



9 April 2015

John Traversy
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Mr. Secretary General,

Re: Results of the fact-finding process on the role of payphones in the Canadian communications system - Follow-up process concerning the public notification policy for the removal of the last payphone in a community – Call for comments, Telecom Notice of Consultation 2015-66 (Ottawa, 26 February 2015)

- 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established to undertake research and policy analysis about communications, including broadcasting. The Forum supports a strong Canadian broadcasting system that serves the public interest.
- 2 We are pleased to participate in the process initiated by Telecom Notice of Consultation 20-15-66, regarding the notification process to be followed when regulated companies decide to eliminate consumers' access to payphone service.
- 3 Our reply to other interveners' comments is attached.
- 4 We look forward to the Commission's determinations in this matter.

If you have any questions, please do not hesitate to contact the undersigned.
Sincerely yours,

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***Results of the fact-finding process on the role of
payphones in the Canadian communications system
- Follow-up process concerning the public
notification policy for the removal of the last
payphone in a community – Call for comments,
Telecom Notice of Consultation 2015-66
(Ottawa, 26 February 2015)***



Reply of the
Forum for Research and Policy in Communications

9 April 2015

I Introduction

- 1 The Forum for Research and Policy in Communications (FRPC), a non-profit and non-partisan organization established to undertake research and policy analysis about communications, including broadcasting, appreciates this opportunity to reply to comments filed on 30 March 2015 with respect to the removal of the last payphone in communities.
- 2 FRPC's 30 March comments agreed that notification requirements for the removal of the last payphone should be defined to include municipalities and First Nations reserves, as TNoC 2015-66 proposes, and should use Statistics Canada census-tract information to enable the CRTC to understand which communities have or do not have payphone service.
- 3 We argued that using census-tract information will enable the CRTC to meet its legal mandate of protecting the interests of those most likely to be harmed by the loss of payphone access to Canada's communications system: communities and individuals affected by public or private emergencies, cellphone users whose phones do not work, the 2.2 million households without cellphones, the 2.3 million households without cellphones for each household member, and the 25 million visitors to Canada who may not have cellphone service when they arrive.
- 4 FRPC also agreed that requirements to notify people in census tracts when their last payphone is being removed should be mandatory for all local exchange carriers, as proposed in TNoC 2015-66, regardless of the carriers' size.
- 5 FRPC recommended that the Commission describe the process to be followed when payphones have been removed, but communities seek their reinstatement, include public payphone service as part of future obligation-to-serve proceedings, and resume the collection of information about payphone service in Canada to give the CRTC an evidence-based foundation for its policy determinations. The CRTC has, however, issued a two-part public proceeding into the basic obligation to serve today which does not raise payphones as an issue; we believe it should do so when it announces the second phase of this proceeding, sometime this fall.
- 6 Finally, we urged the CRTC to initiate a proceeding to set standards for independent reports commissioned by the CRTC for use in public proceedings, particularly with respect to the presentation of evidence in those reports.
- 7 In the remainder of this reply we deal with these issues:
 - II Cellphones are not a substitute for payphones
 - III A clear definition of 'community' will serve the public interest
 - IV What is a community?
 - V Maintain moratorium, and
 - VI Basic obligation to serve proceeding.

