



## Telecom Decision CRTC 2019-383

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Ottawa, 28 November 2019

*Public record: 8695-C211-201901877*

### **Revised Procedures for the Operation of the National Contribution Fund, effective 1 January 2020**

*The Commission **approves** the revised Procedures for the Operation of the National Contribution Fund, effective **1 January 2020**.*

#### **Background**

1. In Decision 2000-745, the Commission introduced a national revenue-based contribution collection mechanism and the corresponding National Contribution Fund (NCF). The Canadian Telecommunications Contribution Consortium Inc. (CTCC)<sup>1</sup> oversees the operation of the NCF.
2. In Telecom Decision 2018-60, the Commission approved the current Procedures for the Operation of the National Contribution Fund.
3. In Telecom Regulatory Policy 2016-496, the Commission established the following 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. To help provide Canadians with access to these services and to help attain the universal service objective, the Commission established the Broadband Fund. The Commission also determined that retail Internet service revenues and retail paging<sup>2</sup> service revenues will become subject to contribution when the Commission's Broadband Fund becomes operational in January 2020.
4. In Telecom Regulatory Policy 2018-377, the Commission addressed matters related to the Broadband Fund, including directing the CTCC to amend the Procedures for the Operation of the National Contribution Fund to include provisions related to the funding distribution model of the Broadband Fund.

#### **Application**

5. The Commission received revised Procedures for the Operation of the National Contribution Fund from the CTCC, dated 15 March 2019, to address the amendments and revisions required to implement the Broadband Fund. The CTCC

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<sup>1</sup> The CTCC is responsible for establishing the procedures necessary for the operation of the NCF and for contracting with a company designated by the Commission, in accordance with subsection 46.5(2) of the *Telecommunications Act*, to act as the Central Fund Administrator.

<sup>2</sup> The Commission used the term “texting” in Telecom Regulatory Policy 2016-496 because the majority of retail paging revenues, as defined in Order 2001-220, are texting revenues.

also proposed other updates, including a more accurate description of the mechanism the Central Fund Administrator will use if there are insufficient funds to pay all funding recipients, the addition of cash balances with an increase in the Prescribed NCF Balance,<sup>3</sup> and the removal of sections that are no longer necessary.

6. Bell Canada submitted that the increase in the Prescribed NCF Balance from \$5 million to \$10 million should be collected gradually over five years.
7. In response, the CTCC submitted that an inadequate Prescribed NCF Balance could mean that, on certain occasions, payments to some recipients could be delayed, which would have a greater impact on smaller and possibly less well-capitalized recipients. In addition, the \$5 million increase equates to a less than 3% increase in the projected 2020 NCF payments.

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

8. The Commission has reviewed the proposed changes required to implement the Broadband Fund under the Procedures for the Operation of the National Contribution Fund and considers the changes to be appropriate. The Commission also considers the other updates to be reasonable. The Commission notes that it has made some minor changes to ensure completeness and consistent wording with the National Contribution Fund Administration Agreement.
9. With respect to the proposed \$5 million increase in the Prescribed NCF Balance, the Commission notes that in Telecom Decision 2005-68, it accepted the CTCC's request to implement the current \$5 million amount and that this amount was collected during 2005 when the estimated total amount to be collected was approximately \$245 million. However, the estimated amount to be collected during 2020, including for the first year of the Broadband Fund and the proposed increase in the Prescribed NCF Balance, is less than \$175 million, and this amount will be collected over a larger base of contribution-eligible revenues than in 2005. Therefore, the Commission considers that the proposed \$5 million increase in the Prescribed NCF Balance should be collected during 2020 at a rate not exceeding \$500,000 per month.
10. In light of the above, the Commission **approves** the revised Procedures for the Operation of the National Contribution Fund, effective **1 January 2020**. The Procedures are set out in the Appendix to this decision.

Secretary General

### **Related documents**

- *Development of the Commission's Broadband Fund*, Telecom Regulatory Policy CRTC 2018-377, 27 September 2018

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<sup>3</sup> The Prescribed NCF Balance is money held by the NCF in reserve to ensure that sufficient funds are available each month to make the required payments.

- *Canadian Telecommunications Contribution Consortium Inc. – Application to revise the Procedures for the Operation of the National Contribution Fund, effective 15 February 2018*, Telecom Decision CRTC 2018-60, 14 February 2018
- *Modern telecommunications services – The path forward for Canada’s digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016
- *Final 2005 revenue-percent charge and related matters*, Telecom Decision CRTC 2005-68, 10 November 2005
- *Industry consensus reports submitted by the Contribution Collection Mechanism (CCM) Implementation Working Groups*, Order CRTC 2001-220, 15 March 2001
- *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000

# **Appendix to Telecom Decision CRTC 2019-383**

## **PROCEDURES FOR THE OPERATION OF THE NATIONAL CONTRIBUTION FUND**

**(approved effective 1 January 2020)**

### **SECTIONS**

- 1 Introduction**
- 2 Definitions**
- 3 Becoming a Required Contributor**
- 4 Reporting and Payment Responsibilities of TSPs to the CFA**
- 5 Responsibilities of the CFA**
- 6 Changes to the Revenue-Percent Charge or Subsidy Amounts Payable**
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### **APPENDICES**

- 1 CRTC Revenue-Based Contribution Regime – Reporting Forms**
- 2 Sample Affidavit**
- 3 Payment Direction**
- 4 Revocation of Payment Direction**

