

**Including Low-Income Consumers
as Recipients of Telecommunications Services:
How does Canada Rate?**

Project Final Report
Presented to Industry Canada's
Office of Consumer Affairs



June 2009

Report published by:



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Acknowledgments

- Comité Télécommunications, radiodiffusion, inforoute et vie privée

Articling law student – research contribution

- Ioanna De La Peta

Editorial management

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ISBN 978-2-923405-33-9

Union des consommateurs wishes to thank Industry Canada for helping to fund this research project. The views expressed in this report are not necessarily those of Industry Canada or the Government of Canada.

The masculine is used generically in this report.

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UNION DES CONSOMMATEURS, *Strength through Networking*

Union des consommateurs is a non-profit organization whose membership is comprised of several ACEFs (*Associations coopératives d'économie familiale*), *l'Association des consommateurs pour la qualité dans la construction* (ACQC), as well as individual members.

Union des consommateurs' mission is to represent and defend the rights of consumers, with particular emphasis on the interests of low-income households. Union des consommateurs' activities are based on values cherished by its members: solidarity, equity and social justice, as well as the objective of enhancing consumers' living conditions in economic, social, political and environmental terms.

Union des consommateurs' structure enables it to maintain a broad vision of consumer issues even as it develops in-depth expertise in certain programming sectors, particularly via its research efforts on the emerging issues confronting consumers. Its activities, which are nation-wide in scope, are enriched and legitimated by its field work and the deep roots of its member associations in the community.

Union des consommateurs acts mainly at the national level, by representing the interests of consumers before political, regulatory or legal authorities or in public forums. Its priority issues, in terms of research, action and advocacy, include the following: family budgets and indebtedness, energy, telephone services, radio broadcasting, cable television and the Internet, public health, food and biotechnologies, financial products and services, business practices, and social and fiscal policy.

Finally, regarding the issue of economic globalization, Union des consommateurs works in collaboration with several consumer groups in English Canada and abroad. It is a member of Consumers International (CI), a United Nations recognized organization.

INTRODUCTION

Our study examines the current situation of telecommunications services, particularly residential ones; North American, European and Australian experiences in taking into account low-income households for such services; and the applicability to the Canadian context of the best measures and practices identified elsewhere. Our research seeks to identify both the current limits of Canadian programs and measures, and those abroad that could be transposed in Canada to give low-income households better access to telecommunications services.

The main feature of telecommunications services to be considered, when speaking of access to such services by low-income households, is economic accessibility. The Canadian Radio-television and Telecommunications Commission (hereinafter called the CRTC or the Commission), when addressing the issue of economic accessibility, calls it “affordability”; we will also use this term in the present report. Although we are aware that affordability is not easy to define exactly¹, our study will focus on measures to increase the affordability of telecommunications services for low-income households.

The first part of the study examines the access of low-income people to telecommunications services in Canada. We will draw a general portrait of the situation of low-income people, with special attention to affordability problems. We will also examine the main reasons why some low-income people have no telecommunications services.

In this first part, we will also consider how the Canadian Radio-television and Telecommunications Commission defines the affordability of telecommunications services; we will present a few measures decreed by the CRTC and established by telecommunications service providers, whether incumbent local exchange companies (ILECs), small incumbent local exchange companies (small ILECs) or competing local exchange companies (CLECs), as a result of decrees or voluntarily.

The second part of our study focuses on measures and programs established in a number of countries, such as the United States, France, Belgium, Austria, the United Kingdom and Australia, to facilitate economic access to telecommunications services. We have detailed those programs to determine whether they result from legislative or regulatory intervention or are set up voluntarily by companies, to identify the programs’ access criteria and funding methods, etc. When applicable, we will examine the results and criticisms of the programs.

This second part also considers the possibility and relevance of adopting such measures in Canada. We close this second part with a summary that proposes the application of certain seminal measures in Canada.

Our research and analyses lead us to report findings on how Canadian low-income households are taken into consideration for access to telecommunications services. Our findings will be followed by recommendations for taking such households into consideration and improving their access to telecommunications services.

¹ Claire Milne. Telecoms demand: measures for improving affordability in developing countries, Medi@lse, Department of Media and Communication, United Kingdom, January 2006, available [online] <http://www.lse.ac.uk/collections/media@lse/pdf/affordability%20report%2031.01.06.PDF> (last visit June 3, 2009).

THE CANADIAN DEREGULATION FRAMEWORK

Opening up the local service market to competition began in Canada with Telecom Decision 97-8, *Local Competition*², whereby the CRTC established a framework for competition in the local service market. Following an order issued by the Industry Minister in 2006³, the deregulation movement accelerated. The Commission, in its Telecom Decision CRTC 2006-15: Forbearance from the regulation of retail local exchange services⁴, formulated criteria for its deregulation decisions regarding retail local services.

In that decision, the Commission clearly stated that “market forces alone may not be sufficient to protect the interests of these customers”⁵. The Commission was referring particularly to vulnerable customers, including low-income consumers. In its decision, the Commission specified that its “primary focus, with respect to its section 24 powers and duties, has been to eliminate as much economic regulation as possible while maintaining those section 24 powers and duties that are necessary, at this time, to further policy objectives such as affordability, accessibility, the availability of emergency services and privacy.”⁶

It should be noted that some telecommunications services have never been regulated because the commission has abstained from regulating them. These are, for instance, wireless mobile services, Internet retail services, certain data services, terminal equipment, specialized interexchange links, and extended network services. Over time, the Commission has deregulated certain local services where competition appeared able to meet the objectives of the Telecommunications Act.

Section 24 of the Telecommunications Act (1993, ch. 38)⁷ (hereinafter the Act), which is the keystone of the Commission’s power to intervene, stipulates: “the offering and provision of any telecommunications service by a Canadian carrier are subject to any conditions imposed by the Commission or included in a tariff approved by the Commission.” The Commission thus retains under the Act a power to intervene that is applicable even to markets said to be deregulated.

However, any Commission intervention in this area is now limited by the *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*⁸ (hereinafter the Order). The latter declares that:

² Telecom Decision CRTC 97-8 Local Competition, CRTC site, Ottawa, Canada, May 1, 1997 [online] <http://www.crtc.gc.ca/fra/archive/1997/DT97-8.HTM> (last visit June 3, 2009).

³ Order giving the CRTC instructions for implementing the Canadian telecommunications policy (SOR/2006-355) P.C. 2006-1534 of December 14, 2006.

⁴ Telecom Decision CRTC 2006-15: Forbearance from the regulation of retail local exchange services, CRTC site, Ottawa, Canada, April 6, 2006, [online] <http://www.crtc.gc.ca/fra/archive/2006/dt2006-15.htm> (last visit June 3, 2009).

⁵ *Ibid.*, §355.

⁶ *Ibid.*, §358.

⁷ Telecommunications Act, Justice Department site, Ottawa, Canada, May 27, 2009, [online] <http://laws.justice.gc.ca/fr/showtdm/cs/T-3.4> (last visit June 3, 2009).

⁸ *Op. cit.*, note 3.

In exercising its powers and performing its duties under the Telecommunications Act, the Canadian Radio-television and Telecommunications Commission (the “Commission”) shall implement the Canadian telecommunications policy objectives set out in section 7 of that Act, in accordance with the following:

(a) the Commission should

(i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and
(ii) when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives;

(b) the Commission, when relying on regulation, should use measures that satisfy the following criteria, namely, those that

(i) specify the telecommunications policy objective that is advanced by those measures and demonstrate their compliance with this Order,

(...)

(iii) if they are not of an economic nature, to the greatest extent possible, are implemented in a symmetrical and competitively neutral manner (...)

Considering that Section 7 of the Act details a set of objectives in line with Canada’s telecommunications policy, and that the objective of favouring the free market is already in paragraph f) of that Section, we conclude that this Order obliges the Commission to give primacy to one of the Act’s objectives over all the others. The free-market objective de facto becomes for the Commission the Act’s central objective... and the means for attaining the other objectives. (Notably: favouring the orderly development of telecommunications, making telecommunications contribute to preserve, enriching and reinforcing the social and economic structure of Canada and its regions, giving access to reliable, affordable and quality telecommunications services, meeting users’ economic and social requirements, helping protect personal privacy, etc.)⁹

⁹ Telecommunications Act, (1993, ch. 38), art. 7. *Op. Cit.*, note 7.

SITUATION OF LOW-INCOME HOUSEHOLDS IN CANADA

FINANCIAL ACCESSIBILITY

The Telecommunications Act (1993, ch. 38) (hereinafter the Act) states in Section 7, which details the Act's objectives:

"It is hereby affirmed that telecommunications performs an essential role in the maintenance of Canada's identity and sovereignty and that the Canadian telecommunications policy has as its objectives b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;"¹⁰

Section 47 of the Act states that the CRTC "shall exercise its powers and perform its duties under this Act and any special Act a) with a view to implementing the Canadian telecommunications policy objectives and ensuring that Canadian carriers provide telecommunications services and charge rates in accordance with section 27; and b) in accordance with any orders made by the Governor in Council under section 8 or any standards prescribed by the Minister under section 15."¹¹

One of the Act's objectives is thus expressly to ensure that Canadian telecommunications services are affordable, and the Commission is responsible for seeking to attain this objective. In that vein, the Commission issued Telecom public notice CRTC 95-49, on November 22, 1995, titled Local Service Pricing Options (amended by Telecom Public Notice CRTC 95-56, on December 20, 1995). The purpose of the notice was to initiate "a proceeding to consider whether it is appropriate to establish specific mechanisms to ensure that local service continues to be universally accessible at affordable rates, and if so, the particular approach that should be adopted to achieve this objective."¹²

The Commission puts into context what it means by an approach to ensure affordability: "approaches for addressing local service affordability have generally taken one of two forms: budget service or targeted subsidy programs."

The Commission continues by defining, on one hand, a budget service as one "made available to all subscribers and provides savings over the regular local rate in exchange for reduced levels of service". On the other hand, the Commission specifies that a "targeted subsidy program differs from budget service in that it makes local service available at a reduced rate only to those subscribers with low-incomes."¹³ (Emphasis added)

In Public Notice 95-49, the Commission therefore considered establishing targeted subsidy programs. However, according to the Commission, the necessity of establishing such programs depends on a prior assessment of the affordability of telecommunications services. Indeed, only

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² Telecom Public Notice CRTC 95-49 - Local Service Pricing Options, CRTC site, Ottawa, Canada, November 22, 1995, [online] <http://www.crtc.gc.ca/fra/archive/1995/PT95-49.HTM> (last visit June 3, 2009).

¹³ *Ibid.*

if the services are not affordable will such measures be necessary.

The affordability of telecommunications services was discussed in the context of Public Notice 95-49, as well as in Telecom Decision 96-10 – Local Service Pricing Options.¹⁴

Certain parties to the proceeding claimed that “the concept of affordability should be viewed as a combination of price, income, spending priorities and choice made by an individual as to whether or not to purchase a service.”¹⁵ Other parties opined that “the relevant determination of affordability is whether people can afford a product or service on a continuous basis.”¹⁶

In Decision 96-10, the Commission reports: “Numerous parties including AGT, B.C., CAC, CCTA, the competitors, the Director, Saskatchewan and Stentor maintained that the nation-wide telephone penetration rate computed by Statistics Canada is the most appropriate and reliable indicator of affordability.”

This purely mathematical and statistical method of measuring affordability was severely criticized, particularly by consumer rights groups and groups representing certain disadvantaged clienteles¹⁷; those groups mentioned that, if telephone penetration and service affordability are related, the link is imperfect to the extent that demand for basic telephone service is inelastic. For instance, the Fédération nationale des associations de consommateurs du Québec (hereinafter FNACQ) and others stated that as indicators of affordability, penetration rates “are helpful only to a limited degree, since telephone service is considered essential and will be retained by those in difficult financial circumstances by giving up other important consumption items.”¹⁸

Still retaining penetration rates as a determining measurement of affordability, the Commission concludes that “on an aggregate basis, telephone penetration rates for local services have been sustained at high levels in all rate groups.(...) The Commission notes that while rates for local telephone service vary widely across Canada, penetration rates do not necessarily vary in a similar manner; where rates are relatively low, penetration rates are not necessarily high. The Commission also notes, however, that penetration rates for lower income groups have generally been lower than the overall average telephone penetration rate. Accordingly, the Commission considers that telephone service is affordable to the vast majority of Canadian households.”

In conclusion, and despite its observation, on the basis of these same criteria, that low-income households do have an affordability problem, the Commission does not consider it useful to establish a subsidy program, because accessibility “for the vast majority” evidently meets, according to the Commission, the Act’s requirement to ensure that services are affordable.

Ignoring the distinction between “throughout Canada” and “for everyone in Canada”, the

¹⁴ Telecom Decision CRTC 96-10, Local Service Pricing Options, CRTC site, Ottawa, Canada, November 15, 1996, [online] <http://www.crtc.gc.ca/eng/archive/1996/dt96-10.htm> (last visit June 3, 2009).

¹⁵ *Ibid.*, Position notably of Stentor, the Alberta CAC.

¹⁶ *Ibid.*, Position notably of AGT and the Director.

¹⁷ *Ibid.*, See the observations of the B.C. Old Age Pensioners' Organization, the Council of Senior Citizens' Organisation of B.C., the Federated Anti-Poverty Groups of B.C., the West End Seniors' Network, the Consumers' Association of Canada [C.-B.], section 1-217 of the IWA Seniors Network, End Legislated Poverty, the B.C. Coalition for Information Access, and the Senior Citizens' Association of B.C. Retained by the Commission in Decision 96-10.

¹⁸ *Ibid.*, see the FNACQ’s position.

Commission summarizes: “In PN 95-49, the Commission indicated that one of its objectives was to determine how best to ensure that local service remains universally accessible at affordable rates. In this Decision, the Commission concludes that basic telephone service is currently affordable throughout Canada.”¹⁹

However, the Commission deems it useful to monitor affordability somewhat. The penetration rate being revelatory, the Commission requests, in the same decision, that penetration rate data be refined. The Commission thus requires telecommunications companies to provide “statistics on telephone penetration rates by household income group and by province would be useful as they would assist in identifying the regions and income brackets where affordability concerns may lie.”²⁰

Sensitive to certain representations made to it regarding disadvantaged households, but observing that “where rates are relatively low, penetration rates are not necessarily high”, the Commission “also notes, however, that penetration rates for lower income groups have generally been lower than the overall average telephone penetration rate.”²¹

The Commission therefore intervened on these specific issues: To enable low-income users to become telephone service subscribers, it ordered companies to allow consumers to spread the payment of line costs over a period of up to 6 months. To protect consumers as well, the Commission also ordered companies to offer them toll blocking free of charge.

To monitor as it deems relevant the affordability of telecommunications services, the Commission ordered *Stentor* member companies²², as part of an *affordability monitoring program for residential telephone service in Canada*, to produce several reports to assess the situation of low-income people. Those affordability monitoring reports, based on Statistics Canada statistics, present a precise analysis of the reasons why consumers don’t subscribe to telecommunications services or unsubscribe from them. We will be using data from the affordability monitoring report of June 2008²³ in our study.

Analysis of the affordability of telecommunications services in Canada

The telecommunications services annual affordability monitoring report is requested by the

¹⁹ *Op. Cit.*, note 14.

²⁰ *Ibid.*

²¹ *Ibid.*

²² Member companies of the Stentor group are: British Columbia Telephone Co., AGT Ltd., Saskatchewan Telecommunications, Manitoba Telephone System, Bell Canada, New Brunswick Telephone Co., The Island Telephone Co., Maritime Telegraph and Telephone Co., Newfoundland Telephone Co. and Telesat Canada. Québec Téléphone, which operates in Quebec areas not serviced by Bell Canada, is an associate member. See Robert E., Babe’s article, on the Canadian Encyclopedia’s website, Canada, n.d. [online]
<http://www.thecanadianencyclopedia.com/index.cfm?PgNm=TCE&Params=f1ARTf0008092> (last visit June 3, 2009).

²³ Affordability Monitoring Report submitted on behalf of Bell Aliant Regional Communications, Limited Partnership, Bell Canada, MTS Allstream Inc., Northwestel Inc., and TELUS Communications Company (collectively, the Companies), pursuant to the Commission’s directives in Telecom Decision CRTC 2004-73, *Modification to the affordability monitoring program for residential telephone service in Canada*, June 2008. Available on the CRTC site, Ottawa, Canada, June 12, 2008, [online]
http://www.crtc.gc.ca/partvii/fra/2004/8665/a53_200403345.htm (last visit June 3, 2009).

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Commission and drafted by certain incumbent local exchange companies²⁴ on the basis of Statistics Canada statistics and those resulting from surveys conducted by those companies. However, the Commission, which receives this report, does not disclose the conclusions it draws from it.

Since 1996, Commission requirements regarding the affordability monitoring reports have been changed a few times²⁵ as to account management tools, the frequency of reports (reduced to two once a year) and the sponsorship of Statistics Canada's investigation of residential telephone service.

