



Broadcasting and Telecom Regulatory Policy CRTC 2016-102

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Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.

The Commissioner for Complaints for Telecommunications Services Inc. (CCTS) is an independent telecommunications consumer body that has, since 2007, been helping consumers resolve disputes with their service providers arising from complaints they have made about their phone, wireless, and Internet services.

With this decision, the Commission is ensuring that the CCTS (i) continues to operate as an independent body, providing efficient and effective assistance to help Canadian consumers resolve disputes arising from their complaints related to telecommunications services, and (ii) will be able to provide the same service for complaints related to the delivery of subscription television services.

To achieve these outcomes, the Commission has reviewed the structure and mandate of the CCTS and has made a number of determinations, including the following:

- *The Commission will continue to require all telecommunications service providers that offer services within the scope of the CCTS's mandate to be participants in the CCTS.*
- *All licensed television service providers (TVSPs) and related exempt TVSPs will be required to become participants in the CCTS by 1 September 2017, concurrent with the time frame in which these TVSPs must adhere to the Commission's TVSP Code.*
- *The CCTS's mandate will be expanded to include addressing complaints related to the provision of subscription television services provided by a TVSP and the administration of the TVSP Code.*
- *The CCTS is expected, among other things, to improve the transparency of its operations and to provide adequate resources for activities that are required in support of its mandate, such as promotion and measuring public awareness of the CCTS; monitoring compliance by service providers with the obligations set out in its Participation Agreement; and ensuring that its services and website are accessible by all Canadians.*

The Commission affirms the importance of public awareness activities carried out by the CCTS and its participants so that Canadians are aware of or can easily find out about the CCTS when they need assistance in resolving disputes with their communications service providers.

Background

1. The Commissioner for Complaints for Telecommunications Services Inc. (CCTS) is an independent telecommunications consumer body that assists Canadians who have been unable to resolve disputes with their service providers. The CCTS was established by a number of telecommunications service providers (TSPs) in 2007 in response to a direction from the Government of Canada set out in *Order requiring the CRTC to report to the Governor in Council on consumer complaints*, P.C. 2007-533, 4 April 2007 (the Order). The Order stated that all TSPs should participate in and contribute to the financing of an independent telecommunications consumer body that would, among other things, resolve disputes arising from complaints from individual and small-business retail customers that they have been unable to resolve with their service providers. The Order also stated that the telecommunications consumer body should be an integral component of a deregulated telecommunications market.
2. In August 2007, the Commission initiated a public proceeding to consider whether it should approve the structure and mandate of the CCTS.¹ Following the proceeding, in Telecom Decision 2007-130, the Commission approved, with changes, the CCTS's structure, mandate, and operations.
3. In 2010, the Commission initiated a review of the structure and mandate of the CCTS, culminating with the issuance of Telecom Regulatory Policy 2011-46. In that decision, the Commission determined, among other things, that the CCTS's governance structure and mandate were generally appropriate, and required all TSPs that offer services within the scope of the CCTS's mandate to be participants² in the CCTS. For a TSP that was not already a participant in the CCTS at the time of that decision, the requirement to become a participant would be triggered when the CCTS received an in-scope complaint about the TSP. The participation requirement was to expire five years from the date of that decision.
4. In Broadcasting Regulatory Policy 2015-104, the Commission determined that the creation of a Television Service Provider (TVSP) Code of Conduct (TVSP Code) was warranted and necessary.³ The Commission observed that an increasing number of

¹ See Telecom Public Notice 2007-16.

² Due to changes in legislation for charities, the CCTS changed the name of its "members" to "participants" in 2015.

³ The Commission initiated a proceeding in Broadcasting Notice of Consultation 2015-105 to establish the specific contents of the TVSP Code. In Broadcasting Regulatory Policy 2016-1, the Commission announced the TVSP Code, which will fully come into effect on 1 September 2017. All licensed TVSPs and TVSPs that are exempt from licensing and that are affiliated with or controlled by a licensed TVSP will be required to adhere to the TVSP Code.

consumers are taking advantage of bundled offers which include local voice, wireless, Internet, and television services offered by the same service provider, making it ever more important to have a consistent approach to informing consumers and dealing with their complaints. The Commission also determined that the TVSP Code ought to be administered by an independent ombudsman, and considered that the CCTS would be an appropriate ombudsman. The Commission noted that details regarding governance and funding related to the CCTS's role as administrator of the TVSP Code would be dealt with specifically as part of its review of the CCTS's structure and mandate.

Overview of the proceeding

5. On 4 June 2015, the Commission issued Broadcasting and Telecom Notice of Consultation 2015-239 to initiate a proceeding to review the structure and mandate of the CCTS.⁴ This review included a public hearing which ran from 3 to 6 November 2015.
6. Since the participation requirement that was imposed in Telecom Regulatory Policy 2011-46 was set to expire on 20 December 2015, before the Commission would be able to make its determinations related to this proceeding, the Commission extended the participation requirement on an interim basis⁵ until such time as the Commission rendered a final decision on the issues raised as part of this proceeding.
7. The Commission received interventions from Accessible Media Inc. (AMI); the Alliance for Equality of Blind Canadians and CNIB (AEBC/CNIB); Bell Canada; the Canadian Network Operators Consortium Inc. (CNOOC); the CCTS; Cogeco Cable Inc. (Cogeco); the Consumers Council of Canada (CCC); Bragg Communications Incorporated, operating as Eastlink (Eastlink); the Forum for Research and Policy in Communications (FRPC); the Independent Telecommunications Providers Association (ITPA); Media Access Canada (MAC); MTS Inc., on behalf of itself and Allstream Inc. (collectively, MTS Allstream); the National Pensioners Federation, the Council of Senior Citizens' Organizations of British Columbia, and the Public Interest Advocacy Centre (PIAC) [collectively, PIAC et al.]; Quebecor Media Inc., on behalf of Videotron G.P. (Videotron); Rogers Communications Partnership (RCP); Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC); Saskatchewan Telecommunications (SaskTel); Shaw Communications Inc. (Shaw); TBayTel; TekSavvy Solutions Inc. (TekSavvy); TELUS Communications Company (TCC); l'Union des consommateurs (l'Union); Velocity Networks Inc. (Velocity Networks); and a number of individual Canadians. The Commission also heard from Canadians by way of an online discussion forum.

⁴ Parties to this proceeding were asked to address a number of issues related to the CCTS, as outlined in paragraph 15 of Broadcasting and Telecom Notice of Consultation 2015-239.

⁵ See Telecom Decision 2015-478.

8. In this document, “the service providers” will be used to collectively refer to Bell Canada, CNOC, Cogeco, Eastlink, the ITPA, MTS Allstream, RCP, SaskTel, Shaw, TBayTel, TCC, TekSavvy, and Videotron; “the consumer groups” will refer to CIPPIC, the FRPC, PIAC et al., and l’Union; and “the accessibility groups” will refer to AMI, AEBC/CNIB, and MAC.
9. The public record of this proceeding, which closed on 20 November 2015, is available on the Commission’s website at www.crtc.gc.ca or by using the file number provided above.

Issues

10. The following issues are addressed in this decision:

- the value of the CCTS for consumers;
- the consumer experience with the CCTS, including the experience of consumers with disabilities;
- participation in the CCTS by communications service providers;
- the CCTS’s mandate;
- the CCTS’s governance structure;
- the CCTS’s funding model;
- the remedies provided by the CCTS;
- public awareness of the CCTS; and
- the timing of a future review.

The value of the CCTS for consumers

11. Most parties, including consumer groups, were of the view that the CCTS has generally been effective in helping consumers resolve complaints that they have been unable to resolve with their service providers. PIAC et al. and l’Union noted that the CCTS had numerous positive attributes, such as a very accessible, simple process for complaint handling, and that resolutions are provided in a timely fashion. The service providers were generally of the opinion that the CCTS has been effective in performing its mandate to resolve consumer and small-business complaints.
12. The CCTS submitted that customer satisfaction with the CCTS is high, as demonstrated in its recent Annual Report.

Commission's analysis and determinations

13. The CCTS, as an independent body for resolving consumer complaints about telecommunications services, provides a valuable service to Canadian consumers. The Commission anticipates that the CCTS will continue to provide a valuable service to Canadian consumers with respect to resolving disputes within its mandate.

The consumer experience with the CCTS, including the experience of consumers with disabilities

14. As part of its ongoing operations, the CCTS has been surveying the consumers that have used its services since 2010 in order to obtain feedback on the quality of service it has provided. In developing its survey, CCTS management wanted to measure its customers' satisfaction with the organization's processes and service delivery, so that it could use the results to improve its performance and customer service.
15. The CCTS, PIAC et al., and the service providers were of the view that the survey generally provided an effective and appropriate measurement of CCTS customer satisfaction. PIAC et al. and some service providers proposed additional questions that could be included in the survey.
16. On the other hand, the FRPC was of the view that the survey does not measure satisfaction with the CCTS, as it measures customer satisfaction with the process rather than customer satisfaction with the results.
17. With respect to consumers with disabilities, the CCTS submitted, during the oral phase of the proceeding, that it provides customer service in a manner that accommodates the needs of persons with disabilities and reflects the principles of independence, dignity, integration, and equality of opportunity, noting that its policies and guidelines are modelled on the Ontario Accessibility Standards for Customer Service. The CCTS added that it provides training on accessible customer service to all CCTS employees, directors, volunteers, or others who communicate with the public or third parties on behalf of the CCTS, and that it assists persons with disabilities to make their complaints when required.
18. AEBC/CNIB noted that consumers with challenges such as vision loss have had difficulties in using the CCTS's website, particularly the online complaint submission form. AEBC/CNIB provided a list of apparent deficiencies they had discovered in the CCTS's online complaint form with respect to the WCAG version 2.0 Level AA guidelines.⁶ AEBC/CNIB, the FRPC, and PIAC et al. suggested that the CCTS should improve the accessibility of its website and that the website should be regularly tested for accessibility.

⁶ Web Content Accessibility Guidelines (WCAG) are part of a series of web accessibility guidelines published by the Web Accessibility Initiative (WAI) of the World Wide Web Consortium (W3C), the main international standards organization for the Internet.

19. The CCTS indicated that it recognizes the importance of accessibility, and that enhancing the accessibility of its website will be included as an objective in the ongoing renewal of its website. In this regard, it indicated that, while it has made efforts to keep the website accessible, it may have fallen behind and will review the accessibility of the online complaint form.