II Cellphones are not a substitute for payphones

- 8 A number of telephone companies appear to believe that the existence of cellphones and their widespread coverage on a percentage basis makes cellphones a reasonable substitute for payphone service (Telus, at para. 13).
- 9 FRPC does not agree. First, this belief misunderstands the concept of substitute, by suggesting that cellphones serve as replacements for payphones. Yet the degree to which things are replacements for each other must be evaluated in terms of their context, impact and choice. Caviar and peanut butter are both proteins that could be used as a sandwich filling, but it is ridiculous to suggest that the one is a substitute for the other: many people cannot afford, may not have access to, may be unable to digest, or may not want caviar. Arguing that cellphones are a substitute for payphones is similarly ridiculous, once the effects of this substitution are considered in the context of affordability, availability and need during emergencies.
- 10 Another meaning of ‘substitute’ comes from competition law, where a substitute has the ability to discipline prices of the things or services it is replacing. It is unclear whether payphones have disciplined cellphone rates – which means the one may not be a substitute for the other at all. If payphones are a substitute for cellphones, on the other hand, removing more payphones would then have the very deleterious effect of eliminating a source of price discipline for cellphone service. This would be contrary to the public interest.
- 11 As it stands, however, the evidence on the record is that based purely on initial costs, cellphones are not substitutes for payphones. The RedMobile report found that the first call from a cellphone would cost from \$70 to \$79 (FRPC comment, para. 56), while the first call from a payphone would be 50¢. In this context, arguments that cellphone service is a substitute for payphone service ignore the socio-cultural concerns set out in section 7 of the *Telecommunications Act*, namely that telecommunications should be reliable and affordable (s. 7(b)), and respond to telecommunications’ users’ “economic and social requirements” (s. 7(h)).
- 12 In fact, comments from the public in this proceeding show that affordability is a live issue:

I do not have and cannot afford a cellphone, let alone the expense of a cellphone contract. I use payphones several times a week to stay in touch when I am not at home or at work. I already am disadvantaged by the reductions in payphones that have already been implemented.

Removing payphones is just creating a two-tier communications system in Canada, tier 1 is for those who can afford contracts and tier 0 for those of us who have nothing but quarters in our pockets is: no communications at all.

(Paul Reichert, Toronto, intervention 40)

As a senior, I’m against removal of payphones. I neither have a cell phone or computer [so] rely on pay phones when need arrives while shopping, visiting clinic or hospital, going out for entertainment.

There is a great majority of seniors I know who are without phones due to low incomes and cannot afford the monthly fees that come with them.

Besides these gadgets are getting smaller and smaller and what senior has 20/20 vision or [does not have] knobby, stiff and sore fingers that can see and punch these tiny numbers.

(M. Pitkok, Winnipeg, intervention 80)

I live in Sandy Hill, Ottawa. While this is generally an affluent community, there are tight pockets within it where many residents do not have much money. They may be new Canadians or live on disability pensions. For instance, South of Mann Avenue, the City of Ottawa operates a good number of social housing apartment buildings such that they form a dense sub-neighbourhood within Sandy Hill. This population is served by one pay-phone outside a Quickie convenience store at 119 Mann Avenue, Ottawa.

During the 8 years I have lived in the community, I have witnessed people of all ages using this pay-phone, although the Quickie sells pre-paid phone cards and so on.

The unfortunate thing is that someone vandalized this pay-phone in Fall 2014 and it still hangs there uselessly. The pay-phone operator must have data to show that the site is not generating monthly income. But the equipment remains unrepaired and unable to serve the population that needs it.

(Cary Beck, Ottawa, ON, Intervention 49)

- 13 We therefore strongly oppose Bell's proposal that it be permitted to withdraw all but the last payphone from communities that do not have cellphone service, without any notification, if the payphones are low usage (Bell, para. 19). Bell has not provided any evidence to show that removing all but one payphone from such communities will not be burdensome to the community's residents (or visitors), and simply citing the *Policy Direction* does not remedy that defect.
- 14 In our view, granting Bell's proposal would have the hidden secondary effect of giving telephone companies an unfair advantage in payphone contract negotiations: by the time the company proposes to remove a last payphone in an area, the local residents or city council may feel pressured to accept contract terms that are disadvantageous.