## SECTION ONE

### 1. Introduction

- 1.1 This document comprises the “Procedures” for the purpose of the **National Contribution Fund Administration Agreement** as last amended and restated effective 1 January 2020 and approved by the Commission in Telecom Decision CRTC 2019-383 (the “**NCFAA**”). These Procedures form part of the contractual obligations entered into by the signatories to the NCFAA.
- 1.2 The NCFAA is a quadripartite agreement made between the Canadian Telecommunications Contribution Consortium Inc. (the “**Consortium**” or the “**CTCC**”), of the first part; Welch Fund Administration Services Inc., in its capacity as the **Central Fund Administrator** (“**CFA**”) of the **National Contribution Fund** (“**NCF**”), of the second part; each **Telecommunications Service Provider** (“**TSP**”) as shall be determined by the Canadian Radio-television and Telecommunications Commission (“**CRTC**”) from time to time to be a Required Contributor and which shall have become a party to the NCFAA through the execution and delivery to the CFA of a Required Contributor Accession Agreement in the manner provided in the NCFAA (the “**Required Contributor Accession Agreement**”), of the third part; and each Person as shall be determined by the CRTC from time to time to be an Eligible Recipient and that shall have become a party to the NCFAA through the execution and delivery to the CFA of an Eligible Recipient Accession Agreement in the manner provided in the NCFAA, of the fourth part.
- 1.3 The purpose of these Procedures is to prescribe the rules for the operation of the National Contribution Fund, established initially by the CRTC in Decision 2000-745.
- 1.4 From time to time, the CTCC will file proposed amendments to the Procedures with the CRTC for approval. Required Contributors and Eligible Recipients will be entitled to receive a copy of such filings from the CFA.
- 1.5 Decision 2000-745 states that the CRTC would perform certain tasks. For completeness, certain tasks undertaken by the CRTC are also described in these Procedures.
- 1.6 Headings: The division of these Procedures into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these Procedures. In these Procedures, the terms “hereof”, “hereunder” and similar expressions refer to these Procedures and not to any particular Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent with these Procedures, references herein to Sections and Appendices are to Sections of, and Appendices to,

these Procedures.

- 1.7 Extended meanings: In these Procedures, words importing the singular number also include the plural and vice versa; words importing any gender include all genders; and words importing Persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.
- 1.8 Accounting principles: Wherever in these Procedures reference is made to a calculation to be made or an action to be taken in accordance with generally accepted accounting principles, such reference shall be deemed to be to the generally accepted accounting principles approved for use in Canada from time to time by the Accounting Standards Board of Canada, or any successor entity, applicable as of the date on which such calculation or action is made or taken or required to be made or taken in accordance with generally accepted accounting principles.
- 1.9 Interest calculations and payments: Unless otherwise stated, wherever in these Procedures reference is made to a rate of interest “per annum” or a similar expression is used, such interest shall be calculated on the basis of a calendar year of 365 days or 366 days, as the case may be, using the nominal rate method of calculation, and will not be calculated using the effective rate method of calculation or any other basis that gives effect to the principle of deemed reinvestment of interest. All Late Payment Charges and interest payable hereunder will be payable both before and after default and/or judgment, if any, until full payment thereof, and interest will accrue on overdue interest, if any, compounded monthly.
- 1.10 Currency: All references to currency herein are to the lawful money of Canada.
- 1.11 Action on Business Day: Whenever pursuant to these Procedures an action is to be taken by a specific date and such specific date is not a Business Day, such action shall be taken on the first Business Day following such specific date.

## SECTION TWO

### 2. Definitions

- 2.1 In these Procedures, unless something in the subject matter or context is inconsistent therewith:

“**Auditor**” means Ernst & Young LLP, or such other firm of chartered professional accountants licensed to practice as public accountants in each of the Provinces of Canada as may be appointed by the Consortium from time to time as Auditor for the purposes of the National Contribution Fund and these Procedures.

“**Available Cash**” means the amount of cash held at any time in the NCF bank accounts minus the Minimum Cash Balance.

**“Bank Direction Documents”** means the documents jointly executed by the CFA and the CTCC that govern the operation of the NCF bank accounts.

**“Broadband Fund”** means that part of the NCF established by the CRTC in Telecom Regulatory Policy CRTC 2018-377, dated 27 September 2018, to help attain the universal service objective set out in Telecom Regulatory Policy CRTC 2016-496, which is that 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.

**“Broadband Recipient”** means each Person that has been determined by the CRTC from time to time to be entitled to receive payments out of the Broadband Fund part of the National Contribution Fund.

**“Bundled services”** is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Orders CRTC 2001-220 and 2001-221.

**“Business Day”** means any day of the week other than Saturday, Sunday or any other day on which banks operating in the province in which the office of the CFA administering the NCF is located are authorized by law to close.

**“Canadian Non-Telecommunications Revenues”** is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order CRTC 2001-288.

**“Canadian Telecommunications Services Revenues”** or **“CTSR”** is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order CRTC 2001-220.

**“CAV”** means Canadian Administrator of VRS (CAV), Inc., the video relay service administrator approved by the CRTC, and any successor entity that is approved by the CRTC as the video relay service administrator.

**“CFA”** means Welch Fund Administration Services Inc., the third-party administrator selected by the Consortium and designated by the Commission as administrator of the National Contribution Fund, and any replacement or successor third-party administrator of the National Contribution Fund selected by the Consortium from time to time and designated as such by the Commission pursuant to the *Telecommunications Act* (Canada).

**“CFA Payment”** means the amount payable to the CFA out of the National Contribution Fund at any time for services performed and expenses incurred by the CFA hereunder or pursuant to the contract under which the CFA is appointed, as amended from time to time, such amount to be determined as provided in such contract or in these Procedures.

**“Commission”** or **“CRTC”** means the Canadian Radio-television and Telecommunications Commission, and such term shall also include any

successor agency charged with statutory oversight of the Canadian telecommunications industry.

“**Consortium**” or “**CTCC**” means the Canadian Telecommunications Contribution Consortium Inc., a corporation incorporated under the provisions of the *Canada Business Corporations Act*, established, inter alia, to contract with, and oversee the administration of the NCFAA and of these Procedures by, the CFA.

“**Consortium Costs**” means costs and expenses incurred by the Consortium in fulfilling its mandate with respect to the NCFAA and these Procedures.

“**Contribution Payments received**” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order CRTC 2001-220.

“**Contribution-Eligible Revenues**” or “**CER**” means, with respect to each Telecommunications Service Provider (TSP), and in respect of each year, the Contribution-Eligible Revenues of such TSP calculated in accordance with Commission directives.

