

Opening remarks by Mary Cavanagh, Marina Pavlović, Lora Hamilton, and Sean Grassie in Telecom Notice of Consultation CRTC 2016-293: Review of the

Wireless Code

6 February 2017

1. [MARINA PAVLOVIĆ] Good afternoon, Mr Chairman, Commissioners, Madam Secretary. My name is Marina Pavlović. To my left is Dr Mary Cavanagh; to her left is Lora Hamilton, and to my right is Sean Grassie. We would like to acknowledge that we are on unceded Algonquin territory. Thank you for the opportunity to present and bring research perspective to the Wireless Code Review.
2. Mary and I are professors at the University of Ottawa, at the School of Information Studies and Faculty of Law, respectively. Lora and Sean are JD students at the Faculty of Law. Our intervention is based on our eighteen-month research project that explores consumers' everyday information seeking practices using consumer rights in mobile telecommunications as a case-study. The main goal of the project is to map everyday information seeking practices of mobile telecom consumers and create a toolkit for core information intermediaries, which are directly engaged in information seeking and access services. As a seed project, it is the first step in developing evidence-based information needs, access, and uses frameworks, *and* creating an appropriate responsive infrastructure to build and strengthen consumers' legal capacity and consumer education.
3. In our project, we have identified three key stages of a consumer transaction: pre-purchase information seeking, purchase of the wireless services, and post-purchase problem solving. Each of these stages raises distinct (but inter-related) information needs. Given the scope of our project, perhaps it is not surprising that some of our data collection revolved around the *Wireless Code*. However, we would like to

emphasize that our research was neither driven by nor exclusively focused on the *Wireless Code*.

4. We would like to briefly outline the 1) data collection we have completed so far, 2) some of our findings and their implications, and 3) finish with some recommendations for the Wireless Code Review.

DATA COLLECTION

5. We have completed four main data collection exercises.
 - (1) A comprehensive scan and assessment of publicly available resources that explain consumers' rights in mobile telecommunications.
 - (2) A survey of organizations that provide information, referrals, or advocacy around the broad topic of consumer rights in mobile telecommunications. In February and March, we will conduct follow-up interviews with selected organizations.
 - (3) Mystery shopper research study that explored information flow from service providers to consumers at the pre-purchase stage. The background and details on this study are in our intervention at paragraphs 3 to 23.
 - (4) To date, two focus groups in Ottawa, with two more scheduled later this month.

I will turn to Sean and Lora to provide a background on the Mystery Shopper project and its findings.

MAIN RESEARCH FINDINGS

6. [SEAN GRASSIE] We selected six telecommunications providers using a number of factors and using two different scenarios for a total of twelve visits (one visit per scenario per provider) between July and September 2016 in the Ottawa-Gatineau area. Two realistic scenarios presented a typical interaction between a consumer and telecommunications service provider regarding a new plan in a retail outlet. Scenario one involved only a service plan, while scenario two involved both the subsidized device and a service plan. The scenarios replicated common in-person consumer interactions regarding wireless service contracts, such as inquiries about different cell phone plans, price points, data limits, and information about devices. Depending on the nature of the interaction, the scenarios also included problem-solving queries at the point of sale, for example posing a hypothetical to the employee and asking for information to resolve the issue, understand next steps, etc. In our intervention, we have identified several primary findings of the Mystery shopper research study. We would like to briefly review them again here.
7. Our first finding is that during our twelve mystery shopper visits to the wireless service providers, not one provider mentioned the *Wireless Code*. From this finding, we make the obvious but still critical observation: *Consumers cannot use information they do not know exists*.
8. Our second finding is that generally, contracts were unavailable to consumers prior to purchase. In our study, contract terms and critical information summary were relevant information sources applicable in all twelve visits. None of the providers discussed a critical information summary. Only one out of twelve providers briefly showed the shoppers a copy of the contract; however they did not allow them to look at it closely or keep a copy. Our work illustrates a distinct informational gatekeeping role currently being played by front line wireless service providers' customer service representatives. Again, it bears repeating: *You cannot use information you do not know exists*.

9. **[LORA HAMILTON]** Third, none of the providers mentioned or discussed trial periods also applicable in all twelve mystery shopper visits. Unless consumers have otherwise become aware of the trial period, the first time they are likely to assess whether the service meets their needs is when the first bill arrives. By then, it is too late to cancel a subsidized device plan without incurring penalties. *You cannot use information you do not know exists.*
10. Our fourth finding relates to security deposits and credit checks. These applied to all twelve visits. One out of twelve providers mentioned credit checks. Not a single provider discussed security deposits to determine whether or not they would apply to these shoppers. In our view, security deposit and credit check policies disproportionately affect low-income individuals and students without extensive credit records. And, again, *you cannot use information you do not exist.*
11. Our fifth finding relates to unlocking of devices: Unlocking of devices would have applied to 6 visits (in the scenario with a subsidized device). Four out of six providers did not discuss unlocking at all, while only one provider fully explained how to unlock the phone and how much it would cost. In our view, one cannot have the ‘means’ to unlock their device if they do not fully understand the unlocking process, and the benefits of an unlocked device. You can not use information you do not know exists.
12. **[MARINA PAVLOVIĆ]** Next, we highlight several findings from the focus groups. First, in our Mystery shopper studies, we found that data caps were not a significant issue. Ten out of twelve providers explained data caps with varying degree of detail. However, while data caps were not an issue in Mystery shopper studies, they presented a significant issue for our first two focus group participants. These scenarios illustrate an essential information asymmetry: whereas in pre-purchase contexts, data caps are readily discussed, in post-purchase contexts, once consumers have incorporated their wireless phone usage into their everyday lives, when data usage information becomes critically important, the information they receive about these

caps may be only a brief text message informing them that the consumer has already or is about to exceed their data caps. We ask ourselves how and when these consumers might most effectively benefit from more detailed information about their individual data usage patterns and the consequences on their mobile data plans.