III A clear definition of 'community' will serve the public interest

- 15 We note that the comments received by the CRTC generally underscore the necessity for the CRTC to place the public interest first in this proceeding. Telus suggests, however, that defining 'community' in terms of industry wire centres "has provided a clear directive to ILECs and is easily understood by the industry" (Telus comment, para. 4).
- 16 Arguing that last payphone notification requirements should serve telephone companies' needs ignores the reason that any notification requirements are in place at all — to provide *the public* with some minimum level of protection. These requirements do not exist to serve the industry's interests — but to serve the public interest.
- 17 We are also perplexed by telephone company comments that although in some cases their "payphones have been in place for a number of decades", they do not know where

- the payphones are (Bell, at para. 11), and finding out would be impractical. First, if telephone companies do not know where their payphones are, they cannot simultaneously claim that they are providing “sufficient protection” for payphone consumers (Telus, at paras 10-15).
- 18 Second, in the case of companies that know where their payphones are, the claim that payphone consumers are ‘sufficiently protected’ is contradicted by the evidence on the record. For example, as FRPC’s comment noted, Bell Canada and Bell Aliant served just 35% of the Indian Reserves identified in Ontario and Quebec in the 2011 Census (FRPC comment, at para. 97, and Appendices 2 and 3). This suggests that up to 65% of such areas in these two provinces receive insufficient, not sufficient, protection.
- 19 Third, clear reasons and evidence were needed for the CRTC to accept telephone companies’ claim that a narrower definition of community is required, and these were not provided. Simply arguing that change cannot happen because of historic patterns of behaviour (Bell, at para. 13) not only sidesteps the requirement for evidence, but ignores the CRTC’s duty to implement the requirements of the *Telecommunications Act* on a continuing basis, and to not be fettered by any previous decisions that purportedly allowed telephone companies to install payphones without collecting address information.¹
- IV What is a community?**
- 20 FRPC agrees that the CRTC should establish a clear definition of community to ensure that the public interest in payphone service is met. In our view, arguments for maintaining the current wire centre-based definition of community because the definition is clear and simple for ILECs to grasp, underestimate the sophistication of the highly trained professionals working in Canada’s telephone industry. We believe that those who work for Canada’s telephone companies will be able to understand and work with whatever reasonable definition is established by the CRTC.
- 21 FRPC also does not agree that the wire-centre definition should be retained because modifying the definition “would increase costs” (MTS, at para. 3), or that exchanges are “generally well understand by ... the general public”² as no actual evidence has been presented to support these claims.
- 22 As for basing last-payphone-removal notification requirements on the quality of cellphone coverage, FRPC agrees with MTS’ comment that “Wireless coverage is a moving target” (para. 5). Even where wireless service is available, no evidence has been presented to demonstrate that the service is consistently available. As FRPC’s comment pointed out, anywhere from a few to several dozen communities suffer serious public emergencies each year (at para. 81, Table 3), which could involve power blackouts that affect not only cellphone towers, but users’ ability to recharge their cellphone batteries.

¹ See *e.g. Bell Canada v. Canada (Attorney General)*, 2011 F.C. 1120, at paras. 89-90.

² Bell comments, at para. 14.

This is why, in our view, it makes little sense to base notification requirements on unstable, constantly moving targets of cellphone service availability

- 23 FRPC does not agree that it would be difficult to apply a standard definition of the term 'community' (see *e.g.*, Telus comment, at para. 8). While any definition may require interpretation the first few times it is used, professionals at Canada's national statistics agency have been studying and measuring the concept of 'community' for decades.
- 24 Incorporating Statistics Canada's definition of 'census tract' within the framework of public payphone service would establish a standardized definition that can be applied from coast to coast to coast in Canada. Use of this definition has the added benefit of allowing the CRTC to evaluate who, in any given census tract, would be most likely to be affected by the reduction or loss of payphone service. We also note that Statistics Canada itself modifies its identification of locations to accommodate municipal amalgamations or changes in the composition of population centres, showing that even if the CRTC adopted the census-tract definition (as we have recommended), that definition is flexible and adapts to changing circumstances. This would address the concerns raised by MTS (para. 3).
- 25 We generally agree with CAC-COSCO-PIAC that in defining 'community' the CRTC should focus on the needs of consumers, rather than the convenience of ILECs (*CAC-COSCO-PIAC*, at para. 15), and for this reason, its suggestions regarding the 'reasonable distance to a nearby payphone' are also intriguing (*Ibid.* at para. 19). As the Coalition pour le service 9-1-1 au Québec notes (para. 12), some municipalities are very large: this makes the removal of all but one of the payphones in a municipality that spans many kilometres especially onerous for residents or visitors who need to use a payphone. We also note the evidence of Ms. Lorie Matchett confirming that the distance between payphones is already excessive:

