



January 31, 2014

Gail Anderson, Director  
Consumer Protection Office  
302-258 Portage Avenue  
Winnipeg, Manitoba R3C 0B8

Dear Ms. Anderson,

**Re: CWTA Submission to the Province of Manitoba's Public Consultation Paper: Contracts and Billing Practices for Cable TV and Other Communications Services**

1. The Canadian Wireless Telecommunications Association is the recognized authority on wireless issues, developments and trends in Canada. It represents cellular, PCS, messaging, mobile radio, fixed wireless and mobile satellite carriers, as well as companies that develop and produce products and services for the industry, including handset and equipment manufacturers, content and application creators and business-to-business service providers. CWTA is pleased to provide comments on the above-noted proceeding.
2. As the Province's Consultation Paper notes, consumers can now access their personal information, communication services and content through a variety of devices, including smartphones and tablets. Many CWTA members also offer subscription television services, broadband internet or both. As such, they are very interested in Manitoba's efforts to standardize advertising, contracts and billing practices. Indeed, as the capabilities and use of various communications services become increasingly intertwined, the regulation of any of these services can impact the industry as a whole.
3. Given the broad scope of the Consultation Paper, CWTA appreciates the opportunity to submit the following general comments on the regulation of communications service contracts and billing practices. CWTA and its members support the principles of clear, predictable and unambiguous contracting and billing practices throughout the communications industry. We believe these objectives are best achieved through a competitive marketplace. Where regulation is deemed necessary, it is important to: recognize the federal government's jurisdiction to regulate communications services; regulate in a manner that is proportionate to the issues being addressed; and ensure that any regulations enacted do not result in unintended, negative consequences for consumers and communications service providers. While this submission offers CWTA's general comments on the Consultation Paper, it should not be construed as CWTA's recognition of the Government of Manitoba's jurisdiction to regulate in the sphere of telecommunications or broadcasting services.

## **Federal government jurisdiction**

4. The legislative and regulatory framework for telecommunications and broadcasting in Canada, as set out in the *Telecommunications Act*, *Broadcasting Act*, *Radiocommunication Act* and the *Canadian Radio-television and Telecommunications Commission Act*, clearly identify the federal government's sole jurisdiction with respect to all aspects of the telecommunications and broadcasting industries – including broadcast distribution – in Canada.
5. The Consultation Paper identifies both Manitoba's cell phone consumer protection legislation, which imposed rules on wireless service contracts as of September 2012, and the CRTC's Wireless Code of Conduct, which came into force in December 2013. This Wireless Code of Conduct is now the governing legislation on the mandatory requirements applicable to all wireless service contracts entered into between wireless service providers and individuals or small businesses.
6. In addition to enacting the Wireless Code of Conduct, the CRTC is also currently reviewing the consumers' opinions about broadcasting in Canada. Last fall, the CRTC invited consumers across Canada to provide input on a variety of issues as part of its "Let's Talk TV" consultation. This process will culminate in a CRTC public proceeding that will be announced in April and lead to a CRTC public hearing in September. Meanwhile, the Canadian government has announced intentions to mandate the unbundling of TV offerings. As the first step in acting on this promise, it has asked the CRTC to produce a report on how Canadians can be provided with the greatest ability to obtain television services on a "pick and pay" basis, while best meeting the objectives of the *Broadcasting Act*. That report of the CRTC is due to the government by April 30, 2014.
7. In order to ensure full transparency to Manitoba consumers, the Province of Manitoba should ensure it informs them about the on-going developments in the CRTC public consultation on TV as any decisions arising out of that consultation will govern the broadcasting industry, including broadcasting service contracts. Moreover, given the fact that the federal government is in the midst of a comprehensive review of the broadcasting industry in Canada, the Province of Manitoba should also consider whether initiating a review of its own at this time will confuse consumers.

## **If a need for regulation is clearly established, consider whether regulations enacted proportionate to the issues that need to be addressed**

8. Manitobans have not yet had an opportunity to comment on whether they have issues with the contract and billing practices of cable and other communications service providers. That said, some form of consumer protection legislation seems to be the Province's objective. As noted in the Consultation Paper, the Manitoba government stated in November 2012 that it intends "to introduce new measures to protect consumers related to their cable bills." CWTA is concerned with the notion of legislation being a foregone conclusion as the consultation and accompanying questionnaire appear designed to determine whether issues actually exist. It would be premature to conclude that government intervention would be required to address issues before they are identified.

9. CWTA submits that the Commissioner for Complaints for Telecommunications Services provides a comprehensive source of information on consumer issues associated with the provision of telecommunications services (home phone, wireless and internet access) in Manitoba. CCTS data demonstrates that less than 0.03% of all consumers in the province complained to CCTS about their telecommunications services last year. Statistically, Manitobans have virtually no issues with these services, leading to the conclusion that subscribers to communications services in the province are satisfied with these services.
10. Given the marginal number of complaints to the CCTS, along with the fact that the federal government has already ruled on contracts and billing practices in the wireless industry and is currently reviewing the same issues, among others, in the broadcasting industry, the CWTA submits that the Province of Manitoba does not need to, and in fact should not commit to, introducing new legislation at this time.