Commission's analysis and determinations

20. The Commission considers that the CCTS's survey provides an appropriate measure of customer satisfaction and that the experience of the majority of customers appears positive. The feedback from the CCTS customer survey included in its Annual Reports from 2010 to 2014 show that overall customer satisfaction has been increasing year-over-year and is close to 90% for some key aspects of the CCTS's service.

21. With respect to the experience of consumers with disabilities, the CCTS and the service it provides should be accessible to all Canadians.

22. Given that groups raised issues about the accessibility of the CCTS's website, the Commission expects the CCTS to work with accessibility groups to (i) review the accessibility of its website, particularly the online complaint form, (ii) make the needed modifications to its website to meet the WCAG version 2.0 Level AA guidelines as noted by AEBC/CNIB, and (iii) conduct regular testing of its website in relation to accessibility concerns, notably after it has made enhancements or modifications to the website. The Commission expects that the work required to improve the accessibility of the website will be completed as soon as possible and that the necessary resources will be allocated to ensure this happens.

23. It is also important to ensure that the CCTS's dispute resolution services continue to be provided in a manner that is accessible to consumers with disabilities. Therefore, the Commission expects that the CCTS will continue to work with accessibility groups on an annual basis to identify if there are other areas where the CCTS can improve its accessibility or develop other mechanisms for Canadians with disabilities to make use of the CCTS's services effectively and efficiently, thereby reflecting the principles of independence, dignity, integration, and equality of opportunity.

Participation in the CCTS by communications service providers

TSP participation requirement

24. Mandatory participation in the CCTS has been in effect for the largest TSPs since December 2007. "Participation" in the CCTS means that the service provider has joined or signed up with the CCTS. Becoming a participant involves the service provider signing the CCTS's Participation Agreement and agreeing to be bound by all terms and conditions in that document. Since December 2011, the Commission has required all TSPs (including local and long distance service providers, wireless service providers, and Internet service providers) that provide services within the

scope of the CCTS's mandate to participate in the CCTS subject to the operation of a participation trigger mechanism.

25. For non-participant TSPs, the current participation requirement is triggered by the receipt by the CCTS of an in-scope complaint. Once notified by the CCTS that it has received an in-scope complaint about it, a non-participant TSP that offers services within the scope of the CCTS's mandate is required to become a participant in the CCTS within five days of the date of that notification (the complaint trigger).
26. The CCTS participation requirement is currently imposed indirectly on TSPs other than Canadian carriers through their contracts with wholesale providers of telecommunications services. However, in the *Economic Action Plan 2014 Act, No. 2*, which received royal assent on 16 December 2014, the Government of Canada amended the *Telecommunications Act* to introduce, among other matters, section 24.1, which allows the Commission to directly impose conditions of service on TSPs that are not carriers (non-carriers).⁷ With the changes to the *Telecommunications Act*, the Commission may now directly impose the CCTS participation requirement on non-carriers.
27. In the current proceeding, the majority of parties, including the consumer groups, the CCTS, as well as most of the service providers, supported continuation of a mandatory requirement for TSPs to participate in the CCTS. The CCTS expressed concern that voluntary participation would undermine its independence in the case where participants chose to unilaterally withdraw from the CCTS if they were not happy, or in agreement, with one of its decisions.
28. In addition, the majority of parties participating in this proceeding supported the direct imposition of the participation requirement on non-carriers in light of the Commission's new powers under section 24.1 of the *Telecommunications Act*.
29. However, there was a lack of consensus among parties as to whether small TSPs that are currently not CCTS participants should immediately become participants or whether the current requirement to become a CCTS participant within five days of being contacted by the CCTS after it has received an in-scope complaint is reasonable. The CCTS submitted that enforcing TSP participation after the requirement has been triggered by receipt of an in-scope complaint has proven to be time-consuming and has led to delays in the resolution of the customer's complaint.
30. The consumer groups, as well as Bell Canada, SaskTel, TCC, and Videotron were of the view that the complaint trigger should be removed and that participation in the CCTS should become immediately mandatory. The consumer groups expressed concern that under the existing regime, customers of non-participating TSPs would

⁷ "Non-carrier" refers to a person, other than a Canadian carrier as defined in the *Telecommunications Act*, which offers and provides telecommunications in Canada on a commercial basis and is generally known as a reseller. A reseller of telecommunications services sells or leases a telecommunications service provided by a Canadian carrier to the reseller on a wholesale basis.

not be made aware of the CCTS through their service provider and of their right to bring a complaint against their service provider to the CCTS. On the other hand, CNOC, Cogeco, Eastlink, the ITPA, MTS Allstream, RCP, Shaw, and TekSavvy supported maintaining the status quo regarding CCTS participation and the complaint trigger, arguing that it balances concerns regarding the administrative burden for the CCTS and the small service providers against the benefits of removing the trigger.

31. The ITPA further submitted that eliminating the complaint trigger and requiring a TSP that has not been the subject of any related customer complaints to be subject to the additional workload associated with CCTS participation would violate key sections of the Policy Direction.⁸ CNOC acknowledged the challenges identified by the CCTS but argued that removing the trigger is simply replacing one administrative burden with another potentially greater administrative burden, and that removal is not an appropriate solution, noting that removing the trigger will necessitate bringing on board a significant number of service providers.
32. With respect to the time frame in which a service provider must become a participant in the CCTS after having been contacted by the CCTS, CNOC, TBayTel, and TekSavvy were of the view that the five-day window was unrealistic, with CNOC and TBayTel recommending extending the sign-up window to 30 and 50 days, respectively.
33. The CCTS noted that TSPs are not meeting the Commission's requirement that they become CCTS participants within five days of the receipt of an in-scope complaint, and that it has taken, on average, 103 days for the TSPs to join the CCTS after receipt of an in-scope complaint to participate in the CCTS. The CCTS proposed extending the number of days that a TSP is required to become a CCTS participant following receipt of an in-scope complaint to 30 days.
34. The CCTS indicated that it could look at its process of signing up new participants to see if it could be simplified and thus provide a better incentive to participate in a timely fashion.

Commission's analysis and determinations

35. Little evidence was presented on the record of this proceeding, including the submissions received from parties during the oral phase of the proceeding, to support arguments that participation in the CCTS should not continue to be mandatory and that participation causes undue financial hardship for smaller TSPs.
36. The Commission is of the view that market forces are not sufficient to sustain a critical mass of participation in the CCTS needed for it to operate effectively. Given the CCTS's significant utility to consumers, CCTS participation should continue to be mandatory to allow for all consumers to access the CCTS's services.

⁸ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

37. Further, the Commission acknowledges the CCTS's concern that a service provider might withdraw from the CCTS, under voluntary participation, if that service provider disagreed with a CCTS decision. If consumers started to believe that the CCTS was taking a position favourable to a service provider simply to avoid that service provider leaving the CCTS, then the perception of the independence and impartiality of the CCTS could come into question. A mandatory participation requirement would address this concern and would therefore further the independence of the CCTS.
38. Consistent with Telecom Decisions 2007-130 and 2008-46, the Commission has the authority to mandate membership in the CCTS since sections 24 and 24.1 of the *Telecommunications Act* provide the Commission with broad powers to make the provision of telecommunications services in Canada by carriers and non-carriers subject to conditions.
39. In light of the above, it is appropriate to maintain a mandatory participation requirement for TSPs.
40. With respect to the complaint trigger, the value of mandating the immediate participation of all small TSPs must be weighed against the administrative burden the CCTS would face in enrolling these TSPs, along with the additional costs and administrative burden small TSPs would incur as a result of a requirement to immediately participate in the CCTS.
41. Maintaining the complaint trigger and not requiring all small TSPs that are not currently CCTS participants to immediately join does mean that these companies are not obligated to tell their customers about the CCTS during the complaint process. However, it is the view of the Commission that the administrative burden associated with identifying and pursuing the remaining small non-participating TSPs would be significant and that the benefit would not be commensurate with the cost, especially in light of the fact that the TSPs that are currently CCTS participants already represent over 98% of all Canadian telecommunications revenues. Further, through the promotion efforts of the CCTS and participating service providers, the Commission is of the view that Canadians have a reasonable opportunity to be aware of the CCTS and its mandate.
42. In light of the evidence on the record of this proceeding, maintaining a complaint trigger for the participation requirement provides the best balance for both the CCTS and consumers when weighing the costs and efforts associated with removing this trigger. However, the Commission considers that the current five-day requirement is not aligned with the time and effort that it takes for a small TSP to become a CCTS participant. Accordingly, the Commission maintains the existing mechanism whereby the requirement for a non-participant TSP to join the CCTS is activated only after an in-scope complaint about that company is received by the CCTS, but extends the time frame to become a participant from five to thirty calendar days, consistent with the time frame suggested by the CCTS.

43. The Commission encourages the CCTS to review its current sign-up process in order to determine whether it could be further simplified.
44. With respect to imposing the participation requirement directly on non-carriers, the Commission is of the view that imposing the CCTS participation requirement directly on non-carriers is minimally intrusive, competitively neutral, and symmetrical, and will ensure that consumers subscribing to services provided by non-carriers will have equivalent access to the CCTS's services. The imposition of a requirement to participate in the CCTS by way of section 24.1 conditions on non-carriers will not result in the imposition of additional operational or financial burden on these entities and will result in less of a regulatory burden for carriers, as they will no longer be required to include conditions related to CCTS participation in contracts with their wholesale customers.
45. Accordingly, the Commission requires, pursuant to sections 24 (regarding carriers) and 24.1 (regarding non-carriers) of the *Telecommunications Act*, that as a condition of offering or providing telecommunication services,
- every person⁹ who is a participant in the CCTS as of 17 March 2016 and continues to offer services within the scope of the CCTS's mandate be a participant in the CCTS; and
 - every person who is not a participant in the CCTS as of 17 March 2016 become and remain a participant in the CCTS commencing 30 calendar days after the date on which the CCTS informs that person that the CCTS has received a complaint related to telecommunications services provided by it falling within the scope of the CCTS's mandate.
46. Requiring that all TSPs that provide in-scope services be CCTS participants is consistent with the Order, which states that all TSPs should participate in and contribute to the funding of the CCTS, and that it should serve individual and small-business retail customers.
47. This decision ensures that all such consumers have equivalent access to the CCTS's services, which will advance the policy objectives set out in paragraphs 7(b), (f), and (h) of the *Telecommunications Act*.¹⁰ Consistent with the Policy Direction, this approach is also competitively neutral and symmetrical since it applies to all TSPs that offer in-scope services.

