

LIMITS ON UNLIMITED SERVICES: Are consumers adequately protected?

Executive summary
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Canada's telecommunications services appear to be poised for rapid development. Indeed, the CRTC announced in December 2016 that all consumers must have access to Internet services with a 50 Mbps download speed. It also indicated that all consumers should be able to subscribe to unlimited Internet access services. Those services are proliferating and demand is increasing. Canada was identified a few years ago as one of the OECD countries where download limits are most restrictive, but it may be finally turning that around.

Despite recent recognition of their importance, unlimited telecommunications services are not new. Complaints have been voiced sporadically about them over the years. Our review of the literature revealed problems with impromptu contract modifications, Internet speed slowdowns, service interruptions and additional usage (overage) charges.

Our research aimed at studying unlimited telecommunications services in the light of the problems raised. A set of protections already regulates the representations and provision of those services. Our field survey verified how providers comply with a number of principles and obligations regarding unlimited services.

To that end, we studied the promotional documentation of several Canadian telecommunications service providers, as well as their service terms and acceptable usage policies. We discovered that some service providers, notably wireless ones, don't necessarily make false representations, but do surf in grey areas. This relatively positive note may be due largely to the Wireless Code, which includes provisions for unlimited services and document clarity. On the other hand, Internet service providers could be clearer about limits that can be imposed on unlimited services: the content of service terms is not adequately presented, and often not even mentioned, in the promotional documentation.

The crux of the problem with all the telecommunications services we studied resides precisely in their policies' implementation. In fact, several providers reserve the right to determine what may prompt them to impose additional charges, service slowdowns or interruptions, etc. And yet, providers are required to disclose to consumers what measures they can impose, in what circumstances, and what will be the consequences for consumers. Providers have tried in variable degrees to meet those obligations, but a lot of work reportedly remains in terms of transparency. As a general rule, the more numerous the subjects covered by a policy, the less precise and clear to readers are its network management practices and service limitations.

We then surveyed consumers to learn their views on unlimited telecommunications services. According to our survey results, most consumers are not clearly aware of the limits that may be imposed on unlimited services, but they don't consider those limits acceptable. Many told us so: no limit should be set for unlimited services. Additionally, a large majority of consumers (over 80%) don't know what an acceptable usage policy is, and few have read such a policy. We

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Nos membres associatifs

ACEF Appalaches – Beauce – Etchemins
ACEF de l'Est de Montréal
ACEF de l'Île-Jésus
ACEF du Grand-Portage

ACEF du Nord de Montréal
ACEF du Sud-Ouest de Montréal
ACEF Estrie
ACEF Lanaudière

ACEF Montérégie-Est
ACEF Rive-Sud de Québec
ACQC
Centre d'éducation financière EBO

7000, avenue du Parc, bureau 201, Montréal (Qc) H3N 1X1

T : 514 521 6820 | Sans frais : 1 888 521 6820 | F : 514 521 0736

info@uniondesconsommateurs.ca | www.uniondesconsommateurs.ca

asked respondents to evaluate the clarity of policy excerpts we showed them. Even the examples we thought clearest were not evaluated positively by the consumers. Nor did they know how to meet the requirements stated in the excerpts presented to them.

A few solutions to the problems observed in Canada are found in foreign legislation. Solutions include notifying consumers about those limits in a manner other than contractually: through more-exhaustive advertisements, by informing consumers directly at points of sale, or by making sure to warn a consumer in real time if his usage will likely trigger a slowdown, for example. Moreover, providers that don't deliver on their promises should experience interventions by the appropriate authorities.

Those findings don't enable us to propose miracle solutions, but rather a set of measures to clarify the information provided to consumers, who evidently are unable currently to understand all the information they receive and to learn about it in a timely way. Thus, to call a service "unlimited" (or imply that it is) shouldn't be so easy: providers have a duty to provide consumers with full service at all times, and to be proactive in how they inform consumers about the terms of service. We encourage the appropriate authorities to conduct compliance investigations. But we also recommend an update to the protection measures in place, notably to prevent information obligations to be communicated through "acceptable usage policies" and service terms, which currently are legal catch-alls poorly known and understood by consumers. In short, it is necessary to rethink the information requirements in terms of consumers' constraints and resources.

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