



## Telecom Order CRTC 2017-127

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Ottawa, 3 May 2017

*File numbers: 8663-C12-201503186 and 4754-527*

### **Determination of costs award with respect to the participation of Ryan Adams in the proceeding leading to Telecom Regulatory Policy 2016-496**

#### **Application**

1. By letter dated 11 June 2016, Mr. Ryan Adams applied for costs with respect to his participation in the proceeding leading to Telecom Regulatory Policy 2016-496, in which the Commission reviewed its policies regarding basic telecommunications services in Canada (the proceeding).
2. The Commission received an answer from Vaxination Informatique (Vaxination), dated 25 July 2016.
3. Mr. Adams submitted that he had met the criteria for an award of costs set out in section 68 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) because he had an interest in the outcome of the proceeding, he had assisted the Commission in developing a better understanding of the matters that were considered, and he had participated in a responsible way.
4. In particular, Mr. Adams submitted that he acted as an individual citizen who had an interest in the outcome of the proceeding, and that he represented the interests of subscribers, namely Canadians who do not have access to suitable broadband services. Mr. Adams also submitted that he contributed to a better understanding of the issues surrounding broadband service rates and coverage within Canadian communities.
5. Mr. Adams requested that the Commission fix his costs at \$558.16, consisting entirely of disbursements.
6. Mr. Adams submitted that Bell Canada is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

#### **Answer**

7. Vaxination generally submitted that the Commission should ensure that its costs processes are not abused.

## Commission's analysis and determinations

8. The criteria for an award of costs are set out in section 68 of the Rules of Procedure, which reads as follows:

68. The Commission must determine whether to award final costs and the maximum percentage of costs that is to be awarded on the basis of the following criteria:

- (a) whether the applicant had, or was the representative of a group or a class of subscribers that had, an interest in the outcome of the proceeding;
- (b) the extent to which the applicant assisted the Commission in developing a better understanding of the matters that were considered; and
- (c) whether the applicant participated in the proceeding in a responsible way.

9. Mr. Adams has satisfied these criteria through his participation in the proceeding. In particular, Mr. Adams' submissions, especially regarding broadband service deployment in eastern and northern Ontario and how service is extended to certain communities, assisted the Commission in developing a better understanding of the matters that were considered.
10. With respect to Vaxination's submission, applicants may apply for costs regardless of the nature of the Commission proceeding, provided that it is initiated, in whole or in part, pursuant to the *Telecommunications Act*. Costs may be awarded if applicants are able to demonstrate their eligibility for a costs award.
11. The Commission finds that the total amount claimed by Mr. Adams was necessarily and reasonably incurred and should be allowed.
12. 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.
13. The Commission has generally determined that the appropriate costs respondents to an award of costs are the parties that have a significant interest in the outcome of the proceeding in question and have participated actively in that proceeding. Given the scope of the proceeding, a large number of parties both had a significant interest in the outcome of the proceeding and participated actively in the proceeding.
14. As indicated in the Commission's *Guidelines for the Assessment of Costs*, which are set out in Telecom Regulatory Policy 2010-963, the Commission will generally name a maximum of three costs respondents for a costs award of up to \$1,000. However, as set out in Telecom Order 2015-160, the Commission considers \$1,000 to be the minimum amount that a party should be required to pay due to the administrative burden that small costs awards impose on both the applicant and costs respondents.

15. Accordingly, given the small amount claimed by Mr. Adams, and consistent with the Commission's general practice of allocating responsibility for payment of costs based on telecommunications operating revenues (TORs)<sup>1</sup> as an indicator of the relative size and interest of the parties involved in the proceeding, Bell Canada<sup>2</sup> is the appropriate costs respondent in the circumstances.
16. Consistent with its general approach articulated in Telecom Costs Order 2002-4, the Commission makes Bell Canada responsible for payment on behalf of the Bell companies. The Commission leaves it to the members of the Bell companies to determine the appropriate allocation of the costs among themselves.

### **Directions regarding costs**

17. The Commission **approves** the application by Mr. Adams for costs with respect to his participation in the proceeding.
18. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to Mr. Adams at \$558.16.
19. The Commission **directs** that the award of costs to Mr. Adams be paid forthwith by Bell Canada.

Secretary General

### **Related documents**

- *Modern telecommunications services – The path forward for Canada's digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016
- *Determination of costs award with respect to the participation of the Ontario Video Relay Service Committee in the proceeding initiated by Telecom Notice of Consultation 2014-188*, Telecom Order CRTC 2015-160, 23 April 2015
- *Revision of CRTC costs award practices and procedures*, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010
- *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002

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<sup>1</sup> TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services. In this order, the Commission has used the TORs of the costs respondents based on their most recent audited financial statements.

<sup>2</sup> Bell Canada participated in the proceeding on its own behalf, and on behalf of its affiliates Bell Aliant Regional Communications, Limited Partnership (which, effective 1 July 2015, is operated as a division of Bell Canada); Bell Mobility Inc.; Câblevision du Nord du Québec inc.; DMTS; KMTS; NorthernTel, Limited Partnership; Northwestel Inc.; Ontera; and Télébec, Limited Partnership.

- *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*