



Telecom Decision CRTC 2018-31

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Association of Community Organizations for Reform Now Canada, the National Pensioners Federation, and the Public Interest Advocacy Centre – Application to review and vary Telecom Regulatory Policy 2016-496 regarding affordability

*The Commission **denies** an application from the Association of Community Organizations for Reform Now Canada, the National Pensioners Federation, and the Public Interest Advocacy Centre to review and vary the Commission's determinations in Telecom Regulatory Policy 2016-496 regarding the affordability of telecommunications services.*

Background

1. The Association of Community Organizations for Reform Now Canada (ACORN), the National Pensioners Federation (NPF), and the Public Interest Advocacy Centre (PIAC) [collectively, ACORN-NPF-PIAC] participated in the proceeding leading to Telecom Regulatory Policy 2016-496 (the proceeding) as part of the Affordable Access Coalition (AAC).¹ A central element of the AAC's arguments in the proceeding was that an affordability funding mechanism should be implemented to ensure the affordability of telecommunications services for low-income Canadians.
2. In Telecom Regulatory Policy 2016-496, the Commission established the following, among other things:
 - a universal service objective: Canadians, in urban areas as well as in rural and remote areas, have access to voice services and broadband Internet access services, on both fixed and mobile wireless networks.
 - a broadband infrastructure funding mechanism, pursuant to subsection 46.5(1) of the *Telecommunications Act* (the Act), to assist in funding continuing access to the basic telecommunications services that form part of the universal service objective. The details of this mechanism are to be determined in a separate proceeding.

¹ The AAC consists of five large public interest organizations: ACORN, the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, the NPF, and PIAC.

3. In that decision, the Commission recognized that low-income households are experiencing issues related to the affordability of their access to broadband Internet services. The Commission also recognized that innovative solutions by Internet service providers (ISPs) and community organizations are beginning to be implemented and that other government initiatives are under way. The Commission determined that a comprehensive solution to affordability issues would require a multi-faceted approach, including the participation of other stakeholders.

Application

4. The Commission received an application from ACORN-NPF-PIAC, dated 5 April 2017, in which they requested that the Commission review and vary Telecom Regulatory Policy 2016-496.
5. Specifically, ACORN-NPF-PIAC stated that (i) Telecom Regulatory Policy 2016-496 included six errors in law that created substantial doubt as to the correctness of the Commission's determinations regarding the affordability of telecommunications services, and (ii) the lack of measures to address such affordability within the 22 March 2017 Federal Budget constitutes a fundamental change in circumstances since the publication of Telecom Regulatory Policy 2016-496.
6. ACORN-NPF-PIAC submitted that the Commission erred with respect to its jurisdiction and the application of the Canadian telecommunications policy objectives set out in section 7 of the Act. They added that the Commission erroneously relied on Innovation, Science and Economic Development Canada's (ISED) Innovation Agenda as evidence, and that the Commission's submission to the Innovation Agenda inappropriately contained further justification for its determinations set out in Telecom Regulatory Policy 2016-496.
7. Accordingly, ACORN-NPF-PIAC requested that the Commission (i) declare the need for and the advisability of an affordability funding mechanism for low-income telecommunications service users, and (ii) initiate a follow-up proceeding to establish such a mechanism.
8. The Commission received interventions generally supporting ACORN-NPF-PIAC's application from the Eeyou Communications Network / Cree Nation Government, the Government of the Northwest Territories (GNWT), TekSavvy Solutions Inc. (TekSavvy), and one individual. The Commission received interventions opposing ACORN-NPF-PIAC's application from Bell Canada;² the Canadian Network

² Bell Canada intervened on its own behalf and on behalf of Bell Aliant Regional Communications, Limited Partnership; Bell Mobility Inc.; Bell MTS; Câblevision du Nord de Québec inc.; DMTS; KMTS; NorthernTel, Limited Partnership; Northwestel Inc.; Ontera; and Télébec, Limited Partnership.