13. Our second highlight again concerns consumer awareness of the Code. Not a single individual among twenty-two participants in our first two focus groups, indicated any awareness of the Wireless Code nor of any specific rights described therein. *You cannot use information you do not know exists.*

14. Mr. Chairman, we acknowledge and echo your comment from the hearing on Renewals of Terrestrial BDUs, where you asserted that information provisioning is a QUOTE “shared responsibility ecosystem.” END-QUOTE. The wireless marketplace can be a diffuse and disjointed landscape for everyday consumers. Building on the organizational review and survey we have begun an exercise identifying and mapping the network relations across this ecosystem; with a related goal to assess interest, financial capacity, expertise, and suitability to provide consumers with appropriate information.

RECOMMENDATIONS

15. We have repeatedly said: *You cannot use information you do not know exists.* Next we suggest a few practical measures to broaden wireless consumers’ access and opportunities to learn more about the Code, about their rights and obligations in this marketplace.

16. It is clear many consumers are largely unaware of the Wireless Code. As we continue to informally poll participants in our research and teaching communities, we get the same results: it is the rare and exceptional individual who indicates any awareness of the Wireless Code, never mind the possibility of using CCTS to resolve unresolved complaints with a provider.

17. We are not, however, suggesting any change to the scope of the required information disclosure, or making Critical Information Summary or contracts longer. Anecdotal evidence and rigorous behavioural research have demonstrated that people do not read contracts and that increasing disclosure requirements does not increase information comprehension or retention, nor does it change consumer behavior. The key issue, from our perspective, is how to get the information to consumers when they need it most. The Commission's checklist—*Do you know your rights as a wireless consumer?*—is a starting point. However, since consumers' information needs are situational and contextual, the checklist must be more robust and inclusive. It should include additional issues, brief descriptions and explanations, and problem solving pathways. An interactive checklist, either on a website or through an app (or both), could serve many consumer needs. The BC Civil Resolution Tribunal's [Solution Explorer](#), which focuses on consumer issues under the jurisdiction of a small-claims court, or [LegalSwipe](#), and app that informs people of their rights during interactions with police, are excellent examples. The key, however, is that consumers need to be aware of such a source and be capable of using it effectively as required. Introducing such a resource to consumers in their pre-purchase market research could arguably improve their overall in-store transactions with wireless service providers' front-line sales representatives and assist them in any future post-purchase problem solving. I will now turn to Mary, to outline our final key messages.

18. **[MARY CAVANAGH]** Our own subject knowledge of consumers' information seeking and use behaviours taken together with our project findings so far, suggests leadership, coordination, and broad sectoral collaboration are among the critical elements underwriting a robust, and still innovative, (i.e., consumer-empowered) Canadian wireless marketplace.

19. First, only the Commission can ensure an evidence-based planning and decision-making/evaluation framework is put in place to monitor the development of the Wireless Code. Only the Commission has the leadership responsibility on behalf of all

Canadians. And in that capacity, the Commission should establish and implement a comprehensive 360 degree performance assessment framework to regularly review the Code's effectiveness, based on a variety of key performance indicators and drawing data and input from all ecosystem stakeholders.

20. Secondly, we strongly suggest initiating a process to identify and organize the various players in Canada's wireless ecosystem: the Commission and other relevant regulatory partners; the wireless service providers; individual consumers; and importantly, all of the various organizations that support consumer information and empowerment in this area (such as public libraries, consumer groups, legal clinics and referral centres, community health centres, municipal 211 centres). We see an opportunity for the Commission to exercise its leadership in developing and coordinating such a rich ecosystem of providers, regulators, consumers, and informational intermediaries.

21. We also see potential benefits in looking to other regulated areas with significant disclosure requirements and consumer information needs for strategies to extend the Commission's active outreach to all Canadians. For example, Canada's consumer financial sector. Innovation, Science and Economic Development's Ministry's Your Money Matters program incorporates information, awareness, communication and marketing into a comprehensive outreach to all Canadians, and may offer relevant best practices. The Office of the Privacy Commissioner has implemented a comprehensive program evaluation framework that may be a useful reference. In addition, since 2014, Financial Consumer Agency of Canada has appointed Financial Literacy Leader whose role is to coordinate various stakeholders in order to "strengthen the financial literacy of Canadians."

22. As Peter Lunn, an economist specializing in neuroscience and consumer behaviour recently [noted](#), the telecom market is an especially complex, highly dynamic system whose unique structural features encourage consumers to frequently opt for

suboptimal wireless service contracts and services. The Wireless Code is arguably the critical information provision mechanism.

23. We want to be very clear that we are not suggesting responsibility for awareness and information provision should rest solely with wireless service providers; to the contrary, we advocate a shared ecosystem with coordinated leadership from the Commission. We have outlined several ways consumers can become more empowered by becoming more informed regarding the rights outlined in the Code in each of the pre and post-purchase scenarios including post-purchase problem solving contexts.

24. Thank you for the opportunity to present our research. We would be pleased to answer your questions.