



Telecom Notice of Consultation CRTC 2009-682

Ottawa, 30 October 2009

Call for comments on proposed new *Telecommunications Fees Regulations, 2010*

File numbers: 8657-C12-200914441 and 8657-A53-200606692

In this notice, the Commission invites parties to comment on the proposed Telecommunications Fees Regulations, 2010. The new fees regulations that will result from this process will require all telecommunications service providers (TSPs), or groups of related TSPs, with at least \$10 million dollars in Canadian telecommunications service revenues to pay telecommunications fees, whether or not they file a tariff for approval with the Commission.

Introduction

1. As explained in Telecom Decision 2009-681, issued concurrently with this notice, the Commission has confirmed its determinations set out in Telecom Decision 2006-71 that it should amend or replace the *Telecommunications Fees Regulations, 1995* (the current Fees Regulations) in order to change the basis upon which it levies fees paid by feepayers.
2. Under the current Fees Regulations, Canadian carriers that have filed a tariff with the Commission are required to pay telecommunications fees for the recovery of costs that are attributable to the Commission's responsibilities under the *Telecommunications Act*. The amount each Canadian carrier owes is prorated according to its share of total telecommunications revenues, as indicated in the annual reports of all Canadian carriers who pay fees. A further explanation of the calculation of telecommunications fees both under the current Fees Regulations and under the proposed new Fees Regulations is provided below, which reflects the information provided in Telecom Public Notice 2008-13.
3. The current Fees Regulations set out a simple formula for calculating telecommunications fees. Expressed as a mathematical formula, the annual telecommunications fees payable by a Canadian carrier for which tariffs are filed with the Commission are calculated as follows: $A/B \times C$, where

“A” represents the fee-paying Canadian carrier's operating revenues, derived from the provision of telecommunications services and reported in that Canadian carrier's most recent annual financial statements;

“B” represents the aggregate of such operating revenues of all the fee-paying Canadian carriers; and

“C” represents the total estimated amount to be recovered by the Commission through an initial amount and supplemental payment(s) in respect of its current fiscal year through telecommunications fees.

4. The current Fees Regulations also provide for an annual adjustment amount to be recovered by the Commission each year. For any fiscal year, the annual adjustment amount consists of the amount by which the telecommunications fees recovered through initial and supplementary payments for the fiscal year are greater or less, as the case may be, than the actual expenditures of the Commission for its Telecommunications Activity and its other expenditures attributable to its Telecommunications Activity in respect of that year. Subsection 4(5) of the current Fees Regulations set out the formula $A/B \times E$ to calculate the annual adjustment amount, where

“A” represents the fee-paying Canadian carrier's operating revenues;

“B” represents the aggregate of operating revenues of all the fee-paying Canadian carriers; and

“E” represents the difference between the sum of the regulatory fees that have been recovered and the actual total regulatory expenditures for the fiscal year.

5. In Telecom Decision 2006-71, the Commission stated that the share of fees paid by each telecommunications service provider (TSP) under the proposed fees formula will be calculated using the approach that applies to the existing contribution regime. The new approach includes a threshold, under which TSPs, or groups of related TSPs, with Canadian telecommunications service revenues (CSTR) of at least \$10 million in the previous fiscal year will be liable to pay telecommunications fees, whether or not they file tariffs for Commission approval. Some Canadian carriers will no longer be required to pay, as their revenues fall below the proposed threshold of \$10 million, while others who do not currently pay fees will become liable.
6. The purpose of the new Fees Regulations is not to increase the total amount of fees to be collected. Rather, the total amount of fees to be collected will be spread over a larger number of feepayers. As noted above, the proposed change will bring the telecommunications fees regime in line with the revenue-based contribution regime, and was recommended by the Telecommunications Policy Review Panel commissioned by Industry Canada. As noted in Telecom Decision 2009-681, the Commission considers that the new Fees Regulations will be more equitable than the current Fees Regulations, as the new regulations will require companies who generate a substantial amount of regulatory activity to pay telecom fees, even if they do not file a tariff with the Commission for approval.
7. To implement the changes, the formula, $A/B \times C$, will remain the same, but the numerator, “A,” of the fraction will become Line D.13 (Contribution-eligible revenues), as calculated in Part A of Telecom Circular 2007-15. The denominator, “B,” of the fraction will be the total of all feepayers' Contribution-eligible revenues. The “C” in the formula will remain the total estimated amount to be recovered by the Commission in respect of its current year through telecommunications fees, and the adjustment amount will be calculated using the final figures of actual Commission expenditures for the fiscal year. Telecom Circular 2007-15 also explains how the concept of the threshold level of TSPs, or groups of related TSPs, having annual CSTR equal to or greater than \$10 million is applied.

