



PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DÉFENSE DE L'INTÉRÊT PUBLIC
ONE Nicholas Street, Suite 1204, Ottawa, Ontario K1N 7B7

8 January 2018

Mr. Ian Scott
Chairperson and Chief Executive Officer
Canadian Radio-television and Telecommunications Commission
Ottawa, Ontario
Canada, K1A 0N2

Re: *Commission Inquiry into Sales Practices of Major Communications Providers*

Dear Mr. Scott:

The Public Interest Advocacy Centre (PIAC)¹ is writing to you today to request that the Canadian Radio-television and Telecommunications Commission (CRTC) launch a formal inquiry under s. 48 of the *Telecommunications Act* and ss. 12 and 20 of the *Broadcasting Act* into the revelations of aggressive, inappropriate and potentially misleading sales practices by major Canadian wireless, Internet, television and home phone providers.

Recent media stories in late 2017 have revealed disturbing practices by agents of at least one major Canadian telecommunications and TV service provider,² including “upselling” and overselling, as well as allegations of misleading sales practices. Many of these aggressive sales practices appear to have targeted vulnerable consumers, including older Canadians, grieving spouses and blind customers.

¹ PIAC is a nationally incorporated non-profit organization and registered charity that has, since 1976, provided legal and research services on behalf of consumer interests, and, in particular, vulnerable consumer interests, concerning the provision of important public services. PIAC has an interest in the protection of consumers generally and telecommunications and broadcasting consumers in particular and has represented consumers in many Commission proceedings. Thus, PIAC submits that it is an “interested person” under s. 48 of the *Telecommunications Act*.

² See: “Bell insider reveals high-pressure sales tactics required on every single call” by Erica Johnson, CBC News Posted: Nov 19, 2017 9:00 PM ET| Last Updated: Nov 20, 2017 8:28 AM ET. Online: <http://www.cbc.ca/news/business/bell-whistleblower-reveals-high-pressure-sales-1.4404088> and “Bell customers, employees flood CBC with complaints about high-pressure sales” by Erica Johnson, CBC News Posted: Nov 22, 2017 5:00 AM ET| Last Updated: Nov 22, 2017 5:00 AM ET. Online: <http://www.cbc.ca/news/business/bell-high-pressure-sales-reaction-1.4413187>

Non-disclosure of terms and misleading information about terms accounted for 10.9% of complaints to the CCTS in 2016-17, a 6.6% increase in complaints year over year. Incorrect charges, inadequate quality of service, the legitimacy of early cancellation fees, material changes to contracts, breaches of contracts, and credit /refunds not being received are also among the top 10 issues raised in complaints to the CCTS which also may be attributable at least in part to misleading sales or marketing. The volume of all of these categories of complaints has increased substantially since 2015-16.

Based on its focus groups and experiences running digital literacy workshops, Ageing, Communication, Technologies (ACT Project) reports that:

Older adults expressed frustration with needing to involve their children or younger friends or relatives in negotiations with service providers to ensure they are treated fairly, can access the same pricing than their younger counterparts, and reach an agreement that is commensurate with their needs. They are aware that if they are not savvy with service providers, they risk being taken advantage of. This means that there is a fear of changing providers because they may end up with more expensive and lower quality services.

Some of the participants have felt undue pressure to add more services through bundling. They do not always need or want the services they are getting, and are worried that they are paying more to get less. Through our years of leading digital literacy workshops in low income building for older adults in Montreal, we have become acutely aware of practices of selling packages to older adults that are disproportionate to their needs or uses. A recent CBC investigation suggests that these high-pressure sales tactics are especially damaging to older adults (Johnson, November 2017). Furthermore, older adults are often convinced to get specialty channels on a trial basis, only for the costs to be added to a future bill. This practice of putting the onus on the consumer to cancel free trials and to begin charging for services after the trial period is perceived as being deceptive.³

Such practices create real consumer harm. Courts in Canada have already found as a matter of law that misleading sales practices *per se* harm consumers and competition.⁴

The nature of these allegations is so serious that a formal inquiry into the entire industry's sales practices is required. PIAC would be surprised, given the nature of the markets and market players involved, if these practices were not widespread across the industry, rather than being the property of one provider.

3 Ageing, Communication, Technologies (ACT Project), Concordia University, Intervention on The Future of Audio and Video Programming in Canada: What Will Come Next? Phase I, BNC CRTC 2017-359 (1 December 2017) at 3.4.

4 See: Canada (*Commissioner of Competition*) v. *Premier Career Management Group Corp.*, [2010] 4 F.C.R. 413 (F.C.A.) at pp. 439-440.

The CRTC is best-placed to perform this inquiry, as it is the primary regulator of all these telecommunications and broadcasting distribution services and has recently introduced many conditions on the offering of such services in the name of consumer protection and the promotion of competition, namely in the *Wireless Code* and the *Television Service Provider Code*.

While some may argue that such alleged practices would best be dealt with by the Competition Bureau under the misleading advertising provisions of the *Competition Act*, PIAC disagrees: the CRTC has a specific statutory power to inquire into matters such as the fairness of communications sales practices, under s. 48 of the *Telecommunications Act* and under s. 12 and 20 of the *Broadcasting Act*. The CRTC is the only agency that can look at the situation holistically and is best placed to set retail conditions of service and conditions of licence on telecommunications and broadcasting providers.

A Commission inquiry also can be launched publicly, unlike a Competition Bureau investigation and can include public input and input from the companies and other interested parties. Public confidence in the integrity of Canada's communications service providers is essential to the proper functioning of these markets, to consumer trust and to consumer protection. PIAC notes that similar allegations, in the banking industry,⁵ have triggered an inquiry into bank sales practices by the Financial Consumer Agency of Canada and a report on those practices is expected shortly.⁶

In closing, PIAC believes that a public inquiry by the Commission into these sales practices may be the most expeditious, effective and transparent way for the Commission to ensure future confidence in the sales and marketing of communications services to Canadians. We look forward to your reply to our request.

Yours truly,



John Lawford
Executive Director and General Counsel
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⁵ See: "I will do anything I can to make my goal': TD teller says customers pay price for 'unrealistic' sales targets" by Erica Johnson, CBC News | Posted: Mar 06, 2017 2:00 AM PT | Last Updated: Mar 06, 2017 6:19 AM PT. Online: <http://www.cbc.ca/news/canada/british-columbia/td-tellers-desperate-to-meet-increasing-sales-goals-1.4006743>

⁶ See: "Federal consumer agency delays report on Canadian banks' sales practices," The Canadian Press, Posted: Dec 29, 2017 4:15 PM ET | Last Updated: Dec 29, 2017 4:18 PM ET. Online: <http://www.cbc.ca/news/business/consumer-agency-bank-sales-practices-report-1.4467890>