



## Telecom Notice of Consultation CRTC 2013-133

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Ottawa, 18 March 2013

### Show cause proceeding

### Apparent non-compliance by certain telecommunications service providers with the requirement to be a participant of the Commissioner for Complaints for Telecommunications Services

File number: 8665-C12-201304675

*Each telecommunications service provider (TSP) that provides services within the mandate of the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) is required to join the CCTS within five business days of being informed that the CCTS has received a valid customer complaint about that TSP. Despite receiving such notification from the CCTS and the Commission, several TSPs have failed to join the CCTS, thereby leaving their customers unable to resolve complaints related to their telecommunications services. The Commission therefore initiates a proceeding to show cause why, among other things, these TSPs should not be disconnected.*

### Background

1. The Commissioner for Complaints for Telecommunications Services Inc. (CCTS) is an independent consumer agency with a mandate to facilitate the resolution of complaints relating to services that telecommunications service providers (TSPs) offer to residential and small business customers.
2. As set out in Telecom Decision 2010-921 and Telecom Regulatory Policy 2011-46, the Commission requires, pursuant to section 24 of the *Telecommunications Act* (the Act), that all TSPs that provide services within the scope of the CCTS's mandate become members of the agency. Following changes to the CCTS's governing documents, members are now referred to as participating service providers.
3. The requirement to become a participating service provider is triggered when the CCTS informs a TSP that it has received a complaint that falls within the scope of its mandate. The TSP is required to join the CCTS no later than five days after the date on which it is notified of the complaint.
4. The CCTS has informed the Commission that several companies have failed to become participating service providers despite receiving notification of a CCTS complaint. The CCTS and subsequently, the Commission, repeatedly contacted the following companies to inform them of their obligations: Adeste Global Managed Networks Inc. (Adeste); Broadline Networks (Broadline); iTalk BB (iTalk); Lions Gate Internet, doing business as Imagen Communications (Imagen); TollFreeForwarding.com (TFF);

and Voipgo Corporation (Voipgo) [collectively, the six TSPs]. As set out more fully below, these companies are in apparent non-compliance with the requirement to become participating service providers.

5. The six TSPs provide a variety of services to Canadian consumers, as follows:
  - Adeste, based in Mississauga, Ontario, offers a variety of telecommunications services, including wired and wireless voice telephony and managed network services;
  - Broadline, based in Brantford, Ontario, offers information technology (IT) products, including high-speed Internet, web hosting, and managed IT services, for business and residential users;
  - iTalk, based in Richmond Hill, Ontario, offers local, long distance, and international calling using voice over Internet Protocol (VoIP) technology;
  - Imagen, based in Vancouver, British Columbia, offers Internet access and domain-hosting services;
  - TFF, based in Los Angeles, California, offers international toll-free and local phone numbers with advanced call-forwarding features; and
  - Voipgo, based in Mississauga, Ontario, offers local, long distance, and international calling using VoIP technology.

#### **Correspondence with the six TSPs regarding participation in the CCTS**

6. The CCTS received at least one complaint falling within its mandate regarding the services of each of the six TSPs. The CCTS notified each of the six TSPs, as follows, of the company's requirement to join the CCTS:
  - Adeste: 27 August and 11 September 2012;
  - Broadline: 13 September 2011 and 11 January 2012;
  - Imagen: 7 August, 21 August, and 27 September 2012;
  - iTalk: 24 November and 14 December 2011;
  - TFF: 10 February, 24 February, and 29 March 2012; and
  - Voipgo: 13 May and 25 May 2011, and 11 January 2012.

None of the six TSPs became a participating service provider following these notifications.