8. Accordingly, sections 2 and 3 of the proposed *Telecommunications Fees Regulations, 2010* require TSPs, or groups of related TSPs, with at least \$10 million of CSTR to pay fees as calculated under those sections. The proposed regulations provide for an annual adjustment that the Commission will calculate each year. Under the proposed sections 3 and 4, the feepayers under the current regime will pay the adjustment amount for the 2009-2010 fiscal year; thereafter, the TSPs under the new fees regime will pay or be credited for the adjustment amount for the previous fiscal year. As per current practice, the Commission will invoice feepayers on an annual basis in early June and amounts owing will be payable one month later. Any unpaid amounts will be assessed interest and administrative charges in accordance with the *Interest and Administrative Charges Regulations*. The proposed section 5 repeals the *Telecommunications Fees Regulations, 1995*. Under the proposed section 6, the new *Telecommunications Fees Regulations, 2010* will come into force on 1 April 2010.

Call for comments

9. The proposed *Telecommunications Fees Regulations, 2010* are appended to this notice. The Commission invites parties to comment on the wording of the proposed amendments set out in the appendix to this notice.

Procedure

10. Parties interested in participating in this proceeding can provide their comments by filling out the online form; or by writing to the Secretary General, CRTC, Ottawa, Ontario, K1A 0N2; or by faxing to: 819-994-0218. The Commission will accept comments that it receives on or before **14 January 2010**. Comments must be actually received, not merely sent, by this date. Parties are to provide their email address, where available.
11. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding, provided that the procedures for filing set out above have been followed.
12. Parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary.
13. Electronic submissions should be in HTML format. As an alternative, those making submissions may use Microsoft Word for text and Microsoft Excel for spreadsheets.
14. Each paragraph of all submissions should be numbered. In addition, the line *****End of document***** should be entered following the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.

Important notice

15. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes your personal information, such as your full name, email address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.

16. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission or for a use consistent with that purpose.
17. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
18. Please note that the information you provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of our website with the help of either its own search engine or a third-party search engine will not link directly to the information which was provided as part of this public process.

Location of CRTC offices

19. Submissions may be examined or will be made available promptly upon request at the Commission offices during normal business hours.

Toll-free telephone: 1-877-249-2782

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Secretary General

Related documents

- *Confirmation of Telecom Decision 2006-71 regarding revisions to or replacement of the Telecommunications Fees Regulations, 1995, Telecom Decision CRTC 2009-681, 30 October 2009*
- *Review of Telecom Decision 2006-71 regarding revisions to the Telecommunications Fees Regulations, 1995, Telecom Public Notice CRTC 2008-13, 15 October 2008*
- *The Canadian revenue-based contribution regime, Telecom Circular CRTC 2007-15, 8 June 2007*
- *Part VII application to revise the Telecommunications Fees Regulations, 1995, Telecom Decision CRTC 2006-71, 6 November 2006*

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

TELECOMMUNICATIONS FEES REGULATIONS, 2010

INTERPRETATION

1. The following definitions apply in these Regulations.

“Canadian telecommunications services revenues” has the same meaning as in Part B of the *Telecom Circular CRTC 2007-15, The Canadian revenue-based contribution regime*, published on June 8, 2007. (*revenus des services de télécommunication canadiens*)