Operators Consortium Inc. (CNOC); Cogeco Connexion Inc. (Cogeco);³ the First Mile Connectivity Consortium (FMCC); Quebecor Media Inc., on behalf of Videotron Ltd. (Videotron);⁴ Rogers Communications Canada Inc. (RCCI); Shaw Communications Inc.; and TELUS Communications Inc. (TCI).⁵

Review and vary criteria

9. In Telecom Information Bulletin 2011-214, the Commission outlined the criteria it would use to assess review and vary applications filed pursuant to section 62 of the Act. Specifically, the Commission stated that applicants must demonstrate that there is substantial doubt as to the correctness of the original decision, for example due to (i) an error in law or in fact, (ii) a fundamental change in circumstances or facts since the decision, (iii) a failure to consider a basic principle which had been raised in the original proceeding, or (iv) a new principle which has arisen as a result of the decision.

Issues

10. The Commission has identified the following issues to be addressed in this decision:⁶
- Did the Commission err in law or in fact in its determinations set out in Telecom Regulatory Policy 2016-496?
 - Has there been a fundamental change in circumstances since Telecom Regulatory Policy 2016-496 was issued?

Did the Commission err in law or in fact in its determinations set out in Telecom Regulatory Policy 2016-496?

Did the Commission err in law by failing to properly consider and act on its jurisdiction regarding the affordability of telecommunications services?

Positions of parties

11. ACORN-NPF-PIAC argued that the Commission erred in law by failing to (i) properly consider its jurisdiction with respect to the affordability of

³ Cogeco Connexion Inc. holds all the business activities, including assets and liabilities, of the former Cogeco Cable Canada GP Inc., which ceased to exist on 1 September 2016. For ease of reference, “Cogeco Connexion Inc.” is used in this decision.

⁴ In this proceeding, submissions were received from Videotron G.P. However, effective 29 December 2017, all of Videotron G.P.’s assets and operations were transferred to its affiliate, Videotron Ltd., and Videotron G.P. was subsequently dissolved. For ease of reference, “Videotron Ltd.” is used in this decision.

⁵ In this proceeding, submissions were received from TELUS Communications Company (TCC). However, effective 1 October 2017, TCC’s assets were legally transferred to TCI and TCC ceased to exist. For ease of reference, “TCI” is used in this decision.

⁶ Chairperson Mr. Ian Scott and Vice-Chairperson Dr. Caroline Simard recused themselves from participating in this decision due to their past employment.

telecommunications services, and (ii) act on its jurisdiction and authority established in paragraphs 7(a), (b), and (h) of the Act.⁷

12. Specifically, ACORN-NPF-PIAC submitted that while broadband Internet access services are presently forborne from regulation, section 27 of the Act imposes a duty for the Commission to ensure just and reasonable rates. They indicated that according to subsection 27(6) of the Act, a Canadian carrier may provide telecommunications services at no charge or at a reduced rate, with the approval of the Commission, to any charitable organization or disadvantaged person.
13. According to ACORN-NPF-PIAC, the record of the proceeding demonstrated that to enable access to telecommunications services, particularly broadband Internet services, for low-income Canadians, these services must be delivered below cost, and that a competitive market cannot deliver below-cost services.
14. The GNWT supported ACORN-NPF-PIAC's application. It added that the Commission has historically taken a leadership role on the affordability of basic telecommunications services, including implementing the local service subsidy regime; therefore, the Commission should implement a price cap, similar to that for residential local telephone services, or an affordability funding mechanism as proposed by the AAC.
15. TekSavvy also supported ACORN-NPF-PIAC's application, but submitted that (i) the Canadian market has not yet achieved the lowest-possible threshold of rates for ongoing sustainability, and (ii) if below-cost pricing is deemed necessary, it should be achieved through an explicit subsidy.
16. The opposing parties argued that the alleged errors in law are not legal in nature, but are disagreements with the interpretation of Commission policy. Specifically, these parties submitted that
 - ACORN-NPF-PIAC misquoted paragraph 7(b) of the Act by omitting the words "high quality." This omission changes the intended context, in which a balance is required between price and quality;
 - all sections of the Act must be considered, including paragraph 7(f) relating to increased reliance on market forces, section 27 relating to just and reasonable rates, and section 34 relating to forbearance; and
 - the Commission has the discretion to apply various sections of the Act in support of its policy objectives.

