

Mr. John Traversy
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, ON K1A 0N2

Re: Part 1 application by Benjamin Klass requesting the fair treatment of Internet services by Bell Mobility (Klass application) and Part 1 Applications by CAC-COSCO-PIAC regarding Rogers' Anyplace TV service and Videotron's Illico.tv Service (CRTC files 8622-B92201316646, 8622-P8-201400142 and 8622-P8-201400134)

1. I am in receipt of the Part 1 application filed by Benjamin Klass, as well as the interventions on file from "Eastlink", Telus, CAC-COSCO-PIAC, Vaxination Informatique, and CIPPIC. This document represents my comments on the matter and I wish to be considered an intervener in this file.

Treating competing services differently, because of being vertically-integrated

2. It makes no sense whatsoever to treat competing services differently when the underlying technology and distribution method is the same. This is allowing vertically integrated companies to behave by one set of rules, and allowing them to treat their competitors differently, and frankly unfairly.
3. Bell is arguing that their service is an Exempt Digital Media Broadcasting Undertaking (known hereafter as "Exempt DMBU") under the Broadcasting Act¹, while at the same time treating their competitors (ie Netflix, YouTube, etc) as a data service under the Telecommunications Act.
4. Treating their competition as nothing more than a data service under the Telecommunications Act allows them to subject the competing services to multiple ITMPs (both economic and technical) despite there being little to no difference in underlying technology nor distribution method.
5. I see no real difference between the 3 Mobile Television services provided by Bell, Rogers and Videotron (for ease, collectively referred to as "MobileTV") and its competitors:
 - a. All 3 MobileTV services are subscription-based for that service only. So is Netflix, NHL Gamecenter Live² and MLB.com at Bat³ (with YouTube being free).
 - b. All 3 MobileTV services are point-to-point (ie no multi-cast), hence the Exempt DMBU status. This is the same as Netflix, NHL Gamecenter Live, MLB.com at Bat and YouTube. There is no underlying difference in technology used other than the physical location/placement of the distribution servers serving up the requested media.

¹ Bell Mobility Inc.'s Answer, paragraph 19

² <http://gamecenter.nhl.com/nhlqc/cdsignup.jsp?cmpid=gcl-devices-van-url>

³ <http://mlb.mlb.com/mobile/atbat/>

- c. All 3 MobileTV services have the option of obtaining caching servers from larger mobile streaming competitors (Google/YouTube⁴, and Netflix⁵), so that distribution servers are located inside the vertically integrated company's own network and not increasing transit costs. Bell Canada even has Netflix's own caching services in their network⁶.

Competitors subjected to Telecommunications Act, and ITMPs

6. Both Bell Mobility and Videotron have an Acceptable Use Policy (known hereafter as "AUP") which includes maximum data use limits before potentially having either their data priority dropped, or rate-limited altogether.
7. For Bell Mobility, this cap (usually known as "Fair Use" or "Excessive Use") is 25GB⁷. For Videotron, this cap is 5GB⁸. Unfortunately, while Rogers' AUP⁹ (unified AUP for all services) states that there could be rate-limiting, it recommends you to check the Network Management page¹⁰, which only mentions how they stopped managing Peer-to-Peer on their network, and mentions nothing about Mobility. This should probably be clarified by Rogers either in the upcoming interrogatories, as well as via an update to their website or AUP.
8. If using Videotron, you could only watch a single 2 hour movie in HD on Netflix¹¹, and even then partway through would most likely trigger Videotron's AUP. This would trigger the priority reduction, which would reduce the quality of the stream (Netflix's quality and usage is based off speed unless you explicitly set it). If using Videotron's own Illico.tv, your data cap is unaffected, and therefore, Illico.tv could never trigger the AUP, resulting in a reduced quality stream. This of course makes their competition look bad, while their own service looks great.
9. To add to this, Bell Mobility leaves themselves the option to rate-limit when data services usage reaches that 25GB cap, resulting in the connection being rate limited to 16kbps! This isn't sufficient to stream any sort of video whatsoever. At best, you might be able to check your twitter updates. Maybe. If you don't follow too many people, don't like loading the images they post, and you don't mind waiting several minutes for all the updates to come through.
10. I note that under CRTC 2009-657, ITMPs were only to be used for Network Management purposes, and that in CRTC 2010-445, the ITMP rules were applied to wireless data services. I see no real purpose to subjecting competitors' traffic to Network Management policies, but not subjecting their own traffic to them as well. There's no real difference in delivery methods and no

⁴ https://peering.google.com/about/getting_ggc.html

⁵ <https://signup.netflix.com/openconnect/hardware>

⁶ <https://signup.netflix.com/openconnect>

⁷ Section g - https://www.bell.ca/Bell_Mobility_Terms_of_service#ScheduleB

⁸ <http://support.videotron.com/residential/mobile/mobile-internet-management-policy>

⁹ http://www.rogers.com/cms/pdf/en/Unified_AUP_Eng.pdf

¹⁰ http://www.rogers.com/web/content/network_management

¹¹ <https://help.netflix.com/en/node/87>

parallel network as Bell managed to successfully argue with FibeTV.

11. These vertically integrated companies are essentially stating their competitors' traffic causes them congestion, but their own unlimited traffic doesn't.

Bell Mobility's rate-limit speed insanely slow

12. As well, even if the Commission finds that these MobileTV services fall under the Broadcasting Act, the sheer fact that on Bell Mobility you can trigger the Fair Use Policy, and be rate-limited to 16 kbps should result in a supplementary decision by the Commission that Bell is in violation of Section 36 of the Telecommunications Act, as with these speeds they are essentially controlling any and all content that can be loaded on the service (ie not much at essentially dialup speeds).

Conclusion

13. Either way you look at it, it's a double standard with the vertically integrated companies going for a money grab from their competitors and customers because they can get away with it.
14. Either all streaming via Mobile should be subject to the Broadcasting Act, and be Exempt BDMUs, or subject to the Telecommunications Act, and be subject to ITMPs. There should be no double standard. This needs to be an even playing field.

Teresa Murphy

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