The affordability monitoring reports have also changed with the times, according to technological developments. Thus, whereas the reports initially analysed only wireline residential service, other technologies have emerged over time, such as cable telephony, voice over Internet Protocol (VoIP) and wireless services. All these technologies have now been integrated to the affordability monitoring reports.

The income summary account of the 2008 annual report states that generally, the Canadian penetration rate of telecommunications services has remained stable at about 99.1% during the analysis period, i.e., during 2007, compared with other years. The data reported reveal that for low-income households – those whose income is within the lowest income quintile – the penetration rate of telecommunications services, although it rose from 94.3% to 96.7% from 2001 to 2006, remains lower than the Canadian average. Tables 1 and 2 below clearly show the link between income and penetration rates, which follow a regular upward curve corresponding to that of income, for each service examined.²⁶

TABLE 1
Table 2-5A
SHS Penetration Rates and 95% Confidence Intervals ($\pm X\%$)*
Wireline, Wireless, and Voice Telecommunications Service(s)
by Income Quintile by Province – 2001

	Quintile Upper Limit	With Wireline Telephone Service		With Wireless Telephone Service		With Voice Telecommunications Service(s)		
		\$	%	$\pm X\%$	%	$\pm X\%$	%	$\pm X\%$
Canada			97.4	0.4	47.6	1.1	98.6	0.3
Quintile 1	20,931		91.1	0.9	19.9	1.5	94.3	0.6
Quintile 2	38,000		97.1	0.9	34.4	2.0	99.1	0.6
Quintile 3	57,437		98.9	1.0	49.3	2.5	99.7	0.7
Quintile 4	85,076		99.7	1.0	61.9	2.9	100.0	0.7
Quintile 5	N/A		100.0	1.1	72.5	3.4	100.0	0.7

²⁴ The companies contributing to the annual report are: Bell Aliant Regional Communications, Limited Partnership, Bell Canada, MTS Allstream Inc., Northwestel Inc., Saskatchewan Telecommunications (SaskTel) and TELUS Communications Company, *Op. Cit.*, note 23.

²⁵ Telecom Order 97-1214, CRTC site, Ottawa, Canada, August 29, 1997, [online] <http://www.crtc.gc.ca/fra/archive/1997/O97-1214.HTM>, 2000-393, May 10, 2000, <http://www.crtc.gc.ca/fra/archive/2000/O2000-393.htm> and Telecom Decision CRTC 2004-73, November 9, 2004, <http://www.crtc.gc.ca/fra/archive/2004/dt2004-73.htm> (for each of its three pages, last visit June 3, 2009).

²⁶ *Op. Cit.*, note 23.

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TABLE 2
Table 2-5F
SHS Penetration Rates and 95% Confidence Intervals ($\pm X\%$)*
Wireline, Wireless, and Voice Telecommunications Service(s)
by Income Quintile by Province – 2006

	Quintile Upper Limit	With Wireline Telephone Service		With Wireless Telephone Service		With Voice Telecommunications Service(s)		
		\$	%	$\pm X\%$	%	$\pm X\%$	%	$\pm X\%$
Canada			94.1	0.6	67.7	1.0	99.1	0.2
Quintile 1	25,000		87.9	1.2	39.9	1.7	96.7	0.4
Quintile 2	43,000		92.3	1.2	57.0	2.0	99.3	0.4
Quintile 3	66,400		94.0	1.2	71.0	2.2	99.7	0.4
Quintile 4	101,000		97.8	1.3	80.7	2.4	100.0	0.4
Quintile 5	N/A		98.4	1.3	89.9	2.7	100.0	0.5

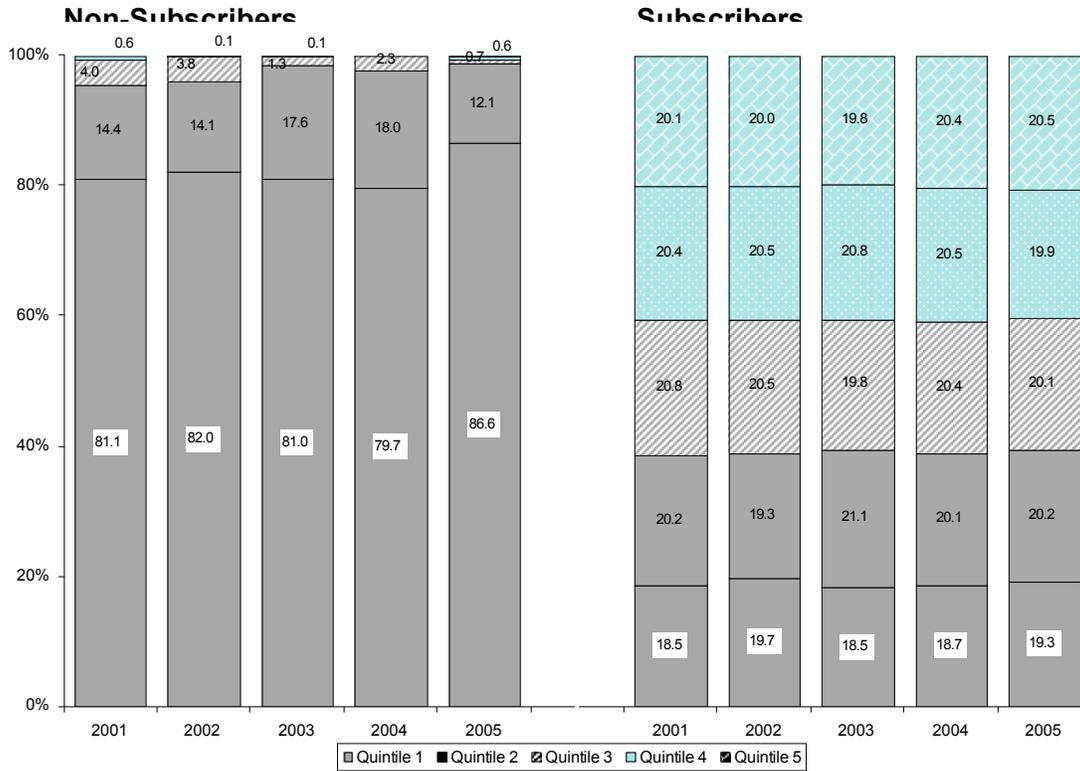
These tables also reveal, notably, that the percentage of wireless telephone subscribers in the first quintile doubled in five (5) years. It is this new means of telecommunications that has made the overall penetration rate of telecommunications services increase for low-income households. Indeed, the percentage of wireline or residential telephone subscribers dropped between 2001 and 2006, from 91.1% to 87.9%.

Households that are within the highest income quintile have a wireless subscription rate of almost 90% – 2.25 times that of the lowest income quintile.

According to statistics provided in the affordability monitoring report, about 3% of Canadian households (110,059 households) have no telecommunications services. The report specifies that 98.7% of persons not subscribing to any telecommunications services belong to the two lowest income quintiles. The lower of these quintiles groups 86.61% of all non-subscribers to telecommunications services. The report expressly notes that low income is the main characteristic of non-subscribing households²⁷. (Table 3 below)

²⁷ “Low income is a major characteristic of non-subscribing households”. *Op. Cit.*, note 23.

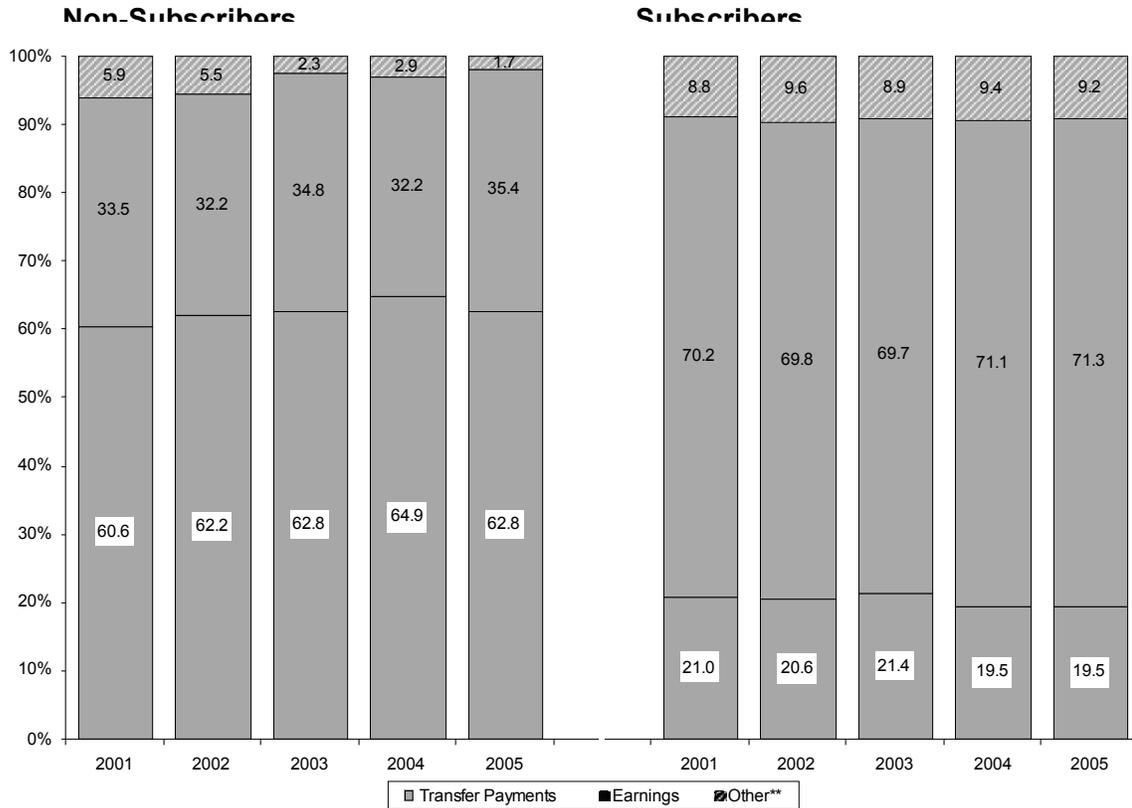
TABLE 3
Figure 2-1
Percent of Canadian Non-Subscribers/Subscribers
by Household Income Quintile Groupings – 2001 to 2005



The data presented in the report also allow us to draw an extremely accurate portrait of households that subscribe or not to telecommunications services. In addition, it appears that various socio-economic and demographic criteria differentiate subscribers from non-subscribers.

The households that don't receive telecommunications services are those with the lowest incomes, as mentioned above. Moreover, the income of almost two thirds of telecommunications non-subscribers in this household category comes essentially from various government assistance plans. This proportion of non-subscribers receiving this type of benefits remained stable at about 60% from 2001 to 2005. There remains more than one third of non-subscribers who receive work income. (Table 4, below)

TABLE 4
Figure 2-2
Percent of Canadian Non-Subscribers/Subscribers
by Major Source of Household Income* – 2001 to 2005



Other aspects differentiate households that subscribe to telecommunications services from those that don't. The latter are generally comprised of one person, male, young and most often more mobile than subscribers.

Is it by choice that non-subscribing households don't subscribe to telecommunications services, or is it because they can't, even if they have work income, support the cost of subscription?

According to the data compiled, it appears that 56% of non-subscribing households indicated that economic non-accessibility was the main reason for their non-subscription to telecommunications services.

The analysis of the portion of telecommunications services expenses (residential telephony + residential + Internet) in household budgets is revealing: for households in the lowest quintile, those expenses represent approximately, and consistently between 2001 and 2005, almost 3.3% of household expenses, compared to 2% for the household average.

For households whose income is in the lowest quintile, the portion of telephone service expenses alone is almost twice as great as for all the income brackets taken as a whole: for the latter the portion of that expense is on average 1.3% of income, whereas it's 2.3% for low-

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income consumers. This means that low-income households spend a greater portion of their resources on telecommunications services, although they often limit themselves to basic services.

As for wireless telephone and Internet services, the proportion of income spent on those services is equivalent between low-income people and the average; the multitude of service offers and the major price differences between basic services and more-expensive ones likely flatten the differences between the income portions necessary for service access by the various income brackets.

The data reported make it possible to analyse, for the years 2001 to 2005²⁸, the average expenditures made by low-income households for telecommunications services²⁹. In 2001, residential telephone services represented an average annual expense of \$505, wireless services \$54, and Internet services \$38. In 2005, residential telephone services represented an average annual expense of \$508, i.e., an increase of less than 0.6%. During the same period, wireless telephony expenses increased by almost 141% to \$130 annually. Internet access services increased by 131% to \$88 annually. During the same period, the income for the lowest income quintile increased by 15%. The proportion of income spent on Internet and cell phone services therefore doubled. (See Tables 5 and 6 below)

²⁸ Statistics Canada's polling procedures having been changed, we cannot use 2006 data to compare them to those of 2001; we therefore have to use 2005 data.

²⁹ See in particular tables 2-8A and 2-8E of the affordability monitoring report, *Op. Cit.*, note 23.

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TABLE 5
Table 2-7A
Average Percentage Household Expenditure by Household Income
(Lowest Income Quintile) and by Subscriber Status*
Canada – 2001

	Lowest Income Quintile**	Non- Subscribers	Subscribers	All Classes
	(%)	(%)	(%)	(%)
Food	18.1	20.0	11.2	11.2
Shelter	31.1	28.7	18.6	18.7
Household Operation Excluding Telecommunications	3.4	2.9	2.7	2.7
Telephone Services*** (Excluding Cellular)	2.8	0.5	1.3	1.3
Cellular Services	0.3	0.1	0.4	0.4
Internet Services	0.2	0.0	0.2	0.2
Household Furnishings and Equipment	2.4	3.5	2.9	2.9
Clothing	4.0	3.8	4.2	4.2
Transportation	10.6	6.7	13.2	13.2
Health Care	3.8	2.2	2.5	2.5
Personal Care	2.2	1.7	1.7	1.7
Recreation/Home Entertainment Excluding Cablevision and Satellite Services	3.7	4.1	5.3	5.3
Rental of Cablevision and/or satellite Service	1.5	0.8	0.7	0.7
Tobacco Products and Alcoholic Beverages	3.7	8.6	2.3	2.3
Personal Tax	3.3	7.9	21.3	21.3
Gifts Money and Contributions to Persons Outside Household	2.4	2.0	2.2	2.2
Other	6.4	6.4	9.4	9.4
Total Expenditure	100.0	100.0	100.0	100.0

Note: Totals may not balance due to rounding.

* Estimates are based on the 2001 SHS Public-Use Microdata File for full year households.

** Quintiles are created by ranking households in ascending order of total household income and partitioning the households into five groups such that the estimated number of households in each group is the same. The upper bound for the lowest income quintile is \$22,000.

*** Telephone services include basic and enhanced service charges, long distance charges (net of discounts), equipment rentals, calls from hotels and pay phones and phone cards, purchase of telephones and equipment, and other charges, e.g., wiring and installation fees and repairs.

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TABLE 6
Table 2-7E
Average Percentage Household Expenditure by Household Income
(Lowest Income Quintile) and by Subscription Status*
Canada – 2005

	Lowest Income Quintile**	Non- Subscribers	Subscribers	All Classes
	(%)	(%)	(%)	(%)
Food	17.1	19.5	10.7	10.7
Shelter	09-01-30	33.7	18.8	18.9
Household Operation Excluding telecommunications	3.1	2.4	2.6	2.6
Telephone Services*** (Excluding Cellular)	2.3	0.1	1.0	1.0
Cellular Services	0.6	0.0	0.6	0.6
Internet Services	0.4	0.0	0.4	0.4
Household Furnishings and Equipment	2.6	1.8	3.0	3.0
Clothing	3.8	3.7	3.9	3.9
Transportation	12.2	6.5	13.6	13.6
Health Care	3.9	1.7	2.7	2.7
Personal Care	2.1	1.9	1.6	1.6
Recreation/Home Entertainment Excluding Cablevision and Satellite Services	3.1	3.2	5.2	5.2
Rental of Cablevision and/or satellite Service	1.6	1.0	0.7	0.7
Tobacco Products and Alcoholic Beverages	3.5	9.4	2.1	2.1
Personal Tax	3.6	6.5	20.6	20.6
Gifts: Money and Contributions to Persons Outside Household	2.7	1.5	2.5	2.5
Other	7.5	7.0	10.0	10.0
Total Expenditure	100.0	100.0	100.0	100.0

Note: Totals may not balance due to rounding.

* Estimates are based on the 2005 SHS Public-Use Microdata File for full year households.

** Quintiles are created by ranking households in ascending order of total household income and partitioning the households into five groups such that the estimated number of households in each group is the same. The upper bound for the lowest income quintile is \$25,940.

*** Telephone services include basic and enhanced service charges, long distance charges (net of discounts), equipment rentals, calls from hotels and pay phones and phone cards, purchase of telephones and equipment, and other charges, e.g., wiring and installation fees and repairs.

The existence of an economic accessibility problem is confirmed by the reasons expressed by households for not subscribing to telecommunications services.

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A table excerpted from the 2008 affordability monitoring report (Table 7 below) clearly presents the reasons given by non-subscribers.

