



Compliance and Enforcement Order CRTC 2013-569

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Ottawa, 29 October 2013

Determination of costs award with respect to the participation of the Consumers Council of Canada in the proceeding initiated by Compliance and Enforcement Notice of Consultation 2013-140

File numbers: 8665-C12-201304485, 8662-C131-201115832, and 4752-424

1. By letter dated 24 July 2013, the Consumers Council of Canada (the Council) applied for costs with respect to its participation in the proceeding initiated by Compliance and Enforcement Notice of Consultation 2013-140 (the proceeding).
2. The Commission did not receive any interventions in response to the application.

Application

3. The Council submitted that it had met the criteria for an award of costs set out in section 68 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) because it represented a group or a body of subscribers that had an interest in the outcome of the proceeding, it had assisted the Commission in developing a better understanding of the matters that were considered, and it had participated in a responsible way.
4. The Council requested that the Commission fix its costs at \$21,174.93, consisting of \$13,632.79 for outside counsel legal fees and \$7,542.14 for consultant fees. The Council's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which the Council is entitled in connection with the HST. The Council filed a bill of costs with its application.
5. The Council submitted that Bell Aliant Regional Communications, Limited Partnership, Bell Canada, Bell ExpressVu LLP, Bell Media Inc., Bell Mobility Inc., Northwestel Inc., and Télébec, Limited Partnership (collectively, Bell Canada et al.); Bragg Communications Inc. (operating as EastLink); Cogeco Cable Inc. (Cogeco); MTS Inc. (MTS) and Allstream Inc. (collectively, MTS Allstream); Quebecor Media Inc., on behalf of its affiliate Videotron G.P. (Videotron); Rogers Communications Partnership (RCP); Shaw Communications Inc. (Shaw); and TELUS Communications Company (TCC) are the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).
6. The Council made no submission regarding the allocation of costs among these costs respondents.

Commission's analysis and determinations

7. The Commission finds that the Council has satisfied the criteria for an award of costs set out in section 68 of the Rules of Procedure. Specifically, the Commission finds that the Council represented a group or class of subscribers that had an interest in the outcome of the proceeding, it assisted the Commission in developing a better understanding of the matters that were considered, and it participated in a responsible way.
8. The Commission notes that the rates claimed in respect of consultant and outside counsel legal fees are in accordance with the rates established in the Commission's *Guidelines for the Assessment of Costs* (the Guidelines), as set out in Telecom Regulatory Policy 2010-963. The Commission finds that the total amount claimed by the Council was necessarily and reasonably incurred and should be allowed.
9. The Commission considers that this is an appropriate case in which to fix the costs and dispense with taxation, in accordance with the streamlined procedure set out in Telecom Public Notice 2002-5.
10. The Commission finds that the appropriate costs respondents to the Council's costs application are Bell Canada et al., Cogeco, EastLink, MTS Allstream, RCP, Shaw, TCC, and Videotron.
11. The Commission notes that it generally allocates the responsibility for payment of costs among costs respondents based on their telecommunications operating revenues (TORs)¹ as an indicator of the relative size and interest of the parties involved in the proceeding. The Commission considers that, in the present circumstances, it is appropriate to apportion the costs among the costs respondents in proportion to their TORs, based on their most recent audited financial statements. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated as follows:

Bell Canada et al.:	39.38%
TCC:	24.72%
RCP:	23.78%
MTS Allstream:	4.31%
Videotron:	3.52%
Shaw:	2.51%
Cogeco:	0.96%
EastLink:	0.82%

12. The Commission notes that Bell Canada et al. filed joint submissions in the proceeding, as did MTS Allstream. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for

¹ TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

payment on behalf of Bell Canada et al. and MTS responsible for payment on behalf of MTS Allstream, and leaves it to the members of the companies to determine the appropriate allocation of the costs among themselves.

Directions regarding costs

13. The Commission **approves** the application from the Council for costs with respect to its participation in the proceeding.
14. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to the Council at \$21,174.93.
15. The Commission directs that the award of costs to the Council be paid immediately by Bell Canada on behalf of Bell Canada et al., by TCC, by RCP, by MTS on behalf of MTS Allstream, by Videotron, by Shaw, by Cogeco, and by EastLink, according to the proportions set out in paragraph 11.

Secretary General

Related documents

- *Review of the Unsolicited Telecommunications Rules, Compliance and Enforcement Notice of Consultation CRTC 2013-140, 20 March 2013, as amended by Compliance and Enforcement Notice of Consultation CRTC 2013-140-1, 31 May 2013*
- *Revision of CRTC costs award practices and procedures, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010*
- *New procedure for Telecom costs awards, Telecom Public Notice CRTC 2002-5, 7 November 2002*
- *Action Réseau Consommateur, the Consumers' Association of Canada, Fédération des associations coopératives d'économie familiale and the National Anti-Poverty Organization application for costs – Public Notice CRTC 2001-60, Telecom Costs Order CRTC 2002-4, 24 April 2002*