“**Decision 2000-745**” means *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000, and references in these Procedures and in the NCFAA to such decision shall be deemed to include, as appropriate, such decision as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“**Eligible Recipient**” means (i) each Telecommunications Service Provider that has been determined by the CRTC from time to time to be entitled to receive payments of subsidy from time to time out of the National Contribution Fund, and (ii) each Broadband Recipient.

“**Eligible Recipient Accession Agreement**” means a document by which a Person determined by the CRTC to be an Eligible Recipient shall become a party to the NCFAA, such agreement to be substantially in the form of Schedule “B” to the NCFAA.

“**First Priority Charges**” has the meaning ascribed thereto in Section 5.8.

“**Inter-Carrier Payments**” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order CRTC 2001-220.

“**Late Payment Charge**” means, with respect to any amount to which such a charge is applicable in accordance with the provisions of these Procedures, a charge equal to one percent (1%) per month (12.68% per annum) applied to the amount in question commencing on the due date of the relevant payment, compounded monthly.

“**LEC**” means a Telecommunications Service Provider that is a local exchange carrier.

**“Minimum Cash Balance”** means the amount of cash that the CTCC from time to time directs the CFA to retain at all times in the NCF bank accounts, which must never exceed the Prescribed NCF Balance and which, as of the date of CRTC approval of these Procedures, is \$500,000.

**“National Contribution Fund”** or **“NCF”** means the National Contribution Fund established by the CRTC pursuant to Decision 2000-745.

**“National Contribution Fund Administration Agreement”** or **“NCFAA”** has the meaning set out in Sections 1.1 and 1.2 of these Procedures, as may be amended from time to time.

**“Non-Canadian Revenues”** is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order CRTC 2001-220.

**“Prescribed NCF Balance”** means the balance of the NCF at any time after the processing of the Total Claims for a month as determined by the CTCC, which will promptly notify the CRTC and the CFA. The Prescribed NCF Balance as of the date of CRTC approval of these Procedures is \$10 million.

**“Payment and Receipt Advice”** means a notice in writing from the CFA to each Required Contributor pursuant to these Procedures.

**“Person”** has the same meaning as in subsection 2(1) of the *Telecommunications Act* (Canada).

**“Recalled Contribution”** has the meaning ascribed thereto in Section 5.11.

**“Related Party”** means companies that meet the definition of related companies based upon International Accounting Standard 24 of the Chartered Professional Accountants of Canada Handbook – Accounting. The minimum threshold of \$10 million in Canadian Telecommunications Services Revenues applies to the group of related companies that are Telecommunications Service Providers.

**“Required Contributor”** means each Telecommunications Service Provider (TSP) that has been determined by the CRTC from time to time to be required to contribute to the National Contribution Fund based upon such TSP’s Canadian Telecommunications Services Revenues (as defined in Order CRTC 2001-220).

**“Required Contributor Accession Agreement”** has the meaning set out in Section 1.2.

**“Revenue-Percent Charge”** means the percentage charge from time to time established by the CRTC to be applied to each Required Contributor’s Contribution-Eligible Revenues for the purpose of determining contribution payable by such Required Contributor to the National Contribution Fund.

**“Revenue-Percent Decision”** has the meaning ascribed thereto in Section 6.1.

**“Second Priority Charges”** has the meaning ascribed thereto in Section 5.8.

**“Telecommunications Service Provider”** or **“TSP”** means a “telecommunications service provider” as defined in the *Telecommunications Act* (Canada), as amended from time to time. As outlined in Decision CRTC 2000-745, paragraph 88, Telecommunications Service Providers include incumbent local exchange carriers (ILECs), alternate providers of long distance services, competitive local exchange carriers, resellers, wireless service providers, international licensees, satellite service providers, Internet service providers, payphone providers, and data and private line service providers.

**“Terminal Equipment Revenues”** is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order CRTC 2001-221 and in Telecom Decision CRTC 2005-32.

**“Total Claims”** has the meaning ascribed thereto in Section 5.10.

**“Total Operating Revenues”** is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order CRTC 2001-220.

**“Total Receipts”** has the meaning ascribed thereto in Section 5.10.

**“TSP User Manual”** means a document issued by the CFA that describes the procedures for reporting, and the functionality of the website used to report, revenue-based contribution information to the CFA.

- 2.2 In these Procedures, references to a “Person” include individuals, partnerships, associations, trusts, unincorporated organizations, corporations and any entities contemplated by Telecom Regulatory Policy CRTC 2018-377. These entities include any Canadian provincial, territorial, or municipal entity, which includes a public-sector body that is established by statute or by regulation or that is wholly owned by a Canadian provincial, territorial, or municipal government, a band council within the meaning of section 2 of the *Indian Act* (Canada), or an Indigenous (First Nations, Inuit, or Métis) government as established by a self-government agreement or a comprehensive land claim agreement.

## SECTION THREE

### 3. Becoming a Required Contributor

- 3.1 All TSPs are required to file a report with the CRTC on or before 31 March of each year, based on the financial data of the fiscal year ending in the immediate prior calendar year, in the format of the annual revenue report form contained in Appendix 1 of these Procedures or changed by the CRTC from time to time and completed in accordance with all Commission directives, policies and guidelines. Each TSP must complete an individual report and file a separate report with supporting information for each Related Party/company that is also a TSP. The CRTC can request assistance from the CFA, the CTCC and members of the Canadian telecommunications industry to identify all TSPs that fit the requirement for reporting.
- 3.2 For TSPs with total operating revenues on their financial statements of \$10 million or more, or groups of related TSPs with combined total operating revenues of \$10 million or more, their annual report is to consist of the following:
- The annual revenue report form including the calculation of Canadian Telecommunications Services Revenues and the further calculation of Contribution-Eligible Revenues. A copy of the annual revenue report form is contained in Appendix 1 of these Procedures.
  - A detailed list of Non-Contribution-Eligible Revenues and Inter-Carrier Payments. The detailed reporting information is contained in Appendix 1 of these Procedures.
  - A compliance statement to ensure the integrity of the information filed. A TSP with audited financial statements is required to have its external auditors attest to the accuracy of the information filed. A TSP that does not have audited financial statements can (i) have an external auditor attest to the accuracy of the information, or (ii) provide an affidavit signed by two officers of the company, one of the officers being the company's chief financial officer, attesting to the accuracy of the information filed.
- Audit requirements can be found in Section 7 below. A sample affidavit is contained in Appendix 2 of these Procedures.
- A copy of the TSP's audited financial statements for the immediate prior calendar year. For a TSP that does not have audited financial statements, a copy of its financial statements accompanied with an affidavit signed by two officers of the company, one of the officers being the company's chief financial officer, attesting to the accuracy of the financial statements will be accepted. A sample affidavit is contained in Appendix 2 of these Procedures.

