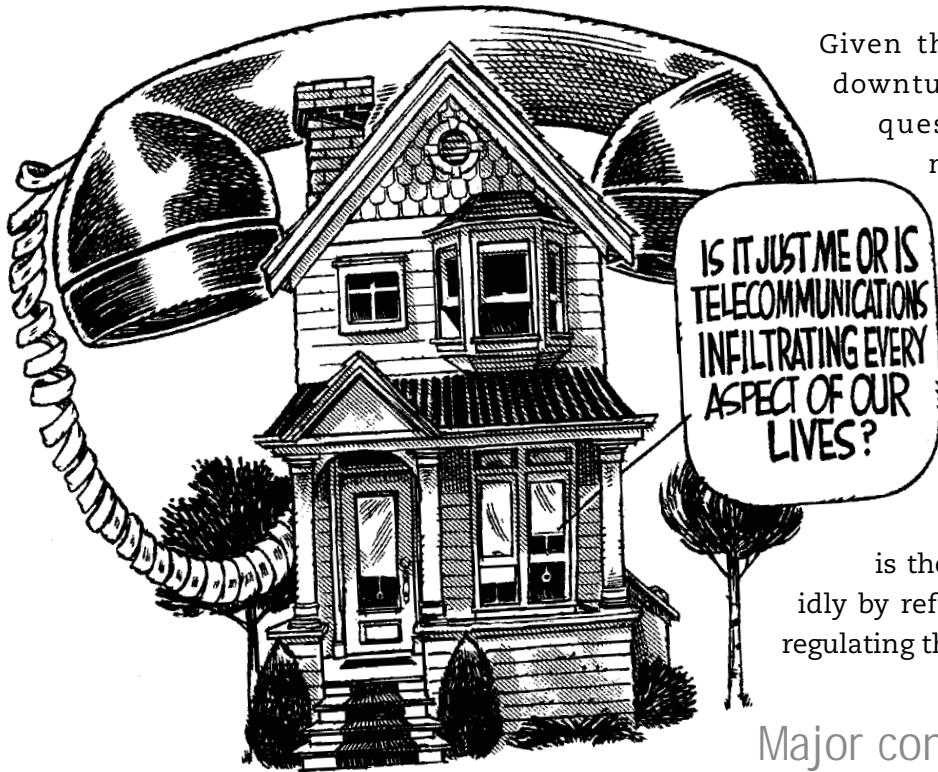

The real cost of communicating

TECHNOLOGY IS certainly not what it used to be. Remember what the first mobile phones we could buy were like back in 1983: they were clunky, awkward devices that still needed to be plugged in, had poor reception and were mostly used for emergencies. Today, you will find children in the playground texting each other from across the yard.

We live in a far more tech savvy world. Wireless devices permeate our communities. Many coffee shops and restaurants now provide wireless internet (wi-fi) service in many cities across the country. Even some universities are moving to e-texts to replace standard print textbooks.

According to the Canadian Wireless Telecommunications Association (CWTA), a lobby group for the telecommunications industry, in 2008, Canadians sent approximately 20.8 billion text messages, up from 174.4 million in 2002. It reports that each day Canadians send 87 million messages.

The CWTA reports that in Canada, in 2007, wireless revenues totalled \$12.5 billion. Even with the slow growth in use of cell phones in Canada we can expect these revenues to continue to mount. Access is instant, convenient and addictive. And as many people find out, costly.



Given the current economic downturn, many are finally questioning whether or not these high costs are justified. Why are Canadians charged some of the highest fees in the world which provide for some of the highest revenues while having some of the lowest rates of cell phone usage? Why is the government standing idly by refusing to play a role in regulating this industry?

Major concerns in the Canadian context

High costs can be attributed to many of the complaints in the telecommunications industry. The Organisation for Economic Co-operation and Development (OECD) recently released a study indicating that Canada lags behind most of the world in terms of cellular phone usage. At the same time, Canadians are paying some of the highest costs internationally.

For years, the market in Canada has been dominated by three major corporations: Bell, Rogers and Telus. In 2008 though, Bell and Telus joined forces to work together to complete upgrades to a high speed packet to access wireless network more quickly, allowing them to better compete with Rogers. This move signals to many

that a merger between Bell and Telus may be in the near future.

Nonetheless, despite some basic differences, the top carriers provide very similar services, packages and marketing schemes. You can find this frustration echoed in the complaints launched against all of them.

