

APPENDIX A

Consumer and Public Interest Groups Consensus Positions on the draft Wireless Code

March 1, 2013

The undersigned consumer and public interest groups have reached consensus on the following issues in the draft Wireless Code. These issues should not be seen to be an exhaustive list of issues upon which consumer and public interest groups have reached consensus, rather, the undersigned groups have focused on issues that appeared to be the most contentious during the Wireless Code Hearing.

1. **Language of “device subsidy”:** The term, “subsidy,” does not accurately define the legal context of the wireless service providers’ business practice of providing consumers handsets. The relationship between a device “subsidy” and the provision of wireless services must be clarified by the Commission.
2. **Personalized information summary.** Wireless service providers must provide the Personalized Information Summary as an "offer" before the customer signs the contract. This Personalized Information Summary must be provided to allow consumers to compare offers provided by each supplier which best suit their needs. We strongly prefer the Personalized Information Summary to be standardized between carriers to aid consumers in comparing various offers. The Personalized Information Summary should be presented both as a separate document to facilitate consumers' consideration of various offers and as part of the WSP's final service contract.
3. **Changes to contract by the service provider:** Where a wireless service provider unilaterally changes a consumer’s contract, that change has no effect unless expressly consented to by the consumer, failing which the original contract terms shall continue unchanged, excepting that the customer shall have a further right to cancel their contract without penalty, including early termination fee.
4. **Early termination fee (ETF):** Whatever ETF is devised, the ETF formula should not entrench any particular business model. We support the limitation of termination fees to a clear, reasonable, and transparent amount that is based solely on the balance of the handset or device costs after discount, if one is provided by the WSP. It should further be recognized that any ETF that imposes high costs on customers at termination will continue to function as a lock-in mechanism. In addition, the indeterminate 48-month component of the ETF formula set out for monthly term service in Option 2 of section D3.3 of the Wireless Code Working Document should be eliminated. This component should be – at the most – calculated on the basis of 24 months. Likewise, the formula for cancellation of a fixed term contract where the consumer did not receive an "economic incentive" should be eliminated.
5. **Notifications:** We support section, D5.1, as drafted in the Wireless Code Working Document.
6. **Caps:** We support section D5.2 as drafted in the Wireless Code Working Document. We agree the proposed monetary threshold of \$50 is an appropriate default. The ability of the consumer to customize their "cap" threshold also must be preserved. Where a wireless provider claims

that a real-time cap is technically unfeasible, it may apply to the Commission for an exception, provided that it also commits to a reasonable time frame for implementation.

7. **Unlocking:** Consumers should be able to use their devices unlocked from the day that they receive them.
8. **Implementation:** We support Option 1 of section B1 as drafted in the Wireless Code Working Document (6 months maximum to implementation).
9. **Measuring the effectiveness of the Code:** The effectiveness of the Wireless Code cannot be measured by the number of complaints submitted to CCTS alone. The Code should be reviewed in three years calculated from the date the first provision of the Code comes into force.

Signed:

Consumers Council of Canada

Public Interest Advocacy Centre, Consumers' Association of Canada, Council of Senior Citizens' Organizations of British Columbia

Samuelson-Glushko Canadian Internet Policy & Public Interest clinic (CIPPIC) & OpenMedia.ca

1 March 2013