“contribution-eligible revenues” means revenues calculated in accordance with the formula set out in Part A of the *Telecom Circular CRTC 2007-15, The Canadian revenue-based contribution regime*, published on June 8, 2007. (*revenus admissibles à la contribution*)

“related” in relation to telecommunications service providers, means two or more telecommunications service providers that are related parties within the meaning of Section 3840 of the *Canadian Institute of Chartered Accountants Handbook* as amended from time to time. (*apparentés*)

“telecommunications service” has the same meaning as in section 23 of the *Telecommunications Act*. (*service de télécommunication*)

FEES AND ADJUSTMENTS

2. A telecommunications service provider shall, in every calendar year and within 30 days after the date of the invoice sent by the Commission, pay to the Commission the annual fee calculated in accordance with subsection 3(1), the supplementary fee calculated in accordance with subsection 3(2) and the annual adjustment calculated in accordance with subsection 3(5) if

(a) the telecommunications service provider was in operation on April 1 of the year; and

(b) the telecommunications service provider had at least \$10 million in Canadian telecommunications services revenues for the preceding calendar year or is one of a group of related telecommunications service providers which in the aggregate had at least \$10 million in Canadian telecommunications services revenues for the preceding calendar year.

3. (1) The annual fee shall be the amount determined by the formula

$$A/B \times C$$

where

A is the telecommunications service provider's contribution-eligible revenues for the preceding calendar year;

B is the aggregate of the contribution-eligible revenues for the preceding calendar year of the telecommunications service providers that are required to pay under section 2; and

C is the estimated total regulatory costs of the Commission for the fiscal year as set out in the Commission's Expenditure Plan published in Part III of the *Estimates* of the Government of Canada.

(2) The supplementary fee shall be the amount determined by the formula

$$A/B \times D$$

where

A is the telecommunications service provider's contribution-eligible revenues for the preceding calendar year;

B is the aggregate of the contribution-eligible revenues for the preceding calendar year of the telecommunications service providers that are required to pay under section 2; and

D is the supplementary estimated regulatory costs of the Commission for the fiscal year as set out in the *Supplementary Estimates* of the Government of Canada.

(3) The regulatory costs of the Commission for the fiscal year is the sum of the following amounts:

(a) the costs of the Commission's Telecommunications Activity; and

(b) the share

(i) of the costs of the Commission's administrative activities that is attributable to its Telecommunications Activity, and

(ii) of the other costs that are taken into account to arrive at the net cost of the Commission's program that is attributable to its Telecommunications Activity.

(4) The Commission shall publish, each year, the estimated total regulatory costs referred to in subsection (1) and the supplementary estimated regulatory costs referred to in subsection (2) in a public notice in the *Canada Gazette*, Part I.

(5) The annual adjustment shall be determined by the following formula:

$$A/B \times E$$

where

A is the telecommunications service provider's contribution-eligible revenues;

B is the aggregate of contribution-eligible revenues of the telecommunications service providers that are required to pay under section 2; and

E is the difference between the sum of the estimated regulatory costs referred to in subsections (1) and (2) and the actual total regulatory costs for the fiscal year.

(6) The annual adjustment amount shall be charged or credited to the telecommunications service provider in the following year's invoice and shall not result in a disbursement of monies on the part of the Commission.

TRANSITIONAL

4. A telecommunications service provider who is required to pay an annual adjustment under the *Telecommunications Fees Regulations, 1995* for the fiscal year ending on March 31, 2010 shall pay that adjustment within 30 days after the date of the invoice sent by the Commission.

REPEAL

5. The *Telecommunications Fees Regulations, 1995*¹ are repealed.

COMING INTO FORCE

6. These Regulations come into force on April 1, 2010.

¹ SOR/95-157