there are three primary groups of actors in Canada’s telecom marketplace: the service providers and their agents; consumers, both as individual and as a collective; and the CRTC, as the telecommunications industry regulator.
8. We firmly articulate the following marketplace assumptions: that each group of actors has particular rights and responsibilities that together realize the vision for a dynamic and flexible telecom marketplace serving all Canadians. The CRTC is the Government of Canada’s designated body anchoring these relationships of rights and responsibilities on behalf of all Canadians. These assumptions guide our research program

9. Within this regulatory context, we follow the red thread of information in this landscape. Our unit of analysis, which is also the basis for this proceeding, is each individual “information interaction”—that is, each single communication and information exchange occurring between an individual consumer and their service provider with regards to a wireless plan, to wireless services bound by that plan, or to the contract itself, either pre-purchase, the purchase interaction itself, or any post-purchase interactions. Aggregated over time and by frequency, these information interactions become information practices.
10. Within these interactions we have identified what we see as critical information elements. These include, but are not limited to, all communications, documentation, or sources of information related to pricing, offers, limitations, clarifications, etc., presented verbally and including any printed or electronic documentation that was also referenced in these interactions.
11. The informational quality and effectiveness of these service provider-consumer interactions also connects to our project’s related research focus—consumer-centric access to justice. Our comments in this submission, however, are limited to our work on the service provider-consumer exchange as information interaction. The details of our Mystery Shopper Research Study (description, methodology, research instruments, and result tables) are included in Appendix 1.
12. There is an established body of research in the information sciences addressing human information needs and uses, information seeking in context, information credibility and trust, information evaluation and assessment, whose theories and frameworks are the basis of our analysis and interpretation. These theories and frameworks are *subject neutral*—applying equally to any and all types of simple or complex information interactions in any individual context. Moreover, they are also *platform neutral*—the same key understandings apply whether the interaction takes place online in real time or asynchronously, whether it occurs face-to-face, or by voice and telephone. Based on this body of research, a set of “information values” can be derived that we assert should characterize these service provider-consumer interactions to reduce the frequency and severity of “incomplete, unclear, or misleading information regarding service terms and conditions”² that are the subject of this proceeding.

² Telecom and Broadcasting Notice of Consultation CRTC 2018-246: Report regarding the retail sales practices of Canada’s large telecommunications carriers at para 4.

13. The following information values are reasonable as the minimum standard for service provider-consumer interactions within this CRTC-anchored marketplace. The information provided by service providers to consumers in ANY interaction (in person, telephone, webchat, or by third-parties) over a fixed period of at least 7 calendar days (i.e., pre-purchase inquiries, purchase interactions, post-purchase inquiries or problem solving) should be: **reliable; consistent; accurate; context appropriate; credible; trustworthy; authoritative; and accessible**. When these values are converted into practice, as is reasonably possible and as appropriate to both parties in these information interactions, we assert that both parties and the marketplace as a whole, will be better served. Consumers will have the information they need to make informed purchase decisions and the service providers will have met their responsibility to provide the quality of information that consumers need to inform themselves and their purchase decisions. Public trust and overall credibility in the Government of Canada’s vision of this marketplace is then incrementally strengthened.
14. With every interaction that is informationally “incomplete, unclear, or misleading,”³ as has been reported in various ways leading up to this proceeding, public trust in this marketplace is eroded rendering it unreliable and unequitable, although clearly still profitable and functional by some measure.

RESEARCH FINDINGS

15. Our mystery shopping research study conducted in two rounds (2016 and 2018) was designed to begin to informationally unpack this service provider-consumer interaction. The limitations to our preliminary work are noted in the Appendix 1. Notwithstanding, our latest results add to public evidence and highlight several important themes that respond to this Notice of Consultation. Our results respond broadly to **Section 2 Q1-Q2 on misleading or aggressive sales practices and Section 5 Q13 regarding fair treatment of consumers**.
- a. A systemic gap in the quantity and quality of information provided in response to consumer needs was observed across all retail sites. We observed widespread practice of service

³ Telecom and Broadcasting Notice of Consultation CRTC 2018-246: Report regarding the retail sales practices of Canada’s large telecommunications carriers at para 4.

providers' *Never* (1/5) or *Rarely* (2/5) providing either any information or enough information in many areas identified in the Mystery Shopper Checklist.

- b. Our researchers observed a consistent reluctance and/or explicit denial of requests for written information or documentation that a customer could take away with them, either in print, via a website or sales brochure. Where documentation was provided it was often incomplete and difficult to contextualize
- c. Using the same scenarios across six (6) service providers in each of their two (2) locations, there were very few data points or clusters of information elements that could become information packets a consumer could re-use in further information gathering.
- d. Service providers' customer service staff's level of knowledge was uneven both within and across providers and scenarios.
- e. Our researchers observed very little use of follow-up questions or probes for information clarification to put the customer's needs into a context. This context would allow the service representative to have a complete picture of the size, type, frequency, scope of service plan and contract terms that would address all of the consumer's needs.
- f. Many of the information interactions appear rushed even when they were the only customers in the kiosk. Our researchers noted there was not always enough time to ask all of their questions, and often not enough time to ask follow-up or clarifying questions.
- g. No single provider stood out as an outlier in terms of the quality of their information interaction.
- h. In many of the Checklist question areas, customer service staff did not provide any additional information beyond absolute minimal responses to the customer's immediate questions. Some of these question areas (e.g., trial period, security deposit, early cancellation fees, disconnection or contract extension) might be regarded as information that would only be relevant at the time of signing a contract. However, we assert that in the process of information gathering and assessment, the consumer needs more information beyond price, and more fully contextualized information to make an informed decision.
- i. One location, one service provider scored exceptionally highly in several areas of the checklist.

j. We have no way to validate the accuracy or truth of the information provided to our researchers. We can report that the same service providers but in different locations did not usually provide the same information in response to exactly the same scenario and with the same performance by our researchers. While there may be many logical reasons for individual discrepancies, this pervasive level of information inconsistency across all service providers and 36 retail outlets (including 2016 and 2018 data) is somewhat alarming. It is not at all our belief based on these limited data that consumers are reliably being treated fairly in all sales interactions.

16. We thank the Commission for considering our submission and would be pleased to provide further information on identifying stakeholders and specific steps in raising consumer awareness and literacy based on our project's further data collection and findings. For your information, and based on our work to date, we are working on several related projects to develop information tools and templates for consumers to use. These include the interactive purchase checklist, an interactive problem-solving tool, and a tool to inform consumers of their contract terms in plain language. There are reciprocal responsibilities implicating services providers with respect to the quality and reliability of these information interactions.

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