



Ottawa, Canada  
K1A 0N2

26 August 2010

**Our Reference: 494833  
496185**

**BY E-MAIL**

Ms. Andrea Wood  
Chief Legal Officer  
Wind Mobile  
207 Queens Quay West, Suite 710  
Toronto, Ontario M5J 1A7  
[awood@windmobile.ca](mailto:awood@windmobile.ca)

Dear Ms. Wood:

**Re: Complaints regarding Wind Mobile's Internet traffic management practices** s.19(1)

Commission staff has reviewed your response to the complaints from [REDACTED] and [REDACTED] (dated 7 July 2010 and 23 July 2010, respectively), regarding the Internet traffic management practices (ITMP) applied by Wind Mobile to its Internet access services.

Staff notes Wind Mobile's submission that its practice of blocking all outgoing ports except those ports required to provide mobile Internet service for customers accessing the Internet directly on mobile devices and its practice of blocking Port 25 for customers accessing the Internet through data sticks are necessary to protect the security and stability of customers' devices and the network. In this regard, staff notes that the ITMP policies set out in Telecom Regulatory Policy 2009-657, *Review of the Internet traffic management practices of Internet service providers*, 21 October 2009 (TRP 2009-657) do not apply to measures undertaken for the purpose of network security.

Staff notes, however, Wind Mobile's submission that it maintains a practice to work cooperatively with individual customers to ensure that the applications for mobile devices that they request are properly supported. In this regard, staff encourages the complainants (who are copied on this correspondence) to take full advantage of this practice. Staff also notes that Wind Mobile has itself concluded that its disclosure of its port blocking measures could be improved and expects to have additional disclosure drafted in the next few weeks.

Staff further notes that Wind Mobile does employ a practice whereby customers that exceed 5 Gb of usage in any month may have their maximum transfer speeds slowed significantly. Wind Mobile states that this practice affects all Internet traffic without distinction.

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Staff considers this practice to be a technical ITMP which is subject to the requirements of TRP 2009-657. While such a practice is not per se contrary to TRP 2009-657, staff notes that to the extent that any technical ITMP results in the "noticeable degradation" of time-sensitive Internet applications, they must be approved by the Commission prior to use pursuant to section 36 of the *Telecommunications Act* (the Act). Failure to seek such an approval is a violation of the Act.

Staff further considers that the disclosure under Wind Mobile's Fair Use Policy with regard to this practice is not compliant with TRP 2009-657. In staff's opinion, Wind Mobile's online disclosure should expressly refer to Wind Mobile's "Internet Traffic Management Practice policy" in order to ensure that it meets the requirement that it be clearly and prominently disclosed on Wind Mobile's website. Furthermore, the ITMP should be more specific with respect to what traffic is affected, what applications are affected, when the ITMP are applied and the effects of the ITMP on end-users' Internet experience (i.e., the effects of the ITMP on speed). These requirements are set out in paragraph 60 of TRP 2009-657.

In order to ensure that all appropriate compliance measures have been taken, Wind Mobile is to confirm via e-mail to Patrick Owens ([patrick.owens@crtc.gc.ca](mailto:patrick.owens@crtc.gc.ca)) of my staff by 27 September 2010 that it is in compliance with the ITMP disclosure requirements of TRP 2009-657.

Yours sincerely,

***Original signed by***

Lynne Fancy  
Director General  
Competition, Costing and Tariffs  
Telecommunications

c.c.:

s.19(1)

Patrick Owens, CRTC, (819) 953-7159, [patrick.owens@crtc.gc.ca](mailto:patrick.owens@crtc.gc.ca)