TABLE 7
Table 2-4
Households without Voice Telecommunications Service by Reason*
Canada – 2001 to 2006

	Total	Can't Afford	Moving	Don't Need/Want
2001	165,925	99,401	5,357**	61,167
2002	155,682	73,958	0**	81,724
2003	147,935	67,301	2,209**	78,425
2004	132,752	48,383	16,504**	67,865
2005	137,053	62,031	9,385**	65,637
2006	106,174	59,852	5,499**	40,823

* Estimates provided by Statistics Canada based on the 2001 to 2006 SHS master files.

** Note that as per Statistics Canada's Quality Guidelines this estimate is unacceptable. Conclusions based on these data will be unreliable and most likely invalid.

It therefore appears that 55 to 50% of non-subscribing households give unaffordability as their main reason for not subscribing to voice communications (telephone) services. The report mentions that only 0.6% of all households don't receive telephone service because of unaffordability³⁰.

The details of this unaffordability reveal that 72.5% of households without wireline service cite the monthly subscription cost as a barrier, and 59.7% mention installation costs as a barrier³¹.

The report also tells us that low-income households are more inclined to use wireless services as the only means of telecommunications: in December 2007, almost 10% of households that were below the threshold defined by Statistics Canada as LICO (low-income cut-off) reported themselves to be in that situation, whereas for the population as a whole, the proportion of households receiving only wireless telecommunications services is 6%. This information is important, because it indicates that should legislators or the Commission intervene, wireless services should also be taken into consideration.

Despite this information, the companies that submit this report (and that are solely responsible for interpreting its data) arrive, in paragraph 3-7, at a surprising conclusion, although it corresponds to their initial position before the CRTC, i.e., an assessment of affordability that would use the penetration rate as the sole criterion:

“The December 2007 RTSS results demonstrate that penetration rates for all provinces in Canada continue to be high in 2006. These results are consistent with earlier penetration rates reported pursuant to the affordability monitoring program established in Decision 96-10 and show that voice telecommunications services penetration rates have basically been stable over the monitoring period.

³⁰ See section 3-3 of the affordability monitoring report, *Op. Cit.*, note 23.

³¹ We recall that the Commission has established a specific policy for installation charges, but none for monthly subscriptions.

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The results demonstrate that basic residential land-line service rates have continued to remain affordable.”³²

Those basic rates, which the companies deem affordable, are, we recall, the main reason for low-income households not to subscribe. Whereas those rates are affordable for most households, they are not for low-income households, as the report’s data clearly demonstrate. If using the penetration rate of telecommunications services as the sole indicator leads to the conclusion that the services are economically accessible, despite objective data to the contrary, it is clear that one should no longer rely on that indicator alone, at least for a certain class of the population. The economic accessibility of telecommunications services must be assessed in a differentiated manner, particularly regarding low-income households.

The affordability monitoring report reveals that more than 90% of non-subscribers to telecommunications services also don’t own a computer. (In 2004, the number of people owning a computer but not receiving telecommunications – Internet – services reached a level of almost 18%; this rate fell back to 9% in 2005, the average rate for the other years). Computer access is more and more crucial for certain administrative undertakings, and is the indispensable tool for adequate Internet access from home.

In short, the report draws a portrait of the typical household subscribing to telecommunications services, and of the one not doing so³³.

Whereas the average income of the lowest quintile increased by 15% from 2001 to 2005, that of telecommunications service non-subscribers fell by almost 15% over the same period. At the same time, the number of non-subscribing households fell from 165,925 to 137,048. If unaffordability is the main factor of their non-subscription, it must be admitted that a drop in income doesn’t help low-income households to overcome this obstacle. Given the importance of communications in the lives of Canadians, it’s important to reflect now on actions that would give people access to affordable telecommunications services.

³² See the affordability monitoring report, *Op. Cit.*, note 23.

³³ See tables 2-6A and 2-6E of the affordability monitoring report, *Op. Cit.*, note 23.

SPECIAL MEASURES ESTABLISHED BY THE CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION TO PROMOTE AFFORDABILITY

Measures established or ordered by the Commission to favour service affordability have a general application and thus are not specifically intended for low-income households; in addition, they apply only to companies' local telecommunications services.

The Commission's measures expressly aimed to improve access or avoid the disconnection of households from local telecommunications services. We will examine here certain Commission decisions regarding those measures.

CRTC Order 2000-393³⁴

At the request of the companies, this Commission order related to their obligation to produce affordability reports modified some of the previous requirements. But the order particularly concerned bill management tools used by subscribers, such as: outbound long distance call blocking, inbound collect call blocking and instalment payment plans. Moreover, the order created a committee charged with promoting those bill management tools.

The Commission still does not concern itself with the monthly rate paid by subscribers – the main cause of non-subscription to telecommunications services – but it does address the second cause of non-subscription, i.e., installation charges.

Before this order, the promotion to subscribers of bill management tools was left to the companies' discretion. In this order, the Commission reversed itself: "The efforts to date to promote BMTs and to assist customers to either remain on the network or obtain telephone service have not been as successful as expected. Accordingly, the Commission will take an active role to promote BMTs and help customers obtain service or remain on the network."

A major problem faced the promotion of bill management tools: how to reach persons who don't receive telecommunications services and tell them about programs that would enable them to minimize the impact of installation charges by spreading them out?

Analysis of the results of bill management tools

We will focus here on the program to spread installation charges over up to 6 months, and on the program to restrict long distance calls and collect calls.

The affordability monitoring report provides us with extremely precise data about those two programs.

We will mainly examine the situation in Quebec and Ontario; we have more relevant statistics for those two provinces. Moreover, the data come from Bell, the main incumbent local service provider there.

According to the two tables (8 and 9) below, it appears that consumers initiate, in the great majority of cases, their subscription to the toll restrict program. In addition, those programs are

³⁴ Telecom Order CRTC 2000-393, CRTC site, Ottawa, Canada, May 10, 2000, [online] <http://www.crtc.gc.ca/fra/archive/2000/O2000-393.htm> (last visit June 3, 2009).

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quite popular among consumers – from 105,000 to 120,000 subscription requests per month in Ontario, and from 43,000 to 48,000 requests per month in Quebec.

TABLE 8
Table 4.1-2A
Bill Management Tools Tracking Report
Bell Canada
January 2007 to December 2007

PROVINCE		INSTALMENT PAYMENT PLAN	TOLL RESTRICT					
Ontario			Company-Initiated - Total Customers*			Customer-Initiated - Total Customers		
Year	Month	New Customers	Direct Toll (1 ⁺ or 0 ⁺)	3 rd Number	Inbound Collect	Direct Toll (1 ⁺ or 0 ⁺)	3 rd Number	Inbound Collect
2007	Jan	684	4,178			120,368	26,135	57,257
2007	Feb	869	1,935			118,735	25,864	56,545
2007	Mar	970	2,512			117,716	25,953	56,294
2007	Apr	1,144	2,741			116,447	25,975	55,925
2007	May	674	4,271			114,765	25,844	55,319
2007	June	289	4,530			113,499	25,723	54,811
2007	July	224	2,386			112,862	25,548	54,463
2007	Aug	268	2,355			111,027	25,222	53,680
2007	Sept	259	3,261			109,274	24,977	52,899
2007	Oct	262	4,882			107,978	24,861	52,418
2007	Nov	224	5,575			106,318	24,816	51,907
2007	Dec	177	4,371			104,838	24,831	51,534

* The number of Company-Initiated Toll Restrict customers reported is the total of all three (3) sub-categories (Direct Toll; 3rd Number & Collect).

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TABLE 9
Table 4.1-2B
Bill Management Tools Tracking Report, Bell Canada
January 2007 to December 2007

PROVINCE		INSTALMENT PAYMENT PLAN	TOLL RESTRICT					
Quebec			Company-Initiated Customers*			Customer-Initiated Customers		
Year	Month	New Customers	Direct Toll (1 ⁺ or 0 ⁺)	3 rd Number	Inbound Collect	Direct Toll (1 ⁺ or 0 ⁺)	3 rd Number	Inbound Collect
2007	Jan	656	1,723			48,205	4,981	20,739
2007	Feb	836	1,027			47,772	4,855	20,606
2007	Mar	709	1,319			47,462	4,855	20,511
2007	Apr	706	1,224			46,982	4,768	20,281
2007	May	534	2,012			46,627	4,724	20,071
2007	June	373	2,160			46,005	4,715	19,868
2007	July	666	1,593			45,244	4,589	19,584
2007	Aug	351	1,278			44,587	4,523	19,390
2007	Sept	330	1,837			44,204	4,504	19,277
2007	Oct	294	2,198			43,770	4,499	19,189
2007	Nov	269	2,725			43,420	4,522	19,058
2007	Dec	244	1,868			43,084	4,510	19,016

* The number of Company-Initiated Toll Restrict customers reported is the total of all three (3) sub-categories (Direct Toll; 3rd Number & Collect).

The number of new customers subscribing to the instalment payment plan is lower. Table 10 below, excerpted from the affordability monitoring report, shows the proportion of new subscribers who choose this program.

TABLE 10
Table 4.1-6
Instalment Payment Plan Tracking
New Instalment Payment Plan Customers per Inward Movement (%)
2003 to 2007

COMPANY	PROVINCE/TERRITORY	2003	2004	2005	2006	2007
Bell Aliant	New Brunswick	6.6	4.3	7.4	8.8	9.5
	Newfoundland	6.8	8.0	32.3	28.7	28.2
	Nova Scotia	8.2	10.4	7.9	7.6	6.6
	Prince Edward Island	14.6	14.4	10.7	8.1	6.1
Bell Canada	Ontario	3.2	2.6	1.7	1.4	1.0
	Quebec	9.6	5.2	3.3	2.6	1.6
MTS Allstream	Manitoba	N/A	N/A	N/A	N/A	N/A
Northwestel	Northwest Territories/Yukon/ British Columbia/Nunavut	N/A	N/A	N/A	N/A	N/A
TELUS	Alberta	0.1	0.0	0.0	0.0	N/A*
	British Columbia	0.6	0.6	0.4	0.0	0.0
	Quebec	N/A	N/A	N/A	N/A	N/A

N/A = Not Available.

* Inward movement for April to December 2007 is not available due to design, testing and implementation of a new tracking system.

Between 2003 and 2007, the percentage of new clients that chose the instalment payment plan in Newfoundland increased from 7% to more than 28%. There was also an increase in New Brunswick, from 6% to almost 10%. Meanwhile, in Ontario and Quebec, the percentage of new subscribers choosing this plan fell from almost 10% in Quebec to slightly less than 2%.

The impressive number of users of these various programs should confirm the relevance and importance of measures that not only give consumers access to telephone services, but also help maintain such access.

Telecom Decision CRTC 2004-31:³⁵ Terms of service – Disconnection for partial payment of charges

We mentioned above that telecommunications service subscribers had the option to have long distance calls blocked. However, some subscribers who didn't have this feature blocked saw their telephone service suspended because they weren't paying long distance or other charges that weren't the basic charges set by the CRTC.

In Decision 2004-31, the Commission "determines that, in accordance with the incumbent local exchange carriers' (ILECs) approved Terms of Service, the ILECs are not permitted to suspend or terminate (disconnect), or threaten to disconnect, a customer's tariffed services if that customer has made partial payments sufficient to cover that customer's outstanding arrears for tariffed services, whether or not there remain outstanding arrears for non-tariffed services."

This decision fits logically in the regulatory framework defined by the Commission in two previous decisions, i.e., Telecom 77-14 and 88-4. In both decisions, the Commission had mentioned that a subscriber's disconnection was a grave action that could be taken only in special cases, such as a violation of regulations in effect at the time. This is understandable because the telephone is the only way to call emergency services from home. In addition, as an essential link with society, companies cannot remove it from users without serious reason.

Decision 88-4 addressed 976 services more specifically³⁶, i.e., services identical to 900 services. According to the Commission, users call telephone numbers preceded by 1-900 and to access a service tariffed per call and provided by a third party, referred to as a 900 content provider. These are tariffed network services that some telephone companies offer 900 content providers.³⁷ At the time, the Commission reiterated that "non-payment of non-tariffed charges cannot result in denial of service. (...)As customers may not differentiate between the payment of tariffed and non-tariffed charges, the Commission directs that, any partial payments are to be applied first to tariffed charges."

Decision 2004-31 was perfectly in line with the two decisions cited above, since it aimed to allow subscribers to keep their telecommunications services, and to prevent telecommunications service providers from hastily denying service.

In that decision, the Commission already recognized that "the grounds most commonly cited for

³⁵ Telecom Decision CRTC 2004-31, Disconnection for partial payment of charges, CRTC site, Ottawa, Canada, May 11, 2004, [online] <http://www.crtc.gc.ca/eng/archive/2004/dt2004-31.htm> (last visit June 3, 2009).

³⁶ Services 900/976, CRTC site, Ottawa, Canada, February 13, 2006, [online] http://www.crtc.gc.ca/eng/info_sht/t1001.htm (last visit June 3, 2009).

³⁷ *Ibid.*

not subscribing to or for disconnecting service are installation charges, monthly basic local rates and deposits, all of which continue to be regulated by the Commission.” Again, despite this observation, the Commission does not address the problem of monthly local rates, whereas it maintains and reinforces measures regarding to other obstacles to access or maintenance of service subscription, i.e., installation charges and deposits.

AFFORDABILITY AND DISCONNECTION

To ensure that users were not hastily denied their telecommunications services, the Commission imposed on the companies obligations for following up on denials of service. Accordingly, companies must investigate when a subscriber requests that his services be discontinued due to economic inaccessibility.

All companies must therefore communicate orally with customers before denying them service, and inform them of the existence of bill management tools available to them. After so informing customers, if the customer still wants to be disconnected, companies must determine what charges caused the unaffordability: installation charges, monthly rate, long distance charges, along with options and other services or charges (such as 1-900 services). The results of those questionnaires are found in several tables of the affordability monitoring report; here again, we will mainly examine the data from Ontario and Quebec, since we have more usable data from there. (Tables 11 and 12 below)

Subscribers themselves initiate most disconnections; there are 9 and 10 times as many disconnections requested by subscribers as by companies. However, according to company data, voluntary disconnections related to affordability represent slightly more than 2% of voluntary disconnections in Ontario, and almost 1% in Quebec. These percentages may seem quite low at first, but low-income people represent the near-totality of those percentages, and the disconnection requests are related to affordability problems.

In addition, whether in Quebec or Ontario, when subscribers have their service disconnected, most of them mention the “others” category as involving charges that make their telecommunications service seem unaffordable to them. Unfortunately, the absence of details for this category doesn’t enable us to know which service or set of services leads to disconnection motivated by a perception of unaffordability. Moreover, it would be surprising if a person got himself disconnected solely because of the price of optional services such as voice mail or call display.

Monthly charges, for which the Commission hasn’t established any program, are in first place among specific categories, even before link-up charges or long distance charges. We note also that few subscribers have tried bill management tools before getting disconnected. We wonder whether those services are adequately presented to and understood by subscribers.

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TABLE 11
Table 4.2-2A
Disconnect Survey Tracking Results, Bell Canada
January 2007 to December 2007

Province		Disconnects		Voluntary Disconnects for Affordability Reasons							Tried BMTs	
Ontario												
Year	Month	Involuntary	Voluntary	Total	Basic	Install.	Toll	Other	Options & Features	Don't Know/Refused	Toll Restrict	IPP
2007	Jan	4,471	45,554	984	19	3	0	957	0	5	0	1
2007	Feb	4,576	37,668	794	24	4	0	763	1	2	0	0
2007	Mar	4,308	43,207	872	11	3	0	855	0	3	0	1
2007	Apr	5,481	56,223	1,121	13	9	2	1,089	1	7	0	2
2007	May	7,103	49,863	1,117	24	2	1	1,086	0	4	0	0
2007	June	1,112	46,926	1,139	17	2	0	1,113	0	7	0	0
2007	July	7,731	52,224	1,289	14	5	2	1,262	1	5	1	0
2007	Aug	5,651	54,472	1,174	20	5	1	1,144	0	4	1	1
2007	Sept	5,313	45,818	1,118	9	6	2	1,095	0	6	2	2
2007	Oct	7,029	52,464	1,138	18	15	1	1,098	0	6	1	1
2007	Nov	5,251	46,895	893	14	13	3	858	0	5	1	4
2007	Dec	3,499	41,682	622	5	8	2	605	0	2	2	2

TABLEAU 12
Table 4.2-2B
Disconnect Survey Tracking Results, Bell Canada
January 2007 to December 2007

Province		Disconnects		Voluntary Disconnects for Affordability Reason							Tried BMTs	
Québec												
Year	Month	Involuntary	Voluntary	Total	Basic	Install.	Toll	Other	Options & Features	Don't Know/Refused	Toll Restrict	IPP
2007	Jan	3,017	31,477	157	7	2	0	146	1	1	0	1
2007	Feb	3,624	27,098	174	0	0	1	172	1	0	0	0
2007	Mar	4,663	30,889	159	7	0	0	151	1	0	0	0
2007	Apr	3,839	33,961	239	5	7	2	219	2	4	0	1
2007	May	5,236	37,548	341	11	7	13	285	3	22	3	0
2007	June	1,134	45,053	668	11	5	14	617	10	11	1	0
2007	July	4,436	43,938	722	7	2	3	698	6	6	1	1
2007	Aug	2,697	32,639	300	5	1	4	281	3	6	1	1
2007	Sept	3,562	32,106	234	7	3	1	218	3	2	0	0
2007	Oct	4,467	35,008	272	8	8	3	249	4	0	0	2
2007	Nov	2,012	32,570	204	4	3	6	189	1	1	2	0
2007	Dec	2,060	28,481	172	2	2	0	166	2	0	0	0

Telecom Decision CRTC 2005-38: Bill management tools – Debt repayment plans³⁸

In Telecom Decision CRTC 2004-31, the Commission had mentioned that “the ILECs are not permitted to disconnect tariffed services or threaten to do so where any of the other prohibitions in the Terms of Service apply (e.g., the customer is willing to enter into and honour a reasonable deferred payment agreement).”