- 3.3 For TSPs that do not meet the conditions outlined in Section 3.2 above (i.e. TSPs with Total Operating Revenues reported in financial statements of less than \$10 million and not in a group of related TSPs with combined Total Operating Revenues of \$10 million or more), their annual report is to consist of the following:
- Completion of Area A (Company information), Area B (Contact information) and Area C (Reporting year information) of the annual revenue report form. A copy of the annual revenue report form is contained in Appendix 1 of these Procedures.
  - A copy of the TSP's audited financial statements for the immediate prior calendar year. For a TSP that does not have audited financial statements, a copy of its financial statements accompanied with an affidavit signed by two officers of the company, one of the officers being the company's chief financial officer, attesting to the accuracy of the financial statements will be accepted. A sample affidavit is contained in Appendix 2 of these Procedures.
- 3.4 Following a review by the CRTC of the information provided, the CRTC will, pursuant to Decision 2000-745, determine if a TSP is a Required Contributor for the current calendar year for the purposes of the NCFAA and these Procedures. In the event that the CRTC determines that the TSP is a Required Contributor, the CRTC will notify such TSP and the CFA that such TSP is a Required Contributor for the year.
- 3.5 If the CRTC determines that a TSP is to become a Required Contributor and the TSP has not previously executed and delivered to the CFA a Required Contributor Accession Agreement, whereby such Required Contributor shall become a party to the NCFAA, such Required Contributor shall execute and deliver to the CFA such Required Contributor Accession Agreement within thirty (30) days of such determination by the CRTC.

## **SECTION FOUR**

### **4. Reporting and Payment Responsibilities of TSPs to the CFA**

- 4.1 Each TSP shall provide to the CFA the current contact information (name, telephone number, fax number and email address) of (i) the person responsible for the monthly reporting of revenue data for the purpose of calculating contribution payable by that TSP, and (ii) an alternate contact who can act as a replacement.
- 4.2 The monthly reporting shall be submitted by each Required Contributor on a consolidated basis and/or by each related company that is a TSP. Each Required Contributor that reports on a consolidated basis must advise the CRTC and the CFA of the reporting structure and shall also provide the CFA supporting reports for each Related Party/company that is also a TSP.

- 4.3 The reporting of Contribution-Eligible Revenues is to be completed on a monthly basis by all TSPs that have been identified as Required Contributors, in accordance with the NCF activity schedule established by the CFA each year pursuant to Section 5.2. The reporting will be completed through the CFA's website in accordance with the TSP User Manual and with the CRTC's approved definitions, and in the same format as the annual revenue report form contained in Appendix 1.
- 4.4 Failure to adhere to the NCF activity schedule results in additional administrative costs, is disruptive to the orderly administration of the contribution regime, and risks causing a possible delay in payments out of the NCF. Accordingly, a Required Contributor that is late with its filing may be assessed costs by the CFA of up to \$1,000 for each late filing. Assessed costs will be deposited by the CFA in the NCF bank account. In the event of persistent late filing by a Required Contributor or the continued absence of a required filing, the CFA may refer the situation to the Commission and recommend that it exercise its powers under section 24 and section 24.1 of the *Telecommunications Act* (Canada) to impose conditions on such Required Contributor relating to its continued offering and supply of telecommunications services.
- 4.5 If a Required Contributor does not adhere to the NCF activity schedule, the CFA may, in addition to assessing costs as provided in Section 4.4, estimate the Contribution-Eligible Revenues for that Required Contributor. The estimate will be based on that Required Contributor's most recent contribution filing. The other sections of these Procedures continue to apply to a Required Contributor that has had its contribution estimated by the CFA, as if that contribution were based on data actually filed by that Required Contributor.
- 4.6 If an adjustment for a previous reporting period in the current year is deemed necessary by a Required Contributor, the Required Contributor will report the adjustment on a separate monthly reporting form (see the TSP User Manual). The CFA, on receipt of a revision to CER, will process the revision as follows:
- a) If the revision results in an increase in CER, the CFA will process the revision.
  - b) If the revision results in CER that is reduced by \$50 million or less, and by 20% or less of the Required Contributor's CER for the immediately preceding data year, the CFA will process the revision.
  - c) If the revision results in CER that is reduced by over \$50 million, or by more than 20% of the Required Contributor's CER for the immediately preceding data year (unless the reduction is less than \$10,000, in which case the CFA will process the revision), the CFA will refer the revision to the CRTC for approval and not process the revision until it is approved by the CRTC.

The CFA will aggregate the adjustment with the current reporting period for inclusion in the National Contribution Fund. No Late Payment Charges or penalties will be assessed with the reporting of adjustments that either (i) are completed within six (6) months of the period being adjusted, or (ii) have an impact of less than one percent (1%) on the National Contribution Fund for the affected month. In the event that the adjustment is completed in a subsequent year, the payment will be calculated at the rate that was in effect in the month in which the payment was due.