⁷ The cited policy objectives are as follows: 7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions; (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; and (h) to respond to the economic and social requirements of users of telecommunications services.

17. Bell Canada, and other parties, submitted that the Commission fully considered its jurisdiction and that affordability was one of the central issues of the proceeding.
18. RCCI, supported by other parties, submitted that while the Commission declined to regulate the retail price of broadband Internet services or to create the affordability funding mechanism proposed by the AAC, it reached a balanced regulatory outcome and fully considered the issue of affordability for low-income Canadians. RCCI added that section 7 of the Act constitutes policy objectives and cannot be used to support allegations of errors in law.
19. Opposing parties, including CNOC, submitted that affordability is related to the income levels of end-users and not to the cost that service providers must bear to produce and sell the services. Therefore, for a service to be affordable, it does not have to be sold below cost.

Commission's analysis and determinations

20. In paragraphs 191 to 195 of Telecom Regulatory Policy 2016-496, the Commission acknowledged the AAC's (i) proposal that an affordability subsidy is required, and (ii) view that not even caps on market prices would be sufficient to meet the needs of low-income end-users. Specifically, the Commission indicated that most ISPs generally recognized the issues experienced by certain vulnerable consumers in paying for their telecommunications services, but were of the view that these issues stem from broader socio-economic conditions and not exclusively from the pricing of telecommunications services. The Commission agrees with the ISPs and remains of the view that concerted efforts from a variety of stakeholders is essential to making progress in the area of affordability.
21. ACORN-NPF-PIAC's arguments with respect to affordability represent just one issue that was considered in a much larger context. The Commission uses a holistic, polycentric decision-making approach, which involves taking into account (i) a large number of interacting interests and considerations, and (ii) various sections and policy objectives of the Act. As such, the Commission did not reach its determinations in Telecom Regulatory Policy 2016-496 by considering only certain sections of the Act as referenced by the applicants; rather, it took a holistic view of all sections of the Act, including the policy objectives set out in section 7.
22. Specifically, in Telecom Regulatory Policy 2016-496, the Commission balanced the objectives set out in section 7 of the Act. These objectives, of themselves, do not confer power. The Commission has also taken into consideration other sections of the Act, which do confer power. In doing so, the Commission has chosen to prioritize access to broadband Internet services. The Commission reiterates that additional time is required to determine whether market forces can address the issue of affordability.
23. Accordingly, the Commission did not err in law by failing to properly consider and act on its jurisdiction regarding the affordability of telecommunications services.

Did the Commission err in law by relying on a comprehensive solution to affordability?

Positions of parties

24. ACORN-NPF-PIAC noted that in Telecom Regulatory Policy 2016-496, the Commission highlighted the importance of broadband Internet services and the issues that low-income households are experiencing to access these services. However, the Commission chose not to act because it determined that (i) a comprehensive solution involving numerous other stakeholders was required, and (ii) it did not want to hinder the development of further private- and public-sector initiatives.
25. ACORN-NPF-PIAC submitted that the Commission's failure to impose regulatory requirements surrounding affordability would inhibit the creation of a comprehensive solution, since ISPs would not do more than is commercially reasonable. ACORN-NPF-PIAC maintained that corporate initiatives, as well as other initiatives by community groups and governments, would not ensure affordable broadband Internet access services for all low-income Canadians.
26. Videotron, supported by RCCI, TCI, and TekSavvy, indicated that the Commission has already taken steps to increase competition (e.g. through the Wireless Code, set out in Telecom Regulatory Policy 2017-200; the regulation of wholesale mobile wireless services set out in Telecom Regulatory Policy 2015-177; and the regulation of wholesale wireline services, set out in Telecom Regulatory Policy 2015-326), which should ultimately contribute to the affordability of broadband Internet services. The company noted that during the proceeding, several interveners outlined the complexity of affordability issues and the multiple layers of government policy, particularly related to taxation and social assistance.
27. CNOC argued that time should be allowed for the existing wholesale service regime improvements and industry-led affordability initiatives to work before determining if additional subsidy mechanisms are required.