7. Commission staff subsequently sent letters to each of the six TSPs stating that, according to the Commission's records, the company was required to become a participating service provider.
8. The Commission then sent follow-up letters to each of the six TSPs stating, among other things, that
  - as of the date of the second letter, the Commission had no evidence that the company was a participating service provider;
  - pursuant to subsection 37(2) of the Act, the company was to file, by a specified date, proof that it was or had become a participating service provider, or arguments demonstrating that it does not provide services within the scope of the CCTS's mandate; and
  - if the company failed to respond by the specified date, the Commission would take further steps to enforce the participation requirement, including initiating a show cause proceeding to consider disconnection of the company's telecommunications services.
9. The follow-up letters were sent as follows:
  - Adeste: 5 October 2012, with a response due by 19 October 2012;
  - Broadline: 13 July 2012, with a response due by 27 July 2012;
  - Imagen: 7 November 2012, with a response due by 21 November 2012;
  - iTalk: 14 May 2012, with a response due by 28 May 2012;
  - TFF: 13 July 2012, with a response due by 27 July 2012; and
  - Voipgo: 14 May 2012, with a response due by 28 May 2012.
10. Given that none of the six TSPs has responded to the Commission's follow-up letters, the Commission considers that each of the six TSPs is in apparent non-compliance with the CCTS participation requirement set out above.
11. The Commission further considers that each of the six TSPs is in apparent non-compliance with subsection 37(2) of the Act for failing to respond to the follow-up letters, which required the company to submit the information outlined above to the Commission.

### **Show cause proceeding**

12. The Commission hereby initiates a proceeding to show cause why the Commission should not

- find that the six TSPs have failed to comply with the CCTS participation requirement;
  - order disconnection of the six TSPs' telecommunications services for failure to comply with the CCTS participation requirement; and
  - issue a mandatory order pursuant to section 51 of the Act with respect to the failure of each of the six TSPs to submit information to the Commission as required by subsection 37(2) of the Act, and register such order with the Federal Court pursuant to section 63 of the Act.
13. The Commission notes that where a TSP is found to be in non-compliance with the CCTS participation requirement and does not own or operate a transmission facility, disconnection would be effected through an order directed at the Canadian carrier that provides that particular TSP with telecommunications services, whether directly or indirectly, to cease providing the TSP with the services.

## Procedure

14. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding.<sup>1</sup>
15. The Commission documents referred to above form part of the public record of this proceeding, which is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file number provided above.
16. The six TSPs are made parties to this proceeding. No later than **17 April 2013**, each of the six TSPs must file (a) its submission regarding the matters raised in this notice, and (b) its responses to the questions set out in Appendix A to this notice.
17. In addition, all TSPs that provide telecommunications services to any of the six TSPs, whether directly or indirectly, are made parties to this proceeding. The Commission directs each TSP that provides telecommunications services to any of the six TSPs to file, no later than **17 April 2013**, (a) a description of the service(s) it provides and the name(s) of the TSP(s) to which it provides the service(s), (b) its responses to the questions set out in Appendix B to this notice, and (c) any other relevant information.
18. Shortly thereafter, the Commission will post these submissions on its website. All documents required to be served on a party or parties to the proceeding must be served using the contact information contained in the submissions.

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<sup>1</sup> The Rules of Procedure set out, among other things, the rules for the filing, content, format, and service of interventions and interrogatories, as well as the procedure for filing confidential information and requesting its disclosure. Accordingly, the procedure set out in this notice must be read in conjunction with the Rules of Procedure and their accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."

19. Other interested persons who wish to become parties to this proceeding may do so by filing an intervention with the Commission regarding the above-noted issues, in accordance with the requirements set out in section 26 of the Rules of Procedure, by **17 May 2013**.
20. All parties may file reply comments with the Commission, serving copies on all other parties, by **27 May 2013**.
21. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.
22. The Commission will not formally acknowledge interventions or comments. It will, however, fully consider all submissions, which will form part of the public record of the proceeding.
23. Parties are reminded that, in accordance with the Rules of Procedure, if a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date. A document must be filed with the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. The Commission takes no responsibility for postal delays and will not notify parties if their submissions are received after the deadline. Late submissions will not be considered by the Commission and will not be made part of the public record.
24. Each paragraph of all submissions should be numbered. In addition, the line **\*\*\*End of document\*\*\*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission. Submissions longer than five pages should include a summary.
25. The Commission encourages interested persons and parties to monitor the record of this proceeding and/or the Commission's website for additional information that they may find useful when preparing their submissions.
26. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

**by completing the**  
[Intervention/comment/answer form]

or

**by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

or

**by fax to**  
819-994-0218

## **Important notice**

27. All information provided as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email, or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's website. This includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information provided.
28. The personal information provided will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
29. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
30. The information provided to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not link directly to the information provided as part of this public process.