Evidence continues to mount to expose the practices used by telecommunications firms. Most complainants cite confusing contracts, false advertising on services, costly packages, hidden fees and billing errors to name a few. Many contracts include blanket notwithstanding clauses which allow companies to increase or change rates without consent. Resolutions take considerable time and energy and the information coming from companies is inconsistent at best.

Some of the most common complaints are:

- Access fees

Carriers repeatedly told customers for years that the licensing fee was one mandated by the federal government and collected on its behalf. In fact, in 1987 the government stopped charging such a fee yet the companies carried on the collection with customer service representatives maintaining the same script to concerned subscribers. Industry Canada eventually had to step in to request that the carriers cease giving this impression to customers.

- Texting costs

Most service providers offer text messaging at a cost of 15 cents per

sent message without a monthly text plan. Telus and Bell Mobility caused an enormous uproar when they simultaneously announced they would begin charging 15 cents per incoming message. In just a few days, over 24,000 people signed an on-line petition started by the New Democratic Party (NDP) protesting the charges, while a Facebook group recruited over 28,000 members. While many subscribers have text packages included in their plan, the rates are still excessive in terms of actual costs for providing the services.

- Early contract termination fees
While Prime Minister Harper's former Industry Minister Jim Prentice advised consumers to "vote with their feet" to show dissatisfaction with a carrier, he missed the point on one of the biggest issues - excessive fees for early contract termination. Bell and Rogers charge customers \$100 for early termination or \$20 per month left on the contract to a maximum of \$400. Telus charges \$20 per month left on the contract without a maximum. In July 2008, the U.S.- based company Sprint was ordered to pay \$17.5 million to settle a suit by subscribers arguing the fees were illegal under state law. The company denies that the charges were illegal and was already working on a new method to recoup those lost charges elsewhere in packages.



HELPFUL UPDATES COURTESY OF YOUR TELECOMMUNICATIONS PROVIDER

- Roaming charges, long distance and airtime fees

One of the biggest surprises for many customers is the extraordinary costs incurred while outside one's local calling area. Cellular companies charge premium rates for any outgoing or incoming calls outside one's primary area.

The long distance rate for domestic calls ranges from between 30 and 35 cents depending on carrier and type of plan. The most expensive costs add up when a cell phone

is used outside the Canadian borders. Bell Mobility charges for incoming calls 99 cents per minute for airtime charges plus 35 cents per minute for long distance calls. For outgoing calls, Bell charges 99 cents per minute for airtime plus 75 cents per minute for long distance calls. Telus and Rogers charge \$1.45 per minute made in the United States plus standard airtime costs. There are also higher charges for data usage while outside one's calling area.

Cellular companies do a good job of burying their rate information in literature or websites making it difficult to determine costs in advance.

- Throttling

More recently, companies have come under fire for a practice called “throttling” which slows down the internet speed one uses. Customers pay a higher price for service with higher speed. After months of allegations from users, both Rogers and Bell admitted to a Canadian Radio-television and Telecommunications Commission (CRTC) hearing that they indeed throttle. This means that customers have been paying for higher speed for nothing.

How Canada compares internationally

The recent OECD study shows that the lowest cost for cell phone calls are found in Finland, the Netherlands and Sweden. The study categorizes usage by low, medium and high-use packages.

Canada ranks 20th out of 30 countries on a low-use basis at a cost of \$195.68. The lowest costs can be found in Denmark at \$50.31 U.S. while the highest costs were found in the United States. Canada is \$32.13 above the OECD average.

Canada fares far worse on the medium-use basis, paying the third highest fees at \$572.86 U.S. annually, followed in dead last by the United States with prices of \$635.85. The Netherlands has the lowest costs at \$131.44 U.S. Canada is \$255.09 above the OECD average.

On a high-use basis, Canada again ranks 20th with costs of \$563.20 U.S.

annually. Canadians pay \$74.06 above the OECD average. Denmark has the lowest costs at \$182.95 U.S.

It appears that in many countries competition can co-exist with government regulation to produce better results for consumers.