Commission's analysis and determinations

28. In Telecom Regulatory Policy 2016-496, the Commission acknowledged that existing market efforts have not fully addressed the issue of affordability of broadband Internet services for low-income Canadians, and that affordability is one of the gaps preventing many Canadians from benefiting from the digital economy. The Commission's broadband funding mechanism, in conjunction with ISED's Connecting Canadians program and Innovation Agenda, should complement new and existing industry, community, and government initiatives.
29. The ability of market forces and coordinated efforts to address affordability has not yet been fully tested. Initiatives by various stakeholders are still in early stages, and joint efforts, including partnerships between local governments, community groups, and industry players, may provide the required solutions. For example, the

Rogers Connected for Success and the TELUS Internet for Good programs provide eligible low-income Canadians with access to affordable broadband Internet service. Such initiatives, coupled with innovative competitive solutions that may stem from the Commission's wholesale access policies mentioned above, will contribute to more affordable broadband Internet service. Accordingly, the Commission remains of the view that it does not want to hinder the development of these initiatives by these multiple stakeholders.

30. The Commission examined the affordability concerns raised by the AAC during the proceeding, responded appropriately to them in Telecom Regulatory Policy 2016-496, and shared them with the Government of Canada in its submission to the Innovation Agenda, as requested by the Minister of ISED. Further discussion of the Commission's submission to the Innovation Agenda is outlined below.
31. Accordingly, the Commission did not err in law by relying on a comprehensive solution to affordability.

Did the Commission err in law by intervening in availability and accessibility matters but not in affordability matters?

Positions of parties

32. ACORN-NPF-PIAC argued that the Commission did not take action to address the affordability of telecommunications services, citing a need for a multi-faceted approach, but found it suitable to address the availability and accessibility of broadband Internet services. ACORN-NPF-PIAC submitted that availability and accessibility issues also require a multi-faceted approach involving various stakeholders.
33. ACORN-NPF-PIAC submitted that the Commission interpreted the Act to use its jurisdiction to establish the broadband fund and impose accessibility requirements on wireless service providers. Therefore, the Commission should have interpreted the Act in the same manner to advance the affordability of telecommunications services for low-income Canadians.
34. Bell Canada, the FMCC, and other opposing parties submitted that the provision of subsidies for low-income households is a social service that requires complex and specialized administration and support systems. They argued that social service programs fall under provincial jurisdiction and that the creation of an affordability fund could create administrative and jurisdictional challenges for the Commission and the federal government. These parties submitted that the Commission should instead use its influence to report on affordability issues and encourage governments to create related programs. The FMCC added that the Commission made the correct determination in Telecom Regulatory Policy 2016-496 that other parties were best suited to implement affordability solutions.
35. CNOC submitted that subsection 27(6) of the Act enables the Commission to permit the provision of telecommunications services at a reduced rate, but the Commission

is not required to mandate this. TCI argued that an error in law means that the Commission was obligated to make a particular determination, whereas in the proceeding, the Commission was not obligated to arrive at the outcome sought by the applicants.

Commission's analysis and determinations

36. During the proceeding, the Commission heard from a broad and diverse group of stakeholders, including representatives of low-income Canadians, rural and remote communities, and persons with disabilities. Consistent with its polycentric approach to decision making noted above, the Commission took into account considerations such as scope, jurisdiction, existing initiatives, and which entities are best suited to implement affordability measures in the most efficient and effective manner.
37. The provision of modern telecommunications services in underserved areas in Canada will require billions of dollars in funding. The Commission fully analyzed the affordability of telecommunications services. In prioritizing the order in which measures were to be implemented, and by whom, to achieve the objectives of the Act, the Commission determined that availability and accessibility were top priorities. The Commission therefore determined that while the development of the telecommunications system is a shared responsibility, there was a need for a Commission broadband funding mechanism and for certain accessibility measures.
38. The Commission addressed affordability in Telecom Regulatory Policy 2016-496 by stating, for example, that the record of that proceeding “demonstrates that various stakeholders, including ISPs and community organizations, have begun to implement innovative solutions to meet the wide-ranging needs of lower-income consumers. The Commission is mindful that its regulatory frameworks should be sufficiently flexible to allow for such solutions and does not want to take regulatory action that would inadvertently hinder the development of further private and public sector initiatives.” The Commission maintains this position and agrees that the provision of subsidies for low-income households is a social service that requires complex and specialized administration and support systems led by all levels of government.
39. This flexibility, though not the desired outcome of the applicants, is in keeping with the policy objectives set out in the Policy Direction⁸ emphasizing reliance on market forces to the maximum extent feasible to ensure that regulatory measures are efficient and proportionate to their purpose, and the policy objectives set out in section 7 of the Act. Further, while subsection 27(6) of the Act enables the Commission to permit the provision of telecommunications services at a reduced rate, the Commission is not required to mandate this.