⁹ For clarity, the term "person" includes every Canadian carrier and every person who is not a Canadian carrier, as defined in the *Telecommunications Act*.

¹⁰ The cited policy objectives are 7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; 7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and 7(h) to respond to the economic and social requirements of users of telecommunications services.

TVSP participation requirement

48. PIAC et al. and l'Union were of the view that all TVSPs should be required to become participants in the CCTS because all TVSP customers should be entitled to use the CCTS's services to resolve disputes. PIAC et al. noted that one of the considerations underlying the membership decision in Telecom Regulatory Policy 2011-46 was that due to the CCTS's significant utility to consumers, participation in the CCTS should be comprehensive to allow for all consumers to access its services. PIAC et al. argued that this same logic should apply to TVSPs.
49. PIAC et al. submitted that since the notice of consultation for the TVSP Code indicated that all licensed TVSPs and related exempt undertakings will be required to adhere to the TVSP Code, which will be administered by the CCTS, then participation in the CCTS should be mandatory for these service providers. PIAC et al. further submitted that since the vast majority of TVSPs also offer telecommunications services and are therefore already participants in the CCTS, it would not be a significant administrative burden to require them to participate in the CCTS as TVSPs.
50. Most of the larger TVSPs (i.e. Bell Canada, RCP, Shaw, and TCC) proposed that participation should be mandatory for all TVSPs, licensed and exempt, while SaskTel, Shaw, TBayTel, and TekSavvy supported mandatory participation for only TVSPs that are required to adhere to the TVSP Code (i.e. the licensed TVSPs and related exempt undertakings).¹¹ Cogeco was of the view that voluntary participation should be the end goal but to the extent that the Commission imposes a requirement on TVSPs to participate in the CCTS, all TVSPs, licensed and exempt, should be required to participate. Videotron acknowledged that it could be difficult to mandate participation for the very small TVSPs, but suggested that all exempt TVSPs with more than 2,000 subscribers should be required to participate. The CCTS did not have a position as to which types of TVSPs (i.e. licensed, exempt, or related exempt) should be required to become participants, but submitted that it would create a challenge for the CCTS if all TVSPs were mandated to participate, but only some of them were subject to the TVSP Code.
51. With respect to whether or not the participation should be immediate or through a complaint trigger, most consumer groups were of the view that TVSPs should immediately become participants in the CCTS. Bell Canada, SaskTel, Shaw, and Videotron submitted that TVSPs should be required to become participants immediately in the CCTS (i.e. without a complaint trigger), and TCC proposed that TVSPs be required to become participants concurrent with when they must adhere to the TVSP Code (also without a complaint trigger). CNOC, Eastlink, MTS Allstream, RCP, TBayTel, and TekSavvy preferred some form of participation trigger.
52. The CCTS advocated against a phased approach of implementation where not all TVSPs would be required to participate at the same moment.

¹¹ Related exempt undertakings are services that are affiliated with or controlled by licensed TVSPs.

Commission's analysis and determinations

53. All licensed TVSPs and their related exempt TVSPs will be required to adhere to the TVSP Code, which will be administered by the CCTS, by 1 September 2017. Independent exempt TVSPs are not required to adhere to the TVSP Code. Exempt TVSPs are exempt from licensing pursuant to the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers set out in Broadcasting Order 2015-544.¹²
54. The Commission considers it appropriate that all licensed TVSPs and their related exempt TVSPs participate in the CCTS by the date that they must adhere to the TVSP Code, i.e. 1 September 2017. While related exempt TVSPs may serve smaller or remote locations, their affiliation with licensed TVSPs generally means that they have more resources, such as centralized customer service centres and billing systems, than independent exempt TVSPs. Requiring related exempt TVSPs to participate in the CCTS will minimize confusion for consumers and serve to extend the benefits provided by the CCTS to a wider customer base.
55. With respect to independent exempt TVSPs, the Commission recognizes that creating two categories of TVSP participants (i.e. those that are required to adhere to the TVSP Code and those that are not required to do so) could represent an administrative challenge for the CCTS. However, there would also be an administrative burden on the CCTS were the Commission to require that all independent exempt TVSPs become participants in the CCTS.
56. No compelling evidence was presented justifying that the Commission should mandate that independent exempt TVSPs participate in the CCTS. However, in order to monitor whether a participation requirement on independent exempt TVSPs becomes necessary in the future, there is value in the CCTS tracking and reporting on complaints that it receives related to independent exempt TVSPs.
57. Such a potentially phased approach is consistent with how the participation requirement was originally imposed on TSPs – initially, only the largest TSPs were required to become participants in Telecom Decision 2007-130, and the requirement was extended to all TSPs in Telecom Regulatory Policy 2011-46 following the first review of the CCTS.
58. In order to implement a participation requirement on TVSPs, the Commission considers that it would be most appropriate to impose the requirement to participate by way of condition of license for licensed entities and an amendment to the conditions of exemption for related exempt entities. For those TVSPs with licences that are expiring after 2017, the Commission may also use its powers granted by paragraph 9(1)(c) of the *Broadcasting Act* to impose, on its own motion, new conditions of licence five years after the issuance or renewal of a licence, even if the term is not expired.

¹² Broadcasting Order 2015-544 is set out in the Appendix to Broadcasting Regulatory Policy 2015-543.

Interplay between the TSP and TVSP participation requirements

59. Most of the licensed TVSPs also operate as, or are affiliated with, TSPs that are currently participants in the CCTS. However, the Commission considers that every TSP that (i) also operates as or is affiliated with a licensed TVSP, and (ii) is not a participant in the CCTS at the time when the condition of license or exemption requiring participation in the CCTS takes effect should concurrently become a participant in the CCTS in order to prevent unnecessary confusion for consumers and inefficiencies for the CCTS administration. This would be consistent with Broadcasting Regulatory Policy 2015-104, in which the Commission noted that “[i]n a marketplace where a growing number of consumers take advantage of these [bundled] offers, it becomes ever more important to have a consistent approach to informing consumers and dealing with consumer complaints.”

60. Accordingly, the Commission requires, pursuant to sections 24 (regarding carriers) and 24.1 (regarding non-carriers) of the *Telecommunications Act*, that as a condition of offering or providing telecommunications services,

every person who offers or provides telecommunications services within the scope of the CCTS’s mandate and who operates or is affiliated with a TVSP become and remain a participant in the CCTS with respect to its telecommunications activities no later than the date on which the TVSP is required to become a participant pursuant to a condition of licence or exemption made under the *Broadcasting Act*. For the purposes of this condition, the term “affiliated with” means that the person controls the TVSP, is controlled by the TVSP, or is controlled by the same entity that controls the service providers.

Enforcement of the participation requirement and the CCTS Participation Agreement

61. The CCTS submitted that sometimes when it has contacted a non-participating service provider after having received an in-scope complaint about the company, it has had challenges convincing that service provider that its participation in the CCTS is a regulatory requirement.

62. In addition, the CCTS submitted that it has challenges with insisting on full compliance by participants with the required aspects of the Participation Agreement.¹³ The CCTS added that the remedies set out in its Participation Agreement to address non-compliance with these obligations are not sufficient, practical, or realistic. Among other issues with the enforcement tools at its disposal, the CCTS was of the view that “name and shame” has not been effective, and that termination of a service

¹³ The Participation Agreement is the contract between the CCTS and a participating service provider in which the participant agrees, among other things, to abide by the CCTS’s By-laws, Procedural Code, and Participant Agreement, to be bound by and observe the CCTS’s Procedural Code, to submit to and honour remedies levied by the CCTS, to cooperate in good faith with any investigation conducted by the CCTS, and to fund the CCTS.

provider's participation would deprive consumers of access to the CCTS and would put the service providers offside of a Commission-established requirement.

63. The CCTS was of the view that compliance and enforcement are key structural pieces that are missing, and that it needs the Commission's help to effectively fulfill its mandate. The CCTS requested that the Commission take the following actions to assist in ensuring compliance with the obligations stemming from the Participation Agreement:

- issue an unequivocal directive outlining the requirement to comply with all aspects of the Participation Agreement and related CCTS determinations;
- establish an annual process by which an officer of each participant certifies to the Commission that the participant is fully compliant with all aspects of the CCTS Participation Agreement; this process would include annual spot checks and consequences for non-compliance;
- disclose the annual eligible revenues of the participants to the CCTS on a confidential basis; and
- work with the CCTS to develop a Commission-based enforcement process that the CCTS can use to refer participants in default of participation obligations to the Commission for enforcement.

64. In response to a question during the hearing as to whether the CCTS conducts compliance audits with respect to aspects of the public awareness plan, the CCTS noted that it does not have the mandate or the resources to do formal auditing of compliance.

65. The consumer groups supported the idea of the Commission taking a role in the enforcement of the obligations set out in the Participation Agreement. PIAC et al. proposed that the CCTS regularly report to the Commission on non-compliance of participants and that these reports be made public in a timely manner. CIPPIC, the FRPC, and PIAC et al. were of the view that the Commission should enforce compliance with the CCTS's obligations because it has a wide spectrum of remedies to ensure regulatory compliance. L'Union submitted that the Commission is well placed to ensure that participants comply with their obligations related to the CCTS (both the Commission's participation requirement and the obligations set out in the CCTS's Participation Agreement), and that the CCTS does not have the necessary power to ensure participants' compliance. The CCC recommended that the Commission audit the participating service providers with respect to their adherence to the public awareness obligations.

66. Bell Canada, CNOOC, Shaw, TBayTel, TCC, and Videotron were of the view that the CCTS should undertake greater efforts to bring non-compliant service providers into compliance. Bell Canada submitted that regular monitoring by the CCTS is a necessary first step in the process, and that the act of tracking compliance will bring

about improvements. Shaw submitted that the vast majority of non-compliance could be resolved through increased communications and feedback from the CCTS.

67. Bell Canada, CNOC, SaskTel, Shaw, TCC, and Videotron suggested that the Commission also has a role to play. They proposed a progressive model where the first steps involve the CCTS working to bring companies into compliance. Continued or systemic non-compliance would be escalated to the Commission.
68. Bell Canada and RCP cautioned that enforcing the compliance of small service providers might not be worth the associated costs and effort.

