



## Compliance and Enforcement Decision CRTC 2017-445

PDF version

Reference: Compliance and Enforcement Notice of Consultation 2017-281

Ottawa, 13 December 2017

*File number: 1011-NOC2017-0281*

### **Topline Air Duct Cleaning Inc. and Mr. Naveed Raza – Violations under paragraph 71(10)(a) of the *Telecommunications Act***

#### **Show cause proceeding**

1. In [Compliance and Enforcement Notice of Consultation 2017-281](#) (the notice), the Commission initiated a proceeding in which it called for Topline Air Duct Cleaning Inc. (Topline) and Mr. Naveed Raza to show cause
  - why the Commission should not find that Topline and Mr. Raza have each committed a violation under paragraph 71(10)(a) of the *Telecommunications Act* (the Act); and
  - why, if Topline and Mr. Raza are each found to have committed this violation, (i) an administrative monetary penalty (AMP) in the amount of \$15,000 should not be imposed against Topline, and (ii) an AMP in the amount of \$10,000 should not be imposed against Mr. Raza.
2. The proceeding was initiated in response to Topline and Mr. Raza's repeated failure to respond to a request for information (RFI) from Commission staff dated 31 July 2015. The failure to respond resulted in Topline and Mr. Raza violating paragraph 71(10)(a) of the Act, which states that no person shall resist or wilfully obstruct an inspector in carrying out his or her duties.
3. Despite the Commission having taken steps to ensure that Topline and Mr. Raza were aware of the notice, including the use of a process server to deliver the notice, neither Topline nor Mr. Raza filed a response by the 8 September 2017 deadline.

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

4. Topline and Mr. Raza have chosen to ignore the Commission. By wilfully ignoring the notice and failing to respond to the show cause proceeding, they have failed to dispute the Commission's preliminary views regarding their commission of the violations, and the appropriateness and quantum of the proposed AMPs. As a result, they have not demonstrated in any way why (i) the Commission should not find that they have each committed a violation of paragraph 71(10)(a) of the Act, (ii) an AMP in the amount of \$15,000 should not be imposed against Topline, and (iii) an AMP in the amount of \$10,000 should not be imposed against Mr. Raza.

5. The Commission reiterates that individuals and companies cannot blatantly ignore RFIs made in the course of an investigation without consequence. As part of these investigations, the Commission and its designated staff require information that only the individuals and companies under investigation can provide. In the absence of any evidence of cooperation by Topline and Mr. Raza, the Commission is compelled to use one of the more forceful tools at its disposal to ensure that individuals and companies comply with such requests, thereby ensuring the integrity of the Commission's processes.

## Conclusion

6. The Commission hereby notifies Topline and Mr. Raza that they have each violated paragraph 71(10)(a) of the Act as a result of their respective failure to respond to the RFI dated 31 July 2015.
7. The Commission hereby notifies Topline and Mr. Raza of their right to apply to the Commission to review and rescind or vary this decision under section 62 of the Act, and to seek leave of the Federal Court of Appeal to appeal this decision before that court under section 64 of the Act. Any review and vary application under section 62 of the Act is to be made within 90 days of the date of this decision,<sup>1</sup> and the Commission will place all related documentation on its website. In accordance with section 64 of the Act, an application for leave to appeal must be made to the Federal Court of Appeal within 30 days of the date of this decision or within such further time as a judge of the Federal Court of Appeal grants in exceptional circumstances
8. The amount of \$15,000 is due by **12 January 2018** and must be paid by Topline to the Receiver General for Canada in accordance with subsection 72.09(3) of the Act. For any amount owing that is not paid by **12 January 2018**, interest calculated and compounded monthly at the average bank rate plus 3% will be payable on that amount and will accrue during the period beginning on the due date and ending on the day before the date on which payment is received.
9. The amount of \$10,000 is due by **12 January 2018** and must be paid by Mr. Raza to the Receiver General for Canada in accordance with subsection 72.09(3) of the Act. For any amount owing that is not paid by **12 January 2018**, interest calculated and compounded monthly at the average bank rate plus 3% will be payable on that amount and will accrue during the period beginning on the due date and ending on the day before the date on which payment is received.

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<sup>1</sup> In Telecom Information Bulletin 2011-214, the Commission issued, pursuant to the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, revised guidelines for review and vary applications to reflect the modified time limit in which such applications are to be made.

10. If payment has not been received by **12 January 2018**, the Commission intends to take measures to collect the amount owing, which may include certifying the unpaid amount and registering the certificate with the Federal Court.

Secretary General

### **Related documents**

- *Failure of Topline Air Duct Cleaning Inc. and Mr. Naveed Raza to respond to a request for information letter and to provide information to the Commission as required, [Compliance and Enforcement Notice of Consultation CRTC 2017-281](#), 9 August 2017*
- *Revised guidelines for review and vary applications, Telecom Information Bulletin CRTC 2011-214, 25 March 2011*