To have reasonable deferred payment agreements regulated somewhat, thus ensuring that they offer households a serious possibility to avoid disconnection, consumer rights groups requested that the Commission oblige – as did, for example, the Régie de l'énergie for the companies it regulates³⁹ – telecommunications service providers to enter into reasonable agreements with customers regarding outstanding payments, and that it provide for acceptable terms for such agreements.

³⁸ Telecom Decision CRTC 2005-38, Bill management tools – Debt repayment plans, CRTC site, Ottawa, Canada, June 29, 2005, [online] <http://www.crtc.gc.ca/fr/archive/2005/dt2005-38.htm> (last visit June 3, 2009).

³⁹ Observations by Union des consommateurs at the Hearing on Hydro-Québec's service conditions (R-3439-2000), Régie de l'énergie site, Canada, Quebec, January 15, 2009, [online] <http://www.regie-energie.qc.ca/audiences/3439-00/index.html> (last visit June 3, 2009).

A subsequent Commission decision, Telecom Decision 2005-38, provided for an 18-month pilot project, the *Bad Debt Repayment Plan* (BDRP). This project was to enable customers whose telecommunications service had been suspended because of accumulated late payments to have their service reinstated, subject to subscribing to a specific repayment plan whose features are prescribed by the Commission in that same decision⁴⁰. Only one telecommunications company, SaskTel, already had at the time such a bad debt repayment plan.

In that decision, the Commission justified the necessity of such a repayment plan on the basis of some of the objectives of the Telecommunications Act, by stating notably that paragraphs 7a), b) and h) of the Act⁴¹ advocated this type of repayment plan, since it would be likely to facilitate access to telephone service for low-income consumers.

The Commission recalls in its decision the benefits of subscribing to telecommunications services. In particular, the Commission mentions that guaranteed access to telecommunications services offers low-income consumers both a better opportunity to find gainful employment and greater safety through telephone access to emergency services. In addition, the Commission points out that telecommunications services help prevent social isolation. However, these observations did not suffice for the Commission to broaden the payment agreement plan offered to subscribers who might accumulate late payments before service denial.

At the end of the 18-month period set for the pilot project, the Commission re-examined the relevance of such a plan. On the basis of representations made by the companies, which had difficulty finding advantages to this repayment plan, the Commission decided to terminate it⁴².

Telecom Decision CRTC 2008-27: Improving access to local services⁴³

Telecom Decision CRTC 2008-27 – Improving access to local services⁴⁴ ended the pilot program aiming to facilitate repayment of consumer debts related to telecommunications services. The Commission also gave the newly minted Commissioner for Complaints for Telecommunications Services the mandate “to examine credit management issues related to

⁴⁰ *Op. Cit.*, note 38, §42.” Specifically, the Commission considers that: a) Each Company is to undertake a pilot BDRP. b) Each pilot BDRP is to be limited to a representative sample of 600 former subscribers disconnected because of bad debt. c) The repayment schedule structure and the monthly repayment amounts in SaskTel’s tariffed BDRP are to be used. No interest is to be charged on amounts owing, the security deposit is to be waived, and the reconnection charge must be spread over six months. d) Pilot BDRP subscribers are to be restricted to local service unless other services are expressly required to address safety, medical or special needs issues. e) The pilot BDRPs are to be conducted for a period of 18 months.”

⁴¹ *Op. Cit.*, note 7.

7a) to facilitate the orderly development throughout Canada of a telecommunications system that services to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions”; b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both rural and urban areas in all regions of Canada”; (...) h) to respond to the economic and social requirements of users of telecommunications services”.

⁴² Telecom Decision CRTC 2008-27, Improving access to local services – The Commission’s decision-making process, and the analysis of data contained in the report on the pilot project, explain the time between the end of the pilot project and the Commission’s decision not to renew it (i.e., almost as much time as the project’s 18-month duration itself), CRTC site, Ottawa, Canada, March 19, 2008, [online] <http://www.crtc.gc.ca/eng/archive/2008/dt2008-27.htm> (last visit June 3, 2009).

⁴³ *Ibid.* Improving access to local services.

⁴⁴ *Ibid.*

improving access to local services”⁴⁵.

To justify the project’s termination, the Commission mentions that the loan default rates of consumers who had participated in the program varied considerably from one company to another (e.g.: 81% in the case of Bell Aliant and 40% in the case of SaskTel, which had been obliged to modify its existing plan to make it compatible with that of the pilot project).

In the pilot project report submitted to the Commission, the telecommunications companies asked the latter not to extend it; the companies criticized its inefficiency, cost and administrative burden. The largest companies added that the program was unfair, since companies with more customers bore a greater administrative burden than others.

Certain consumer rights groups (such as the Public Interest Advocacy Centre⁴⁶ and Union des consommateurs⁴⁷) emphasized the pilot project’s positive results, beginning with debt payment in full by 8% of Bell subscribers and by 30% of MTS All Stream subscribers. The consumer groups also emphasized the reduction in the average indebtedness of subscribers who participated in the project; Union des consommateurs pointed out that among persons in default of payment before payment in full of their debt, total new debts incurred have been very low, i.e., \$2,158. This amount, divided by the 424 participants who had defaulted, represents an average of \$5.09 for each one⁴⁸.

The consumer groups therefore pleaded for the maintenance and improvement of the program, which, in their view, had not had time to prove itself. They also stated, among other things, that the agreements proposed by companies lacked the flexibility to obtain more-satisfactory results (for example, some companies required, within the framework of the pilot project, payment in full of amounts in arrears in the month following the signing of the agreement; consumer groups refused to consider this a reasonable offer to settle).

⁴⁵ *Ibid.*

⁴⁶ The PIAC’s observations of June 1, 2007, CRTC site, Ottawa, Canada, March 19, 2008, [online] http://www.crtc.gc.ca/partvii/eng/2005/8638/c12_200515002.htm (last visit June 3, 2009).

⁴⁷ Union des consommateurs observation of June 1, 2007, CRTC site, Ottawa, Canada, March 19, 2008, [online] http://www.crtc.gc.ca/partvii/eng/2005/8638/c12_200515002.htm (last visit June 3, 2009).

⁴⁸ *Ibid.*, §18.

The Commission, which did not attempt to understand why the repayment default rate was lower at SaskTel, the company that already had a plan before the pilot project was launched, was sympathetic to the companies' arguments. Indeed, after a purely economic analysis of the program over the pilot project's 18-month duration, the Commission writes in its decision: "the financial impact of a permanent implementation of the pilot DRP would vary between companies based on the implementation costs as well as the debt recovery ratio (i.e. debt recovered as a result of the pilot DRP divided by the new debt accrued during the pilot DRP)."⁴⁹ The Commission nevertheless recognizes that the program's effectiveness was hindered by a lack of flexibility in reaching agreements with which consumers would have found it easier to comply.

The Commission thus didn't take into account that such programs become more effective over a longer period, and that initial set-up costs naturally affect short-term cost-effectiveness. In particular, the Commission neglected the fact that such a program, aiming to improve access to an essential service, constitutes a social measure that cannot be analysed solely from an economic perspective – and solely from the companies' viewpoint, at that.

When the Commission mentions in this decision that other methods would be more effective and even-handed in giving consumers better access to local services, such as measures to reduce the number of disconnections, it unfortunately appears to indicate by the same token that people who have already been disconnected are henceforth abandoned to their fate, since the only program that could have corrected this situation has been abolished.

So the Commissioner for Complaints for Telecommunications Services is now responsible for credit management issues⁵⁰. This agency will have to oversee and monitor consumer complaints about credit management, as well as the reconnection policies of its member companies, and to determine whether establishing a code of conduct for the companies will be necessary in this regard.

An analysis of the Commission's decision makes it clear to what extent the Order⁵¹ influenced the regulatory approach even to non-economic issues. Beyond the program's necessity and benefits, its apparent absence of competitive symmetry and neutrality was the basis for the Commission's decision to kill the program.

⁴⁹ *Op. Cit.*, note 42, §17.

⁵⁰ In the case of services that are not regulated by the CRTC and for member companies.

⁵¹ *Op. Cit.*, note 3.

MEASURES ADOPTED ABROAD AND INTENDED FOR LOW-INCOME HOUSEHOLDS

In this part of the study, we will examine legislations establishing programs to help low-income people. We will focus on programs established in the United States and Europe (particularly in France, Great Britain, Belgium and Austria). We will also analyse the special case of Australia.

We have conducted our research by gathering information from the websites of each country's regulatory bodies and studying related legislation, and by gathering information from the websites of certain telecommunications companies participating in the programs.

Each time we've been able to find relevant information, we've mentioned the proportion of low-income household budgets that is absorbed by telecommunications expenses.

Before examining the various programs, we think it important to note a common denominator of many telecommunications laws – the concept referred to as *universal service*, which is the basis of most programs to assist low-income consumers.

UNIVERSAL SERVICE

The concept of universal service applied to telecommunications services appeared in 1910 in AT&T's annual report; Theodore Vail, then-president of the company, presented the telephone system as "universal, interdependent and intercommunicating". At first merely an AT&T marketing objective, this eventually became, starting in 1934, a central objective of telecommunications regulation policy in the United States⁵².

Originally, this concept referred to the legal protection of the dominant operator against the competition, called "unfair", of other companies that didn't have the obligation to provide telecommunications services to the population as a whole⁵³. The concept has evolved over the decades, and nowadays it refers to policies that facilitate access to essential services⁵⁴. Applying the principle of universal service entails an obligation to provide a minimum set of specific services to all end-users at an affordable price.

⁵² RYAN, Michael H. *Canadian Telecommunications Law and Regulation*, Carswell, Toronto 2005; SIMON, Jean Paul "Universal service: between socio-political mythology and economic reality- an international cross comparison EU-USA of the regulatory-economic framework", info- The journal of policy, regulation and strategy for telecommunications, information and media, Emerald Group Publishing Limited, 2008, vol. 10, Issue 5/6, pp.138-151, site du Emerladinsight, United Kingdom, Bingley, n.d., [online] <http://www.emeraldinsight.com/Insight/viewContentItem.do;jsessionid=A5E6EA640BAF26C2F717D76907628BE8?contentType=Article&contentId=1745090> (last visit June 3, 2009).

⁵³ *Ibid*, p. 139.

⁵⁴ REISS, Dorit Rubinstein "Agency Accountability Strategies After Liberalization: Universal Service in the United Kingdom, France, and Sweden", LAW AND POLICY, Wiley-Blackwell, Buffalo, vol. 31, 1, p. 111. "The term universal service refers to policies aimed at providing or facilitating access to telecommunications and electricity services, considered by many essential services in modern society.", p. 112.

In Canada, the Telecommunications Act doesn't specifically mention universal service; but it's possible to infer from certain Canadian telecommunications policy objectives that Canadian telecommunications services must aim toward universal service⁵⁵. In fact, the Commission has mentioned in some of its decisions that universal accessibility to telephone services was a fundamental principle of its regulations⁵⁶.

Over the years, the Commission has focused on rural areas to enable remote areas to benefit from affordable telecommunications services, and at the same time it has deregulated local services where, in its view, competition was present. The absence of explicit recognition of the universal service principle in the Act and in the instructions given by the Minister has certainly contributed to galloping deregulation, to the detriment of the protection that the Commission could have chosen to grant low-income households.

“Universal Service” directive of the European Parliament and the Council

European legislation explicitly recognizes the principle of universal service: Directive 2002/22CE of the European Parliament and Council of March 7, 2001, concerning universal services and the rights of users regarding electronic communications networks and services (“Universal Service Directive”)⁵⁷, states in its fourth whereas clause, on the scope of the principle: “Ensuring universal service (that is to say, the provision of a defined minimum set of services to all end-users at an affordable price) may involve the provision of some services to some end-users at prices that depart from those resulting from normal market conditions.”

Should normal market conditions not make it possible to offer universal service, the Universal Service Directive thus explicitly recognizes the right of Member States, and even imposes on them the obligation, to forego normal market conditions if necessary so that universal telecommunications services may be offered, even at lower than market prices.

The Universal Service Directive also insists on measures that Member States may have to put in place, and the types of clientele to which those measures will apply: the Directive's seventh whereas clause states: “Such measures may also include measures directly targeted at consumers with special social needs providing support to identified consumers, for example by means of specific measures, taken after the examination of individual requests, such as the paying off of debts.”

In the Directive's tenth whereas clause, we find a definition of “affordable price”, which takes into account each individual user's capacity to pay: “Affordable price means a price defined by Member States at national level in the light of specific national conditions, and may involve setting common tariffs irrespective of location or special tariff options to deal with the needs of

⁵⁵ *Op. Cit.* note 7. Article 7.

7a) to facilitate the orderly development throughout Canada of a telecommunications system that services to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions”; b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both rural and urban areas in all regions of Canada”; (...) h) to respond to the economic and social requirements of users of telecommunications services”.

⁵⁶ Telecom Decision CRTC 78-7, known as *Bell Canada Increase in Rates*, on page 26.

⁵⁷ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services, Eur-lex site, managed by the Publications Office, Europe, [online] http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&type_doc=Directive&an_doc=2002&nu_doc=22&lg=en (last visit June 3, 2009).

low-income users. Affordability for individual consumers is related to their ability to monitor and control their expenditure.” (Emphasis added)

European legislation thus identifies specific needs for low-income users and orders specific measures that take their special situation into account. Other than the price of the service itself, the Directive imposes other targeted obligations: in the fifteenth whereas clause, the obligation to offer consumers the option to selectively bar certain calls, or to apply certain measures regarding connection charges. The sixteenth whereas clause addresses the issue of disconnecting users for persistent non-payment of charges, and the possibility within Member States of maintaining telephone access so long as the subscriber pays basic telephone line charges.

European legislation thus requires that specific services and measures be applied to low-income households, and gives member states every latitude to implement such measures; accordingly, in paragraphs two and three, article nine of the Directive, we read:

2. Member States may, in the light of national conditions, require that designated undertakings provide tariff options or packages to consumers which depart from those provided under normal commercial conditions, in particular to ensure that those on low incomes or with special social needs are not prevented from accessing or using the publicly available telephone service.

3. Member States may, besides any provision for designated undertakings to provide special tariff options or to comply with price caps or geographical averaging or other similar schemes, ensure that support is provided to consumers identified as having low incomes or special social needs.

Within the framework called the “telecom package”, the European Parliament and Council are currently re-examining the Universal Service Directive, which is the object of bitter debate.⁵⁸

⁵⁸ The current work of the European Commission and the Council on the “Telecom Package” is available on the Europarl site, n.d. [online] <http://www.europarl.europa.eu/oeil/file.jsp?id=5563972¬iceType=null&language=en> (last visit June 3, 2009).

Universal service in the United States

In the United States, the concept of universal service was incorporated in the *Telecommunications Act* of 1996⁵⁹, which defines four distinct objectives: increase competition, deregulate, favour investment, and ensure universal service⁶⁰; article 254 of the *Telecommunications Act* is entirely dedicated to “universal service”.

Article 254. [47 U.S.C. 254] *UNIVERSAL SERVICE* defines the various components of universal service – the first component being specifically related to affordability: “(1) Quality and Rates - Quality services should be available at just, reasonable, and affordable rates.”⁶¹

In paragraph i) of article 254, titled “*consumer protection*”, we find this same principle, directly applied to rates: “*The Commission and the States should ensure that universal service is available at rates that are just, reasonable, and affordable.*”

Within the framework of universal service, programs have been established to improve the access of low-income people to telecommunications services.

MEASURES ADOPTED IN THE UNITED STATES

The United States has constituted a specific fund to guarantee the universality of telecommunications services; all telecommunications companies that provide long distance services must collect and deposit into the fund a certain percentage of long distance charges billed, i.e., a surcharge of ten percent (10%) applied to all long distance charges, including international calls. This fund has enabled the establishment of programs intended for low-income households, i.e., the “*Link-up*” and “*Lifeline*” programs for residential telecommunications services.

In 1996, the adoption of the *Telecommunications Act* directly incorporated those programs in the legislation on universal service.