Commission's analysis and determinations

69. Regarding compliance with obligations stemming from the Participation Agreement, while the CCTS provided some information on the record of this proceeding about the number of incidents of non-compliance, no information was provided about which companies were not in compliance, the size of the companies in breach, or the impact on the CCTS's ability to fulfill its mandate. It is not clear if it is predominantly smaller providers that are not complying or if the larger TSPs are also in non-compliance.
70. The Commission is of the view that promoting and monitoring compliance are necessary first steps in enforcement. Based on the record of this proceeding, it is not clear how much effort the CCTS has put into these activities or into enforcement, but at this point it would appear to be insufficient. For example, 2015 was the first time that the CCTS surveyed participants regarding compliance with their obligations related to the CCTS's public awareness plan.
71. Although the CCTS submitted that it does not have the mandate or the resources to do formal auditing of compliance, the Commission considers that compliance and enforcement of participation obligations are activities that are directly ancillary to the core mandate, and that the CCTS's funding and business plans should not be limited to the core mandate, but should also include those functions that are required in support of the mandate. As per the Order, the CCTS is an independent body and, as such, these functions fall within its responsibilities.
72. The Commission notes that the CCTS has enforcement tools at its disposal (expelling, pursuing civil litigation, and naming and shaming), but that it is reluctant to use these tools for a number of reasons:
 - With respect to concerns that expelling a non-compliant service provider from the CCTS would mean that its customers would not be able to use its services, the CCTS may not be able to provide effective assistance to the customer regardless of whether or not the company is a participant, depending on the extent of the company's non-compliance.
 - With regard to naming and shaming, the Commission is not convinced that the CCTS's efforts have been sufficient to evaluate the effectiveness of this tool.

The CCTS has not adopted a general practice to publicize the names of companies that are not in compliance with all of the obligations, although the Commission acknowledges that the CCTS does publish news releases naming companies which have not joined the CCTS after triggering the participation requirement or which have not implemented a CCTS decision. Also, in its 2012-2013 Annual Report, the CCTS listed the ten service providers that did not comply with the complaint handling process timelines most frequently. Information about non-compliance with the CCTS participation obligations should be regularly included in the CCTS's Annual Report. In addition, while the CCTS has published a list of non-compliant providers on its website, the list could be given more prominence.

73. Accordingly, the Commission expects

- the CCTS to more actively monitor and encourage compliance with its obligations, as well as to enforce these obligations;
- the CCTS's Board of Directors to approve adequate funding and resources for monitoring and compliance activities for the obligations set out in the Participation Agreement; and
- the CCTS to publish in a more prominent manner the names of companies that are non-compliant with participation obligations related to promotion, paying fees to the CCTS, implementing CCTS decisions, and participating in the CCTS, as both part of the "name and shame" approach to enforcement and to ensure that consumers have more information when choosing service providers.

74. In addition, the Commission expects participating service providers to comply with the obligations imposed on them by virtue of their participation in the CCTS.

75. The Commission clarifies that the CCTS can revoke a non-compliant service provider's participation if it deems necessary, and that should the CCTS take this step, it is required to notify the Commission. Before the CCTS expels a service provider, it would need to inform the service provider that should it be expelled from the CCTS, the service provider would then be in violation of the Commission's participation requirement, which could result in enforcement actions by the Commission. The Commission could then take appropriate steps to address the resulting non-compliance of that service provider with the Commission-imposed participation requirement. In appropriate circumstances, this can go as far as a mandatory order proceeding under subsection 12(2) of the *Broadcasting Act* or administrative monetary penalties under section 72.001 of the *Telecommunications Act*.

76. Further, should the CCTS find that there are systemic issues regarding service provider compliance with obligations set out in the Participation Agreement and consider that these issues impact the CCTS's ability to fulfill its mandate, it may

initiate a Part 1 process to request Commission action.¹⁴ However, the Commission expects that the CCTS will have taken steps to bring companies into compliance before initiating such a process, including reaching out to a non-compliant company by various means if necessary, including by email, telephone, and registered mail, as well as using the enforcement tools that the CCTS has at its disposal.

77. In order to support the CCTS in the initial stages of signing up new TSPs and to help it prove that the requirement to participate in the CCTS is legitimate, the Commission will provide a letter for inclusion in the notification/participation package that the CCTS sends out to a non-participant TSP after that TSP has triggered the participation requirement. This letter will lay out the Commission's requirement for service providers to participate in the CCTS, and indicate that the Commission may take enforcement action should the company fail to become a participant.

The CCTS's mandate

78. The Order which resulted in the establishment of the CCTS stipulated that the CCTS's mandate should include the following:

- resolving complaints from retail consumers of deregulated telecommunications services;
- developing or approving industry codes of conduct and standards;
- tracking and reporting on trends; and
- producing an annual report on complaints (nature, number, and resolution for each TSP).

79. The scope of complaints from individual and small-business retail customers that the CCTS currently addresses includes home, long distance, and wireless phone services; Internet services; white pages; directory assistance; and operator services.

80. The issues for which the CCTS provides assistance include

- compliance with contract terms and commitments,
- billing disputes and errors,
- service delivery, and
- credit management.

¹⁴ The procedure for filing a Part 1 application is set out in section 22 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*.

81. The CCTS also excludes a number of matters or services that fall outside of its scope.¹⁵

Scope of telecommunications complaints handled

82. There was some disagreement among the parties regarding whether the CCTS's current mandate with respect to telecommunications services remains appropriate. AEBC/CNIB, the CCC, CIPPIC, PIAC et al., and l'Union were of the view that the CCTS mandate should be expanded as follows:

- AEBC/CNIB submitted that the CCTS's mandate be expanded such that Canadians with vision loss can find reasonable resolutions to their accessibility-related complaints.
- PIAC et al. and l'Union were of the view that the CCTS's mandate should be expanded to include regulated telecommunications services. PIAC et al. argued that consumers would likely be unable to distinguish between regulated and forborne services when they subscribe to several communications services, and would expect to be able to use the CCTS for all the services to which they subscribe. PIAC et al. also submitted that the mandate should incorporate issues related to goods or services that are bundled or sold with a communications service (this would not include customer-provided equipment but would include devices sold by TSPs such as cellular devices, modems, and routers).
- CIPPIC submitted that services that are regulated by the Commission or other bodies might also be suited to the CCTS's dispute resolution process. CIPPIC also recommended that the CCTS's mandate include a more general capacity to review problematic practices such as unfair contractual terms and internal TSP policies, specific conduct that is unfair and harmful to customers, and issues that are addressed by other agencies, such as privacy or misleading advertising.

83. Bell Canada, the CCTS, CNOC, Cogeco, MTS Allstream, RCP, SaskTel, Shaw, TBayTel, TCC, and Videotron were of the view that the CCTS's mandate with respect to telecommunications complaints should not be expanded. The CCTS added that the only changes required to the mandate are those that would permit the CCTS to accept complaints about subscription television services, and permit the administration of the TVSP Code. The CCTS urged the Commission to reject proposals that called for the addition of responsibilities that are more fittingly carried out by consumer protection agencies or other bodies that have more specific

¹⁵ The CCTS does not accept complaints concerning Internet applications or content; broadcasting services; emergency services; payphones; equipment; inside wiring; yellow page or business directories; telemarketing or unsolicited messages; security services, such as alarm monitoring; networking services; pricing of products or services; 900 and 976 services; rights-of-way; privacy issues; claims of false or misleading advertising; and plant.

experience and expertise. The CCTS submitted that failure to do so will detract from its core work, add to its cost structure, complicate its mandate and independence, and dilute its ability to quickly and effectively resolve customer complaints.

84. Parties raised the question of how the CCTS handles complaints with both in-scope and out-of-scope elements and submitted that more transparency is required with respect to how such complaints are handled, tracked, and reported. With respect to this matter, the CCTS indicated that generally it follows its usual process to investigate the complaint and that if there is merit to the complaint, it will attempt to fashion a remedy that does not involve the out-of-scope services. The CCTS also indicated that while equipment is excluded from the scope of its mandate, its interpretation is that the exclusion relates to the specific TSP equipment used for providing the service, but not for complaints about equipment provided by the TSP to the customer for use with the service.

Commission's analysis and determinations

85. As previously determined in Telecom Regulatory Policy 2011-46, the Commission considers that it would be duplicative to add services that are still subject to rate regulation by the Commission to the CCTS's scope of complaints, because the Commission is mandated to receive and address complaints about these services.
86. In addition, the record of this proceeding does not demonstrate that telecommunications-related issues that are currently out of scope would benefit from the CCTS's complaint resolution process; thus, there is no justification for the Commission to require the CCTS to expand the scope of complaints it handles in relation to telecommunications services. The Commission therefore concludes that expanding the CCTS's mandate with respect to telecommunications services is not warranted at this time. However, the Commission is of the view that there continues to be value in the CCTS reporting on out-of-scope issues as per the expectations set out in Telecom Regulatory Policy 2011-46.
87. The Commission encourages the CCTS to be as transparent as possible about its approach to complaint handling, including how it deals with complaints that contain in-scope and out-of-scope elements. The Commission acknowledges that on at least one occasion when the CCTS issued a decision that contained both in-scope and out-of-scope elements, it clearly described its approach to handling those elements in the decision and encourages it to continue this practice.

Administration of codes of conduct

88. There was considerable comment and discussion during the proceeding regarding the role of the CCTS in interpreting Commission-imposed codes of conduct. Cogeco, Eastlink, RCP, SaskTel, Shaw, and TCC were of the view that the CCTS should avoid interpreting codes of conduct, particularly where code interpretation ventures into policy making. RCP and TCC nonetheless recognized that some level of interpretation is necessary in administering codes and recommended that

- a) limitations should be placed on the CCTS's ability to interpret the codes of conduct in relation to particular customer complaints, and that there be greater transparency of (i) the interpretations themselves, and (ii) the rationale for the decisions reached based on these interpretations; and
 - b) the CCTS should seek guidance from the Commission when any issue or matter contained within a Commission-imposed code of conduct is unclear or ambiguous.
89. In addition, RCP, Shaw, TBayTel, and TCC were of the view that the CCTS should not develop industry codes of conduct.
90. RCP and TCC, supported by Bell Canada in its reply comments, expressed concern that sometimes the CCTS's investigations go beyond the actual complaint to look into the broader compliance of the service provider with applicable codes of conduct, and that the CCTS has reported breaches of the Wireless Code even when the "breach" was not raised in the customer's initial complaint.
91. With respect to code interpretation, RCP proposed the development of a condensed Part 1 process¹⁶ to review instances where a participant does not agree with the interpretation of the Commission-imposed code by the CCTS. Under this process, comments and replies would be submitted (within 20 days and 10 days, respectively), and the Commission would issue a ruling within 30 days of the close of record of the process.
92. PIAC et al. and l'Union submitted that the CCTS must be granted a reasonable scope of discretion in applying codes of conduct to individual complaints, and should not be required to restrict its investigations to the scope of the original complaint. These organizations noted that in investigating and resolving complaints related to wireless services, it is the CCTS's responsibility to report on breaches that it identifies, and that placing the onus on consumers to identify code breaches would undermine the purpose of having a code.
93. The CCTS argued that it has a mandate to both administer codes of conduct and apply the codes in resolving complaints, which necessarily brings with it an obligation to interpret the intent of the code generally, as well as specifically in relation to a complaint. The CCTS did not see this as policy making but as an essential aspect of the execution of its mandate as it relates to code administration. The consumer groups supported the CCTS's position, with PIAC et al. noting that it is always open to TSPs to file an application seeking guidance and interpretation from the Commission about code interpretation.
94. The CCTS further noted that it is in process of developing an annotated guide to the Wireless Code.