- 4.7 If an additional contribution or other charges for a prior reporting period are payable, the related cash adjustment is due on the next contribution payment date. If a single payment in respect of an adjustment would cause undue financial hardship to a Required Contributor, the Required Contributor may request that the CFA negotiate a deferred payment arrangement in respect of the adjustment and propose it to the CTCC for approval. The CFA may not disclose the identity of the Required Contributor to the CTCC without the expressed permission of the Required Contributor that is requesting deferred payments. In no circumstances may the deferred payment term exceed twelve months. Interest of 12% per annum will be added to the deferred payments, calculated in the manner described in the NCFAA. Deferred payments become contribution payable on the agreed date; if not paid on the agreed date, the Required Contributor will be deemed to be a Defaulting Contributor for the purpose of Section 4.9 of these Procedures. For greater certainty, the deferral of contribution payments and other charges for a prior reporting period is an accommodation that may be extended to a Required Contributor and is not a right of a Required Contributor. If a deferred payment schedule is not agreed to, or not accepted by the CTCC, then the entire adjustment is payable on the next contribution payment date.
- 4.8 Payments due to the National Contribution Fund will be transferred to the CFA in accordance with the process in the TSP User Manual and in accordance with the NCF activity schedule established by the CFA each year pursuant to Section 5.2.
- 4.9 If a Required Contributor fails to pay the CFA the amount required to be paid by it, in full and by the relevant due date or within two (2) Business Days thereafter (a “**Defaulting Contributor**”), the CFA shall do the following:
  - a) Make all reasonable efforts to advise the Defaulting Contributor that it has failed to make the required payment on the due date. A Late Payment Charge will be added to the amount unpaid, and payment of the overdue amount is due immediately.
  - b) If after three months, a Defaulting Contributor fails to pay the amounts due or is otherwise unresponsive to communications from the CFA, the CFA will inform the Defaulting Contributor that the obligation to pay is imposed on the Defaulting Contributor under subsection 46.5(1) of the *Telecommunications Act* (Canada) and that continued failure to pay the amount due or failure to be responsive to the CFA’s communications will

result in the matter being referred to the CRTC for further action.

- c) If there has been no satisfactory response one month after the Defaulting Contributor has been informed pursuant to b) above, the CFA will advise the CRTC that the Defaulting Contributor has failed to rectify its default and request that the CRTC take such action as it deems appropriate.

## **SECTION FIVE**

### **5. Responsibilities of the CFA**

- 5.1 The CFA is responsible for the operation of the National Contribution Fund, established by the CRTC pursuant to Decision 2000-745, in accordance with its contract with the CTCC.
- 5.2 The CFA will establish a list of dates by 10 January of each year for the reporting of data and the receipt and disbursement of funds to and from the National Contribution Fund as follows:
  - Reporting of Contribution-Eligible Revenues: on the 28<sup>th</sup> day of the following month;
  - The CFA's calculation of payments to recipients and amounts due to the NCF from Required Contributors: previous line + 8 Business Days;
  - Required Contributors pay amounts due to the NCF: previous line + 7 Business Days;
  - The CFA pays Eligible Recipients and the CAV: previous line + 4 Business Days.

The CFA may make payments to Eligible Recipients and the CAV earlier than the due date.

- 5.3 The CFA will establish and maintain a website for the reporting of all data related to the operation of the National Contribution Fund.
- 5.4 The CFA will prepare and maintain a TSP User Manual giving detailed instructions relating to the reporting of data and payments to and from the National Contribution Fund.
- 5.5 The CFA will maintain accurate records related to the operation of the NCF.
- 5.6 The CFA will deposit contribution monies received, together with any other monies received that relate to the operation of the National Contribution Fund (e.g. interest, penalties and Late Payment Charges), in the bank accounts specified in the Bank Direction Documents and will record all such monies to the credit of the National Contribution Fund.
- 5.7 The CFA is authorized to deduct from the National Contribution Fund the CFA Payment as and when the CFA Payment is payable to the CFA. The CFA

will also, from time to time, pay the Consortium Costs to the Consortium from the National Contribution Fund upon receipt by the CFA of a certificate from an officer of the Consortium stating the amount and nature of the Consortium Costs in respect of the period specified in such certificate.

5.8 The CFA Payments and the Consortium Costs are the first priority for payments from the NCF (the “**First Priority Charges**”). After the First Priority Charges for a month have been paid in full, the following are collectively and on a pro rata basis the second priority for payments from the NCF (the “**Second Priority Charges**”):

- a) payments to the CAV as prescribed by the CRTC;
- b) subsidy payments to Northwestel Inc. as prescribed by the CRTC;
- c) subsidy payments to the small ILECs as prescribed by the CRTC;
- d) payments to Broadband Recipients as prescribed by the CRTC for the current month; and
- e) payment of the balance of unpaid Total Claims from prior months pursuant to Section 5.11.

5.9 For each month, the CFA will determine the following amounts in accordance with this Section 5 and provide an invoice to each Required Contributor identifying such amounts:

- a) the amount to be paid to the National Contribution Fund;
- b) the amount to be paid by the National Contribution Fund to the Required Contributor for subsidy or Broadband Fund disbursements, if any;
- c) the amount of Uncalled Contribution (as defined in Section 5.11) at the beginning of the month;
- d) the amount of Uncalled Contribution being recalled;
- e) the amount of Uncalled Contribution at the end of the month; and
- f) the date on which payment is due to the National Contribution Fund.

5.10 The CFA will determine in each month the total amount of contribution to be received from the Required Contributors in that month based on the Revenue-Percent Charge (collectively, the “**Total Receipts**”) and the total amount of the First Priority Charges, the Second Priority Charges and all amounts payable to the ILECs as subsidy that are not included in the Second Priority Charges for that month (collectively, the “**Total Claims**”).

5.11 Each month, the CFA will recall contribution, record Uncalled Contribution and pay Total Claims as follows:

- a) The amount by which the aggregate amount of Available Cash at the

beginning of a month plus Total Receipts exceeds the aggregate amount of Total Claims plus the Prescribed NCF Balance will be recorded as “**Uncalled Contribution**”.