In its 1997 report, the *Federal Communications Commission* (hereinafter the FCC) interpreted the *Telecommunications Act*, particularly the “*Lifeline*” and “*Link-up*” programs, in the light of the new universal service requirements:

“With respect to the Lifeline and Link-up programs, we observe that the Act evinces a renewed concern for the needs of low-income citizens. Thus, for the first time, Congress expresses the principle that rates should be “affordable”, and that access should be provided to “low-income consumers” in all regions of the nation. These principles strengthen and reinforce the Commission's preexisting interest in ensuring that telecommunications service is available “to all the people

⁵⁹ Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996) available on the Federal Communications Commission (FCC), Washington, DC, United States, November 15, 2008, [online] <http://www.fcc.gov/telecom.html> (last visit June 3, 2009).

⁶⁰ *Op. Cit.*, note 52, p. 142.

⁶¹ The other items of article 254 of the *Telecommunications Act* are: (2) Access to advanced services, (3) Access in rural and high cost areas, (4) Equitable and non discriminatory contributions, (5) Specific and predictable support mechanisms, (6) Access to advanced telecommunications services for schools, health care, and libraries, (7) Additional principles.

of the United States.” Under these directives, all consumers, including low-income consumers, are equally entitled to universal service as defined by this Commission under section 254(c)(1).⁶²

Afterward, economic accessibility was interpreted by the “*Joint Board*”, comprised of federal and state representatives, which stated: “factors, other than rates, such as local calling area size, income levels, cost of living, population density, and other socio-economic factors may affect affordability.”⁶³

But the “*Joint Board*” goes further, in rejecting the concept of a national affordability threshold and recognizing the states’ fundamental role in assessing affordability⁶⁴.

“Lifeline” and “Link-up” programs

The FCC details the “*Lifeline*” and “*Link-Up*” programs in form 497⁶⁵. However, the programs are established by federal legislation, and we find in the regulation code, in title 47, Volume 3, part 54, mention of universal service and related programs⁶⁶.

The reduction amounts applied by telecommunications companies under those programs is reimbursed to them through the fund created to guarantee universal telecommunications services.

Lifeline

Article 401 of the regulation code defines the “*Lifeline*” program⁶⁷ as allowing low-income people to benefit from a monthly reduction of telephone subscription charges. Four reduction levels are provided for, up to thirty-five dollars (\$35) per month, notably for people on reservations or in areas where service needs to be improved.

Link-up

The “*Link-up*” program exclusively targets installation charges; rebates may be granted, up to one hundred dollars (\$100) for people on reservations.⁶⁸ “*Link-up*” also includes a deferred payment plan for installation charges.

⁶² Federal-State Joint Board on Universal Service, Report & Order, 12 FCC Rcd. 8,776, May 8, 1997, p.180, available on the website of the Universal Service Administrative Company, Washington, D.C., United States, n.d., [online] <http://www.universalservice.org/res/documents/about/pdf/fcc-orders/1997-fcc-orders/FCC-97-157.pdf> (last visit June 3, 2009).

⁶³ Federal-State Joint Board of Universal Service, Recommended Decision, 12 FCC Rcd.87 (1996).

⁶⁴ *Ibid.*

⁶⁵ Form available on the site of the Universal Service Administrative Company, Washington, D.C., United States, July 2008 [online] <http://www.universalservice.org/res/documents/li/pdf/Form-497-instructions-FY2008.pdf> (last visit June 3, 2009).

⁶⁶ *Code of Federal Regulations*, available on the website of the Government Printing Office (GPO) Access Services, Washington, DC, United States, May 13, 2008 [online] <http://www.gpoaccess.gov/CFR/retrieve.html> (last visit June 3, 2009).

⁶⁷ *Ibid.*, “a retail local service offering: (1) That is available only to qualifying low-income consumers; (2) For which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in Sec. 54.403; and (3) That includes the services or functionalities enumerated in Sec. 54.101 (a)(1) through (a)(9).”

⁶⁸ *Op. Cit.*, note 65, see also 47 CFR 54.413.

Program eligibility criteria

These programs' eligibility criteria are found in article 54.409 a) of the regulation code⁶⁹:

"To qualify to receive Lifeline service in a state that mandates state Lifeline support, a consumer must meet the eligibility criteria established by the state commission for such support. The state commission shall establish narrowly targeted qualification criteria that are based solely on income or factors directly related to income."

When the state doesn't impose its program, eligibility is determined as follows:

"b) To qualify to receive Lifeline service in a state that does not mandate state Lifeline support, a consumer's income, as defined in Sec. 54.400(f)⁷⁰, must be at or below 135% of the Federal Poverty Guidelines or a consumer must participate in one of the following federal assistance programs: Medicaid; Food Stamps; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families."⁷¹

There are only five (5) American states that haven't established their own "*Lifeline*" and "*Link-up*" programs, and where consumers use the general eligibility criteria defined above⁷².

Among the eligibility criteria determined by the states, the one generally considered a priority is that of income. In addition to defining the eligibility criteria, the states have also defined the terms of these programs, i.e., participation verification procedures, applicable restrictions (such as the inclusion or not of options in a program), but also their own contribution to the program⁷³.

⁶⁹ *Op. Cit.*, note 66.

⁷⁰ *Ibid.*, (f) Income. "Income" is all income actually received by all members of the household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like."

⁷¹ *Ibid.*

⁷² The five states concerned are: Delaware, Hawaii, Indiana, Louisiana, New Hampshire.

⁷³ See the HOLT article, Lynne and Mark JAMISON, "Re-evaluating FCC Policies concerning the lifeline & Link-up programs", 5 *Journal on Telecommunication & High Technologies Law* 393, 2006-2007.

Main criticisms of the programs

Prior to the 2004 modification, which broadened the program eligibility criteria, program statistics showed that about one third of eligible households had subscribed to the programs⁷⁴. The FC reports also mention this finding, and specify that of the 88% of low-income households that subscribe to telecommunications services, only one third benefit from the “Lifeline” program⁷⁵. Since 1998, whereas the discount offered has increased by almost 64%, the proportion of participants to the program has increased by only two percent.⁷⁶

The low level of participation in these programs is said to result from a flagrant lack of visibility, whereby the target populations are often unaware even of their existence⁷⁷; to remedy this situation, some states have taken measures to publicize the programs. For instance, some states send eligible households e-mail or even pre-approved forms, while targeting potential beneficiaries by means of their registration to other assistance or social programs. Some states provide for automatic subscription to these programs for households benefiting from certain other social programs⁷⁸.

The other main criticism of the programs concerns their cost. We can see the programs’ cost increase in the table below, which shows the annual funding dedicated to universal service.

⁷⁴ *Ibid.*, p. 399. Subscription rates to these programs vary by state.

⁷⁵ Federal and State staff for the State Joint Board on Universal Service, Universal Service Monitoring Report, CC Dkt. 98-202, tbl. 2.3, May 2005, available on the site of the California Communications Association (CalCom) Sacramento, California, United States, May 2008 [online] <http://www.caltelassn.com/Reports06/Universal%20Service/UnivSer05.pdf> (last visit June 3, 2009).

⁷⁶ *Op. Cit.*, note 54, p. 403.

⁷⁷ *Op. Cit.*, note 54, p. 404: “The four surveys conducted for PURC indicate the primary barrier to Lifeline participation appears to be a lack of public awareness.”

⁷⁸ See the report of working group FCC/NARUC/NASUCA on the “Lifeline” and “Link-up” programs, p. 6, available on the Life Line site, Washington, DC, United States, July 26, 2005 [online] <http://www.lifeline.gov/LLLUReport.pdf> (last visit June 3, 2009).

TABLE 13

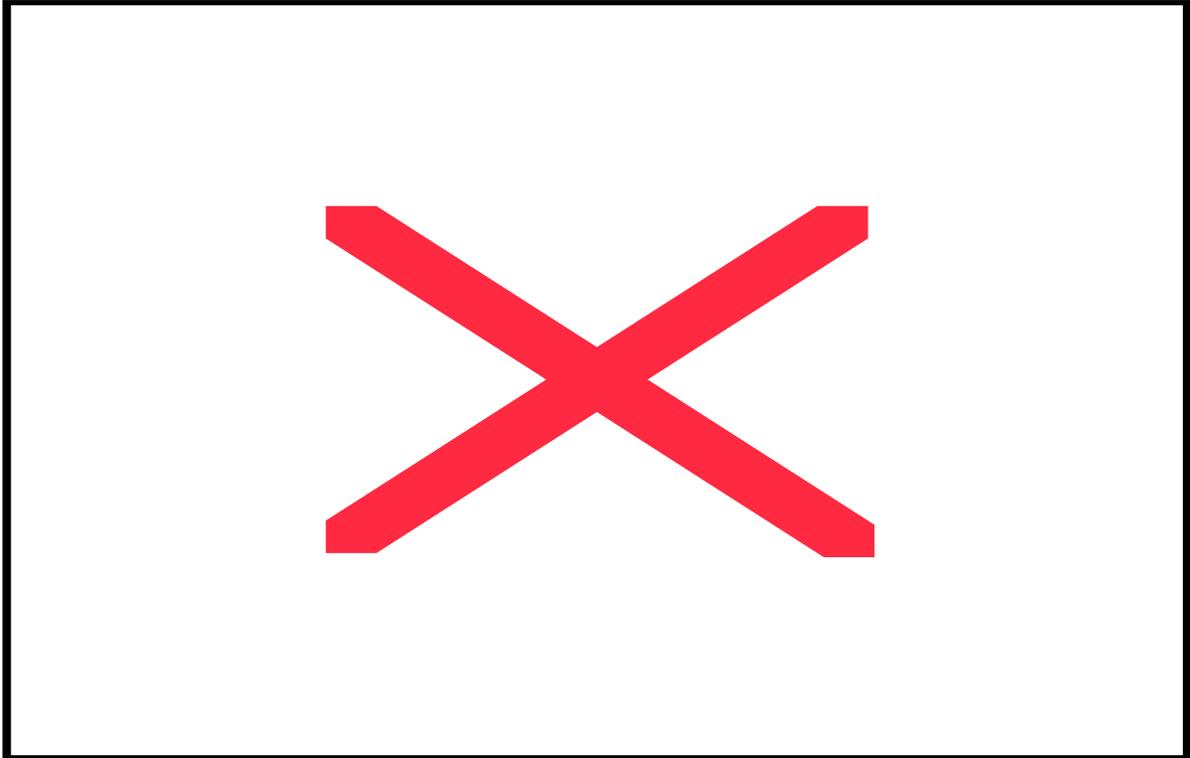


Figure 1 – Growth of the USF ⁷⁹

The low participation rate to the programs and the low rate of new participants are explained not only by a ignorance of the programs, but also by the arrival of cell phones. As the time when the eligibility criteria were broadened, it was observed that the number of wireless telecommunications service subscribers exceeded the number of residential telecommunications services⁸⁰.

Recently, certain wireless service providers have become eligible for the programs. Despite this welcome effort to reach the target clientele, the number of subscribers who have taken advantage of these measures has remained quite low.

Given these results, some authors insist that the programs need to evolve, and they propose new ideas for funding and applying them. Some authors propose vouchers for purchasing a particular item or obtaining a discount⁸¹. Beneficiaries could use their vouchers for any type of access to telecommunications services, such as VOIP or wireless subscriptions, or even

⁷⁹ Excerpt from the Simon article, *Op. Cit.*, note 52, p. 142.

⁸⁰ *Ibid.*, p. 405.

⁸¹ *Op. Cit.*, note 54; the authors also mention that the Vouchers idea was previously put forward, notably in: Universal Service Working Group, *Digital Age Communication Act*, Progress & Freedom Foundation, December 2005. Available [online] <http://www.pff.org/issues-pubs/books/051207daca-usf-2.0.pdf> (last visit June 3, 2009).

prepaid card purchases.

It will be interesting to observe the programs' new funding methods under the new American administration, and the new directions that will be taken to help low-income households subscribe to telecommunications services.

SafeLink Wireless program

In 2008, following in the footsteps of the “*Lifeline*” program, a new program, “*SafeLink Wireless*”⁸², was launched in some American states⁸³.

This new version of the “*Lifeline*” program is intended for wireless services; eligible people receive a cell phone free of charge with a certain allocated communication time, which varies among participating states (between 41 and 80 minutes⁸⁴); beneficiaries of this program can also purchase calling cards to extend their communication time. The program is valid for one year, renewable with proof that the subscriber still meets program eligibility conditions. The beneficiary is not bound by any contract with a telecommunications company. Other than simple access, additional services are included: call display, call waiting, voice mail. International calls are billed at the same rate as long distance calls, unused minutes are carried over to the next month, the device remains activated for one year after it is sent, and emergency calls are not billed.

Are eligible for the program those households that participate in a state or federal program, such as “Federal Public Housing Assistance, Food Stamps and Medicaid”, and those whose total income is below the threshold of 135% of poverty guidelines. Are excluded those households in which someone already benefits from the “*Lifeline*” program. An applicant must also have a fixed address other than a post office box.

⁸² The program's website, SafeLink, Miami, Florida, United States, n.d. [online] <https://www.safelinkwireless.com/EnrollmentPublic/home.aspx> (last visit June 3, 2009).

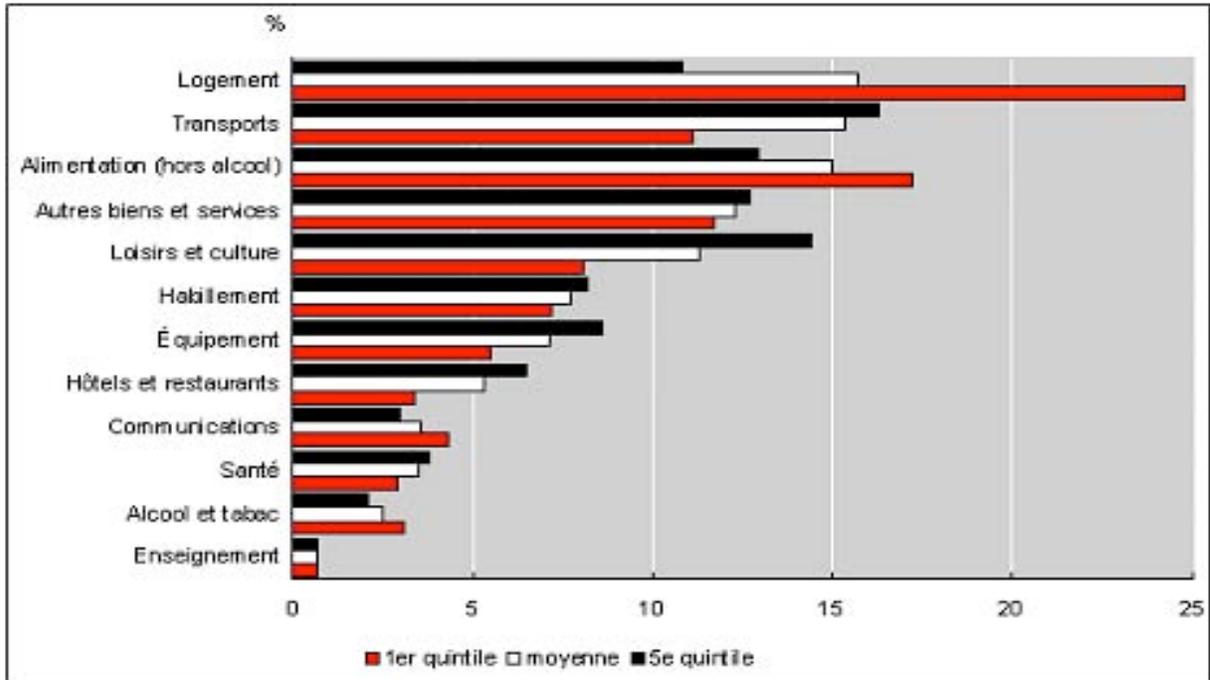
⁸³ Delaware, Florida, Tennessee, Georgia, Massachusetts, Michigan, New York, North Carolina, Pennsylvania, Virginia.

⁸⁴ Details of programs for each state, such as Massachusetts, on the SafeLink site, Miami, Florida, United States, n.d. available, [online] <https://www.safelinkwireless.com/EnrollmentPublic/faq.aspx> (last visit June 3, 2009).

MEASURES ADOPTED IN FRANCE

According to statistics provided by the Institut national de la statistique et des études économiques, the ratio of telecommunications service expenses to the overall expenses of low-income households, i.e., those in the first income quintile, is slightly greater than that of corresponding Canadian households. (Table 14 below)

TABLE 14



Graphic on the buying pattern according to the standard of living in 2006⁸⁵

⁸⁵ Graphic excerpted from: Enquête de budget de famille 2006 de l'Institut national de la statistique et des études économiques (INEE), available on the INEE website, ministère de l'Économie, de l'Industrie et de l'Emploi, Paris, France, [online] http://www.insee.fr/fr/themes/document.asp?ref_id=BDF06 (last visit June 3, 2009).

Code des postes et communications électroniques: a code with a social impact?

France being a member of the European Union (as are the United Kingdom, Belgium and Austria, which we will examine below), we will not revisit the Universal Service Directive, since it must have been transposed in the internal legislation of each member state. However, we will briefly refer to certain universal service provisions⁸⁶.

We will examine first the Code des postes et communications électroniques⁸⁷ (hereinafter the Code), and more particularly Book II on electronic communications and its chapter III on public service obligations.