¹⁶ The Part 1 process involves a party filing an application to initiate a Commission proceeding on a matter that is not the subject of a notice of consultation.

95. With respect to identifying Wireless Code breaches, the CCTS submitted that, in the course of handling a wireless complaint, it does not scrub every complaint against the Wireless Code provisions, but that if it finds breaches during its investigation, it will identify and track them. The CCTS added that as a code administrator it has the responsibility to track breaches.

Commission's analysis and determinations

96. In administering Commission-imposed codes of conduct, the CCTS has the responsibility to (i) resolve any complaints related to the codes, (ii) monitor trends in complaints, and (iii) report on both complaints and trends in its Annual Report.

97. Codes of conduct are tools that the CCTS uses as part of the complaint resolution process to determine whether the service provider has reasonably met its responsibilities toward its customer. The CCTS resolves consumers' complaints with reference to the applicable code, taking into consideration whether the TSPs' actions are consistent with the Commission's requirements imposed by that code. The CCTS applies the codes to specific facts, which inherently involves some interpretation.

98. In Telecom Regulatory Policy 2013-271 (the Wireless Code policy), the Commission noted that as with any new set of rules, there may be issues of interpretation that it has not anticipated. In order to ensure the greatest benefit to consumers, if any part of the Wireless Code or a consumer's contract is ambiguous, or if it is unclear how the terms of the Wireless Code or the contract are to be applied, then the Wireless Code and the contract must be interpreted in a manner that is favourable to the consumer. The Commission is of the view that this approach applies to all codes of conduct imposed by the Commission and administered by the CCTS.

99. Accordingly, interpretation by the CCTS of the Wireless Code and all other Commission-imposed codes of conduct is appropriate when resolving individual complaints that call any of the codes into consideration.

100. The CCTS published its annotated guide to the Wireless Code on 2 March 2016, after the close of record of this proceeding. The Commission encourages the CCTS to continue to find approaches to improve transparency with respect to code administration and interpretation.

101. With respect to the CCTS identifying code breaches, it is not the responsibility of customers to identify specific code violations when they raise a complaint; in fact, a customer may be unaware that their specific complaint can be linked to one or more code provisions. In addition, the Commission considers that in monitoring and tracking trends in complaints, it is both required and appropriate for the CCTS to identify and track code breaches that it discovers in the process of resolving complaints. However, analyzing each complaint to identify each and every code breach, beyond the investigation required for the complaint resolution process, would be inappropriate as it would slow down the complaint resolution process.

102. The Commission reminds parties that they can use the Part 1 process for clarification of a code or if they disagree with the CCTS's interpretation, but that such applications will not impact any past dispute resolved by the CCTS, since this is not a process to appeal CCTS decisions, but rather serves to guide the CCTS in any relevant future disputes. The development of an expedited Part 1 process, as suggested by RCP, is not realistic as the issues concerned would tend to be complex, and a transparent process is needed. Where appropriate, parties can request that the procedural timelines set out in the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) be modified.
103. With respect to the request to clarify that the CCTS's mandate is to administer the codes under its jurisdiction, not to develop codes, the Commission reiterates that, in Telecom Regulatory Policy 2011-46, it determined that a Commission process would be required for the development of mandatory codes but that it remained appropriate for the CCTS to develop voluntary codes.

Inclusion of TVSPs and the services they provide in the CCTS's mandate

104. There was a general consensus among parties that the types of issues currently addressed by the CCTS with respect to TSPs would also be appropriate for TVSPs, since they are equally applicable, and using the same categories of issues would facilitate the treatment of complaints regarding bundled services. Bell Canada and RCP submitted that the Commission should ensure that the "service delivery" complaint category for TVSPs would not be interpreted to encompass complaints related to programming or content.
105. With respect to the scope of TVSP-related complaints, PIAC et al. and l'Union considered that complaints regarding the services offered by digital media broadcasting undertakings (DMBUs) should fall within the CCTS's mandate. AEBC/CNIB were of the view that all services offered by the TVSP should be included in the CCTS's mandate. CIPPIC argued that the fact that other regulatory bodies handle complaints regarding a specific service is not sufficient to justify excluding such service from the CCTS's mandate.
106. In contrast, several service providers argued that the services offered by DMBUs should be excluded, as should interactive applications offered by some TVSPs.
107. PIAC et al. were of the view that the Commission should clarify that the CCTS would be authorized to receive and resolve all complaints related to TVSP services, not only complaints related to the TVSP Code.¹⁷

¹⁷ Subsequent to the close of the record of this proceeding, the TVSP Code was announced in Broadcasting Regulatory Policy 2016-1.

Commission's analysis and determinations

108. The terms of the TVSP Code correlate to the following types of complaints handled by the CCTS for TSP services: compliance with contract terms and commitments, and service delivery. Other issues handled by the CCTS related to billing disputes and errors, as well as credit management, are not covered by the TVSP Code. However, consumers are increasingly adopting bundled communications services that include both TSP and TVSP services. Therefore, the Commission expects that the CCTS will address the same issues for TVSP services as it does for TSP services, namely contract terms and commitments, billing disputes and errors, service delivery, and credit management.
109. No compelling evidence was provided during the proceeding to show that consumers would be better served by expanding the CCTS's mandate to include resolving TVSP-related complaints that are handled by another body, including broadcasting-related issues that are subject to Commission regulatory activities.
110. With respect to DMBU services, in the proceeding to develop the TVSP Code, the Commission defined TVSPs as being limited to broadcasting distribution undertakings (BDUs), and including cable, Internet Protocol television (IPTV),¹⁸ and satellite direct-to-home (DTH) service providers, and did not include DMBUs. DMBUs and interactive applications are not services offered under the authority of their BDU licence or the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers and therefore do not fall within the definition of services offered by TVSPs.
111. The Commission therefore expects the CCTS to exclude from its mandate TVSP-service-related matters already handled by another regulatory body/agency, as well as interactive applications and DMBU services, and to reflect this in its Procedural Code. The specific list of exclusions are as follows: DMBU services, interactive services/applications (provided by TVSPs), broadcasting content, journalistic ethics, accessibility issues (such as closed captioning and described video), and simultaneous substitution.

Annual Report

112. The consumer groups suggested various additions to the CCTS's Annual Report. They requested an Annual Report containing more detailed information, and submitted that there should be more transparency about the complaints received by the CCTS, its processes, and results. Some stakeholders specifically requested that the CCTS's Annual Report include information about its annual budget, business plans, and board meetings.

¹⁸ The Commission considers that IPTV that makes use of Internet Protocol, but is delivered over a private managed network, does not fall under the Commission's digital media exemption order and therefore is not considered a DMBU. Such an undertaking can be considered a terrestrial BDU.

113. In addition to the Annual Report, CIPPIC, the FRPC, PIAC et al., and l'Union submitted that CCTS complaints data should be available to stakeholders as open data.
114. The service providers submitted that the Annual Report, as it currently exists, is generally appropriate, although some service providers suggested the inclusion of additional information.
115. The CCTS, while not necessarily opposed to adding additional information, submitted that any changes would necessitate more resources and that the value of reporting more data or existing data in a more exhaustive format must be weighed against the costs. In response to the request for open access to data, the CCTS was generally opposed to a "data dump" approach to distributing information, noting that information needs to be analyzed and contextualised to ensure that it is correctly understood by stakeholders.
116. During the hearing, the CCTS indicated a willingness to consider publishing the budget, but noted that such a decision must be discussed with the Board of Directors. The CCTS added that it did not see the value of publishing minutes of Board Meetings and stated that the Directors and officers of the corporation have a duty of confidentiality around Board discussions, which would prevent the publishing of minutes.
117. With respect to including information about TVSP-related complaints in the Annual Report, CNOC, PIAC et al., RCP, TBayTel, and l'Union were of the view that the current complaint categories are appropriate for TVSP services. SaskTel and Videotron submitted that the CCTS is best positioned to decide on the changes that may be required to its reports to incorporate services provided by TVSPs.

Commission's analysis and determinations

118. In Telecom Regulatory Policy 2011-46, the Commission noted that the Annual Report is the key mechanism by which the CCTS's stakeholders, including consumers, TSPs, and the Commission, can assess the CCTS's performance on matters such as the results of its complaint resolution activities, trends in complaints, operational improvements, and the effectiveness of public awareness initiatives. The Commission had concerns with the quality and the transparency of the data in the Annual Report at that time and set out specific expectations with respect to additional data to be included in the reports going forward.
119. Since the publication of Telecom Regulatory Policy 2011-46, the CCTS has made substantial improvements in the quality and transparency of the data in its Annual Report, and the Commission's previous concerns have been largely addressed.
120. However, the Commission is of the view that there is a need for the CCTS to make public more information related to its governance and operations, as well as to the compliance of participating service providers with the obligations set out in the CCTS's Participation Agreement. The Commission considers that this information is

of high importance to Canadians, and therefore expects the CCTS to include in its Annual Report (i) its annual budget, (ii) an overview of its business plan/strategy outlining planned initiatives and their timing, and (iii) information about non-compliance by participants with the CCTS's participation obligations. In addition, the Commission **directs** the CCTS to regularly include in its Annual Report filed with the Commission the results of its planned public awareness research and any other research that it may choose to commission to provide the data required to assess the CCTS's performance.