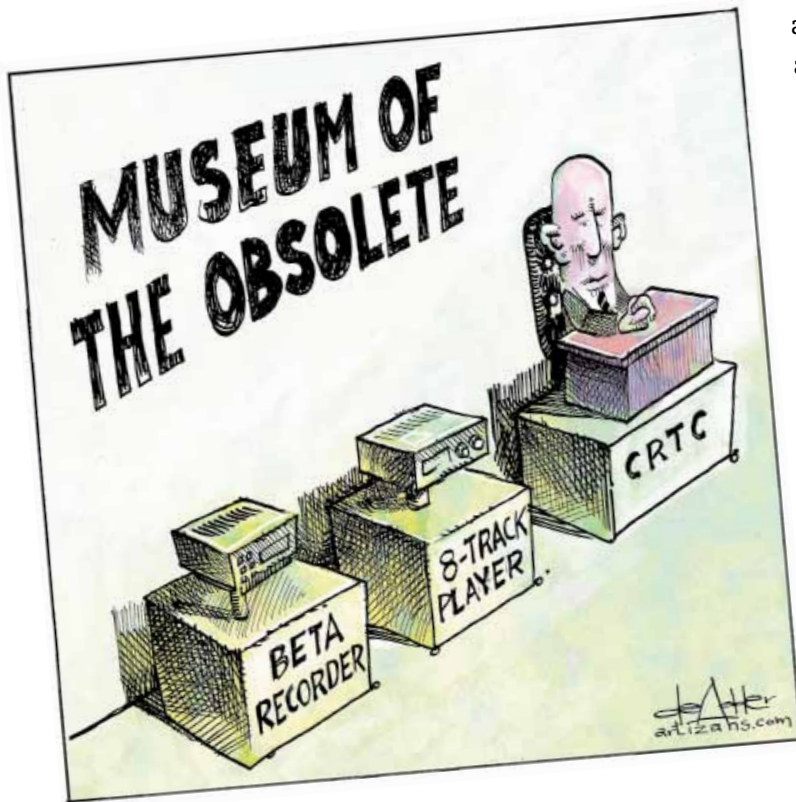
Exposing the industry

In 2006, the CEO of Telecom New Zealand, Theresa Gattung, admitted that carriers frequently use smoke and mirror tactics to attract business. Her comments set off a furor in the industry but her statement reflects what seems to be a given in the industry and an acceptance of this business practice.

Perhaps it is that kind of honesty that forces a government to act. Following her speech, the government instituted new regulations in the industry and a year later Gattung stepped down as CEO. Share prices had dropped by 20 percent following her speech.

The public debate over these high costs has been raging for months now, especially in the United States. At recent U.S. Senate sub-committee hearings on the issues of anti-trust, competition policy and consumer rights, Srinivasan Keshav, Canada Research Chair in tetherless computing at the University of Waterloo, testified that it is “very unlikely” that text messages cost more than 0.3 cents. The mark up by carriers is estimated at nearly 5,000 percent.

As a way of fighting back on these excessive charges, some people are looking to the courts. In July 2008, a



Quebec man launched a class action lawsuit against Bell Mobility and Telus when the carriers started charging for incoming text messages. Earlier that year, Telus was ordered to reimburse customers who were forced to pay a long-distance network fee of \$2.95 although they did not use the network. According to the CRTC, almost half a million customers were incorrectly charged. The company again disputed the ruling saying “the fee was applied for a tangible service and that whether or not a customer accessed the long-distance network, the cost to the company was the same.”

Other cases are looming throughout the United States while some wireless companies have settled to avoid rulings that may set precedent for the future.

Lack of meaningful recourse, little regulation

When it comes to consumer protection in Canada, the federal government refuses to regulate the telecommunications industry in a meaningful way.

The CRTC is the body in charge of overseeing the industry. According to its website it does not regulate cellular services since “the market for wireless services is sufficiently

competitive.” This statement flies in the face of the Harper government’s own line in 2008 when it auctioned off access to the public airwaves to foreign companies in order to “boost competition.”

Given the contradiction, it is not surprising that customers do not know where to turn when at odds with their telecom company. If a customer has complaints, they must fight it out at the various company levels. If there is no resolution, the customer may lodge a complaint with the newly established Commissioner for Complaints for Telecommunications Services (CCTS), if the company is a member.

The CCTS was established as a self-regulating body to help resolve complaints in 2007 when the government deregulated the home telephone market. The CRTC requires any telecommunications provider whose annual revenue exceeds \$10 million to join the CCTS. It is comprised of a seven-member board with three of those seats reserved for representatives of the telecommunications industry. The CCTS handles complaints regarding home telephones, long distance telephone services (including prepaid calling cards), wireless phone services, wired and wireless internet access services and white page directories, directory assistance and operator services.

