

*Bell Canada Act*

of telecommunications products in the world, and Bell Northern Research, Canada's largest private research and development company. Similarly, Bell Canada International Inc. has the biggest international consulting services in the world in the field of telecommunications.

When it was created by an Act of Parliament more than a century ago, Bell Canada was given a mandate to provide public service—a mandate that is still in effect. Our concern today is to maintain this social obligation while at the same time making it possible for the company to respond, unencumbered by excessive constraints, to international competition.

Now for a short history of the legislation on telecommunications adopted by the Parliament of Canada.

In Canada as in other countries, legislating and regulating telecommunications goes back almost to the birth of the industry. The Government of Canada—as did the Government of the United States—decided to let the new telecommunications companies like Bell Canada operate as private businesses, unlike other countries that quickly proceeded to incorporate the new technology into existing state monopolies, usually their postal services.

On March 7, 1876, Alexander Graham Bell received from the Government of the United States a inventor's patent for his telephone. The Canadian patent was given to Mr. Alexander Melville Bell, the inventor's father, on August 24, 1877, and the first telephone network started operating in Hamilton in 1878.

The Bell Telephone Company of Canada was incorporated on April 29, 1880, under an Act of Parliament. The new telephone communications technology was entrusted to a private company, an example of the traditional focus on free enterprise in North American society.

However, at the turn of the century, because of the economics and technology involved, the telephone seemed to lend itself to a de facto monopoly. While allowing those companies to corner the industry, Canada and the United States did impose regulations aimed at protecting consumer interests and preventing abuse of monopolistic powers. On various occasions, to take the development of the industry into consideration, the Canadian Parliament brought in legislative amendments to define regulatory powers and the respective responsibilities of the State and the industry.

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Canadian parliamentary legislation on telecommunications stem from telegraph and telephone companies statutes and from general Acts on telecommunications regulation. Upon application filed by Alexander Melville Bell and associates, Parliament enacted federal legislation to incorporate Bell in 1880—an Act to incorporate The Bell Telephone Company of Canada. Under the Act, the new company was authorized to provide telephone service between two or more points anywhere in Canada and elsewhere. Two years later, in 1882, after a lawsuit in Quebec concerning the company's constitutional jurisdiction, the corporate statute was changed pursuant to BNA Act Section 92(10)(c) to indicate that the works of the company were for the general advantage of Canada. This

was one way to make sure that Bell Canada would remain under federal jurisdiction.

Given the importance of such services and the changing socio-economic conditions, the statute of the company was modified on other occasions during the century so as to set forth certain obligations related to the quality of services offered. To comply with an amendment adopted in 1892, the company had to offer the most modern equipment available, within limits, and provide telephone service to any prospective customer.

Under a 1968 amendment, Bell was not allowed to apply for or be the holder of a broadcasting licence, but was required to act solely as a common carrier that would neither control the contents nor influence the meaning or purpose of the message emitted, transmitted or received, and the company could prescribe reasonable requirements concerning the connection to company facilities of equipment not provided by Bell. The CRTC was to determine whether such requirements were reasonable.

At the beginning, regulations governing the rates of telecommunications companies under federal jurisdiction, including Bell Canada, were part of the mandate of the Privy Council Railway Committee and took the form of changes made directly by Cabinet to company statutes. In 1892, the Canadian Parliament authorized the Governor in Council to approve increases in telecommunications rates. Under a further legislative amendment in 1902, the Governor on Council was authorized to increase or decrease rates as requested through applications filed by the industry or any interested municipality. Pursuant to the same Act, the Governor in Council had the new power to ask federal judges to consider rate change applications and make recommendations.

In 1906, considering the complexity of telecommunications rates, the Canadian Parliament empowered the Railway Commission to regulate the rates of Bell Canada and other federal telephone companies. The commission was also responsible for approving the amount, terms and conditions of capital stock issues, as well as the installation of telephone wires along public roadways. However, appeals to the courts were allowed on matters of rights or jurisdiction, and under the Act the Governor in Council had the power to reject or change any commission ruling.

As a result of developments in the transportation sector in this century, the Commission was reorganized several times. In 1938, the name was changed to Transport Commission of Canada and in 1967 to Canadian Transport Commission. In 1976, in order to achieve more harmonious regulation of both the medium and the message, authority to regulate telecommunications was transferred to the Canadian Radio-television and telecommunications Commission.

Canadian telecommunications are still governed by regulations that go back as far as 1903. The purpose of these regulations was, first of all, to safeguard the major principles of public utility and public transporter that had governed the field of transportation for many years. Applying these principles meant guaranteeing fair, equitable and reasonable rates