

# RUSSIAN TELECOMS NEWEST TARGET OF CANADIAN SANCTIONS AND CANADA'S (NON-)APPROACH TO GENERAL PERMITS

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On July 19, 2023, Canada announced a round of sanctions against Russia, adding 39 individuals and 25 entities to the list of designated persons with whom Canadians cannot transact.<sup>[1]</sup>

This round of sanctions is notable for targeting basic consumer services by taking aim at major Russian telecom companies such as MTS and MegaFon. The sanctions also include consumer payment companies like Yandex Pay and MIR-Card. These restrictions would impact Canadians traveling in Russia, as well as Canadian companies that have commercial dealings with such telecom and financial services providers. In addition, the new sanctions further target Russia's military-industrial complex and nuclear sector, as well as entities and individuals involved in efforts to "Russify" Ukraine's culture. To date, Canada has sanctioned 430 Russian entities and over 1,300 individuals.

Since May 2023, Canada has also sanctioned an additional 6 Haitian individuals,<sup>[2]</sup> 14 Iranian individuals,<sup>[3]</sup> and 24 Ukrainian individuals and 17 Ukrainian entities.<sup>[4]</sup> Canada also imposed sanctions against Moldovan parties for the first time, listing 7 individuals and 1 entity.<sup>[5]</sup>

## Implications of Russian Telecom Sanctions

MTS and MegaFon, as two of the largest players in Russia's telecommunications industry, provide communication services to millions of consumers and businesses within Russia and neighbouring countries. Their designation as sanctioned entities means that persons in Canada, and Canadians outside of Canada are now prohibited from dealing in any property (which includes money, digital assets and intangible property) of MegaFon and MTS, or entering into transactions with them. Canadians with contracts (including cell phone plans) with either of these entities may now be considered to be dealing with a sanctioned entity, contrary to Canadian law. This is the case even if a Canadian person or entity is not located in Russia. Similarly, Canada's new sanctions may impact roaming, interconnection or other agreements and Canadian companies should review existing arrangements to ensure continued compliance with Canadian law.

As discussed below, Canada has not issued general permits or exceptions that would allow Canadians living abroad to continue transacting with these companies.

## General Permits: the US versus Canadian Approach

Sanctions regimes commonly provide authorities with the ability to issue general permits or licenses, which authorize certain transactions, activities, or operations that would otherwise be prohibited. These transactions may include humanitarian assistance, supporting diplomatic efforts, and enabling specific personal or business transactions that are considered essential or in the national interest.

The U.S. Office of Foreign Assets Control has issued at least 34 General Licenses relating to Russia's invasion of Ukraine since February 2022.<sup>[6]</sup> Similarly, the U.K.'s Office of Financial Sanctions Implementation has issued at least 29 General Licenses relating to Russia and Belarus since February 2022.<sup>[7]</sup>

Notably, Canada has never issued a General Permit under its sanctions legislation. Individuals and entities affected by Canadian sanctions are instead required to apply to the Minister of Foreign Affairs for an individual permit that authorizes specific transactions.<sup>[8]</sup>

Canada's newest sanctions against Russian telecom companies provide a good illustration of the distinct approach taken to issuing general permits compared to the United States. The United States added MegaFon to its list of Specially Designated Nationals ("**SDN**") in April 2023. In so doing, U.S. persons are prohibited from conducting any business with SDNs. However, the United States has also issued General License 25C, which permits "all transactions ordinarily incident and necessary to the receipt or transmission of telecommunications involving the Russian Federation" that would otherwise be prohibited (with some exceptions).<sup>[9]</sup> The United States also issued General License No. 65, "Authorizing Transactions Related to Telecommunications and Certain Internet-based Communications Involving MegaFon PAO [...]", addressing the fact that MegaFon has a footprint outside Russia by permitting transactions involving MegaFon in Tajikistan and Uzbekistan.<sup>[10]</sup>

To illustrate, a U.S. citizen living in, for instance, Uzbekistan with a cell phone plan with MegaFon may be able to continue to receive telecom services and pay her phone bill without violating U.S. sanctions laws because of General License No. 65. However, a Canadian citizen in the exact same situation would fall afoul of Canadian sanctions laws.

The policy implications of this situation are far-reaching. With a potentially high number of individual Canadians affected, this raises important questions about enforceability, and further, the legitimacy of Canada's sanctions regime. This could potentially be resolved via a General Permit that could exempt conduct similar to that covered by the U.S. General Licenses 25C and 65C.