The majority of disputes received centre on cellular issues specifically relating to disconnection fees and

over-billing, followed by problems with contracts and service delivery. The CCTS reports that it has conducted 3,214 investigations into complaints filed by consumers this year. By July 31, 2009 complaints increased by 44 percent with total contact with the public up by 183 percent over the previous year. Yet, over 2,100 contacts were not pursued since the complaints fell outside the CCTS’ jurisdiction.

Frustration is certainly heightened when people realize the myriad of issues that do not fall under the CCTS’ jurisdiction:

- contract terms other than compliance with a telecommunications service provider’s service contract;
- prices;
- telemarketing or unsolicited messages;
- privacy/confidentiality;
- false or misleading advertising;
- policy matters;
- general operating practices not covered in customer contract terms and commitments; and
- complaints that have been, currently are, or should be before another tribunal.

Compared to some international complaint organizations, Canada’s low number is surprising. In Australia, during the same period, the Ombudsman handled over 100,000 complaints.

Our low number of recorded complaints can most likely be attributed to the fact that there

has been no advertising of the CCTS' existence. After two years of operation, the advertising campaign remains unexecuted.

International regulation

An obvious difference between the International and Canadian cellular market is the amount of government regulation in the sector. Governments elsewhere have taken a far more active role in monitoring the telecommunications industry to safeguard their citizens.

International rulings on the similar issues we face domestically (costs and recourse) most often favour the consumer. Government officials clearly see themselves as guardians to ensure that the public is protected from profit-driven providers.

In 2006, the European Union (EU) initiated an examination of the high costs for roaming being charged by the cellular companies. After much discussion, the EU determined that the fees were a "punishment" for travelling beyond borders and needed to be regulated.

A new cap has been placed on the fees that can be charged for sending and receiving text messages as well as placing and receiving calls. Now, a text message will only cost .11 euros (17 cents Canadian) while receiving a message remains free. The maximum roaming charge for calls is set at .43 euros (68 cents) with the maximum

for incoming calls is .19 euros (30 cents).

Another example of government intervention can be found in New Zealand. In 2007, the Commerce Commission began an investigation into the practice of charging mobile termination access service fees. Mobile termination access services are the terms under which mobile phone companies terminate calls and text messages from other networks on their networks. These charges cost customers significantly for calls and text messages.

This investigation was prompted due to New Zealand's high cellular costs, the low level of competition and poor usage levels.

To avoid government regulation, Vodafone and Telecom, the major cellular companies, offered to voluntarily reduce the termination rates every year, over five years. The government at that time agreed.

A year later, in 2008, the government began re-examining the practice now that a new company entering the market is looking at eliminating the fees altogether. This time around, the Commission did not see the price reductions as going far enough and out of line with rates in comparable jurisdictions. Public hearings on the issue concluded in July 2009 and recommendations are being drafted.

In addition, an investigation into high roaming costs in New Zealand is currently on hold until a final decision is made on the issues of termination charges. The concerns arise from

customer complaints that roaming charges are out of line with the actual costs incurred by the carriers for providing the service.

Foxes guarding the hen house

Most recently, on August 31, 2009 the CBC reported that, after intense lobbying by the major carriers as well as the CWTA, the on-line calculator developed and designed by government workers to assist the public in choosing the best wireless package was scrapped by Harper's Industry Minister Tony Clement. The project, in development for over two years, was focus-group tested with positive results and was only months away from a release. Reports estimate that \$1.4 million was spent on the creation of this tool only for it to be trashed due to "technological limitations". Of course, Bernard Lord, President and CEO of the CWTA and former Conservative Premier of New Brunswick, applauded the decision.

Is it merely a coincidence that the next day, on September 1, 2009 the CWTA launched a wireless code of conduct? The code will:

- allow people to reject any changes companies announce mid-contract or get out of the contract without cancellation costs;
- help customers understand services/charges with clear contracts;
- protect their personal information; and
- provide them with proper customer service.



The CWTA states that it will monitor the effectiveness and administration of the code for the next two years. Lord has also said that the CCTS will monitor and enforce the code, yet given the short reach the CCTS has on issues it can act on, coupled with the difficulty in getting the Commissioner to accept complaints, it is unclear how this will actually benefit consumers. The code does nothing to eliminate abusive billing or assist

consumers in any real way except to make it more clear how companies are profiting.