I got my first cell phone (a prepaid version) about five years ago when our car broke down right in front of the legislative building in Winnipeg on a Saturday morning. I had to walk for blocks to even find a payphone and then that payphone didn't work so I had to walk even farther! I thought, and still think, that is pretty bad considering that we were so close to downtown Winnipeg! I'm really glad that this didn't happen at night!

(Lorie Matchett, Winnipeg, intervention 32)

- 26 Respectfully, however, we believe it will be more efficient and less time-consuming for ILECs to be required to maintain service to specified locations (within census tracts and in important centres for communities such as hospitals, community centres and public buildings, as FRPC proposed, for example), than to require ILECs to measure
- 800 metres between payphones in medium or large urban centres
 - 2 kilometres between payphones in small population centres, and
 - 27 kilometres in rural areas (*CAC-COSCO-PIAC*, at para. 19).

- 27 That said, if the CRTC considers CAC-COSCO-PIAC's minimum standard, distance-based model for locating payphones, more evidence is needed to support a decision by the Commission as to numeric requirements. In that case, the CRTC should require ILECs that do not have the information that CAC-COSCO-PIAC believes the companies have or should have (CAC-COSCO-PIAC, at para. 23), to collect and report it. Unredacted copies of these reports should be made public to enable informed discussion of their results.
- 28 We also respectfully note that the distances suggested by CAC-COSCO-PIAC are based on studies whose conclusions may not apply to Canada. For instance, while the Australian Communications Authority cited by CAC-COSCO-PIAC may have found that "the average distance travelled for people purposefully travelling to a payphone in a non-metropolitan area was 2.2 kilometres", the climate in Australia is for the most part significantly different from that of Canada.
- 29 It may be easy to walk 2.2 kilometres on a warm sunny day, but far more difficult to walk the same distance in the middle of or after a blizzard. The recent images from the winter storms on Canada's east coast help to demonstrate why:



Source: "130 cm of snow leaves Saint John under state of emergency", *The Globe and Mail*, (3 February 2015) (<http://www.theglobeandmail.com/news/news-video/video-ctv-calgary-saint-john-under-state-of-emergency/article22757544/>)

- 30 We also note, using the data cited by CAC-COSCO-PIAC at footnote 12, that it would take a woman in her seventies half an hour to walk those 2.2 kilometres, and perhaps longer during storms such as those in Saint John. In our view, such distances would place an unreasonable burden on the elderly – who will be a larger percentage of Canada's population in the medium to longer term:

I am a senior and I would surely like to see phone service available to seniors and handicapped people. ... It is really upsetting not to be able to call some one.

(Emily Shmon, Winnipeg, MB, intervention 78)

- 31 FRPC therefore supports the maintenance of requirements to notify communities when their last payphone will be removed using a definition of community that is based on Statistics Canada's more stable, and more reliable, census tract concept, and not on fixed distances.