121. The Commission also expects the CCTS to continue to track and report on out-of-scope issues, and encourages it to include accessibility issues in its breakdown of out-of-scope issues in its Annual Report. Further, as indicated in the section dealing with participation, there is value in monitoring complaints related to independent exempt TVSPs. Therefore, the Commission **directs** the CCTS to track and report on complaints that it receives related to independent exempt TVSPs.
122. The CCTS is best positioned, at this point, to evaluate stakeholders' requests and to decide on any further changes or additions to its Annual Report based on its own analysis. The Commission encourages the CCTS to continue to listen to stakeholders concerning other information that would be valuable to include in its Annual Report, such as detailing changes to its processes following assessment of responses from its customer satisfaction survey, statistics/data related to complaints closed without merit, or other analysis of CCTS data. Moreover, the Commission notes that the CCTS's 2014-2015 Annual Report, which was published after the close of record for this proceeding, on 1 December 2015, contained some additional information/data that was also identified by interveners to this proceeding.
123. In 2015, the CCTS published its first mid-year report, in addition to an Annual Report. The Commission encourages the CCTS to continue publishing a mid-year report in order to provide timely information to interested stakeholders.

The CCTS's governance structure

124. The Order sets out that the CCTS should be industry-established and funded but that its governance structure should ensure its independence from the telecommunications industry.
125. According to the CCTS's website, its Board of Directors is structured to provide for the participation of all stakeholders while remaining independent from the telecommunications industry. The Board consists of seven Directors:
 - Four Directors who are independent from the telecommunications industry, two of whom are nominees of consumer groups; and
 - Three Industry Directors, one to represent each of the incumbent local exchange carriers (ILECs), the cable companies, and the other TSPs.

126. These individuals have a dual role as they are both Directors and Members of the CCTS, as set out in the *Canada Not-for-profit Corporation Act*.¹⁹
127. The CCTS's Board and Members do not deal directly with individual complaints. Their responsibilities include, but are not limited to, the Directors recommending and the Members approving the following:
- the CCTS's annual budget and business plan, or any changes to the budget or business plan;
 - approval, amendment, or repeal of provisions in the Procedural Code; and
 - the form of the Participation Agreement and any amendments to it.
128. For certain decisions, the CCTS's Board uses super-majority votes. These votes require a specified level of support which is greater than the ordinary threshold of one half. For example, confirmation of the annual budget and business plan require an Extraordinary Resolution vote, or six out of seven affirmatives, to be approved.

Do the current structure of the CCTS's Board of Directors and the voting structure remain appropriate?

129. The CCTS was of the view that its success in accomplishing its mandated objectives of complaint-handling, code administration, and public reporting served to demonstrate the success of the governance framework. In light of this success, the CCTS argued that it is unnecessary to make changes to its governance structure. The CCTS did note that voting thresholds have been a subject of debate among its Board Members.
130. The CCTS submitted that its Board of Directors has been forthcoming with respect to funding positions and projects that it sees as directly related to complaint-handling. However, the CCTS also indicated that funding may have been a challenge for positions and projects that may not be seen as directly needed for complaint-handling or viewed as additional layers of overhead.
131. The service providers maintained the view that the current governance and voting structures are appropriate, and that the Commission should reject calls for significant changes unless there is an actual proven concern. Many service providers submitted that the CCTS has been successfully fulfilling its mandate and that no evidence was provided during the proceeding to suggest that changes are necessary. Videotron submitted that the short list of issues that require more than a simple majority are of high importance and their adoption requires a significant level of support. It added that concerns that the Industry Directors are refusing to allocate funds to initiatives

¹⁹ The CCTS is a not-for-profit organization and, as such, is subject to the *Canada Not-for-profit Corporation Act*. Under this act, a not-for-profit corporation is composed of Members, and the Members' role is as founders and electorate. The Board of Directors is accountable to the Members. It is responsible for managing and supervising the activities and affairs of the corporation.

that are against the industry's interests are not justified, but was not opposed to the Commission specifying budget items where the CCTS should invest more, if it deems necessary.

132. The FRPC and PIAC et al. both recommended changes to the Board and voting structures of the CCTS. PIAC et al. recommended increasing the number of non-industry-appointed Directors, while the FRPC recommended that consumer groups should appoint the majority of Directors, and independent Directors should be eliminated.
133. Accessibility groups also recommended changes to the board structure to improve representation on the Board for persons with disabilities.
134. CIPPIC, the FRPC, PIAC et al., and l'Union raised concerns that the use of votes that require more than a simple majority gave the industry an effective veto on certain critical matters, particularly those related to funding, budgets, and business plans, and recommended that these votes be by simple majority (i.e. greater than 50%).
135. The FRPC, PIAC et al., and l'Union contended that there is a lack of transparency that makes it difficult to assess the performance and independence of the CCTS. These groups requested that the CCTS be required to publish its annual budgets/financial statements to advance its independence and ensure accountability. The FRPC also requested that the CCTS publish the identity of its committees and members of these various committees, minutes of Board meetings, and a summary of how much financial support was provided to the CCTS by category of participant (e.g. ILEC or cable company).
136. TBayTel and Videotron agreed that the CCTS could be more transparent, with Videotron submitting that the Commission could require the CCTS to publish its financial statements annually. Bell Canada, however, was of the view that there is no evidence that CCTS transparency is a problem that needs to be addressed, adding that the cost of assembling all of the relevant information and the risk of publicly releasing it needs to be considered.

Commission's analysis and determinations

137. In Telecom Regulatory Policy 2011-46, the Commission found that the current voting structure was appropriate to ensure the CCTS's independence from the telecommunications industry.
138. While the Commission acknowledges concerns about the independence of industry-appointed Board Members, insufficient evidence was provided on the record of this proceeding to demonstrate (i) that the existing governance and voting structures have prevented the CCTS from fulfilling its mandate, or (ii) that the CCTS is not independent as a result of its governance and voting structures. Therefore, there is no need for the Commission to recommend changes to the CCTS's Board of Directors and voting structures at this time.

139. However, the Commission considers that the CCTS has not been sufficiently transparent with respect to governance-related issues such as its business plans and annual budgets. In addition, it appears that the Board of Directors has had challenges in funding activities outside of its core mandate, even if those activities are necessary to support its mandate. Therefore, the Commission expects the CCTS to

- include ancillary functions (such as raising consumer awareness, monitoring/promoting compliance with obligations stemming from the CCTS's Participation Agreement, and participating in Commission proceedings) when creating its annual budget and business plans, on an ongoing basis; and
- undertake measures to improve the transparency of its governance operations, for instance, incorporating information about its annual budget and business plan in its Annual Report, as addressed earlier in this decision.

Should the CCTS change its Board of Directors and voting structures to reflect the addition of television services to its mandate?

140. The CCTS, service providers, and most consumers groups were of the view that it was unnecessary to change the CCTS's Board of Directors and voting structures to reflect the addition to its mandate of TVSPs and the services they provide.

141. The FRPC was of the view that TVSP participants without telecommunications interests should be permitted to appoint a new Board Member.

142. The CCTS noted that there will be a need to change some of the language in the constating documents to reflect participation of TVSPs and the inclusion of broadcasting services in its mandate, but that these changes will not be fundamental in nature.

Commission's analysis and determinations

143. The Commission considers that the current Board structure of the CCTS can easily include TVSP interests without modification.

144. The CCTS has indicated that it must make changes to its By-laws, Procedural Code, and other constating documents to accommodate the inclusion of TVSPs and the services they provide within the scope of the CCTS's mandate. The Commission **directs** the CCTS to file the revised constating documents with the Commission for its information in a timely manner.

Are there other modifications to the CCTS's governance, structure, and procedures that could make its operations more effective or efficient?

145. SaskTel and TCC requested changes to the CCTS's Procedural Code²⁰ with respect to complaint handling.
146. CNOC submitted that the CCTS had modified its complaint-handling procedures and implemented processes that are not consistent with its Procedural Code, and requested that the Commission direct (i) the CCTS to apply its Procedural Code on a consistent basis, and (ii) that any change in processes be consistent with the Procedural Code.
147. TekSavvy proposed that the CCTS implement the ability to request information from third parties (where the wholesale service provider is also a participant in the CCTS) in order to better conduct its investigations. If, through an investigation, the CCTS finds that some or all of the fault associated with the services of a given service provider resides with a third-party provider of underlying wholesale inputs (wholesale service provider), then this would be reported to the Commission.
148. The FRPC was of the opinion that the CCTS would better serve Canadians if it was a consumer agency rather than a dispute resolution organization, and suggested that the CCTS amend its By-laws and Procedural Code to reflect this.
149. CIPPIC suggested that the CCTS should develop a mechanism by which any industry or public interest group could suggest the creation of a multi-stakeholder working group for the development of an industry code on a particular issue.

Commission's analysis and determinations

150. The majority of the comments raised in this section do not address the CCTS's structure but are focused on its Procedural Code or CCTS's processes. It is up to the CCTS to determine whether it is necessary to make changes to its Procedural Code and processes, or to create new processes, since it is an independent body and is best positioned to evaluate the suggestions made by parties to this proceeding.
151. With respect to TekSavvy's request that, in the case of complaints against a non-carrier, the CCTS compel a TSP's wholesale service provider to disclose information and documents related to a complaint from that non-carrier's customer, it is outside of the CCTS's mandate as envisioned by the Order to be involved in wholesale disputes. If a non-carrier has an issue with a wholesaler, the Commission's Part 1 process is the appropriate mechanism to raise complaints.²¹

²⁰ The Procedural Code sets out the processes that apply to the handling of complaints by the CCTS and governs the interactions between the CCTS and participating service providers in the course of dealing with a complaint.

²¹ The procedure for filing a Part 1 application is set out in section 22 of the Rules of Procedure.

152. In addition, the Commission's *Three-Year Plan 2015-2018* anticipates that the Commission will review the competitor quality of service indicators during this time frame, the scope of which would permit consideration of the concerns underlying TekSavvy's request.
153. With respect to the FRPC's suggestion that the CCTS change its constating documents to be a consumer agency rather than a dispute resolution organization, the Commission considers that the FRPC recommendations in this regard are without merit. The CCTS's role to help resolve disputes between customers and their service providers, using processes including mediation, was approved by the Commission in 2007 and reaffirmed in 2011, and is consistent with the Order.