**Table: CCTS complaints from Manitoba**

<b>Year</b>	<b>Complaints from Manitoba</b>	<b>% of Manitobans Experiencing Issues</b>	<b>Internet Access Complaints from Manitoba<sup>1</sup></b>	<b>% of Manitobans Experiencing Internet Issues</b>
2012-2013	315	0.026%	61	0.0051%
2011-2012	249	0.021%	49	0.0040%
2010-2011	180	0.015%	35	0.0029%
2009-2010	79	0.007%	15	0.0013%
2008-2009	34	0.003%	7	0.0005%

11. Issues with contract and billing practices for internet access have been even more miniscule. Internet access accounted for only 19.5% of all Manitoba-based complaints to the CCTS last year, meaning there were only an estimated 61 internet access complaints from the consumers residing in the province. Last year, only 0.005% of Manitobans had issues with their internet access service that they were not able to resolve directly with their service provider. Manitobans have also had fewer complaints on average than consumers in other provinces; while Manitoba accounts for roughly 3.6% of the national population, Manitobans have never submitted more than 2.3% of all complaints to the CCTS.
12. Statistically speaking, there seems to be very little, if any, need for significant government intervention in the internet service provider market. CWTA has always maintained that consumers are better served by open competitive markets than by micro-regulation. Manitoba provides a perfect example. Manitobans have access to an extensive variety of communications services and have filed very few telecommunications complaints.
13. The Consultation Paper lists five different classifications of content delivery services and four different internet access options. This significant and dynamic competition provides the greatest impetus for service providers to meet the needs of consumers in every way possible, be it service delivery, price, options, customer service or contracting and billing practices. The near-complete lack of complaints from consumers in Manitoba

---

<sup>1</sup> Estimated based on national percentages.

demonstrates that a fiercely competitive communications industry is meeting their needs without regulatory oversight.

**Any regulations enacted must not result in unintended, negative consequences for consumers and communication services providers**

14. Government micro-regulation inevitably adds costs to consumers and industry participants in any sector of the economy. It can also remove options from the market that exist today, thereby eliminating opportunities for innovation. It is critically important that any regulation of the communications industry not result in any unintended consequences that negatively affect consumers and service providers. Of particular concern is the broad scope of the consultation. The Government of Manitoba stated in its Throne Speech in November of 2012 that it intended to review cable billing practices. The consultation, however, has transformed itself into a very broad investigation of not only cable television, but also satellite television, internet, wireline and wireless billing. Consumers can interpret the broad range of questions in many ways and CWTA is concerned that casting such a wide net will distort the results, in particular with respect to the differing business practices of each specific industry.
15. The Consultation Paper notes that “the provision of television services is expanding and innovating.” It continues on to say that:

“But as the technology and content for such services increases in scope and complexity, so too can the advertising, contracts and billings practices. This can make it difficult for consumers to understand what their options are, what a fair price for such services might be, and even how much they can expect to pay at the end of the month.”
16. Although it is widely recognized that consumers benefit greatly from more competition, the Manitoba government has identified the potential complexity associated with increased choice in the communications services sector as the motivation for government regulation. However, consumers – not the government – are best positioned to determine which services meet their needs. Consumers are also adept at making such decisions on products and services in virtually every sector.
17. While consumer protection is a laudable goal, attempting to shape the way products and services are priced, packaged and advertised for the perceived benefit of consumers almost always results in a reduction in industry innovation. The plethora of communication services in the market right now means virtually every consumer can access services that specifically meet their needs. Forcing disparate services to conform to standardized contracting guidelines and billing practices runs the serious risk of removing options from the market, which would stifle customer choice going forward.
18. As well, due to the variety of services available, including emerging internet-based content providers, regulation is likely to result in an uneven playing field in the industry. The very nature of the telecommunications and broadcasting industries is that they are dynamic and ever-evolving. It is unclear

whether the province will attempt to regulate all competing services, including over-the-top entities that offer programming online.

19. If regulation only applies to some services within a competitive market, these regulated services will face a significant disadvantage in their ability to compete with their unregulated counterparts in terms of service, price and packaging. Moreover, the mandate to address telecommunication and broadcasting services is clearly in the purview of the CRTC. The CWTA respectfully submits that by involving itself in regulating the telecommunications and broadcasting industries, the Province of Manitoba does not have the expertise on these specialized industries that the governing bodies (the CRTC and Industry Canada) do and, accordingly, legislation could have damaging results for the service providers.

## **Conclusion**

20. CWTA and its members support the principles of clear, predictable and unambiguous contracting and billing practices throughout the communications industry, and believe these objectives are best achieved through a competitive marketplace. Conversely, unnecessary regulation can reduce innovation, remove options from the market, and result in an uneven playing field within the communications industry. Where regulation is enacted, the province should:
  - Recognize that the regulation of communication services is the sole jurisdiction of the federal government;
  - Regulate in a manner proportionate to the issues the regulation seeks to address; and
  - Ensure that any regulations enacted do not result in unintended, negative consequences for consumers and communication services providers.