- b) If the aggregate amount of Total Claims plus the Prescribed NCF Balance is more than the aggregate amount of Available Cash plus Total Receipts, the CFA will invoice the Required Contributors for Uncalled Contribution to receive an additional amount (the “**Recalled Contribution**”) sufficient to (i) pay the Total Claims, and (ii) achieve the Prescribed NCF Balance after the Total Claims have been paid.
- c) If, after the Required Contributors’ deadline for the payment of Total Receipts and Recalled Contribution has passed, the Total Claims are equal to or less than the amount of Available Cash, the CFA will pay in full the Total Claims for that month.
- d) If, after the Required Contributors’ deadline for the payment of Total Receipts and Recalled Contribution has passed, the Available Cash is less than the Total Claims, but is equal to or in excess of the aggregate of the First Priority Charges and the Second Priority Charges, the CFA will pay in full the First Priority Charges and the Second Priority Charges for that month.
- e) If, after the Required Contributors’ deadline for the payment of Total Receipts and Recalled Contribution has passed, the Available Cash is less than the aggregate of the First Priority Charges and the Second Priority Charges but equal to or greater than the First Priority Charges, the CFA will pay in full the First Priority Charges for that month and pay the same percentage of each of the Second Priority Charges as the remaining Available Cash permits.
- f) After the Required Contributor’s deadline for the payment of Total Receipts and Recalled Contribution has passed and the First Priority Charges and Second Priority Charges have been paid for a month, subsidy payments to the remaining ILECs for the current period will be made only to the extent that there is sufficient Available Cash, and will be apportioned by reducing the amount payable to each of these ILECs in proportion to the overall deficit.

For greater clarity, the calculation is represented as follows:

Payments due X Remaining Available Cash = Amount payable

Total amount payable

- g) Any amount of unpaid Total Claims becomes a Second Priority Charge for the following month.
- h) For any situation not envisaged in this Section 5.11, the CFA will ask the CTCC for guidance.

- 5.12 On or before the prescribed date, the CFA will distribute the amounts due to the Eligible Recipients in accordance with the payment procedures set forth in the TSP User Manual and, in the case of Broadband Recipients and the CAV, as prescribed by the CRTC.
- 5.13 An Eligible Recipient may direct the CFA to distribute the amounts payable to the Eligible Recipient to another Person provided that the Eligible Recipient completes a Payment Direction in the form set out in Appendix 3 that is signed by both the chief executive officer and the chief financial officer of the Eligible Recipient (or, if the Eligible Recipient has no chief executive officer or chief financial officer, the person performing functions that are similar to the functions performed by a chief executive officer or a chief financial officer, as the case may be). The CFA will comply with the Payment Direction provided that a duly executed original of the Payment Direction is received by the CFA and the Consortium at least 15 Business Days prior to the next prescribed date for distribution of a payment to the Eligible Recipient.
- 5.14 An Eligible Recipient that has delivered a Payment Direction to the CFA may revoke the Payment Direction by completing a Revocation of Payment Direction in the form set out in Appendix 4 that is signed by both the chief executive officer and the chief financial officer of the Eligible Recipient (or, if the Eligible Recipient has no chief executive officer or chief financial officer, the person performing functions that are similar to the functions performed by a chief executive officer or a chief financial officer, as the case may be). The CFA will comply with the Revocation of Payment Direction and resume distribution of subsidy amounts directly to the Eligible Recipient provided that a duly executed original of the Revocation of Payment Direction is received by the CFA and the Consortium at least 15 Business Days prior to the next prescribed date for distribution of a payment to the Eligible Recipient.
- 5.15 The CFA will provide monthly a report to the CRTC of the Required Contributors that fail to report or pay by the due date. Further, the CFA will provide a report to the chief financial officer of the CTCC of the Required Contributors that fail to report or pay within 15 Business Days of the due date. Upon the occurrence of a Required Contributor not reporting or paying by the due date, the CFA will proceed, with the direction of the CTCC, in accordance with the relevant provisions of the NCFAA.
- 5.16 Late payments to the NCF will be subject to Late Payment Charges applied to any amounts in default commencing on the relevant due date and compounded monthly. Late Payment Charges received by the CFA will be processed through the NCF in the month in which the charges are received. The CFA may, at its own discretion, waive a Late Payment Charge otherwise payable by a TSP, provided that the overdue payment is made within three Business Days of its due date.
- 5.17 The CFA will hold all information received by it pursuant to these Procedures in confidence in accordance with the provisions of the NCFAA. Notwithstanding this, the CFA will report the following to the CRTC, the

CTCC and the Required Contributors on a total basis for the entire National Contribution Fund:

- the amount of surplus or deficit;
- the total of the revenues and deductions from revenues prescribed by the CRTC on the reporting form for the calculation of Contribution-Eligible Revenues;
- total contribution into the NCF;
- total expenses of the NCF (including the CFA service fee, CFA administration expenses and CTCC expenses);
- total disbursements to those companies that are entitled to a predetermined amount of subsidy;
- total disbursements to Eligible Recipients that receive a subsidy payment;
- payments to the CAV; and
- total disbursements to Broadband Recipients from the NCF.

The CFA may also report to the CRTC, in confidence, any information requested by the CRTC.

5.18 The CFA may also, on its own initiative, report the following in confidence to the CRTC and/or to the chief financial officer of the CTCC:

- any apparent discrepancy in the information reported to it; and
- any situation where information has not been reported that might reasonably be expected to have been reported.

5.19 The CFA will, on its own initiative, request from the CTCC clarification of issues related to the following:

- the overall and correct operation of the NCF; and
- the reporting of any apparent discrepancy in the operation of the NCF.

5.20 The CFA will report to the CRTC, on a quarterly basis, the status of the National Contribution Fund.

5.21 At the end of each calendar year, the CFA will identify to each Required Contributor its share of the operating expenses, GST/HST, interest earned, and miscellaneous items (e.g. Late Payment Charges) related to the operation of the NCF. The allocation of each of these items to a Required Contributor will be determined by multiplying each item by that Required Contributor's total contribution payments for the year and dividing by the total contribution payments by all Required Contributors for that year. The remainder of a Required Contributor's contribution will be deemed to be

contribution to the NCF for the purpose of disbursement by the CFA to Eligible Recipients and the CAV. The CFA will provide a report to each Required Contributor of the allocation of its payments into the NCF between operating expenses, GST/HST, interest earned, miscellaneous items and contribution to the NCF for the purpose of disbursement.