The CCTS's funding model

154. The CCTS is funded by its participants. Its funding model was initially 100% revenue-based and has evolved over time to be increasingly complaint-based, where each participant pays a fee for each complaint accepted by the CCTS. This fee contains a series of escalating price levels, which are designed to provide an incentive for early resolution of complaints, and to compensate the CCTS for the additional resources required to deal with complaints as they proceed through the CCTS complaints process. Participants in the CCTS whose annual revenues are greater than \$10 million also pay an annual fee which is calculated to be proportionate to each participant's share of the total eligible Canadian telecommunications revenues of those participants. Participants with less than \$10 million of annual revenues currently pay an annual fee of \$100.
155. In the CCTS's view, the mechanics and details of the funding formula is an issue best left to be decided by it and the participating service providers (through the Board of Directors/Members), and they can determine the funding formula that will best meet the CCTS's organizational needs.
156. The consumer groups' concerns predominantly centred on the adequacy of the budget and transparency rather than the funding model itself. However, l'Union expressed concern that increasing the complaint-based portion of the funding model would result in reduced funding because of the decline in the number of complaints, and was thus of the view that the revenue-based fee should continue to constitute the majority of the funding.
157. During the oral phase of the proceeding, the CCTS made it clear that the funding model determines the proportion paid to the CCTS by each participant but does not determine the actual budget of the CCTS. The CCTS's Board of Directors establishes the budget based on the assessment of what the CCTS needs for the upcoming year, and the funding model is used to allocate each participant's share of the budget.

158. Cogeco, MTS Allstream, RCP, SaskTel, Shaw, TBayTel, and TCC proposed that the complaint-based fee component of the CCTS's funding model be increased. In contrast, CNOC and Velocity Networks considered that the escalating rates associated with the complaint-based portion of the fee forces service providers to resolve issues quickly, even in the absence of an error by the service provider, in order to minimize its fees.
159. Bell Canada and SaskTel proposed modifications to the revenue-based component of the funding model as well. RCP, SaskTel, and TekSavvy also proposed changes that would affect how the CCTS counts the complaints received and retained, or "charges" for them, for the purposes of calculating the complaint-based component of the fee.
160. With respect to whether any changes are required to the CCTS's funding model to reflect the addition of TVSPs to the CCTS's mandate, parties generally agreed that TVSPs should support the CCTS and no party suggested that specific changes were required to the funding model to support this addition. The CCTS was of the view that the current funding formula could support the addition of TVSPs to the CCTS's mandate. Bell Canada, Cogeco, and TCC submitted that TVSP service revenues should be included in the calculation of the revenue-based portion of the fee.
161. PIAC et al. and l'Union added that, while the structure of the current funding model may not need to change to accommodate the inclusion of TVSP services within the CCTS's mandate, increased funding would likely be needed in order for the CCTS to accommodate TVSP-related complaints on top of telecommunications complaints.

Commission's analysis and determinations

162. While parties raised issues related to the adequacy of the CCTS's budget, this is not specifically related to the funding model and is, rather, determined by the Board of Directors' budgeting process. These concerns have been addressed in the Commission's determinations in this decision related to the CCTS's governance structure.
163. The Commission considers that the CCTS is best positioned to balance the various considerations involved in establishing its funding model, such as managing cash flows and ensuring the costs are fairly distributed over the service providers that cause them to be incurred.
164. The Commission remains of the view set out in Telecom Decision 2007-130 and Telecom Regulatory Policy 2011-46 that funding is an issue best determined by the CCTS's participants and Board of Directors, as long as the CCTS is sufficiently funded to execute its mandate. The Commission clarifies that this includes funding activities ancillary to the core mandate of the CCTS.
165. The Commission expects that participating TVSPs will contribute to the funding of the CCTS.

The remedies provided by the CCTS

166. The CCTS and all of the service providers that intervened on this issue were of the view that the current remedies are appropriate and that the current \$5,000 limit on monetary compensation is sufficient to allow the CCTS to adequately compensate consumers.
167. AEBC/CNIB and the FRPC were of the view that the current remedies are appropriate, while CIPPIC and PIAC et al. were in favour of raising the \$5,000 compensation cap.
168. In addition, CIPPIC was of the view that serious customer impacts, such as damaged credit ratings, were not adequately addressed by the CCTS's current remedies. This concern was echoed in the concerns of an individual who submitted that if a consumer has a dispute with respect to specific charges, that consumer runs the risk of having their service provider report them to a credit agency and suffering damage to their credit rating as a result.
169. With respect to the issue of remedying damage to credit ratings, the CCTS noted that when collections activity is an issue, it has suggested to customers that they obtain a copy of their credit report to see exactly what has been reported. The CCTS further noted that if it determines that there has been a wrongful report to the credit agency, the remedy would include a requirement that the TSP retract the negative reporting, and the CCTS would employ its standard process to determine if additional compensation is appropriate.
170. The CCTS noted that participants' practices vary with respect to how they treat the disputed portion of a bill, and that some commence collection activity while a complaint is under review by the CCTS. In the CCTS's view, when a customer appears to be disputing an amount owed in good faith, the participant should not commence collection activity while the dispute is in process. If collection activity had been initiated before the complaint was received by the CCTS, the activity should be put on hold until the investigation is concluded.
171. The CCTS noted that there is nothing in its Procedural Code that requires participants to refrain from collection/credit reporting activities in these situations, and that it believes that it is appropriate to expect this from the participants. The CCTS was also of the view that this would make sense for the participants which may later be required to retract previously undertaken collections activity.
172. Certain service providers indicated that it was their practice to amend the customer's credit file and correct harm done to credit ratings if there is an error on the service provider's part. In addition, most of the service providers indicated that they suspend the due date for a disputed charge during their internal investigation of a complaint. Many of the service providers submitted that it is not their policy to refer an account to collections or credit agencies when the CCTS is handling a complaint about a disputed charge on that account, although some indicated that depending on the

timing of when the complaint was received by the CCTS, it is possible that the account may have been sent to collections. On the other hand, Bell Canada,²² TBayTel, and TCC indicated that where their internal investigations have determined that a disputed (and unpaid) charge was valid and correctly billed, they may send the account to collections regardless of whether the account holder has brought a dispute about that charge to the CCTS.

173. During the hearing, Videotron noted that the *Personal Information Protection and Electronic Documents Act* (PIPEDA) provides protection to consumers' credit ratings, as companies have an obligation to correct erroneous personal information provided to third parties such as credit agencies.

Commission's analysis and determinations

174. According to the CCTS's Procedural Code, the CCTS shall, where it determines that monetary compensation is appropriate,

- award an amount that is appropriate to compensate the customer for any loss, damage, or inconveniences incurred by the customer arising directly from the circumstances of the complaint; and
- not make an award that is punitive or is in the nature of consequential damages.

175. There is no compelling evidence that the current compensation cap has adversely impacted the CCTS's ability to provide appropriate relief to consumers. The monetary limit does not apply to amounts that are to be refunded in order for a TSP to correct a billing error, and there have been instances where the total compensation to a consumer has been more than \$5,000 where an overbilling error has occurred.

176. The Commission remains of the view, as set out in Telecom Regulatory Policy 2011-46, that the \$5,000 limit on monetary compensation is sufficient to allow the CCTS to award adequate compensation to consumers with respect to disputes falling within its mandate.

177. With respect to harm to credit ratings, PIPEDA covers the situation where damage was caused to a consumer's credit rating as a result of an error on the part of a service provider. Consistent with PIPEDA, the service providers have indicated that it is their practice to correct any harm done to credit ratings when they have made an error. Similarly, the CCTS's remedies require that the TSP retract the negative reporting when there has been a wrongful report to the credit agency. Thus, there is no evidence that further remedies are required to correct any harm done to credit ratings when the service provider has made an error.

²² For its mobility services (including Bell Mobility, Solo, and Virgin Mobile)

178. However, given that there are some service providers which may send disputed charges to credit agencies regardless of whether the CCTS is handling a complaint about those charges, there is a risk that a consumer's credit may be damaged as a result of making a complaint to the CCTS if the CCTS ultimately determines that the charge was not in error. In these instances, if the service provider had sent such a complaint to a credit agency before the complaint was closed or resolved, the service provider would not be obliged to correct the credit report, because the personal information sent to the credit agency would not have been in error. This risk could serve to dissuade consumers from bringing billing-related complaints to the CCTS.
179. Accordingly, the Commission encourages the CCTS to modify its Procedural Code and/or Participation Agreement, as appropriate, to ensure that once the CCTS accepts a complaint about disputed charges that are unpaid, the service provider in question (i) suspends the due date for the disputed charges, (ii) does not report the disputed charges to a credit agency, (iii) does not attempt to collect the disputed amount (whether itself or through a collections agency) until after the complaint is closed or resolved, and (iv) suspends any collection activity that was initiated before the complaint was accepted during the time that the complaint is open with the CCTS.
180. Similarly, the Commission encourages service providers that participate in the CCTS to (i) suspend the due date for any disputed charges that are the subject of a complaint accepted by the CCTS and that has been referred to the service provider until the complaint is either closed or resolved by the CCTS, (ii) not report the disputed charges to a credit agency, (iii) not attempt to collect the disputed amount (whether itself or through a collections agency) until after the complaint is closed or resolved, and (iv) suspend collection activity that was initiated before the complaint was accepted during the time that the complaint is open with the CCTS.
181. There is insufficient information on the record of this proceeding to determine whether Commission-imposed obligations are appropriate at this time. At the next review of the CCTS, the Commission may explore this issue, if required, to determine if further action is warranted.

Public awareness of the CCTS

182. The CCTS noted that in its 2014-2015 fiscal year, it hired its first communications officer. The CCTS further noted that it had not measured public awareness, but that it plans to conduct a survey on this issue in 2015-2016.
183. PIAC et al. expressed concern that the recent selection of a CCTS communications officer and the planned public polling were due to this review proceeding and may not be ongoing.
184. The CCTS was of the view that it has an extensive awareness plan that ensures that consumers can be made aware of the CCTS through various channels. This plan includes obligations on participants and outreach activities by the CCTS.

185. The CCTS Participation Agreement requires that participants undertake the following public awareness activities:

- insert a reference to the CCTS in “white pages” directories (for those participants that publish such directories);
- provide information to their customers about the CCTS on their websites, and provide a link from their sites to the CCTS’s website;
- provide a message referencing the CCTS on customer bills (whether paper or electronic), or optionally by way of a bill insert;
- inform customers about the recourse offered by the CCTS as part of the internal complaint-handling process following the second level of escalation; and
- insert a reference in their Terms of Service regarding the availability of the CCTS for the resolution of disputes between customers and service providers.

