



Telecom Decision CRTC 2018-279

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References: 2016-431 and 2017-117

Ottawa, 9 August 2018

Public record: 1011-NOC2017-0117

VOIS Inc. – Non-compliance with the requirement to provide information to the Commission under subsection 37(2) of the *Telecommunications Act* and violation under section 72.001 of the *Telecommunications Act*

The Commission (i) finds that VOIS Inc. (VOIS) and Mr. Harpreet Randhawa, Director of VOIS, have each separately committed a violation, under section 72.001 of the Telecommunications Act (the Act), by contravening the requirement to provide information to the Commission under subsection 37(2) of the Act, and (ii) imposes administrative monetary penalties of \$25,000 on VOIS and \$5,000 on Mr. Randhawa.

Background

Telecom Notice of Consultation 2016-431 proceeding

1. In Telecom Notice of Consultation 2016-431 (the 2016 Notice), the Commission initiated a proceeding calling for VOIS Inc. (VOIS)¹ to show cause why, among other things, the Commission should not find the company in violation of the *Telecommunications Act* (the Act) for contravening the requirement that retail telecommunications service providers participate in the Commission for Complaints for Telecom-television Services Inc. (CCTS).²
2. The 2016 Notice, issued on 1 November 2016, also required, pursuant to subsection 37(2) of the Act, that VOIS and its Director, Mr. Harpreet Randhawa, provide certain specific information to the Commission about the number of subscribers to VOIS' services, and about the directors and officers of VOIS.
3. The proceeding initiated by the 2016 Notice was in response to the CCTS terminating VOIS' participation in the CCTS on 5 August 2016 for default of its obligations under the CCTS Participation Agreement.
4. Steps were taken to ensure that VOIS and Mr. Randhawa were aware of the 2016 Notice and the requirement to provide information contained within it, including

¹ VOIS is a Calgary-based telecommunications service provider.

² Effective 1 September 2017, the Commissioner for Complaints for Telecommunications Services Inc. changed its name to the Commission for Complaints for Telecom-television Services Inc.

the sending of physical and electronic copies of the 2016 Notice to addresses provided as part of VOIS' registration with the Commission on its list of telecommunications service providers. In addition, consistent with the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, the 2016 Notice was published on the Commission's website.

5. Neither VOIS nor Mr. Randhawa responded in any manner to the 2016 Notice. Accordingly, neither provided anything in response to the Commission's direction to file specific information.
6. In Telecom Decision 2017-115 and Telecom Order 2017-116, the Commission found that VOIS had committed the violation alleged in the 2016 Notice, imposed an administrative monetary penalty (AMP) of \$15,000 on VOIS as a result, and issued a mandatory order requiring VOIS to take the necessary steps to restore its participation in the CCTS.³

Telecom Notice of Consultation 2017-117 proceeding

7. Concurrent with the issuance of Telecom Decision 2017-115 and Telecom Order 2017-116, the Commission issued Telecom Notice of Consultation 2017-117 (the 2017 Notice) on 27 April 2017. In that notice, both VOIS and Mr. Randhawa were directed to show cause why they should not each be found to have committed a separate violation of the Act. Specifically, VOIS and Mr. Randhawa were to show cause
 - why the Commission should not find that they had each separately committed a violation, under section 72.001 of the Act, by contravening the requirement to provide information to the Commission, imposed under subsection 37(2) of the Act;
 - if VOIS is found to have committed a violation, why an AMP in the amount of \$25,000 should not be imposed on it; and
 - if Mr. Randhawa is found to have committed a violation, why an AMP in the amount of \$5,000 should not be imposed on him.
8. Similar to what was done for the 2016 Notice proceeding, steps were taken to ensure that VOIS and Mr. Randhawa were aware of the 2017 Notice; it was published on the Commission's website, and physical and electronic copies were sent to VOIS and Mr. Randhawa.
9. Neither VOIS nor Mr. Randhawa filed anything on the record of the 2017 Notice proceeding. Only the Public Interest Advocacy Centre (PIAC) filed an intervention in that proceeding. PIAC generally supported the imposition of AMPs on VOIS and Mr. Randhawa for non-compliance with regulatory obligations.

³ As of the date of this decision, the AMP has not been paid, and VOIS has not rejoined the CCTS.

Have VOIS and Mr. Randhawa each committed a separate violation of the Act by failing to respond to the requirement to provide information?

