



Telecom Notice of Consultation CRTC 2020-269

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Ottawa, 14 August 2020

Public record: 1011-NOC2020-0269

Call for comments – Imposition of administrative monetary penalties on Iristel Inc. and TELUS Communications Inc. in relation to the routing and termination of phone calls to the 867 area code in Northern Canada

Deadline for submission of interventions: 14 September 2020

[\[Submit an intervention or view related documents\]](#)

In Telecom Decision 2020-268, the Commission concluded that both Iristel Inc. (Iristel) and TELUS Communications Inc. (TCI) had violated subsection 27(2) of the Telecommunications Act in relation to the routing and termination of phone calls to the 867 area code in Northern Canada.

The Commission hereby invites interested persons to comment on whether it is appropriate to impose administrative monetary penalties (AMPs) on Iristel and on TCI and, if so, what the appropriate AMP amount would be on each company.

The Commission states the preliminary view that it would be appropriate to impose AMPs on both Iristel and TCI, and that a penalty in the range of \$750,000 to \$1,250,000 may be appropriate for each company.

Background

1. In Telecom Decision 2017-456, the Commission found that calls from Rogers Communications Canada Inc.'s (RCCI) customers to AudioNow's Call-to-Listen service¹ were ultimately being routed extremely inefficiently by Iris Technologies Inc. (Iris Technologies) and Iristel Inc. (Iristel) to Virginia via the 867 numbering plan area (NPA). The Commission determined, among other things, that this inefficient routing of traffic within the forborne toll interconnection regime was not consistent with the telecommunications policy objectives set out in section 7 of the *Telecommunications Act* (the Act).
2. In Telecom Decision 2017-456, the Commission also found that Iris Technologies and Iristel had granted themselves an undue preference and had subjected RCCI to an undue disadvantage, contrary to subsection 27(2) of Act.

¹ AudioNow's Call-to-Listen service was providing free, real-time access to international and other radio services. AudioNow has since been sold and now operates as ZenoRadio.

3. In Telecom Decision 2020-268, issued concurrently with this notice of consultation, the Commission again found that Iristel was granting itself an undue advantage by using calls to 867 NPA telephone numbers, which were then routed to the United States or other distant locations, to generate higher revenues from the high toll termination charge in effect. This subjected the interexchange carriers carrying those calls to an unreasonable disadvantage, contrary to subsection 27(2) of the Act.
4. In that decision, the Commission also found that in reducing the capacity of certain toll circuits, TCI had unjustly discriminated against Iristel, Iristel's customers, and TCI's own customers, contrary to subsection 27(2) of the Act. Because of TCI's actions, some TCI end-users who were placing calls to 867 NPA telephone numbers were unable to have their calls completed.
5. Accordingly, because of its findings that Iristel and TCI had violated subsection 27(2) of the Act, the Commission is initiating a separate proceeding to consider the appropriateness of imposing AMPs on them for the violations.

General administrative monetary penalties scheme

6. Section 72.001 of the Act states the following:

Every contravention of a provision of this Act, other than section 17 or 69.2, every contravention of a regulation or decision made by the Commission under this Act, other than a prohibition or a requirement of the Commission made under section 41, and every contravention of any of subsections 51(1) to (4) and (7), 52(1) to (3) and 53(1) to (3) and (6) of the *Accessible Canada Act* constitutes a violation and the person who commits the violation is liable

- (a) in the case of an individual, to an administrative monetary penalty not exceeding \$25,000 and, for a subsequent contravention, a penalty not exceeding \$50,000; or
- (b) in any other case, to an administrative monetary penalty not exceeding \$10,000,000 and, for a subsequent contravention, a penalty not exceeding \$15,000,000.

7. Subsection 72.002(1) of the Act states the following:

The amount of the penalty is to be determined by taking into account the following factors:

- (a) the nature and scope of the violation;
- (b) the history of compliance with this Act, the regulations or the decisions made by the Commission under this Act, by the person who committed the violation;
- (c) any benefit that the person obtained from the commission of the violation;

- (d) the person's ability to pay the penalty;
 - (e) any factors established by any regulations; and
 - (f) any other relevant factor.
8. Subsection 72.002(2) of the Act states that the purpose of the penalty is to promote compliance with the Act, the regulations, or the decisions made by the Commission under the Act, and not to punish.

Call for comments

9. In light of the above, the Commission initiates a proceeding and invites submissions on whether it is appropriate to impose AMPs on Iristel and on TCI and, if so, what the appropriate amount of the AMP on each company would be.
10. The Commission is of the preliminary view that it would be appropriate to impose AMPs on both Iristel and TCI, and that a penalty in the range of \$750,000 to \$1,250,000 may be appropriate for each company. This view is informed by the above-noted factors, but in particular, by the impact of TCI's actions on end-users and by Iristel's history of non-compliance with subsection 27(2) of the Act in respect of the termination of calls in the 867 NPA.
11. In their interventions, parties should provide supporting rationale and all evidence on which they rely to formulate their position by addressing, among other things
- (i) the criteria for a penalty, set out in subsection 72.002(1) of the Act, and
 - (ii) subsection 72.002(2) of the Act.

Procedure

12. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the content, format, filing, and service of interventions, answers, replies, and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website at www.crtc.gc.ca, under "[Statutes and regulations.](#)" The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
13. Iristel and TCI are made parties to this proceeding and may file interventions with the Commission by **14 September 2020**.
14. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **14 September 2020**. The intervention must be filed in accordance with section 26 of the Rules of Procedure.

15. Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a [template](#) for the accompanying cover letter to be filed by parties, can be found in Telecom Information Bulletin 2011-693.
16. All documents required to be served on parties to the proceeding must be served using the contact information contained in the interventions.
17. Iristel and TCI may file replies to interventions with the Commission by **29 September 2020**. Each company's reply must address only the record related to it and not to the other company.
18. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website at www.crtc.gc.ca, for additional information that they may find useful when preparing their submissions.
19. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
20. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that enable text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
21. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax to
819-994-0218

22. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed or served. The Commission advises parties who file or serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.

23. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
24. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

Important notice

25. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes all personal information, such as full names, email addresses, postal/street addresses, and telephone and fax numbers.
26. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
27. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
28. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

29. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at www.crtc.gc.ca by using the public record number provided at the beginning of this notice or by visiting the "Consultations and hearings – Have your say!" section, then selecting "our applications and processes that are open for comment." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.
30. Documents are also available at the following address, upon request, during normal business hours.

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Toll-free telephone: 1-877-249-2782
Toll-free TTY: 1-877-909-2782

Secretary General

Related documents

- *Applications by Iristel Technologies Inc. and TELUS Communications Inc. regarding the routing and termination of telecommunications traffic to the 867 area code in Northern Canada*, Telecom Decision CRTC 2020-268, 14 August 2020
- *Iris Technologies Inc. and TELUS Communications Inc. – Applications for interim relief regarding the termination of traffic to certain 867 numbering plan area telephone numbers*, Telecom Decision CRTC 2018-432, 23 November 2018
- *Rogers Communications Canada Inc. – Allegation of traffic stimulation by Iris Technologies Inc. and Iristel Inc.*, Telecom Decision CRTC 2017-456, 20 December 2017
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010