186. The CCTS undertook its first formal monitoring of its participants’ compliance with their promotional obligations in May 2015, at which time it surveyed its participants and filed the results on the record of this proceeding. According to the CCTS, the survey results point towards a lack of full compliance with the CCTS’s promotion obligations.

187. Service providers generally agreed that the current promotional efforts were sufficient and appropriate. Some service providers agreed that compliance with the CCTS’s obligations may need to be improved. Bell Canada submitted that the appropriate response to the lack of compliance with obligations is better monitoring and enforcement of the existing obligations, not new obligations. Shaw recommended that the CCTS provide feedback to its participants to help address compliance gaps.

188. The CCTS and service providers were of the view that the current promotional efforts appropriately put the emphasis on promoting timely awareness, ensuring that customers are able to find out about the CCTS when they have an unresolved complaint and need its services. Service providers expressed concern that, should general awareness be prioritized, there is a risk that consumers may prematurely turn to the CCTS before the service provider has had a chance to resolve the complaint on its own. While consumer groups generally agreed with the importance of timely awareness, they submitted that general awareness was also important. In addition, they questioned the participants’ level of compliance with relevant requirements.

189. The consumer groups were of the view that that the current obligations on participants, though not inappropriate, are insufficient. They provided a number of recommendations, such as having service providers send an email or text message to new subscribers explaining the role of, and how to contact, the CCTS, as well as increasing the frequency of notification on billing statements from quarterly to monthly.

Should specific consumer segments be targeted by promotional efforts?

190. Interveners did not generally have specific views as to which consumer segments should be the targets of promotional efforts.

- PIAC et al. recommended that public awareness efforts focus on consumers who may be less aware of their rights, but noted that there is not sufficient information to identify other specific segments.
- AEBC/CNIB recommended that the service providers promote the CCTS on their accessibility pages, and that the CCTS's outreach efforts include accessibility groups.
- Bell Canada and the FRPC recommended that the near-term focus be on TVSP customers.

Role of TVSPs in promoting the CCTS

191. Most interveners were of the view that TVSPs should have the same or similar requirements as TSPs to promote the CCTS. Cogeco, Shaw, TBayTel, and TCC were of the further view that TVSPs should not be expected to do more than TSPs. AEBC/CNIB, the FRPC, PIAC et al. and l'Union submitted that public service announcements (PSAs) about the CCTS would be appropriate, while Bell Canada, Cogeco, RCP, SaskTel, Shaw, TBayTel, TCC, and Videotron argued that PSAs are inappropriate and not necessary. Bell Canada, Cogeco, RCP, TCC, and TekSavvy added that, in light of Broadcasting Regulatory Policy 2015-380, TVSPs may not be permitted to broadcast PSAs about the CCTS during the promotional periods of time made available on U.S. television services²³ because this would not fall under one of the two identified types of use of these periods.

Commission's analysis and determinations

192. The CCTS is best positioned, through its consideration of all stakeholders' positions, to determine which initiatives can most efficiently achieve the objective of ensuring that consumers who need their services are aware of the CCTS, its services, and their ability to have recourse regarding their issues.

²³ These are referred to as "local availabilities."

193. However, the Commission considers that the lack of monitoring by the CCTS of compliance with the promotional obligations imposed on participants, and the lack of measurement of public awareness, make it difficult for stakeholders to determine the effectiveness of the current public awareness measures. The Commission also notes the concerns of consumer groups that the CCTS's promotional budget has been inadequate.
194. The Commission acknowledges that the CCTS's recent communications efforts have increased (e.g. more presence on social media and the hiring of a communications officer). The Commission expects that the CCTS will provide sufficient budget for continued public awareness/communications activities in its annual budget and include these activities in its business plan.
195. The Commission encourages the CCTS to engage in ongoing outreach initiatives with various stakeholders, including accessibility groups, and, in particular, expects it to engage with accessibility groups to promote the CCTS. The Commission expects service providers to promote the CCTS on their accessibility pages.
196. The Commission notes that the CCTS Awareness Plan presents a varied list of promotional tools, and encourages the CCTS to explore their usefulness in raising awareness of the CCTS.
197. The Commission expects the CCTS to regularly assess its participants' compliance with the promotional obligations that it has imposed and encourages the CCTS to publish the results of the assessment on an annual basis. Further, the Commission expects that the CCTS will provide feedback to participants on its compliance findings and engage with the participants to bring them into compliance.
198. The Commission encourages the CCTS to continue with general awareness activities such as outreach to consumer groups and consumer-protection agencies,²⁴ the use of social media, and media releases for significant events like the publication of annual and mid-year reports.
199. The Commission expects that the CCTS will follow through on its plan to undertake a public awareness survey and continue to measure the effectiveness of its Awareness Plan on an ongoing basis. This is an important activity that will serve to guide the CCTS's activities and priorities, and will provide timely data for stakeholders and the Commission to evaluate the CCTS's public awareness initiatives on an ongoing basis as well as at the next review. The Commission therefore **directs** the CCTS to file the results of its public awareness survey with the Commission in a timely manner after the research is completed.

²⁴ Organizations such as the Better Business Bureau and the various Provincial Consumer Protection Agencies

200. The Commission considers that TVSPs should have a responsibility to promote awareness of the CCTS to the same extent that the TSPs have, but considers that the CCTS is best positioned to establish specific promotional activity requirements on participating TVSPs.
201. With respect to concerns raised by interveners that Broadcasting Regulatory Policy 2015-380 may preclude TVSPs from using local availabilities to promote awareness of the CCTS, should they or the CCTS so choose, as set out in Broadcasting Regulatory Policy 2015-380, TVSPs are able to “continue to use the remaining 25% of local availabilities to promote their broadcasting and telecommunications services as set out in the authorization” and that the authorization, set out in Broadcasting Regulatory Policy 2011-522, allows for the use of local availabilities to “provide subscribers with information regarding customer service.” The Commission clarifies that a PSA about the CCTS would fall within the category of providing subscribers with information regarding customer service.

The timing of a future review

202. Bell Canada, the CCTS, Cogeco, PIAC et al., SaskTel, Shaw, RCP, TCC, and Videotron were of the view that the appropriate review period for the CCTS is five years. PIAC et al. added that there should be flexibility to review serious issues within a shorter time frame, should the Commission decide that circumstances so warrant.
203. Other parties recommended a shorter time frame: the CCC suggested that the next review should be within a time frame of no more than two years; the FRPC suggested that the next review of the CCTS take place at the beginning of the term of the next Chairperson of the Commission, and be repeated before the end of his or her term; and TBayTel suggested that the next review be two years after the inclusion of TVSPs and the TVSP Code in the CCTS mandate. TBayTel also recommended that the CCTS or its participants be able to initiate a review of the CCTS.
204. With respect to measuring its performance, the CCTS was of the view that its performance report, combined with its Annual Report and the customer satisfaction survey, provide good indications of whether the CCTS is meeting its mandate. Similarly, Bell Canada, Cogeco, Shaw, TBayTel, and Videotron were of the view that the current CCTS performance report is the appropriate framework for measuring its performance. The FRPC and PIAC et al. were of the view that the CCTS’s performance report was insufficient.

Commission’s analysis and determinations

205. Given that the requirement that TVSPs participate in the CCTS becomes effective 1 September 2017, five years may not provide a sufficient time frame to review the CCTS’s effectiveness with respect to its new responsibilities. Therefore, the Commission intends to review the CCTS again in the Commission’s 2022-2023 fiscal year, or earlier if deemed necessary, to evaluate whether the CCTS continues to be

effective, efficient, and independent in fulfilling its mandate. Among the issues that may be considered as part of such a review are the following:

- Has the CCTS continued to improve its communications and promotional activities?
- Has there been funding for functions ancillary to the CCTS's mandate?
- Has there been an improvement in the transparency of the CCTS with respect to its governance?
- Has the CCTS been successful in integrating TVSPs and the services they provide into its mandate?

206. The customer survey, the Annual Report, and the CCTS's current performance metrics, along with the data from the public awareness research, will provide appropriate data for the evaluation.

207. With respect to TBayTel's request that the CCTS or participants be able to initiate a review of the CCTS, the Commission reminds parties that they can avail themselves of the Part 1 process to request Commission intervention. Further, the CCTS is free to initiate its own internal review should it so choose.

Secretary General

Related documents

- *The Television Service Provider Code*, Broadcasting Regulatory Policy CRTC 2016-1, 7 January 2016
- *Revised exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Regulatory Policy CRTC 2015-543 and Broadcasting Order CRTC 2015-544, 9 December 2015
- *Review of the Commissioner for Complaints for Telecommunications Services Inc. – Interim decision regarding the membership requirement for telecommunications service providers*, Telecom Decision CRTC 2015-478, 23 October 2015
- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2015-380, 19 August 2015
- *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.*, Broadcasting and Telecom Notice of Consultation CRTC 2015-239, 4 June 2015, as amended by Broadcasting and Telecom Notice of Consultation CRTC 2015-239-1, 24 July 2015, and Broadcasting and Telecom Notice of Consultation CRTC 2015-239-2, 25 September 2015

- *Call for comments on a Television Service Provider Code of Conduct working document*, Broadcasting Notice of Consultation CRTC 2015-105, 26 March 2015, as amended by Broadcasting Notice of Consultation CRTC 2015-105-1, 15 May 2015, and Broadcasting Notice of Consultation CRTC 2015-105-2, 24 July 2015
- *Let's Talk TV – Navigating the Road Ahead – Making informed choices about television providers and improving accessibility to television programming*, Broadcasting Regulatory Policy CRTC 2015-104, 26 March 2015
- *The Wireless Code*, Telecom Regulatory Policy CRTC 2013-271, 3 June 2013
- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2011-522, 24 August 2011
- *Review of the Commissioner for Complaints for Telecommunications Services*, Telecom Regulatory Policy CRTC 2011-46, 26 January 2011
- *Applications to review and vary certain determinations in Telecom Decision 2007-130 regarding the establishment of an independent telecommunications consumer agency*, Telecom Decision CRTC 2008-46, 30 May 2008
- *Establishment of an independent telecommunications consumer agency*, Telecom Decision CRTC 2007-130, 20 December 2007
- *Proceeding to consider the organization and mandate of the Commissioner for Complaints for Telecommunications Services*, Telecom Public Notice CRTC 2007-16, 22 August 2007