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

40. Accordingly, the Commission did not err in law by intervening in availability and accessibility matters but not in affordability matters.

Did the Commission err in law by relying on the Innovation Agenda even though it was not on the record of the proceeding?

Positions of parties

41. ACORN-NPF-PIAC argued that by including references to the Innovation Agenda in Telecom Regulatory Policy 2016-496, the Commission erred in law by relying on evidence that was released on 14 June 2016, after the close of record date of 13 June 2016. ACORN-NPF-PIAC submitted that this denied parties the ability to be heard on a matter that they deemed influenced the Commission's determinations, constituting a breach of natural justice.
42. Bell Canada and other opposing parties submitted that the Commission neither relied on the Innovation Agenda nor provided rationale for its determinations in its submission to the Innovation Agenda. They indicated that affordability issues were expressly contemplated during the proceeding and that the Commission canvassed all parties for input on the roles that various government actors could play in such issues.
43. Bell Canada submitted that in Telecom Notice of Consultation 2015-134-5, the Commission extended the filing deadline for final comments (from 2 May 2016 to 13 June 2016) and explicitly solicited views on a national broadband strategy for Canada. Bell Canada indicated that this gave the AAC an opportunity to comment on the same issues that were raised in the Innovation Agenda. The company concluded that ACORN-NPF-PIAC's assertion that natural justice was breached is incorrect, since parties were not denied the ability to be heard on a matter that influenced the Commission's determinations.

Commission's analysis and determinations

44. By way of Telecom Notice of Consultation 2015-134-5, the Commission provided parties the opportunity to submit their views on affordability aspects of a national broadband strategy for Canada, which parallels the input sought as part of the Innovation Agenda. Further, the present review and vary proceeding has provided ACORN-NPF-PIAC with an opportunity to make further submissions on affordability and to comment on the Innovation Agenda.
45. All of the Commission's analysis and findings presented in Telecom Regulatory Policy 2016-496 were based solely on evidence made available during the proceeding. The Commission considers that the Innovation Agenda did not constitute evidence in the proceeding as submitted by ACORN-NPF-PIAC; in fact, the Commission merely referenced the Innovation Agenda in Telecom Regulatory Policy 2016-496 as being a complementary government initiative. The Commission was asked by the Minister of ISED to submit a summary of the proceeding to the Innovation Agenda, which it did.

46. Accordingly, the Commission did not rely on, or use as evidence, the Innovation Agenda in reaching its conclusions in Telecom Regulatory Policy 2016-496, and thus did not commit an error in law in that regard.

Did the Commission err in law by delivering findings from the proceeding in its submission to the Innovation Agenda?

Positions of parties

47. ACORN-NPF-PIAC submitted that the ability for parties to appeal Telecom Regulatory Policy 2016-496 has been impeded because the Commission delivered a portion of its findings from the proceeding in its submission to the Innovation Agenda. According to these parties, in its submission, the Commission cited arguments and evidence presented by the AAC during the proceeding, thereby relegating this evidence to a non-official document rather than including it in the Commission's decision.
48. ACORN-NPF-PIAC argued that the AAC was not informed that its opinions on the affordability of telecommunications services were being relegated to a separate, non-adjudicative function of the Commission, and that such actions are a breach of natural justice.
49. Bell Canada submitted that the Commission did not err by delivering findings from the proceeding outside Telecom Regulatory Policy 2016-496; rather, the content of that decision and its submission to the Innovation Agenda are similar – they both outline the need for a multi-faceted approach to addressing affordability that involves many stakeholders.
50. CNOC and RCCI supported this view, arguing that the Commission's submission to the Innovation Agenda simply expressed the Commission's views on the issues raised in Telecom Regulatory Policy 2016-496 and that all of the Commission's findings from the proceeding are contained in that decision.
51. Cogeco submitted that ACORN-NPF-PIAC confused the Commission's findings in Telecom Regulatory Policy 2016-496 with a factual and contextual submission that the Commission filed with ISED. Cogeco noted that, during the proceeding, the Commission was asked by many participants, including Bell Canada and the Canadian Cable Systems Alliance Inc., to share with the Government of Canada what was heard.