Article L.35 of the Code defines the characteristics that public services must present:

“Les obligations de service public sont assurées dans le respect des principes d'égalité, de continuité et d'adaptabilité. Elles comprennent:

a) Le service universel des communications électroniques défini, fourni et financé dans les conditions fixées aux articles L. 35-1 à L. 35-4; (...)”

Article L35-1 specifies the content of universal service:

“Le service universel des communications électroniques fournit à tous:
1° Un service téléphonique de qualité à un prix abordable.

Les conditions tarifaires incluent le maintien, pendant une année, en cas de défaut de paiement, d'un service restreint comportant la possibilité de recevoir des appels ainsi que d'acheminer des appels téléphoniques aux services gratuits ou aux services d'urgence au bénéfice du débiteur (...)

Le service universel est fourni dans des conditions tarifaires et techniques prenant en compte les difficultés particulières rencontrées dans l'accès au service téléphonique par certaines catégories de personnes, en raison notamment de leur niveau de revenu et en proscrivant toute discrimination fondée sur la localisation géographique de l'utilisateur.

Un décret en Conseil d'État, pris après avis de la Commission supérieure du service public des postes et des communications électroniques, précise les modalités d'application du présent article et le contenu de chacune des composantes du service universel.”

⁸⁶ For additional information on universal service in France, read Michel Berne's article, “Telecommunications universal service in France”, info- The journal of policy, regulation and strategy for telecommunications, information and media, Emerald Group Publishing Limited, 2008, vol. 10, Issue 5/6, pp. 121-137, available on the website of Emerladinsight, Bingley, United Kingdom, n.d., [online] <http://www.emeraldinsight.com/Insight/viewContentItem.do?contentType=Article&contentId=1745089> (last visit June 3, 2009).

⁸⁷ The Code des postes et communications électroniques is available on the website of LégiFrance, Paris, France, n.d. [online] <http://www.legifrance.gouv.fr/initRechCodeArticle.do> (last visit June 3, 2009).

Beyond simple economic accessibility, the Code imposes, among other things, service maintenance, albeit restricted, in the event of default on payment. The fact that the French Code imposes this type of measure clearly indicates the legislator's willingness to protect the most financially fragile populations. To that effect, the legislator also understands the importance of not breaking the social link provided by the telephone and of ensuring people's safety.

Again in the same article, there is an obligation regarding the pricing and provision of universal service; that article makes it mandatory to take into account a subscriber's particular situation in order to determine if the service is affordable to him.

The measures and programs apply to residential telephone services.

Social pricing details

In line with the articles quoted above, there is article R. 20-34 of the Code, which specifies the type of measures intended for low-income people:

“Les personnes physiques qui ont droit au revenu minimum d'insertion ou qui perçoivent l'allocation de solidarité spécifique ou l'allocation aux adultes handicapés et qui ont souscrit un abonnement au service téléphonique fixe auprès de l'opérateur qui les dessert, autorisé selon les conditions fixées au III, bénéficient, sur leur demande, d'une réduction de leur facture téléphonique.”

We note that subscription to this pricing is voluntary and that eligible households have to request it.

As for the monthly amount of the discount, it is, under the third paragraph of the same article, “fixé par arrêté du ministre chargé des communications électroniques pris après avis de l'Autorité de régulation des communications électroniques et des postes. [ARCEP]”

According to ARCEP's 2007 annual report⁸⁸, the social pricing for subscription is €6.49 monthly, taxes included, vs. €16 for the standard subscription. Compensation for the discount granted by France Télécom, the incumbent operator and the only one offering social pricing in France, breaks down as follows: one part is borne by the universal service fund (€5.04 taxes included per month) and the other part by France Télécom (€4.47 taxes included per month). ARCEP'S annual report explains: “En effet, en tant que prestataire désigné par le ministre de la première composante du service universel, le téléphone, l'opérateur historique a l'obligation d'offrir une réduction sociale tarifaire.”

⁸⁸ Autorité de régulation des communications électroniques et des postes, Rapport annuel, Partie IV, chapitre V, p. 316, available on the website of the Autorité de régulation des communications électroniques et des postes, Paris, France, n.d. [online] <http://www.arcep.fr/index.php?id=2105> (last visit June 3, 2009).

Universal service fund

Under article L.35-3 of the Code⁸⁹, all telecommunications service providers are obliged to pay into the universal service fund. Among the telecommunications service providers are those that offer wireline and wireless services as well as Internet service providers, calling card providers, VOIP service providers, and even certain local groups.

Telecommunications service providers generally contribute to the fund pro rata of the portion of their sales volume that is generated by communications services.

Other initiatives for low-income households

France Télécom has recently been offering a new program intended for low-income households, and applicable to wireless services.

The company Orange (France Télécom, hereinafter Orange) is offering, to *allocataires des minima sociaux* (minimum guaranteed income beneficiaries, single-parent allowance beneficiaries, and future beneficiaries of the *revenu de solidarité active*), a package for ten euros (€10) per month (about \$16) that includes 40 communications minutes⁹⁰ and 40 text messages⁹¹. Orange's offer is linked to a monthly contract; a subscriber can thus terminate the service at any time, without incurring penalty fees related to longer term contracts⁹². Moreover, this company is working on a bundle offer (telephone, Internet, television) for €20 (about \$32) per month intended for low-income households.

This program for low-income people likely results from Code changes effected by the *Loi de modernisation de l'économie*⁹³, whose new article L.33-9 states: "Une convention entre l'État et les opérateurs de téléphonie mobile détermine les conditions dans lesquelles ceux-ci fournissent une offre tarifaire spécifique à destination des personnes rencontrant des difficultés particulières dans l'accès au service téléphonique en raison de leur niveau de revenu."⁹⁴ This amendment confirms that universal service and social pricing were not intended to apply to all telecommunications services.

⁸⁹ The Code is available on the website of LégiFrance, Paris, France, n.d. [online] <http://www.legifrance.gouv.fr> (last visit June 3, 2009).

⁹⁰ Whereas airtime in Canada includes incalls and outcalls, in France only outcalls are charged as airtime and no limit to incalls is imposed.

⁹¹ Information published on the website of Libération. "Orange lance un forfait low cost pour les plus démunis", Libération, section économie, May 12, 2005, Paris, France, [online] <http://www.liberation.fr/economie/0101566776-france-telecom-lance-un-forfait-low-cost-pour-les-plus-demunis> (last visit June 3, 2009).

⁹² As a comparison: One of the first offers by a wireless service provider (FIDO) offers in Canada a package whose conditions are apparently similar to Orange's (for \$15 monthly before taxes, a package including 50 minutes of calls (incalls and outcalls) and 50 text messages. FIDO's offer may be linked to a two-year contract and subject to severe penalties for premature termination of the service. In fact, it depends on whether the consumer chooses to purchase the wireless telephone or to benefit from a FIDO promotion offering the telephone in exchange for a two-year commitment to wireless services provided by FIDO.

⁹³ The Act is available on the website of LégiFrance, Paris, France, n.d. [online] <http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=?cidTexte=JORFTEXT000019283050> (last visit June 3, 2009).

⁹⁴ However, we are not aware of the existence of an agreement entered into under this article.

In 2008, the Paris City Hall also established a program for low-income households. The Office public d'aménagement et de construction (hereinafter OPAC) developed a bundle intended for people living in the city's social housing. Henceforth, those tenants can benefit, for €1.19 taxes included (\$1.85) per month, from 512 kbps Internet service (data transfer speed is calculated in kilobytes per second = kbps), from IP telephony and 18 television channels. In addition, connected buildings will have optical fibre connections, and tenants can opt for another telecommunications service offer. The main purpose of these measures is to reduce digital service fees in France.⁹⁵

In view of these measures, including those applying to wireless telecommunications services, a sociologist has claimed that a new right exists, that of being contactable ("être joignable")⁹⁶.

MEASURES ADOPTED IN BELGIUM

Somewhat similarly to France, and thanks to the Universal Service Directive, we find in the Belgian Act of June 13, 2005, the *Loi relative aux communications électroniques*⁹⁷, provisions for social pricing as part of the universal service requirement.

Accordingly, in article 74 of the Belgian Act, we read: "La composante sociale du service universel consiste en la fourniture par chaque opérateur à certaines catégories de bénéficiaires, de conditions tarifaires particulières."

The definition of *opérateur*, in article 2 of the Act, indicates that, as opposed to French law, social pricing applies to wireless telephony as well as residential or wireline services.⁹⁸

⁹⁵ Estelle Dumout, "L'office HLM de Paris propose le haut débit à un euro avec Neuf Cegetel", Zdnet, Paris, France, February 12, 2008, available [online]

<http://www.zdnet.fr/actualites/internet/0,39020774,39378489,00.htm> (last visit June 3, 2009).

⁹⁶ Marie Piquemal, Libération, section société, Paris, France, May 13, 2009, available [online] <http://www.liberation.fr/societe/0101567055-ne-pas-avoir-de-portable-est-discriminant> (last visit June 3, 2009).

⁹⁷ The Act is available on the website of the Institut belge des services postaux et des télécommunications, Brussels, Belgium, n.d. [online] <http://www.ibpt.be/GetDocument.aspx?forObjectID=951&lang=fr> (last visit June 3, 2009).

⁹⁸ Tarifs sociaux, website of the Institut belge des services postaux et des télécommunications, Brussels, Belgium, n.d. [online] http://www.ibpt.be/fr/196/ShowContent/1042/Tarifs_sociaux/Tarifs_Sociaux.aspx (last visit June 3, 2009).

Telephone social pricing details

Eligibility criteria for telephone social pricing are found in article 22 of the schedule of the June 13, 2005 Act⁹⁹. Several categories of people can benefit from this telephone social pricing: people over 65 or impaired whose income is below a certain bracket (€14,624.7 (about \$23,350) annually), the hearing impaired or persons having undergone a laryngectomy, the war blind, and people benefiting from the social integration income (“Minimexés”).

Another major condition applies: a household can benefit only from one telephone social rate, either for a residential line or for a wireless one.

The discounts, applied to service installation, the monthly subscription if applicable, and to the communications amount, are specified in article 38 of the schedule to the Act. The Institut belge des services postaux et des télécommunications summarizes the discount amounts in Table 14, which we reproduce below as is¹⁰⁰.

TABLE 14

Bénéficiaire	Type de formule		Réductions sur le raccordement	Réduction tous les mois		
	Opérateur pour l'abonnement	Opérateur pour les com.	Ligne FIXE	Abon.	Com.	Total
+65 ans, handicapés, déficients auditifs, laryngectomie, aveugles militaires	Opérateur A	Opérateur A	50% du prix normal	8,40 €	3,10 €	11,50 €
	(pas de frais d'abonnement)	Opérateur A	50% du prix normal	-	3,1€	3,10 €
	Opérateur A	Opérateur B	50% du prix normal	-	11,5€ (par B)	11,50 €
“Minimexés”			-	-	3,10 €	3,10 €

Again the consumer is responsible for requesting telephone social pricing.

Universal service fund

Section 7 of the Belgian *Loi sur les communications électroniques* is dedicated to the universal service fund. Article 92 §2 of the Act mentions that the fund “est affecté à la rétribution des prestataires des services prestés au titre du service universel.”¹⁰¹

As in France, the fund is supplied by operator contributions on the basis of their sales volume (see articles 94 and foll. of the Belgian Act). All operators must contribute to the fund (Article 96 of the Belgian Act).

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*

¹⁰¹ *Op. Cit.*, note 97.

Criticism of social pricing

The main criticism of telephone social pricing in Belgium is that the monthly rate discount is not indexed – the proportion of fees that is covered by this allowance thus diminishes as standard subscription pricing increases, so that low-income households have to absorb the price increase without any compensation. To avoid this situation, a non-profit association (the Association belge des consommateurs, also known by the name of the magazine it publishes, *Test Achat*), proposes that the discount be applied in the form of a percentage of the basic rate¹⁰².

Curiously, in Belgium some operators provide services at a lower rate than Belgacom's, the incumbent provider, which still holds 70% of the market for residential lines. This is notably the case of the BASE wireless telecommunications operator, with its *Classic* package¹⁰³. The interest in and attractiveness of social pricing are considerably lowered if even more economical offers exist on the market. However, we can ask ourselves whether such offers would exist were it not for the requirement that providers apply social pricing.

Although all operators have in theory the obligation to provide social pricing in Belgium, some operators refuse to do so, without the Institut belge des services postaux et des télécommunications penalizing the holdouts¹⁰⁴ ...

¹⁰² The page "Les tarifs sociaux de la téléphonie fixe toujours moins sociaux" is available on the website of Test Achat, Brussels, Belgium, n.d. [online] <http://www.test-achats.be/telephonie/les-tarifs-sociaux-de-la-telephonie-fixe-toujours-moins-sociaux-s555023.htm> (last visit June 3, 2009).

¹⁰³ Bart Vandesompele, "BASE offre à tous les consommateurs belges un nouveau tarif 'BASE Classic' moins cher que le tarif social 'Classic' de Belgacom", press release, Base website, Brussels, Belgium, June 27, 2008, available [online] http://www.base.be/base/fr/home/about_base/press/page.aspx/1073 (last visit June 3, 2009).

¹⁰⁴ Article 104 of the Belgian Act, which states: "Art. 104. En cas de défaillance du prestataire, constatée par l'Institut, dans l'exécution des obligations de service universel aux conditions techniques et tarifaires prévues en annexe, le ministre peut imposer au prestataire concerné une amende administrative dont le montant ne peut excéder 1% du chiffre d'affaires du prestataire concerné pour l'année considérée, calculé conformément à l'article 95." *Op. Cit.*, note 97.

MEASURES ESTABLISHED IN THE UNITED KINGDOM

Peculiarities of the British Act

Part I of the United Kingdom's Communications Act of 2003 (c. 21) lists the functions and powers of the "Office of Communications" (hereinafter Ofcom)¹⁰⁵, which has a central role in regulating communications services, i.e., both telecommunications and broadcasting.

Article 3 of the Communications Act defines Ofcom's obligations:

- (1) It shall be the principal duty of OFCOM, in carrying out their functions—
 - (a) to further the interests of citizens in relation to communications matters; and
 - (b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- (...)
- (4) OFCOM must also have regard, in performing those duties, to such of the following as appear to them to be relevant in the circumstances — (...)
 - (i) the needs of persons with disabilities, of the elderly and of those on low incomes;¹⁰⁶

In addition to the promotion of competition having to be in line with consumer interests, the British Act requires Ofcom to take into account, in exercising its regulatory powers, the specific needs of low-income people. To that effect, the Act, in the Part 1 section "*Functions for the protection of consumers*", contains original provisions establishing a Consumer Panel assigned to do the research and advise Ofcom about any consumer issue in the field of telecommunications, with the exception of broadcast contents¹⁰⁷. The panel, whose members are chosen mainly by Ofcom and the Secretary of State, is involved with certain specific issues, including the consideration of low-income people in the telecommunications sector¹⁰⁸.

¹⁰⁵ Provision available on the website of the Office of Public Sector Information, London, United Kingdom, July 17, 2003 [online] http://www.opsi.gov.uk/ACTS/acts2003/ukpga_20030021_en_1#Legislation-Preamble (last visit June 3, 2009).

¹⁰⁶ The article "General duties of OFCOM" is available on the website of the Office of Public Sector Information, London, United Kingdom, July 17, 2003 [online] http://www.opsi.gov.uk/ACTS/acts2003/ukpga_20030021_en_2#pt1-pb2-l1q3 (last visit June 3, 2009).

¹⁰⁷ See in particular article 16(2) of the British Act, which states: "The arrangements must include the establishment and maintenance of a panel of persons (in this Act referred to as "the Consumer Panel") with the function of advising both—
(a) OFCOM; and
(b) such other persons as the Panel think fit." Act available on the website of the Office of Public Sector Information, London, United Kingdom, July 17, 2003 [online] http://www.opsi.gov.uk/ACTS/acts2003/ukpga_20030021_en_3#pt1-pb6-l1q16 (last visit June 3, 2009).

¹⁰⁸ See in particular article 17(4) of the British Act: "(4) In appointing persons to be members of the Consumer Panel, OFCOM must secure, so far as practicable, that the Panel are able to give informed advice about matters referable to each of the following— (...) d) the interests of disadvantaged persons, persons with low incomes and persons with disabilities; and (...)" available on the website of the Office of Public Sector Information, London, United Kingdom, July 17, 2003 [online] http://www.opsi.gov.uk/ACTS/acts2003/ukpga_20030021_en_3#pt1-pb6-l1q16 (last visit June 3,

The panel held a seminar in 2004 on communications regulation and low-income consumers¹⁰⁹, another one in 2006 on low-income consumers and the future of regulation, and the most recent one, in 2007, on social inclusion and communications. The seminars act as a working group and issue recommendations that Ofcom is to follow.

Current situation of low-income consumers

Before examining the measures intended for low-income households, we will draw a portrait of the British situation regarding low-income consumer access to telecommunications services. The Consumer Panel's work provides us with valuable data, such as the percentages of consumers that have certain means of communication, subject to various criteria (age, income, handicap).