Consumer advocates have quickly panned the code for its lack of substance, not to mention the glaring conflict of interest. The idea that the organization whose mandate is to lobby on behalf of the telecommunications industry will be monitoring how well a consumer advocacy program is working is outrageous.

In fact, many talented Canadians decided to fill the void and produce their own calculator free of charge (at the moment) to the public. This tool helps Canadians make a more informed judgement of the packages offered by suppliers and takes the shroud of darkness away from the conditions and costs.

What the future holds

When the Harper government auctioned off access to the wireless airwaves in 2008, it raised \$4.2 billion. Companies have been slowly preparing for their entry into the market and we have yet to see any real information on how the industry will change. Full launches are expected in late 2009 or early 2010.

One company looking for a start in the Canadian market is Globalive. The company with investment from Orascom, a major service provider in the Middle East, Africa and Asia, purchased \$442 million of spectrum licenses during the federal government's recent wireless auction of Canadian airwaves. With the international experience, the CEO offered that Canadians were ready for a wireless company that listened to their concerns about services and costs.

The CRTC recently ruled that Globalive does not meet the ownership rules and would not be allowed entry until those issues are addressed. In December 2009, the Harper cabinet, by decree, overturned this ruling allowing Globalive entry to the Canadian market.

This decision, taken without debate in Parliament, seriously undermines any authority the CRTC has in the industry. Canadians are likely not surprised by this move since the Conservative government has consistently opened its arms to foreign investment and corporate take-overs since it assumed office. It was no surprise to many that in the 2010 throne speech the reduction in barriers

to foreign investment in the telecom industry was announced. Confusing though was that the next day, in the Harper budget the only reference was to loosening the regulations for the satellite-based telecommunications carriers. On the eve of even more carriers entering the market, the public should be concerned with the lack of consistent policy upon which decisions within the industry are being made. With foreign companies entering the market and the real potential to take over much smaller carriers, consumers may not receive the competition and lower pricing the government is promising.

Even now, with the threat of these new carriers slowly entering the market, change is slow to the three big existing providers, Rogers, Bell and Telus, if not non-existent. In terms of government action, the Harper Conservatives continue to allow the public to be fleeced by companies that are reaping major profits and refuse to step in when there is an opportunity to protect the public interest. Competition is not the magic bullet to stem corporate greed.

Real action needed

The latest moves by the industry and the Harper government signals that it is really business as usual in the telecom industry. It is clear that this government refuses to play a constructive role in consumer protection and, if anything, stands in the way of real substantive change.

As we wait to see if more competition will bring lower prices, Canadians continue to pay more for poor service and fight endlessly to fix problems inherent in the industry. We need to ensure that more is being done to protect consumers and regulate an out-of-control industry.

The federal government can ensure that families are being treated fairly when it comes to the telecom industry:

- Capping the rates charged by cellular providers

The Conservative government can take a more active role in the regulation of the industry by ensuring that consumers are not being ripped off by profit-hungry telecom providers. Government officials must play a leadership role, like other countries have done, to create policy that governs the industry in the best public interest. There is a role to play that allows companies to be successful while also allowing Canadians to be treated fairly.

- Establish a truly autonomous industry watchdog

It is clear from the cozy relationship between the industry lobby group, CWTA, and the Complaint Commission, the best interests of consumers are not at the forefront of its mandate. Canadian consumers need an autonomous, government-funded consumer advocacy organization to oversee the telecommunications industry. This watchdog would be responsible for enforcing fair business practices and industry regulations as well as resolving customer complaints.

- Resurrect the Minister of Consumer Affairs

It has been over ten years since the federal government eliminated the position of Minister of Consumer Affairs and rolled the duties into the current Industry Minister's portfolio. By setting up a toothless governance commission that is clearly more sympathetic to the industry than consumers, it is clear that the public needs a stronger advocate. The recent scrapping of a tool that could most certainly help consumers by Harper's Minister of Industry shows the lack of balance between the two sides.

What you can do

- WRITE to your Member of Parliament (MP) to demand the creation of a real, autonomous consumer advocacy watchdog;
- DEMAND that MPs create public policy to cap costs for consumers;
- Complain to the Commissioner for Complaints for Telecommunications Services (CCTS) about abuses and concerns;
- WRITE to your MP and Prime Minister Stephen Harper to insist that the Minister of Consumer Affairs be reinstated; and
- DEMAND better service, transparent contracts and reduced prices from your mobile carrier.