## **SECTION SIX**

### **6. Changes to the Revenue-Percent Charge**

- 6.1 The CRTC will, from time to time and pursuant to Decision 2000-745, determine and announce in a decision (the “**Revenue-Percent Decision**”) a final Revenue-Percent Charge.
- 6.2 The CFA will provide to each Required Contributor a calculation of the adjustment to the amount paid by such Required Contributor for the period from the beginning of the year to the month immediately prior to the implementation of the new Revenue-Percent Charge for the year.
- 6.3 The CFA will process the changes directed by the CRTC as soon as reasonably possible and in any case within 45 calendar days of a Revenue-Percent Decision. The CFA will advise TSPs of the dates on which these adjustments will be processed. In the event of an exceptional circumstance such that the CFA is unable to process the changes within 45 calendar days, the CFA may apply to the CTCC for an extension, giving the reasons for such extension. If the CTCC agrees to an extension, the CFA will then have the extended period in which to process the adjustments.
- 6.4 To ensure the orderly administration of the NCF and the implementation of the Revenue-Percent Decision, and to ensure that no TSP gains an unfair advantage, a TSP may not deduct the adjustment from its contribution payment prior to the adjustment being posted to its account by the CFA. Changes to the amount payable by a TSP prior to the dates announced by the CFA will be considered a default.

## **SECTION SEVEN**

### **7. Audit and Affidavit Requirements of TSPs to the NCF Auditor**

- 7.1 Each Required Contributor shall file a report with the Auditor of the National Contribution Fund on or before 31 May of each year, showing the total Contribution-Eligible Revenues for the immediate prior calendar year, in the same format as that used for the filing of this information on a monthly basis, together with the audit report described in Section 7.2.
- 7.2 Required Contributors with \$200 million or more in annual Contribution-Eligible Revenues, measured on a consolidated basis with TSPs that are Related Parties of the Required Contributor, are required to file an audit report with the Auditor attesting to the accuracy of the information provided. Required Contributors with less than \$200 million in annual

Contribution-Eligible Revenues, measured on a consolidated basis with TSPs that are Related Parties of the Required Contributor, may file with the Auditor an affidavit signed by two officers of the Required Contributor, one of those officers being the chief financial officer (or equivalent in the absence of a chief financial officer), attesting to the accuracy of the information provided.

- 7.3 Audit reports will be prepared by an external auditor in accordance with the Generally Accepted Auditing Standards as defined by the Chartered Professional Accountants of Canada and be based on either Section 805 of the Canadian Auditing Standards or Section 9100 of the Chartered Professional Accountants of Canada Handbook – Assurance. If a reporting TSP is incorporated in a country other than Canada, the audit should be conducted in accordance with the applicable auditing standards of that country.
- 7.4 This audit report, or affidavit, is to be on a non-consolidated basis, but a related group of TSPs may file on a consolidated basis. If the audit report or affidavit is filed on a consolidated basis, it must be accompanied by an individual report for each TSP subject to the contribution regime established by the CRTC in Decision 2000-745.
- 7.5 The TSP's auditor will give its opinion on whether the annual report of Contribution-Eligible Revenues is presented fairly and in accordance with the definitions approved by the CRTC for the preparation of these reports.
- 7.6 A sample affidavit is contained in Appendix 2 of these Procedures.
- 7.7 Failure to adhere to the filing dates for audited financial information and affidavits causes additional administrative costs, is disruptive to the orderly administration of the contribution regime and risks the loss of contribution that otherwise would be due. Accordingly, upon being informed by the NCF Auditor that a Required Contributor is late with such filing, the CFA may assess such Required Contributor costs of up to \$1,000 per month. Assessed costs will be deposited by the CFA in the bank account of the National Contribution Fund. In the event of persistent late filing or the continued absence of a required filing by a Required Contributor, the NCF Auditor will refer the situation to the CTCC, which may then recommend to the Commission that it exercise its powers under section 24 and section 24.1 of the *Telecommunications Act* (Canada) to impose conditions on such Required Contributor relating to its continued offering and supply of telecommunications services.

# Appendix 1

## CRTC REVENUE-BASED CONTRIBUTION REGIME

### ANNUAL REVENUE REPORT FORM FOR THE CALCULATION OF CONTRIBUTION- ELIGIBLE REVENUES

#### **Area A: Company identification**

- A.1 Legal name of entity
- A.2 Name under which the telecommunications service provider (TSP) carries on business
- A.3 List of related TSPs (provide separate list if required)

#### **Area B: Contact information**

- B.1 Person who completed this form
- B.2 Title of position
- B.3 Telephone number
- B.4 Fax number
- B.5 Email address

#### **Area C: Reporting year information – Attach copy of relevant financial statements**

- C.1 Reporting year
- C.2 Fiscal year end

#### **Area D: Calculation of Contribution-Eligible Revenues**

- D.1.A Total Operating Revenues reported in financial statements
- D.1.B Add deductions from revenues
- D.1 Total Operating Revenues for contribution purposes

LESS

- D.2 Non-Canadian Revenues
- D.3 Canadian Non-Telecommunications Revenues
- D.4 Subtotal: Canadian Telecommunications Services Revenues (D.1 - D.2 - D.3)

LESS

- D.5 Contribution Payments received
- D.6 Inter-Carrier Payments
- D.7 [Not used]<sup>4</sup>
- D.8 [Not used]<sup>5</sup>
- D.9 Terminal Equipment Revenues
- D.10 Non-Contribution-Eligible Revenues eliminated from those bundles to which both contribution-eligible and non-eligible revenues are attributed
- D.11 Subtotal (D.5 + D.6 + D.7 + D.8 + D.9 + D.10)

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<sup>4</sup> Under the Broadband Fund, Retail Internet Service Revenues are no longer deductible.

<sup>5</sup> Under the Broadband Fund, Retail Paging Service Revenues are no longer deductible.