TABLE 15

Mode	All (in percent)	Age 65+ (in percent)	Disability (in percent)	Income <£11.5k (in percent)
Fixed line telephone	90	98	91	78
Mobile phone (personal use)	80	48	63	66
Multi-channel TV	74	56	67	61
Personal Computer	68	35	47	35
Internet	61	29	40	26
Broadband	45	15	26	17

Source: Ipsos/Mori *Digital Tracker* commissioned by the Ofcom Consumer Panel¹¹⁰

2009).

¹⁰⁹ All documents on the seminar Communications Regulation and Low Income Consumers are available on the website of the Communications Consumer Panel, London, United Kingdom, November 2004, [online] <http://www.communicationsconsumerpanel.org.uk/smartweb/low-income-research/communications-regulation-and-low-income-consumers> (last visit June 3, 2009).

¹¹⁰ Table available on page 29 of the report on social inclusion and communications, available [online] http://www.communicationsconsumerpanel.org.uk/downloads/Research/LowIncomeConsumers_Research/Social%20inclusion%20and%20communications/Social%20inclusion%20and%20communication.pdf (last visit June 3, 2009).

We note first that the penetration rate of residential telephony for low-income consumers is lower in the United Kingdom than in Canada (78% vs. 89%). However, we also find a lower penetration rate of fixed telephone generally for the overall British population compared to Canada (90% vs. 94.1%). On the other hand, 66% of low-income consumers in the United Kingdom have a wireless phone, vs. 39.9% in Canada.

The portion of telecommunications expenses paid by British low-income households varies between 1 to 3%, which is equivalent to the portion paid by Canadian low-income households¹¹¹.

Measures intended for low-income consumers

Well before the new Act of 2003, measures intended for low-income consumers had been established by Ofcom's predecessor, Oftel, which had ordered British Telecom, Bell Canada's equivalent, to establish such measures. Those measures applied to residential telecommunications services.

At the end of 1993, British Telecom proposed special programs allowing households to subscribe to telecommunications services at prices lower than those prevailing on the market. This plan, the "*Light User Scheme*", was included in British Telecom's licence. (Until the 2003 Act's amendment, which totally changed the system, British telecommunications companies had to obtain a licence¹¹²). As its name suggests, this specially priced service was available only for limited use.

In 1998 and 1999, two new programs were introduced – "*In Contact*" and "*In Contact Plus*". These programs have since been replaced by a single one, at British Telecom – "*BT Basic*".

It should be mentioned that British Telecom is responsible for setting up the program¹¹³.

¹¹¹ Data issued in the report "Social inclusion and communications: a review of the literature", November 2007, available on the website of the Communications Consumer Panel, London, United Kingdom, [online] http://www.communicationsconsumerpanel.org.uk/downloads/Research/LowIncomeConsumers_Research/Communications%20Regulation%20and%20low%20Income%20Consumers/Seminar1%20report.pdf (last visit June 3, 2009).

¹¹² For additional information on the plan change and the transition from the licensing plan to the authorization plan, see the page Industry information, available on the Oftel website, London, United Kingdom, n.d. [online] http://www.ofcom.org.uk/static/archive/Oftel/ind_info/index.htm (last visit June 3, 2009).

¹¹³ OFCOM document titled Strategic Review of Telecommunications, Phase 2 consultation document, Policy Annexes, p. 56, available on the Oftel website, London, United Kingdom, n.d. [online] http://www.ofcom.org.uk/consult/condocs/telecoms_p2/tsrphase2/PolicyAnnexes_FL.pdf (last visit June 3, 2009).

Details of the “BT Basic” program

BT Basic is a low-cost residential telephone line rental program¹¹⁴. This program includes, as an option, a service to block surcharged numbers (equivalent to 1-900 numbers in Canada).

The program is intended mainly for low-income people, such as those receiving income assistance from government (Income Support, Income-Based Jobseeker's Allowance, Employment Support Allowance (Income related), Pensions Credit). Eligible people benefit from the program only if they apply for it.

Renting the line costs £13.20 every three months (about \$8 a month), and consumers can pay their bill anytime they choose.

The line rental includes a £4.50 call credit for the 3-month period. This call credit can be used for international, national or national calls. (The price of local or national communication is billed on the basis of 9.78 pence per minute plus 2.93 pence for each call. Beyond the £4.50 credit, calls are billed at the basic rate.) If the consumer doesn't use his entire call credit, the balance cannot be transferred to the following months.

Criticisms of the program

The program is criticized for the low call credit (£4.50) granted for three months. Indeed, it represents, for example, barely more than 35 minutes of local calls in 3 months, if we calculate ten calls per month (and the charge of 2.93 pence for each call). That would be equivalent to an average call duration of barely more than a minute, which is ridiculously low.

MEASURES ADOPTED IN AUSTRIA

The Austrian Act was amended in 2003 to integrate the European Directives, including the Universal Service Directive, to domestic law¹¹⁵.

We find provisions of the Universal Service Directive in section 4 of the Austrian Act. Thus, in §26: “Universal service is the provision of a minimum set of public services to all users at an affordable price regardless of their place of residence or work.” And, in §27(1): “Universal service shall be available on an nationwide basis at a uniform and affordable price in a certain quality.”

The Austrian Act does not define affordability or criteria for the latter, apart from mentioning that a rate must be uniform over the entire territory. Other than the obligation to provide for affordable services, there's no explicit mention of access to telecommunications services for low-income people.

¹¹⁴ All program details are found on the page “A simple guide to BT Basic”, available on the website of de British Telecom, London, United Kingdom, n.d. [online]
http://www.btplc.com/inclusion/phoneservices/services/btbasic/index.htm?s_cid=con_FURL_calls_basi_c (last visit June 3, 2009).

¹¹⁵ This Act is available in English translation, on the site of the Austrian Telecommunications Regulatory Authority (Rundfunk & Telekom Regulierungs GmbH), Vienna, Austria, August 19, 2003, [online]
<http://www.rtr.at/en/tk/TKG2003> (last visit June 3, 2009).

However, article 70 contains specific provisions for people who fail to pay their telecommunications service bills:

“§ 70. The operator of a telecommunication service may interrupt or disconnect the service in case of default in payment only after having reminded the subscriber without success, warning to interrupt or disconnect the service and granting a period of grace of at least two weeks. Interruption of access to emergency telephone numbers shall not be permitted. Disconnection or interruption of services of the universal service as defined in § 26 (2) items 1 and 2 must not take place if the subscriber is in default solely with obligations under another contractual relationship of universal service or any other contractual relationship with the operator.”

The Austrian Act attempts to prevent the disconnection of users of residential telecommunications services; it also insists on the obligation to maintain the disconnected user's capability to access emergency numbers. The article also takes bundles into account: A subscriber cannot be disconnected if he is in default of payment for services not included in universal service.

MEASURES ADOPTED IN AUSTRALIA

Telstra licence terms

Of the countries we researched, Australia has adopted the most measures intended for low-income people.

The Australian regulatory authority, the Australian Communications and Media Authority (ACMA), which replaced the Australian Communications Authority (ACA), has imposed specific measures concerning low-income people within the framework of the licence granted to *Telstra*, the main telecommunications service operator in Australia.

Australia's *Telecommunication Act 1997*, in section 52, gives ACMA the power to grant licences for telecommunications services¹¹⁶. *Telstra's* licence provides (in condition 22) for the establishment of measures intended specifically for low-income people, and for their design and means of approval¹¹⁷:

“(1) By 1 July 2002, the licensee must offer, or have a plan for offering products and arrangements to low-income customers (the low-income package) that has been:

- (a) endorsed by low-income consumer advocacy groups; and
- (b) notified in writing to the ACA.

(2) The low-income package must include details of the dates by which products or arrangements not offered to low-income customers from 1 July 2002 will be offered to such customers.

¹¹⁶ The Australian Act is available on the Common Law website, Sidney, Australia, n.d. [online] [http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/84E4764AEF95F2EECA25750E00285667/\\$file/Tele1997_WD02.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/84E4764AEF95F2EECA25750E00285667/$file/Tele1997_WD02.pdf) (last visit June 3, 2009).

¹¹⁷ Licence available on the Common Law website, Sidney, Australia, n.d. [online] [http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrumentCompilation1.nsf/0/DDF6769C7E5214F8CA25755A0002961F/\\$file/CarrLicConditions.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrumentCompilation1.nsf/0/DDF6769C7E5214F8CA25755A0002961F/$file/CarrLicConditions.pdf) (last visit June 3, 2009).

(3) The licensee must comply with the low-income package as in force or existing from time to time.

(4) The licensee must maintain and adequately resource a Low-income Measures Assessment Committee (LIMAC), comprising representatives of such organisations as are approved by the Minister in writing from time to time.

(5) The role of LIMAC will be:

(a) to assess proposed changes to the low-income package or to the marketing plan for the low-income package; and

(b) to report annually to the Minister on the effectiveness of the low-income package and of its marketing by the licensee.

(6) From 1 July 2002, the licensee must have in place a marketing plan for making low-income consumers aware of the low-income package, being a plan that has been approved by LIMAC.

(7) The licensee must seek and consider the views of LIMAC before it makes any significant change to the low-income package. Note It is intended that the licensee may make minor non-substantive changes to the low-income package (such as minor editorial or typographical corrections) without having to seek and consider the views of LIMAC. LIMAC is to be consulted on other proposed changes to the low-income package.

(8) If the licensee makes a significant change to the low-income package, the licensee must give the ACA a revised version of the package incorporating the change.”

(Emphasis added)

Most notably in this Licence condition, programs intended for low-income people, which must include products and “arrangements”, must be approved beforehand by consumer associations. Moreover, *Telstra* must not only fund these programs, but also fund a group in charge of them, “LIMAC”, which monitors them and may propose changes to them.

As opposed to other countries, this program is not funded by a fund dedicated to universal service¹¹⁸.

Situation of low-income consumers in Australia

According to the numbers provided in a survey and reproduced in LIMAC’s 2008 annual report, about 15% of people who depend on social assistance have no telephone, whereas the average percentage of the overall population is 2%. Telecommunications expenses account for about 2.5% of the expenses of low-income households in Australia, compared to about 3% in Canada¹¹⁹.

¹¹⁸ For additional information on the program’s history, see LIMAC’s 2008 Annual Report, p. 26, available on the Telstra website, Sidney, Australia, 2008. [online] <http://www.telstra.com.au/abouttelstra/csr/docs/limac-report-2008.pdf> (last visit June 3, 2009).

¹¹⁹ See Table 5 of the present document. We arrive at 3.3 by adding three categories:: Telephone Service, Cellular Services and Internet Services.

Program intended for low-income consumers

In 2002, Telstra launched the “*Access for Everyone*” program¹²⁰, which contains a series of measures for access notably to residential telephone services for various categories of disadvantaged people: disabled, native, without a fixed address, low-income, unemployed, who don’t speak English, etc.

Although intended for many categories of people, this program essentially aims to solve one problem – affordability to low-income households¹²¹. Under the heading *Affordability Options*¹²², Telstra’s website presents a whole series of measures for low-income people. For example: a bill-payment program, the “*Telstra EasyPay Fixed Payment*”, which provides for fixed monthly or bimonthly payments (a minimum of \$AUS20). Of course, we find measures such as those for blocking certain types of telephone numbers, but also measures such as the “*HomeLine Budget*”, intended for households that want to remain connected even though they don’t make many calls: In exchange for slightly greater charges per call, the program offers a low-cost monthly subscription. The most original program, “*InContact*”, offers subscription-free limited residential telephone service for making and receiving calls to emergency services and other “*Health and Help, 24-Hour services*” listed in the telephone book. For other outcalls, the customer has to obtain calling cards. In 2008, this service was provided to 80,000 households.

Specific measures are also in place for the unemployed and the homeless: The “*MessageBox*” program¹²³ gives access to a voice mailbox for receiving messages, thus enabling customers to maintain contact with social agencies assigned to help them.

Based on its studies, LIMAC indicates that users of these measures say they’re very satisfied and find that telecommunications services are thus more affordable. However, Limac’s 2008 report emphasizes that 42% of those people still have difficulty paying their telephone bills¹²⁴.

Recently, *Telstra* has been thinking of extending these measures to wireless and Internet services.

In its report, LIMAC uses a comparative table to illustrate the populations targeted by its “*Access for Everyone*” program and those targeted by the American and British programs¹²⁵. This table is reproduced below; it shows that the Australian program covers a large part of populations who have difficulty accessing telecommunications services.

¹²⁰ Program details are available on the page “Access for everyone”, available on the Telstra website, Sidney, Australia, 2008. [online]
<http://www.telstra.com.au/abouttelstra/commitments/accessforeveryone/index.cfm> (last visit June 3, 2009).

¹²¹ *Op. Cit.*, note 118.

¹²² *Op. Cit.*, note 120.

¹²³ Program details are available on the page “Access for everyone”, available on the Telstra website, Sidney, Australia, 2008 [online]
http://www.telstra.com.au/abouttelstra/commitments/accessforeveryone/a_z.cfm#azlist_messagebox (last visit June 3, 2009).

¹²⁴ Details in the LIMAC 2008 report, *Op. Cit.*, note 118, p. 26.

¹²⁵ Table available in the 2008 LIMAC report, *Op. Cit.*, note 118, p. 30.

TABLE 15

	<i>Target groups</i>						
	<i>Low income</i>	<i>People with a disability</i>	<i>Unemployed</i>	<i>Pensioners</i>	<i>Homeless people</i>	<i>Indigenous people</i>	<i>Culturally & Linguistically diverse</i>
Australia							
<i>Access for everyone(2002 –)</i>	✓	✓	✓	✓	✓	✓	✓
United States							
<i>Lifeline (1984 –)</i>	✓					✓	
<i>Safelink wireless program (2008 –)</i>	✓						
<i>Link Up (1987 –)</i>	✓						
United Kingdom							
<i>Light Users Scheme (1993 – 2007)</i>	✓						
<i>In Contact plus (1999 – 2007)</i>	✓						
<i>BT Basics (2007 –)</i>	✓	✓	✓	✓			

It should be noted that the Australian government also proposes low-income assistance programs for telecommunications services through the Department of Families, Housing, Community Services and Indigenous Affairs.

Evolution of the program

In its latest annual report *LIMAC* concludes, after studying the new American “*SafeLink Wireless*” program, and given the growing importance of wireless telephony, that it will be

necessary to consider the establishment of a mechanism similar to the “*SafeLink Wireless*” program in Australia. The report mentions that the importance of broadband Internet access should also be taken into account, and that specific measures for this type of telecommunications service should be considered.

Promotion of the program

In its 2007 annual report¹²⁶, *LIMAC* emphasizes all the activities done to promote the “*Access for Everyone*” program. Among those activities: *Telstra* has a specific phone number and a Web page to inform the public about the program. Brochures are also distributed, and conferences on the program are presented to organizations of assistance to disadvantaged people. In addition, the company purchases advertisements in certain magazines addressed to the disabled and on aboriginal radio stations.

Social responsibility

As opposed to the American authorities, for example, who partly fund telecommunications access programs, the Australian government doesn’t intervene financially in the “*Access for Everyone*” program. Although the program was imposed on it by the regulatory authority, *Telstra* is now using this program to develop its image within the community, and publishes, for example, an annual report on its social responsibility¹²⁷. Each year, the company publishes the results of its community initiatives and congratulates itself on the results obtained by the programs put in place to give access to telecommunications services.

It must be admitted that to date, the program’s results are convincing: indeed, out of a population of more than 20 million, more than one million people benefit from the “*Access for Everyone*” program – which doesn’t prevent *Telstra* from generating significant profits¹²⁸. It can therefore be profitable for telecommunications companies to help low-income populations have access to telecommunications services.

¹²⁶ LIMAC’s 2007 Annual Report is available on the Telstra website, Sidney, Australia, 2007. [online] http://www.telstra.com.au/abouttelstra/csr/docs/limac_report_2007.pdf (last visit June 3, 2009).

¹²⁷ These reports are available on the page “Reports” of the Telstra website, Sidney, Australia, 2008. [online] http://www.telstra.com.au/abouttelstra/csr/reporting_performance/reports.cfm#tab-social (last visit June 3, 2009).

¹²⁸ *Ibid.* In the 2008 annual report on the company’s social responsibility (p. 22), the company mentions annual profits of more than two hundred million dollars (\$200 million).

CANADIAN APPLICABILITY OF MEASURES ADOPTED ABROAD

Summary of measures adopted in the countries studied and intended for low-income consumers

The following is a summary of the various types of measures adopted in the countries we've discussed.

In the United States, three programs apply specifically to low-income households. These programs reduce residential link-up charges and subscription fees for both wireline and wireless telephone services ("Lifeline" and "SafeLink Wireless"). The programs are established by the federal government or the states, and are funded through a 10% surcharge on long distance and international calls.

In France, the Code des postes et communications électroniques imposes certain social measures: for example, the maintenance of a restricted residential telephone service only for emergency incalls and outcalls, even if the subscriber is in default of payment. The Code des postes et communication électronique identifies persons who could benefit from certain services. Thus, government assistance beneficiaries are eligible for a discount on their telephone bill, as offered by the only company providing universal service (comparable in Canada to Bell when it was a monopoly). Other telecommunications service companies must contribute to the fund for that discount. Their contribution is based on their sales figure.