## **Examination of documents**

31. Electronic versions of the documents referred to in this notice are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) by using the file number provided at the beginning of this notice or by visiting the "Public Proceedings" section of the Commission's website. The documents can be accessed by selecting "View all proceedings open for comment," then clicking on the "View entire record" link associated with this particular notice. All interventions are also available on the Commission's website, at the same location, by clicking on the "Interventions" link associated with this particular notice.
32. Documents are also available during normal business hours at the Commission offices and documentation centres directly involved with this proceeding or, upon request, within two business days at all other Commission offices and documentation centres.

## **Location of CRTC offices**

33. Submissions may be examined at Commission offices during normal business hours.

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

Toll-free TDD: 1-877-909-2782

Central Building  
Les Terrasses de la Chaudière  
1 Promenade du Portage, Room 206  
Gatineau, Quebec J8X 4B1  
Tel.: 819-997-2429  
Fax: 819-994-0218

***Regional Offices***

Metropolitan Place  
99 Wyse Road, Suite 1410  
Dartmouth, Nova Scotia B3A 4S5  
Tel.: 902-426-7997  
Fax: 902-426-2721

205 Viger Avenue West, Suite 504  
Montréal, Quebec H2Z 1G2  
Tel.: 514-283-6607

55 St. Clair Avenue East, Suite 624  
Toronto, Ontario M4T 1M2  
Tel.: 416-952-9096

360 Main Street, Suite 970  
Winnipeg, Manitoba R3C 3Z3  
Tel.: 204-983-6306  
Fax: 204-983-6317

2220 – 12<sup>th</sup> Avenue, Suite 620  
Regina, Saskatchewan S4P 0M8  
Tel.: 306-780-3422

100 – 4<sup>th</sup> Avenue SW, Suite 403  
Calgary, Alberta T2P 3N2  
Tel.: 403-292-6660  
Fax: 403-292-6686

858 Beatty Street, Suite 290  
Vancouver, British Columbia V6B 1C1  
Tel.: 604-666-2111  
Fax: 604-666-8322

Secretary General

## **Related documents**

- *Review of the Commissioner for Complaints for Telecommunications Services*, Telecom Regulatory Policy CRTC 2011-46, 26 January 2011
- *Review of the Commissioner for Complaints for Telecommunications Services – Decision on membership*, Telecom Decision CRTC 2010-921, 8 December 2010



## Appendix A

As set out in paragraph 16 of this notice, each of the six TSPs is directed to include the following information in its submission to the Commission no later than **17 April 2013**:

1. List all the telecommunications services it provides to its residential and/or business customers in Canada.
2. For each of the telecommunications services that it provides to its residential and/or business customers in Canada,
  - a. provide a description of how the service is delivered to customers;
  - b. indicate whether it owns or operates any transmission facilities (as defined in section 2 of the Act) used to provide the service to its customers; and
  - c. indicate whether it resells the service of another TSP to provide the service to its customers and, if so, identify any such TSP and how the service is obtained (by tariff, contract, etc.).
3. Provide copies of all arrangements with other TSPs that allow it to interconnect with the networks of other TSPs and to access the public switched telephone network (PSTN), as well as a description of these arrangements.

## **Appendix B**

As set out in paragraph 17 of this notice, all TSPs that provide telecommunications services to any of the six TSPs, whether directly or indirectly, are directed to include the following information in their submissions to the Commission, no later than

**17 April 2013:**

1. Describe the measures that would be taken in the event that service to one or more of the six TSPs is to be disconnected.
2. Describe the means, if any, by which customers of any of the six TSPs would be notified that their service has been disconnected and the party that would be responsible for this notification.
3. Provide details on the contractual arrangements that would allow a TSP providing service to one or more of the six TSPs to disconnect these services.
4. Provide copies of all other arrangements with any of the six TSPs, as well as a description of these arrangements.