ADD

D.12 Contribution-Eligible Revenues on package discounts

D.13 Total: Contribution-Eligible Revenues (D.4 - D.11 + D.12)

## **CRTC REVENUE-BASED CONTRIBUTION REGIME**

### **REPORTING FORM FOR NON-CONTRIBUTION-ELIGIBLE REVENUES**

Provide details of Non-Canadian Revenues claimed on Line D.2, Canadian Non-Telecommunications Revenues claimed on Line D.3 and Non-Contribution-Eligible Revenues removed from bundles claimed on Line D.10 of the Annual Revenue Report Form.

Note: Not required to be filed monthly with the Central Fund Administrator.

- Annual Revenue Report Form line number
- Type of service/product
- Associated revenues
- Total by Annual Revenue Report Form line number

Signature \_\_\_\_\_

Date \_\_\_\_\_

## **CRTC REVENUE-BASED CONTRIBUTION REGIME**

### **REPORTING FORM FOR INTER-CARRIER PAYMENTS**

Provide the following details of the Inter-Carrier Payments claimed on Line D.6 of the Annual Revenue Report Form. Include additional forms as required.

- Supplier
- Services purchased
- Expense
- Total

Note: Not required to be filed monthly with the Central Fund Administrator.

Signature \_\_\_\_\_ Date \_\_\_\_\_

## Appendix 2

### SAMPLE AFFIDAVIT

#### IN THE MATTER OF REPORTING OF CONTRIBUTION-ELIGIBLE REVENUES FOR THE PURPOSE OF CALCULATING CONTRIBUTION UNDER DECISION CRTC 2000-745

I, \_\_\_\_\_ (individual's name), OF THE  
\_\_\_\_\_ (City/Town, etc.) OF \_\_\_\_\_  
MAKE OATH AND SAY AS FOLLOWS:

1. I have personal knowledge of the matters hereinafter deposed to except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. As of the date of this Affidavit, I am \_\_\_\_\_ (corporate title) of the telecommunications service provider (TSP) \_\_\_\_\_ (provide legal name of corporation), a company that carries on business as \_\_\_\_\_ (where applicable).
3. Attached as Exhibit(s) 'X' to this affidavit is the Annual Revenue Report Form, and supporting financial information and reports, of (legal name of TSP) filed with the Commission in accordance with its obligations pursuant to Decision CRTC 2000-745.
4. The Annual Revenue Report Form and supporting financial information and reports, attached as Exhibit(s) 'X', are in compliance with the determinations, procedures and guidelines of the Canadian Radio-television and Telecommunications Commission (CRTC) as set out in Decision CRTC 2000-745, Orders CRTC 2001-220 and 2001-221, Telecom Decision CRTC 2002-35, and any other subsequent procedures or directions issued or approved by the CRTC from time to time.
5. The information contained in Exhibit(s) 'X' is accurate and true.

SWORN BEFORE ME

at the City of \_\_\_\_\_ in the Province of \_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ 20XX.

\_\_\_\_\_  
(Signature of affiant)

\_\_\_\_\_  
(a Commissioner, etc.)

AFFIDAVIT NOTE: All TSPs filing unaudited financial statements must provide an affidavit signed by two officers of the company, with one being the chief financial officer.

### Appendix 3

#### PAYMENT DIRECTION

To: Welch Fund Administration Services Inc. (the “CFA”)  
123 Slater Street  
Ottawa ON K1P 5H2

And to: Canadian Telecommunications Contribution Consortium Inc. (“CTCC”)  
c/o Fasken Martineau DuMoulin LLP  
Suite 1300, 55 Metcalfe Street  
Ottawa ON K1P 6L5

Reference is made to Sections 5.13 and 5.14 of the Procedures for the Operation of the National Contribution Fund (the “Procedures”). Capitalized terms defined in the Procedures are used in this Payment Direction with the same corresponding defined meanings.

The undersigned, being an Eligible Recipient, hereby authorizes and directs the CFA, pursuant to Section 5.13 of the Procedures, to distribute the subsidy amounts payable to the undersigned to \_\_\_\_\_ (the “Beneficiary”) at the following bank account of the Beneficiary:

Name of Bank:

Address of Bank:

\_\_\_\_\_

Swift Code:

Bank Number:

Transit Number:

Account Number:

And this shall be the CFA’s full and sufficient authority to do so.

The undersigned agrees to indemnify, defend and hold harmless the CFA and the CTCC from and against any and all liabilities, claims, damages, losses, costs and expenses arising directly or indirectly out of the CFA acting in accordance with this Payment Direction.

**DATED** \_\_\_\_\_

\_\_\_\_\_  
[Name of Eligible Recipient]

By: Chief Executive Officer

By: Chief Financial Officer

## Appendix 4

### REVOCATION OF PAYMENT DIRECTION

To: Welch Fund Administration Services Inc. (the "CFA")  
123 Slater Street  
Ottawa ON K1P 5H2

And to: Canadian Telecommunications Contribution Consortium Inc. ("CTCC")  
c/o Fasken Martineau DuMoulin LLP  
Suite 1300, 55 Metcalfe Street  
Ottawa ON K1P 6L5

Reference is made to Sections 5.13 and 5.14 of the Procedures for the Operation of the National Contribution Fund (the "**Procedures**"). Capitalized terms defined in the Procedures are used in this Payment Direction with the same corresponding defined meanings.

The undersigned, being an Eligible Recipient that had previously delivered a Payment Direction to the CFA pursuant to Section 5.13 of the Procedures dated \_\_\_\_\_ (the "**Payment Direction**") to distribute the subsidy amounts payable to the undersigned to \_\_\_\_\_ (the "**Beneficiary**"), hereby revokes the Payment Direction pursuant to Section 5.14 of the Procedures.

And this shall be the CFA's full and sufficient authority to cease distributing the subsidy amounts payable to the undersigned to the Beneficiary in accordance with Section 5.14 of the Procedures.

The undersigned agrees to indemnify, defend and hold harmless the CFA and the CTCC from and against any and all liabilities, claims, damages, losses, costs and expenses arising directly or indirectly out of the CFA acting in accordance with this Revocation of Payment Direction.

**DATED** \_\_\_\_\_

\_\_\_\_\_  
[Name of Eligible Recipient]

By: Chief Executive Officer

By: Chief Financial Officer