In France, the telecommunications companies themselves have launched certain initiatives. For example, the company Orange offers low-priced wireless service to beneficiaries of certain government assistance programs. Another low-priced offer being considered for such people would include telephone services, the Internet and television.

A City of Paris initiative offers, to people living in social housing, Internet access, IP telephony and television for €1.19 (\$1.85).

Belgium has established social pricing under its Loi relative aux communications électroniques. This social pricing is intended for several categories of disadvantaged people, including low-income households. It consists of reduced link-up charges and subscription fees for residential or wireless telecommunications. As in France, there's a fund for this social pricing, and the telecommunications companies pay into it according to their sales figure.

The United Kingdom has also established programs for low-income people and recipients of government assistance. These programs have been put in place by the telecommunications services regulatory authority (Ofcom). Today, only one program is left, "BT Basic", offered by the historic telecommunications operator *British Telecom*, for low-cost rental of a residential telephone line with a call credit. Indeed, British Telecom is responsible for funding this type of program.

In Austria, legislative measures have been adopted for persons in default of payment: The provider has to meet certain obligations before interrupting service. And Austrian law does not allow companies to interrupt access to emergency numbers.

Australia also has a good number of measures for ensuring that low-income people have access to telecommunications services. Under its licence requirements, the Australian

incumbent company *Telstra* is obliged by the regulatory authority to fund such programs, as is the case in Great Britain. Telstra's main program is "Access for Everyone", which involves a whole series of measures for various categories of disadvantaged people, including low-income people: for example, a bill-payment program, or a low-cost access program for people who make few calls, but also a program for allowing only emergency service incalls or outcalls. The group responsible for those measures is currently considering their extension to other telecommunications services, such as wireless or Internet services.

Is Canada late in taking low-income consumers into consideration for telecommunications services?

We've observed that European legislation had, under the Universal Service Directive, identified the telecommunications needs of low-income users and ordered that specific measures be put in place.

In Canada, this part of the population and its needs are not clearly identified by the Commission or by legislation, and no measure is specifically legislated for this clientele. This is a fundamental distinction from European legislation.

Nevertheless, thanks to the Commission, Canada has bill management tools, as well as other programs, such as the link-up instalment plan, or the prohibition on interrupting the residential telephone services of a subscriber who pays the local telecommunications bill. Still, these are minimal measures, spontaneously adopted by all the jurisdictions we've studied.

The United States has rejected the concept of a national threshold for determining whether telecommunications services are economically accessible; rather, in addition to the importance of telecommunications service affordability, the states' fundamental role in assessing this affordability has been affirmed. But in Canada, the Commission uses mainly, if not exclusively, the penetration rate of telephone service to gauge the affordability of telecommunications services, despite the proof it received and accepted that the most disadvantaged households are precisely those that don't have access to the services.

The measures adopted in Canada are paltry when compared, for example, to certain service interruption prohibitions and to obligations in France and Austria to maintain certain features. Likewise, given the many measures adopted abroad by access providers, voluntarily or not, and acting directly on the basic price of services in order to facilitate access, it's clear that Canada is very late in establishing effective measures for ensuring that All Canadians, whatever their income, have access to adequate telecommunications services.

Possible Canadian implementation of measures intended for low-income consumers

Article 24 of the Telecommunications Act, which is the keystone of the CRTC's power to intervene, states: "the offering and provision of any telecommunications service by a Canadian carrier are subject to any conditions imposed by the Commission or included in a tariff approved by the Commission." In other words, the Commission theoretically has a power to intervene over all types of telecommunications services and all companies offering this type of services, even in markets said to be deregulated. In fact, responding to consumer groups pointing out, notably, the situation of low-income households and their particular needs regarding telecommunications services, the Commission recognizes that "market forces alone may not be sufficient to protect

the interests of these customers.”¹²⁹

If market forces alone are not sufficient to protect certain clienteles and that one of the Act’s objectives is to ensure that the interests of all Canadians are taken into account, the Commission, which has the necessary regulatory powers to meet the objectives of the Canadian telecommunications policy, should logically be responsible for imposing adequate measures on the companies.

The Canadian Telecommunications Act doesn’t contain a provision similar to the Directive of the European Parliament and the Council; the Directive makes it mandatory that telecommunications services be universal, i.e., that a minimum set of specific services be provided to all end-users at an affordable price. However, our Act does indicate that one of the objectives of the Canadian telecommunications policy is “to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada”.

It should be kept in mind that the Commission’s margin of manoeuvre can vary, depending on whether it’s considering economic regulatory measures or others that would have certain social objectives. In any case, the Order’s instructions compel the Commission to rely, as much as possible, on the free market as the means to attain the policy’s objectives and, when it does regulate, to take minimal, symmetrical and neutral measures in terms of competition¹³⁰.

It must be admitted that since the Minister’s intervention, the Canadian context has been far removed from that of the other countries discussed herein. Indeed, they consider that the importance of guaranteeing access to telecommunications services fully justifies regulatory authorities in requiring “the provision of some services to some end-users at prices that depart from those resulting from normal market conditions”.

Whereas the European authorities take into account the fact that market forces and competition cannot meet the needs of all consumers, and deem it necessary to take specific measures for some categories of people, including low-income households, Canada’s 2006 Order reaffirmed the primacy of the free market, thus limiting the Commission’s power to intervene.

Therefore, although the Commission theoretically has the necessary powers to give low-income consumers access to telecommunication services or facilitate such access, the Commission always has to be careful, in exercising its powers, to interfere minimally with free market forces.

In this single-minded deregulation context, it’s difficult to believe that the Commission would consider adopting measures as bold as those we’ve observed in other jurisdictions: for instance, imposing discounts for low-income people, or the former monopoly’s funding of any program intended for low-income people, etc.

There remain some measures, inspired by those abroad, which the Commission or the Commissioner for Complaints for Telecommunications Services (CCTS) could consider even now.

¹²⁹ *Op. Cit.*, note 4 §355

¹³⁰ SOR/2006-355, *Op. Cit.*, note 3.

POSSIBLE MEASURES

Measures that can already be implemented by the Council or the CCTS

The Commission can establish a measure equivalent to that found in Austrian or French law, obliging telecommunications service companies to allow subscribers to phone emergency services, even if the subscribers have been denied regular service. The purpose of this measure is safety – disconnected persons would be able to call emergency services at all times. If imposed on all companies, this measure would be proportional and effective as to its goal. It would be a regulatory social measure that would be neutral and symmetrical in its implementation by all telecommunications service companies, and would thus comply with the 2006 Order.

One of the methods adopted abroad to facilitate the access of low-income households to telecommunications services they might find unaffordable is direct intervention on the price of those services. The Commission could impose measures identical to those in the United States, France or Australia, and require discounts on monthly subscriptions to telecommunications services. Here again, to follow the 2006 Order and be considered neutral and symmetrical and not hindering free market forces, the measure should be imposed on all the companies. Moreover, given the principle of technological neutrality that is at the heart of the Telecommunications Act¹³¹, the measure should apply to all telecommunications services: residential telephony, Internet access, and wireless telephony.

To fund this type of measure, the United States, for example, has constituted a fund into which are paid certain percentages of the long distance and international rates billed to users. According to this model, the Commission too could create such a fund and impose, to all companies providing telecommunications services, a contribution based on their revenues. This would be equivalent to the Canadian telecommunications contribution regime, whereby the high cost of local service in rural and isolated areas can be subsidized¹³². The Telecommunications Act enables the Commission to impose the constitution of such a fund; indeed, article 46.5(1) specifies that the Commission can “require any telecommunications service provider to contribute to a fund to support continuing access by Canadians to basic telecommunications services.” Imposing the constitution of the fund and the contribution to it on all telecommunications service providers would be “competitively-equitable”, as the Commission states in its Telecom Decision CRTC 2000-745. Such a measure would thus also be in line with the 2006 Order.

The Commission has entrusted the Commissioner for Complaints for Telecommunications Services with the responsibility for credit management programs. The CCTS being able to

¹³¹ In its discussion paper, the Telecommunications Policy Review Panel specifies: “By focusing regulation on services provided by Canadian carriers, and by broadly defining telecommunications facilities to include all manner of delivery systems, the Act implicitly endorsed a technology-neutral approach to telecommunications regulation.” “CANADIAN TELECOMMUNICATIONS POLICY REVIEW, Discussion Paper, Canadian Radio-Television and Telecommunications Commission, 2005, in point 49, available on the CRTC website, Ottawa, Canada, August 17, 2005 [online] http://www.crtc.gc.ca/eng/publications/reports/t_review05.htm (last visit June 3, 2009).

¹³² See in particular Telecom Decision CRTC: 2000-745, Changes to the contribution regime, which states that Decision CRTC 92-12 “established a mechanism for long distance competitors to contribute towards subsidizing primary exchange residential services.”

demand that member companies establish reimbursement codes, it could demand that a bad debt reimbursement code be developed by the companies, to establish various credit management methods for enabling low-income people to keep their telecommunications service. The Commissioner has authority only over member companies of that institution, so the effect of such a code would admittedly be limited.

MEASURES THAT CAN BE ESTABLISHED BY PROVINCES AND MUNICIPALITIES:

Given the current limits restricting the CRTC's exercise of its powers, it appears necessary to consider other avenues for establishing and funding programs facilitating the access of low-income households to telecommunications services that may otherwise be unaffordable to them.

The provincial authorities of course have the necessary powers to adopt programs and measures for assisting disadvantaged households. Absent an intervention by the appropriate regulatory body, the constitution of funds making telecommunications services more affordable to low-income people could therefore be considered by the provincial authorities. Provincial financial assistance could be paired with the various income security or supplement programs they administer on behalf of low-income households; such pairing would allow this supplemental assistance to be granted automatically, thus avoiding the lack of awareness that is identified in the United States as the main obstacle to program access.

In France, some large cities have taken the initiative of establishing programs facilitating the access of low-income households to telecommunications services. Measures intended for target populations could probably also be adopted in large Canadian cities. For instance, the Montreal Municipal Housing Bureau could ensure that its residences and apartment buildings offer telecom packages identical to those offered by the City of Paris.

However, the idea of such interventions by bodies other than the federal regulatory authority begs the crucial question of funding. The CRTC has the necessary powers to order telecommunications providers to contribute financially to whatever measure it wishes to impose. That is not the case for provinces or municipalities, which would have to use their own treasuries to compensate for the excessive rates that low-income households are currently charged by companies under federal jurisdiction, and thus to help enrich those companies.

CONCLUSION

In considering the measures specifically intended for low-income consumers with regard to telecommunications services in Canada, we find very few such measures. Indeed, apart from account management tools such as restricting certain numbers and spreading out installation charges, no measure directly addresses the chief problem of low-income consumers – affordability, particularly with regard to the basic subscription rate.

In abandoning the pilot project regarding the bad debt reimbursement plan, however imperfect the latter may have been, the Canadian Radio-television and Telecommunications Commission (CRTC) unfortunately appears to signal it is abandoning attempts to make telecommunications services more affordable to low-income people. Currently, the Commissioner for Complaints for Telecommunications Services is responsible for taking the initiative regarding the thorny issue of credit management.

Generally, we observe that in many countries, measures have been adopted for low-income people in the area of telecommunications services. In addition, a country such as the United States, which certainly can't be considered as favouring increased telecommunications regulations, has put in place many more programs than Canada on behalf of low-income people. To justify this, some will argue that the penetration rate of residential telephony in the United States is lower than in Canada, so that it's not necessary to establish specific measures here. This argument omits the fact that wireless communications services in the United States have a better penetration rate than in Canada¹³³ – which doesn't prevent our neighbours from offering low-income consumers a specific program for those services.

It's high time to realize that assessing affordability solely according to the penetration rate of residential telephony is not an adequate approach, given the access problems that low-income households continue to face, since this approach doesn't take into consideration the needs of specific populations such as low-income people.

The Directive of the European Parliament and the Council, which mandates the universality of telecommunications services – i.e., a minimum set of specific services for all end-users at an affordable price – is a model. Canada is markedly late in terms of economic accessibility; this may be because it is late in recognizing the essential nature of telecommunications services as a whole, whereas Europe doesn't hesitate to do so. The principle of “universal service” itself is changing substantially; previously it only covered wireline telephony, but now it extends to broadband or high-speed Internet access and wireless telephony, which are integral parts of contemporary telecommunications. Europe, which is currently reviewing its European Telecommunications Directives, now even calls Internet access a basic right¹³⁴; the new

¹³³ The percentage of subscribers to wireless telecommunications services is 83.5% in the United States, but only 61.7% in Canada in 2007. Source: Measuring the information Society: The ICT Development Index, International Telecommunication Union 2009, p. 101, document available on the website of the International Telecommunication Union, Geneva, Switzerland, n.d. [online] http://www.itu.int/ITU-D/ict/publications/idi/2009/material/IDI2009_w5.pdf (last visit June 3, 2009).

¹³⁴ Amendment 138, tabled as part of the telecom package review: “applying the principle that no restriction may be imposed on the fundamental rights and freedoms of end-users, without a prior ruling by the judicial authorities, notably in accordance with Article 11 of the Charter of Fundamental Rights of the European Union on freedom of expression and information, save when public security is

definition of “universal service” will soon reflect this and cover wireless services as well.

Foreign measures such as those we’ve examined herein can be adopted in Canada, since Canadian telecommunications legislation allows the Commission to develop and impose them. All that is missing for such measures to be deployed is political will.

Following the example of Europe, Canada should recognize that telecommunications services are essential services nowadays. Their role in maintaining the social bond, but also as a factor of integration and an engine of free expression, is now recognized. It is time to act to guarantee everyone (and not only everywhere) in Canada access to these essential services, even if that means leaving aside “normal market conditions”, given the admission that the latter cannot alone guarantee universal access.

It’s time to realize the digital gap that has deepened over time, and that continues doing so, and to work on filling it by taking necessary action. Canada can no longer tolerate that low-income households are refused access to information, remote government services and all the benefits of today’s telecommunications services, and that those populations are deprived of the tools for strengthening integration, maintaining social bonds, acquiring information, finding employment, etc.

Of course, when economic accessibility programs and measures are designed and implemented, the issue of funding will be raised. But solutions are not lacking. Some European countries, such as France and Belgium, fund those services by levying a tax on the sales figure of telecommunications companies. Australia imposes certain obligations on large companies as part of its telecommunications licence, and mandates the establishment as well as the funding of programs. The United States taxes certain services, and requires a contribution to a fund specially constituted to pay for accessibility measures. Once it is admitted that telecommunications services are not simply consumer goods, but essential services, it seems perfectly legitimate to require companies exercising those regulated activities to contribute economically to the social aims of the legislative framework. When establishing such programs or measures intended for low-income people, it will be important to verify that any discount offered to low-income people is indicated as a percentage, in order to prevent monthly subscription rate increases from eating up the discounts. It would also be desirable for any low-income assistance program to be paired with the other federal social assistance programs, in order to reach all eligible people without their having to apply.

threatened in which case the ruling may be subsequent.” See document T6-0361/2009, available on the Europarl website, n.d. [online]
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RECOMMENDATIONS

Whereas access to telecommunications services should be considered essential and should be guaranteed for all households;

Whereas the government is responsible for implementing such guarantees;

Whereas it is socially and humanly important to take low-income people into account in providing essential services;

Whereas there are few or no measures for guaranteeing low-income households access to telecommunications services;

Whereas some measures adopted abroad guarantee low-income households access to telecommunications services;

Whereas those measures could be applied in Canada;

Whereas Canadian low-income households find it difficult to afford telecommunications services;

Whereas the free market cannot ensure that low-income households are taken into account in the telecommunications service offer;

Whereas governments are responsible for guaranteeing access to essential services;

Whereas instructions given to the telecommunications regulatory body are likely to restrain its initiatives to develop and implement programs and measures making telecommunications services affordable to low-income households;

Whereas the penetration rate of telecommunications services doesn't precisely indicate that those services are affordable to low-income households;

Union des consommateurs recommends:

- That the Commission adopt relevant and effective methods for taking into account the particular problem of economic accessibility facing low-income households;
- That governments formally recognize the essential nature of telecommunications services;
- That the Telecommunications Act be amended to specify the essential nature of telecommunications;
- That the Canadian Radio-Television and Telecommunications Commission be recognized as having all the necessary powers to guarantee universal access to telecommunications services;
- That the Canadian Radio-Television and Telecommunications Commission and provincial and municipal governments study the possibility of adopting adequate measures, modelled on the measures identified abroad, to guarantee universal access to telecommunications services, notably:
 - by guaranteeing the capability of reaching emergency services, even if the

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subscriber's line has been suspended;

- by offering low-income people rate discounts on monthly subscriptions to any telecommunications service;
- That a study group be formed with the mandate to develop, based on the models identified abroad, a set of measures for guaranteeing the affordability of all telecommunications services for low-income households;
- That consumer groups be invited to participate in this study group;
- That sufficient resources be allocated to those groups to enable their adequate participation in the entire process.

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