Commission's analysis and determinations

52. The Commission was requested by the Minister of ISED to provide a submission to the Innovation Agenda, including a summary of parties' submissions and the Commission's findings in the proceeding. The submission, issued on 21 December 2016, the same date of issuance as Telecom Regulatory Policy 2016-496, summarized parties' views related to the availability and adoption of broadband

Internet services across Canada, including topics such as gaps in access resulting from issues with infrastructure, affordability, and digital literacy.

53. ACORN-NPF-PIAC were correct in noting that the Commission summarized evidence provided by the AAC and by other parties during the proceeding in its submission to the Innovation Agenda. However, this evidence and related concerns were also considered separately as part of the decision-making process in the proceeding.
54. By including the AAC's arguments in the Commission's submission to the Innovation Agenda, the Commission aimed to recognize the AAC's concerns and draw attention to the Commission's view that, as stated in Telecom Regulatory Policy 2016-496, "the Commission cannot address on its own all the gaps in the availability and adoption of broadband Internet access services that have been identified over the course of this proceeding. While the Act gives the Commission broad powers to regulate the provision of telecommunications services, other stakeholders are better placed to implement solutions to address some of these gaps." The Commission remains of this view and encourages further industry-led initiatives such those outlined above by RCCI and TCI.
55. Accordingly, the Commission did not err in law by delivering findings from the proceeding in its submission to the Innovation Agenda.

Did the Commission err in law by relying on the Innovation Agenda to address telecommunications service affordability needs?

Positions of parties

56. ACORN-NPF-PIAC stated that the Commission is mandated by paragraph 7(b) of the Act to promote the affordability of telecommunications services. They submitted that the Innovation Agenda addresses only the need for more to be done to give low-income Canadians affordable access to high-speed Internet service, whereas the affordability funding mechanism that the AAC proposed during the proceeding was designed to give low-income Canadians choices to meet individual families' telecommunications service needs.
57. ACORN-NPF-PIAC argued that although the proceeding placed a large emphasis on high-speed Internet service, the Commission examined a range of telecommunications service offerings, and that it should therefore not have relied on the Innovation Agenda, whose scope was limited to high-speed Internet service.
58. Cogeco argued that the Commission did not rely on the scope of the Innovation Agenda to evaluate the telecommunications service needs of low-income households. The company submitted that references to the Innovation Agenda within Telecom Regulatory Policy 2016-496 merely draw parallels between the findings in that decision and the Commission's submission to the Innovation Agenda.

59. CNOC and TCI submitted that ACORN-NPF-PIAC's allegations of an error in law on this matter should be dismissed. CNOC argued that the Commission's references to the Innovation Agenda within Telecom Regulatory Policy 2016-496 do not form part of the analysis for its subsequent determinations.

Commission's analysis and determinations

60. The Commission did not rely on the Government of Canada's Innovation Agenda in any regard to make its determinations in Telecom Regulatory Policy 2016-496. Rather, as noted above, the Commission conducted the proceeding and reported on its findings separately, and its determinations complement the Innovation Agenda, particularly the "competing in a digital world" action area.
61. The Commission, by responding to a request from the Minister of ISED to provide a submission to the Innovation Agenda, participated in a publicly-known event happening in the industry. The aim of the Innovation Agenda is to increase access to affordable high-speed Internet service. This initiative represents just one of many possible components of an overall federal strategy regarding national broadband affordability.
62. Accordingly, the Commission did not rely on the Innovation Agenda to address telecommunications affordability needs.

