



## Telecom Order CRTC 2010-841

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Ottawa, 10 November 2010

### **Determination of costs award with respect to the participation of Vaxination Informatique in the proceeding leading to Telecom Regulatory Policy 2010-632**

File numbers: 8663-C12-200907321 and 4754-370

1. By letter dated 30 June 2010, Vaxination Informatique (Vaxination) applied for costs with respect to its participation in the proceeding that led to Telecom Regulatory Policy 2010-632 (the proceeding).
2. On 9 July 2010, Bell Aliant Regional Communications, Limited Partnership; Bell Canada; and Télébec, Limited Partnership (collectively, Bell Canada et al.), as well as TELUS Communications Company (TCC), filed comments in response to Vaxination's application.

#### **Application**

3. Vaxination submitted that it had met the criteria for an award of costs set out in subsection 44(1) of the *CRTC Telecommunications Rules of Procedure* (the Rules) because it represented a group of subscribers that had an interest in the outcome of the proceeding, it had participated responsibly, and it had contributed to a better understanding of the issues by the Commission through its participation in the proceeding.
4. Vaxination requested that the Commission fix its costs at \$482.76, consisting entirely of disbursements for meals, accommodation, and travel. Vaxination filed a bill of costs with its application.
5. Vaxination made no submission as to the appropriate costs respondents.

#### **Answer**

6. In response to the application, TCC stated that should the Commission award costs to the applicant, the responsibility for the payment of costs should be allocated between all participating parties according to their telecommunications operating revenues (TORs) or, given the amount being claimed in this case, in a way that the Commission deems appropriate.

7. Bell Canada et al. stated that they did not object to the application and that, given the numerous respondents, costs should be allocated among themselves; TCC; and Bragg Communications Inc., Cogeco Cable Inc., Rogers Communications Inc. (RCI), Shaw Communications Inc., Quebecor Media Inc., and Videotron Ltd. (collectively, the Cable Carriers) according to their TORs.

## **Commission's analysis and determinations**

8. The Commission finds that Vaxination has satisfied the criteria for an award of costs set out in subsection 44(1) of the Rules. Specifically, the Commission finds that Vaxination represented a group or class of subscribers that had an interest in the outcome of the proceeding, it participated responsibly, and it contributed to a better understanding of the issues by the Commission.
9. The Commission notes that the rates claimed in respect of the disbursements are in accordance with the rates set out in the Commission's Legal Directorate's *Guidelines for the Taxation of Costs*, revised as of 24 April 2007. The Commission also finds that the total amount claimed by Vaxination was necessarily and reasonably incurred and should be allowed.
10. The Commission considers that this is an appropriate case in which to fix the costs and dispense with taxation, in accordance with the streamlined procedure set out in Telecom Public Notice 2002-5.
11. In determining the appropriate respondents to an award of costs, the Commission has generally looked at which parties are affected by the issues and have actively participated in the proceeding. The Commission notes, in this regard, that a wide range of incumbent and competitor service providers and other parties<sup>1</sup> actively participated in the proceeding and had a significant interest in its outcome.
12. The Commission further notes, however, that in allocating costs among respondents, it has also been sensitive to the fact that if too large a number of respondents are named, the applicant may have to collect small amounts from many respondents, resulting in a significant administrative burden to the applicant.
13. In light of the large number of potential costs respondents and the result that if all potential costs respondents were retained, Vaxination would be required to collect small amounts from certain respondents, the Commission considers that it is appropriate, in the present circumstances, to limit the respondents to Bell Canada et al., TCC, and the Cable Carriers.

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<sup>1</sup> The incumbents and other parties are ABC Communications; Bell Canada et al.; the British Columbia Broadband Association; the Cable Carriers; the Canadian Association of Internet Providers; Distributel Communications Limited; Execulink Telecom Inc.; The Internet Centre, Inc.; MTS Allstream Inc.; Open Source Solutions; Oricom Internet Inc.; Primus Telecommunications Canada Inc.; the Quebec Coalition of Internet Service Providers; RipNET Limited; Saskatchewan Telecommunications; TCC; and TekSavvy Solutions Inc. The competitors are Acanac Inc.; Accelerated Connections Inc.; eagle.ca; egateNETWORKS Inc.; Managed Network Systems, Inc.; and Telnet Communications.

14. The Commission notes that it has, in previous decisions, allocated the responsibility for the payment of costs among respondents on the basis of the respondents' TORs, as an indicator of the relative size and interest of the parties involved in the proceeding. The Commission considers that, in the present circumstances, it is appropriate to apportion the costs among the respondents in proportion of their TORs, as reported in their most recent audited financial statements. Accordingly, the Commission finds that the responsibility for the payment of costs should be allocated as follows:

Bell Canada et al.	49%
TCC	39%
Cable Carriers	12%

15. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of Bell Canada et al. and RCI on behalf of the Cable Carriers, and leaves it to the members of the companies to determine the appropriate allocation of the costs among themselves.

### **Directions as to costs**

16. The Commission **approves** the application by Vaxination for costs with respect to its participation in the Telecom Regulatory Policy 2010-632 proceeding.
17. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to Vaxination at \$482.76.
18. The Commission directs that the award of costs to Vaxination be paid forthwith by Bell Canada on behalf of Bell Canada et al., TCC, and RCI on behalf of the Cable Carriers, according to the proportions set out in paragraph 14.

Secretary General

### **Related documents**

- *Wholesale high-speed access services proceeding*, Telecom Regulatory Policy CRTC 2010-632, 30 August 2010
- *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002
- *Action Réseau Consommateur, the Consumers' Association of Canada, Fédération des associations coopératives d'économie familiale and the National Anti-Poverty Organization application for costs – Public Notice CRTC 2001-60*, Telecom Costs Order CRTC 2002-4, 24 April 2002