## Expanded Restrictions on Arms and Related Material

The newest sanctions also expand Canada's restrictions relating to arms and related materials. Canada already

prohibited the importation or acquisition of any type of weapon, ammunition, military vehicle or military equipment, and spare parts of any of these goods from Russia in February 2023.<sup>[11]</sup> The recent amendments expand this prohibition to both the import and the export of any of these goods to Russia.<sup>[12]</sup> These amendments also prohibit the provision of services relating to the supply, transfer, manufacture, maintenance, or use of arms and related material.

The practical effect of this ban may be minimal since there have been zero exports to Russia of arms and ammunition since January 2021.<sup>[13]</sup> Similarly, there have been zero exports of vehicles, aircraft, vessels and associated transport equipment to Russia since January 2023.<sup>[14]</sup> However, service providers such as those providing tech support or repair services, particularly those that employ Canadians, regardless of whether they are located, should be aware of the expansion of this prohibition.

## Conclusion

McMillan's International Trade Group has published extensively on the evolving landscape of sanctions compliance and is available to assist with new developments as Canada's response to the Russian invasion of Ukraine continues to evolve:

- [Canada Strengthens Its Economic Sanctions and Export Controls Against Russia and Supports Russia's Removal from SWIFT](#) (February 25, 2022);
- [Canada Ratchets Up its Sanctions in Response to the Russia-Ukraine Crisis](#) (March 4, 2022);
- [Canada Further Expands its Sanctions Regime Against Russia](#) (March 29, 2022);
- [Canada Expands Sanctions on Russia and Proposes Broad Legislative Changes to its Sanctions Regime](#) (June 1, 2022);
- [Canada Clamps Down on Services Provided to Russia](#) (June 13, 2022);
- [Services, Sensitive Technologies, Luxury Goods, Gold and Disinformation Sanctions – Plus a Forfeiture Regimes: Canada's Latest Responses to the Russian Invasion of Ukraine](#) (July 13, 2022);
- [Canadian Sanctions Revisited: More Russian and New Iranian Sanctions, Including Price Cap on Russian Oil](#) (October 4, 2022);
- [Sanctions Pivot: Canada Seeks Forfeiture of Russian-Owned Assets to Fund Reconstruction of Ukraine and Adds Oil Price-Cap Restrictions](#) (December 22, 2022)
- [One Year On: Economic Sanctions Have Become a Primary Tool of Canadian Foreign Policy and New Russian Sanctions are Imposed](#) (March 1, 2023); and
- [Caught in the Sanctions Crossfire: Canada's New Control Test Has Broad Repercussions on Businesses with Any Nexus to Russia](#) (April 26, 2023).<sup>[1]</sup> *Special Economic Measures (Russia) Regulations*, SOR/2014-58; see also *Regulations Amending the Special Economic Measures (Russia) Regulations*,

- SOR/2023-163. A single individual was also added to the list of designated individuals on August 4, 2023 (*Regulations Amending the Special Economic Measures (Russia) Regulations*, SOR/2023-176).
- [2] *Regulations Amending the Special Economic Measures (Haiti) Regulations*, SOR/2023-126; *Regulations Amending the Special Economic Measures (Haiti) Regulations*, SOR/2023-143.
- [3] *Regulations Amending the Special Economic Measures (Iran) Regulations*, SOR/2023-127; *Regulations Amending the Special Economic Measures (Iran) Regulations*, SOR/2023-177.
- [4] *Regulations Amending the Special Economic Measures (Ukraine) Regulations*, SOR/2023-119.
- [5] *Special Economic Measures (Moldova) Regulations*, SOR/2023-109.
- [6] [Selected General Licenses Issued by OFAC | Office of Foreign Assets Control \(treasury.gov\)](#), see General Licences under the Russian Harmful Foreign Activities Sanctions.
- [7] [OFSI General Licences - GOV.UK \(www.gov.uk\)](#).
- [8] *Special Economic Measures Act*, SC 1992, c. 17, s. 4(4).
- [9] [General License No. 25C](#), Authorizing Transactions Related to Telecommunications and Certain Internet-Based Communications.
- [10] [General License No. 65](#); The United States also issued [General License No. 62](#), “Authorizing the Wind Down of Transactions Involving [...] MegaFon PAO [...], which permitted certain transactions that would be otherwise unauthorized to be completed by July 11, 2023.
- [11] [Regulations Amending the Special Economic Measures \(Russia\) Regulations](#), SOR/2023-32, s. 1.
- [12] [Regulations Amending the Special Economic Measures \(Russia\) Regulations](#), SOR/2023-163, s. 1.
- [13] [Canadian International Merchandise Trade Web Application - Exports \(statcan.gc.ca\)](#), under Chapter 93 of the *Customs Tariff*.
- [14] *Ibid*, under Chapters 86, 87, 88, and 89 of the *Customs Tariff*.

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### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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