

Do Bell's Throttling Practices Violate CRTC Net Neutrality Rules?: It Says P2P Congestion Declining

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Earlier this week, Bell wrote to its wholesale ISP customers to let them know that it is shifting away from throttling practices that have been in place for several years. The letter states:

Effective November 2011, new links implemented by Bell to augment our DSL network may not be subject to Technical Internet Traffic Management Practices (ITMP). ITMPs were introduced in March, 2008 to address congestion on the network due to the increased use of Peer-to-Peer file sharing applications during peak periods. While congestion still exists, the impact of Peer-to-Peer file sharing applications on congestion has reduced. Furthermore, as we continue to groom and build out our network, customers may be migrated to network facilities where Technical Internet Traffic Management Practices (ITMPs) will not be applied.

Bell's letter raises several interesting issues. First, it is an acknowledgment of what groups like CIPPIC, PIAC and others were saying as far back as 2009 in the net neutrality hearing. Peer-to-peer traffic is declining as an overall percentage of network traffic and the stresses on the system are far more likely to come from online video services such as Netflix.

Second, this acknowledgement raises the prospect that Bell's current throttling practices may now violate the CRTC's Internet traffic management guidelines. While Bell says its congestion has been reduced, its retail throttling practices have remained unchanged, throttling P2P applications from 4:30 pm to 2:00 am. Given the decline in congestion, a CRTC complaint might ask whether the current throttling policy "results in discrimination or preference as little as reasonably possible" and ask for explanation why its data cap policies "would not reasonably address the need and effectively achieve the same purpose as the ITMP." In fact, the same can now be said for many other ISPs who deploy broad based throttling practices (Rogers, Cogeco), which may not be reasonable under the CRTC policy.