Has there been a fundamental change in circumstances since Telecom Regulatory Policy 2016-496 was issued?

Background

63. The 2017 Federal Budget was released on 22 March 2017. In that budget, the Government of Canada proposed to invest \$13.2 million over five years in a new Affordable Access program. An element of that program is a confidential online portal that would enable ISPs to validate the eligibility of low-income Canadians to participate in a means-tested subsidy program or other related initiatives undertaken by corporate or community social groups.

Positions of parties

64. ACORN-NPF-PIAC submitted that while the name of the program might suggest funding for low-income Canadians, the program merely provides money to build a tool, with no assurance that affordability issues will be addressed.
65. ACORN-NPF-PIAC argued that the Commission refrained from acting on affordability in Telecom Regulatory Policy 2016-496 in large part because it was waiting for the federal government to set out a new comprehensive strategy. They submitted that it is now clear that the Government of Canada has no intention of creating a subsidy to support access to broadband or other telecommunications services by low-income Canadians and that this argument is supported by the

absence of such a mechanism in the Innovation Agenda and the 2017 Federal Budget.

66. ACORN-NPF-PIAC suggested that the proposed online portal would, however, support the affordability funding mechanism presented in the proceeding by the AAC. ACORN-NPF-PIAC therefore requested that based on these changed circumstances, the Commission convene a new proceeding specifically on the creation of a means-tested, nationwide, comprehensive affordability funding mechanism as proposed by the AAC.
67. Bell Canada and other opposing parties submitted that the online portal does not demonstrate a lack of intention to create a federal subsidy; rather, it could be viewed as a first step or an enabling tool to support mechanisms implemented by other levels of government.
68. TCI and Videotron argued that ACORN-NPF-PIAC were too quick to challenge Telecom Regulatory Policy 2016-496, which is intended to be implemented over several years, as well as untested measures included in the 2017 Federal Budget.

Commission's analysis and determinations

69. In Telecom Regulatory Policy 2016-496, the Commission outlined its expectations regarding how long it will take to measure success (i.e. the achievement of the universal service objective), recognizing that a comprehensive solution is required and that numerous stakeholders should be involved. Specifically, the Commission stated that given the state of current telecommunications infrastructure in Canada, it expects fixed broadband Internet access services, based on the criteria set out in that decision, to be available in 90% of Canadian premises by the end of 2021, and in the remaining 10% of Canadian premises within 10 to 15 years.
70. The Affordable Access program outlined in the 2017 Federal Budget constitutes one of many possible components of an overall federal broadband strategy. With support from several different stakeholders, the proposed Affordable Access program's online portal is an appropriate step in the multi-faceted approach that is required. Therefore, the 2017 Federal Budget does not constitute a fundamental change in circumstances since the publication of Telecom Regulatory Policy 2016-496.
71. Accordingly, there has not been a fundamental change in circumstances since Telecom Regulatory Policy 2016-496 was issued.

Conclusion

72. In light of all the above, the Commission **denies** ACORN-NPF-PIAC's application to review and vary Telecom Regulatory Policy 2016-496 regarding affordability.

Secretary General

Related documents

- *Review of the Wireless Code*, Telecom Regulatory Policy CRTC 2017-200, 15 June 2017
- *Modern telecommunications services – The path forward for Canada’s digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016
- *Review of wholesale wireline services and associated policies*, Telecom Regulatory Policy CRTC 2015-326, 22 July 2015; as amended by Telecom Regulatory Policy CRTC 2015-326-1, 9 October 2015
- *Regulatory framework for wholesale mobile wireless services*, Telecom Regulatory Policy CRTC 2015-177, 5 May 2015
- *Review of basic telecommunications services*, Telecom Notice of Consultation CRTC 2015-134, 9 April 2015; as amended by Telecom Notices of Consultation CRTC 2015-134-1, 3 June 2015; 2015-134-2, 22 December 2015; 2015-134-3, 14 January 2016; 2015-134-4, 9 March 2016; and 2015-134-5, 28 April 2016
- *Revised guidelines for review and vary applications*, Telecom Information Bulletin CRTC 2011-214, 25 March 2011