

**INFORMATION REQUESTED BY
CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION**

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The Companies, CWTA and TELUS (and other parties) propose that the Commission use the following definition of affiliates:

Where one company is a subsidiary of another, both companies are subsidiaries of the same company, or two companies are affiliated with a third company at the same time.

AT&T proposes that the Commission use the definition of related parties, instead of the above definition:

Related parties exist when one party has the ability to exercise, directly or indirectly, control, joint control or significant influence over the other. Two or more parties are related when they are subject to common control, joint control or common significant influence. Related parties also include management and immediate family members.

If the Commission granted the requested relief, what would be the implication of using one definition over the other in terms of efficiency of sharing information on one hand and contributing to the protection of privacy of subscribers on the other hand?

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CWTA continues to prefer the definition advanced by the Companies, CWTA and TELUS as it is based on terms and concepts that are generally well known in the telecommunications industry. This definition corresponds closely to the definition of "affiliate" that has been used by the Commission since the affiliate rule was first applied (Telecom Decision CRTC 90-3). The definition proposed by AT&T is somewhat broader and may depend on more subjective interpretation.

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Provide your definition of sensitive customer information and provide examples? Address how the form of consent (i.e. implied or express) should vary according to the sensitive nature of the information?

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CWTA does not collect any personal information about identifiable individuals, and as such does not define sensitive information. CWTA respectfully directs the Commission to the responses of our members.

In general, consistent with the *PIPED Act*, the form of consent would vary according to the degree of sensitivity of the personal information in question. CWTA notes that Schedule I to the *PIPED Act* provides some guidance as to what types of information should be considered especially sensitive (see for example Item 4.3.4).

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Provide comments on the possibility of all Canadian Carriers being required to file with the Commission the results of any internal privacy audits (such as the one identified in paragraph 55,15 November 2001, Part VII application by The Companies).

“The Companies have also undertaken a review of their information systems to ensure that the provisions of the Privacy Codes will be adhered to. Finally, regular internal audits will be employed to ensure ongoing compliance.”

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CWTA notes that the PIPED Act allows the Privacy Commissioner of Canada to audit the compliance of private organizations, and provides the authority to administer oaths, receive evidence and, at any reasonable time, enter premises where appropriate. CWTA believes that a CRTC requirement to conduct and file audits would unnecessarily increase the level of regulatory duplication borne by Canadian Carriers.

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The submitted *Privacy Codes* (Attachments 1 to 6, 15 November 2001, Part VII application by The Companies) indicate that for a customer, personal information includes: customer's credit information, billing records, service and equipment, and any recorded complaints.

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Provide a complete list of confidential information retained by your company beyond the above.

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Please refer to CWTA (CRTC) 27 Aug01 – 101

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Comment on the merits of the following forms of express consumer consent with regards to the above type of information:

- a) an oral confirmation obtained by a Company followed by a letter (or an equivalent) to the end-customer;
- b) an oral confirmation verified by an independent third party;
- c) electronic confirmation through the use of a toll-free number;
- d) electronic confirmation via the Internet.

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Based on the information provided to CWTA by its members, CWTA believes that the forms of express consumer consent listed at (c) and (d) are preferable to either (a) or (b). Electronic confirmation using toll-free numbers or the Internet accord more closely with the existing practices of many high-technology companies than would the method outlined in (a), at least to the extent that (a) would require the company to produce an actual, physical letter to the end-customer. There may be merit in exploring "equivalents" to confirmation letters, suggested in (a), notably the potential for the company to confirm the consent and reinforce the information it provided to obtain that consent by sending electronic mail.

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CWTA would be concerned with (b) in this context. For one thing, requiring an independent third party to confirm that consent was given will add a degree of administrative complexity and cost that may not be justified by the degree of sensitivity in the customer information collected. For another, the introduction of a third party to confirm that a customer has consented to the collection, use or disclosure of his or her personal information introduces the possibility that the customer's privacy is itself compromised or violated simply because the nature of the relationship and consent arrangements between the customer and the supplier must be disclosed to the third party. It is important, in CWTA's view, that the means adopted to protect personal privacy not themselves result in a lessening of privacy and control over personal information.

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Comment on Call-Net's submission (31 July 2001, re: PN 2001-60), paragraphs 7-8-9.

7. "However, while Call-Net generally supports the sharing of information between affiliate, Call-Net is of the view that there should be some constraints on which affiliates may receive the information. Specifically, only affiliates in "telecommunications services" as defined in the Telecommunications Act should be allowed to share the information. By limiting sharing to affiliates engaged in "telecommunications services" Canadian carriers are precluded from sharing customer information with affiliates at large. Thus, a carrier may not share information about its telecommunications customers with an affiliate that is in the business of selling consumer electronics.
8. Call-Net recommends that Canadian carriers wishing to share information between and with its affiliates should apply to the Commission for permission to do so, outlining which affiliates will be sharing information, the relationship between the affiliates, the services offered by the affiliates and the reason for allowing information to be shared.
9. At paragraph 7d, the Commission is seeking input on the types of consent required if it is not written. Call-Net submits that if a Canadian carrier has applied for and received Commission approval as per Call-Net's recommendation at paragraph 9, then no direct consent – written or otherwise – is required from the customer."

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Call-Net's submission would prevent the alignment of the privacy regulations of the CRTC and the Privacy Commissioner of Canada. As such, CWTA believes it would unnecessarily increase the level of regulatory duplication borne by Canadian Carriers.

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The Privacy Commissioner of Ontario stated (27 July 2001 submission, re: PN 2001-60) that consent should be limited in time. Comment on this suggestion. If a time limit is appropriate, what should it be? How would consent then be again granted by the consumer?

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CWTA notes that the comments of the Privacy Commissioner of Ontario with respect to consent are generally consistent with the rules set out in Principle 5, Limiting Use, Disclosure, and Retention, of Schedule 1 to the *PIPED Act*. While the *PIPED Act* does not address any time limitations on consent it does address limitations on the collection, use, disclosure and retention of information, which should be sufficient to address the concerns of the Privacy Commissioner of Ontario.

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Should the Commission grant the requested relief,

- a) provide comments on the appropriate means to inform existing subscribers about the change in the Terms of Service?
- b) provide comments on the appropriate mechanisms by which they would be able to opt-out?

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CWTA considers that customers could be informed of a change in the terms of service in a manner consistent with information related to rate changes or similar matters. As CWTA does not collect personal information about identifiable individuals, the Association has no comments about what opt-out mechanisms may be appropriate in the context of Canadian carriers' relationships with their customers. Again, CWTA respectfully directs the Commission to the responses of our members.