10. Under subsection 37(2) of the Act, where the Commission believes that a person other than a Canadian carrier, such as a reseller of telecommunications services, is in possession of information that the Commission considers necessary for the administration of the Act, the Commission may require that person to submit the information to the Commission in such form and manner as the Commission specifies. Failure to provide information as required would be a contravention of the Act that could constitute a violation under section 72.001 of the Act.
11. In the 2016 Notice, pursuant to this power, the Commission required both VOIS and Mr. Randhawa to submit specific information within a specified time frame, which neither party provided. The Commission notes that the 2016 Notice expressly indicated that failure to provide the information could result in findings of violations and enforcement measures.
12. Since both VOIS and Mr. Randhawa failed to respond to the subsequent show cause proceeding initiated by the 2017 Notice, there is nothing on the record of the current proceeding that would suggest that either party has not contravened the requirement to provide information.
13. Accordingly, the Commission finds that VOIS and Mr. Randhawa have each committed a separate violation under section 72.001 of the Act by contravening the requirement to provide information, pursuant to subsection 37(2) of the Act and set out in the 2016 Notice.

Should the Commission impose an AMP of \$25,000 on VOIS and an AMP of \$5,000 on Mr. Randhawa?

14. In the 2017 Notice, the Commission set out the factors⁴ that it must take into account in determining the appropriate amount of an AMP in a given case. The factors are as follows:
 - the nature and scope of the violation;
 - the person's history of compliance;
 - any benefit the person obtained from the commission of the violation;
 - the person's ability to pay;
 - factors established by any regulations (currently there are none); and
 - any other relevant factor.

⁴ See section 72.002 of the Act.

15. In the 2017 Notice, the Commission expressed the preliminary view that if VOIS and Mr. Randhawa were each to be found in violation of the Act, then an AMP of \$25,000 should be imposed on VOIS and an AMP of \$5,000 should be imposed on Mr. Randhawa. In reaching this preliminary view, the Commission addressed the factors set out above.⁵
16. To briefly recapitulate those considerations: the parties in question failed to respond to two specific questions, thereby impeding the Commission's administration of the Act. VOIS has previously been found in violation of the Act, though no such finding has previously been made with respect to Mr. Randhawa. Both parties benefited from their failure to respond to the Commission, in that this failure made it more difficult for the Commission to assess their compliance with regulatory obligations. There was little evidence before the Commission regarding ability to pay the proposed AMPs, though what little evidence there was did not indicate an inability to pay.
17. The record of this proceeding has not called into question any of the considerations set out by the Commission in the 2017 Notice.
18. Accordingly, the Commission considers that the AMPs proposed in the 2017 Notice are proportionate to the circumstances of this case, and are reasonable and necessary in light of the purpose of a penalty under the Act, which is to promote compliance. The Commission also considers it relevant that the imposition of AMPs in this case could serve the goal of general deterrence.
19. The Commission therefore imposes an AMP of \$25,000 on VOIS and an AMP of \$5,000 on Mr. Randhawa for their respective violations of section 72.001 of the Act, as a result of contravening the requirement to provide information to the Commission pursuant to subsection 37(2) of the Act.
20. The Commission is gravely concerned by the pattern of non-compliance exhibited by VOIS and, while this is the first instance in which Mr. Randhawa has been formally found in non-compliance, he has been closely involved in the operation of VOIS since the first violation. If this pattern continues, the Commission intends to take further compliance and enforcement actions in respect of VOIS, and any entities or individuals related to it, that will ensure that the Act and its associated obligations are respected.

Conclusion

21. The Commission hereby notifies VOIS and Mr. Randhawa 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 must be made within **90 days** of the date of this decision, and the Commission will place all related documentation on its website. In accordance

⁵ See paragraphs 17 to 31 of Telecom Notice of Consultation 2017-117.

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 that Court grants in exceptional circumstances.

22. The amounts of \$25,000 and \$5,000 are due by **10 September 2018** and must be paid by VOIS and Mr. Randhawa, respectively, to “The Receiver General for Canada” in accordance with subsection 72.009(3) of the Act. For any amount owing that is not paid by **10 September 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.
23. If payment has not been received within **30 days** of the date of this decision, 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.
24. Concurrent with the release of this decision, the Commission, by way of letter and pursuant to subsection 37(2) of the Act, has required that VOIS and certain related persons provide additional information concerning whether or not VOIS or those related persons continue to offer services within the scope of the CCTS’s mandate. Failure to file this information may result in additional contraventions of the Act that would constitute subsequent violations under section 72.001 of the Act. As noted above, the Commission intends to take any further compliance and enforcement actions that are appropriate in the circumstances.

Secretary General

Related documents

- *Failure of VOIS Inc. and Mr. Harpreet Randhawa to provide information to the Commission as required*, Telecom Notice of Consultation CRTC 2017-117, 27 April 2017
- *VOIS Inc. – Non-compliance with the requirement to participate in the Commissioner for Complaints for Telecommunications Services Inc. and violation under section 72.001 of the Telecommunications Act*, Telecom Decision CRTC 2017-115 and Telecom Order CRTC 2017-116, 27 April 2017
- *Termination of participation in the Commissioner for Complaints for Telecommunications Services Inc. of VOIS Inc.*, Telecom Notice of Consultation CRTC 2016-431, 1 November 2016