V Maintain moratorium

- 32 We agree with the Union des consommateurs that the CRTC should maintain the moratorium on the withdrawal of the last payphone in communities (*Union des consommateurs*, para. 2) until it concludes its basic obligation to serve proceeding in 2016. In fact, as the Coalition pour le service 9-1-1 au Québec makes clear, the Commission may lack the evidence needed to support a decision to allow payphones to be withdrawn from the province of Québec at this time, because "personne du Québec lié au service 9-1-1 ne semble avoir été consulté par le consultant embauché par le Conseil" (para. 4).
- 33 Maintaining the moratorium will be easier than attempting to ensure that each case-by-case removal request is being made for the reasons given, rather than as an attempt to eliminate payphones that generate insufficient revenues for ILECs.
- 34 We note, however, Sasktel's comment that it may be compelled, from time to time, to remove the last payphones in communities due to the requests' being made by law enforcement or community officials (Sasktel, para. 9). We would be somewhat concerned on jurisdictional grounds when agents of a province attempt to circumvent the CRTC's implementation of the *Telecommunications Act*. As is the case with any CRTC regulation or policy, however, ILECs should be free to apply for an exception to the moratorium, and the Commission should consider such applications provided they are supported by the required evidence, and are open to public review and comment.

VI Basic obligation to serve proceeding

- 35 To conclude, FRPC wishes to state its concern that the CRTC's determination in this proceeding may focus on the very narrow issue of last-payphone removal notification.
- 36 As the master of its own proceedings the Commission is free to set the parameters of its inquiries – but in our view, the central issue that has not yet been examined by the Commission, either in this proceeding, or for the past two decades, is how low-cost, affordable and reliable telephone service is to be made available to all people in Canada.
- 37 FRPC therefore again urges the Commission to include public payphones in its next basic obligation to serve proceeding, with questions framed from the perspective of those likely to use payphones: people without cellphones or working cellphones, actual or potential victims of emergencies, and travellers within or to Canada. We note that 96% of the comments filed by members of the public in this proceeding strongly supported

- continued payphone service,³ as did the Government of Yukon (paras. 18-20). We agree with the Union des consommateurs that any definition of ‘community’ should be set to establish the areas where payphone service may not be withdrawn, rather than as an area where people must be notified before service is withdrawn (para. 25).
- 38 Considering payphones in a basic obligation to serve proceeding would enable the Commission to examine not just the availability, but also the quality of payphone service. At least one comment in this proceeding highlighted problems with the quality of payphone service:
- ... the only thing I do not appreciate about this telephone booth is the fact more than two years ago you removed all the doors on exterior telephone booths, also this telephone booth is lower than the grade of the sidewalk so you're always standing in a pool of water, or this time you're on a slab of ice, this booth is located in front of the Noelville Restaurant on St. David Street
- (Wayne Dagg, Noelville, ON, intervention 40)
- 39 We note that the CRTC has today issued a notice of consultation setting out the timeframes for its next basic obligation to serve proceeding. Telecommunications Notice of Consultation 2015-134 (<http://www.crtc.gc.ca/eng/archive/2015/2015-134.htm>) does not specifically refer to payphones, however. We therefore urge the Commission to include payphones in any follow-up notices of consultation for the public hearing now scheduled to begin just over a year from now (11 April 2016).
- 40 In this context we also formally request that the CRTC commission independent expert research to collect information about payphones in Canada, and to address the points raised by CAC-COSCO-PIAC about comfortable walking distances within and between communities, for different age groups and genders. Additional research should be undertaken to address the issue of affordability of telecommunications services in Canada. This research should be developed using the proposals made by FRPC in its 30 March 2015 comments in this proceeding.⁴

*** * * End of comment * * ***

³ A number of interventions filed in this proceeding did not include any comments. Two of the remaining 52 interventions did not state a clear position, two supported the removal of payphones for financial reasons, while the remaining 48 wanted payphone service to be maintained.

⁴ FRPC recommended that

... the CRTC should initiate a public proceeding to address the professional standards it should require when commissioning reports to provide empirical evidence in CRTC proceedings, and specifically invite social scientists to participate in that proceeding to obtain their advice about the minimum standards for professional quantitative research; in the alternative the CRTC should publish reports six months ahead of public consultation notices, to provide time for the public to review and, if necessary, prepare rebuttal evidence.