



Telecom Notice of Consultation CRTC 2021-102-3

PDF version

References: 2021-102, 2021-102-1, and 2021-102-2

Ottawa, 14 March 2022

Public record: 1011-NOC2021-0102

Call for comments – Review of video relay service – Requests for disclosure of certain information filed in confidence and changes to procedure

Revised deadline for submission of interventions: 16 May 2022

Revised deadline for submission of replies: 11 July 2022

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

Introduction

1. On 11 March 2021, the Commission published Telecom Notice of Consultation 2021-102, in which it initiated a public proceeding to review video relay service (VRS).
2. The Canadian Administrator of VRS (CAV), Inc. (CAV) was made a party to the proceeding and, on the same day, was asked to respond to a number of questions set out in a request for information (RFI) letter as part of Telecom Notice of Consultation 2021-102.
3. On 26 April 2021, following the receipt of several procedural requests to extend the deadlines associated with Telecom Notice of Consultation 2021-102, the Commission issued Telecom Notice of Consultation 2021-102-1, in which it extended deadlines.
4. On 30 June 2021, following requests for disclosure of information filed as confidential by the CAV (hereafter, requests for disclosure) and requests for additional extensions to the deadlines, the Commission issued Telecom Notice of Consultation 2021-102-2, in which it suspended the proceeding until further notice. At that time, the Commission stated its intention to issue a single, updated notice that would, among other things, address all of the procedural requests.
5. In this amendment to Telecom Notice of Consultation 2021-102, the Commission set out its determinations on the following five issues:
 - reinstating the proceeding and setting out new deadlines
 - adding virtual discussions to the proceeding

- requests for disclosure
- modifying question 11 of Telecom Notice of Consultation 2021-102 regarding the CAV's annual budget process
- placing a research report on the public record

Reinstating the proceeding and setting out new deadlines

6. The Canadian Deaf-Blind Collective filed a procedural letter on 4 June 2021 requesting that the intervention deadline be extended from 5 July 2021 to 8 September 2021 so that it could complete a survey of Deaf-Blind community members and submit a report of the findings on the record of the proceeding.
7. Subsequently, on 30 July 2021, the Deafness Advocacy Association Nova Scotia, Newfoundland and Labrador Association of the Deaf, and Ontario Association of the Deaf (collectively, the DHH [Deaf and Hard of Hearing] Coalition) filed a procedural request asking that the Commission set the same time periods that were set out in Telecom Notice of Consultation 2021-102-1:
 - an interval of 49 days between the disclosure of the CAV's documents and the deadline for interventions
 - an interval of 56 days from the end of the intervention period to the deadline for replies
8. The DHH Coalition's request was supported by the Canada Deaf Grassroots Movement, H3 Network Media Alliance, Ontario Video Relay Services Committee-Comité Ontarien des Services de Relais Vidéo (OVRSC-COSRV), and the Toronto Association of the Deaf.
9. Given the suspension of the proceeding, the Commission considers that the Canadian Deaf-Blind Collective has had sufficient opportunity to complete its survey and create a report for submission on the record.
10. Taking into consideration that the DHH Coalition's request was supported by several accessibility advocacy groups, that it received no objections, and that no issues were raised regarding the time periods set out in Telecom Notice of Consultation 2021-102-1, the Commission hereby reinstates the current proceeding and sets out the following new deadlines for the proceeding that reflect those proposed by the DHH Coalition:
 - Intervention deadline: **16 May 2022**
 - Reply comments: **11 July 2022**

Adding virtual discussions to the proceeding

11. The Commission will be adding virtual discussions to the proceeding to ensure VRS users have a fulsome opportunity to communicate their experience with using the service. The discussions will be held in English and American Sign Language (ASL) as well as in French and Langue des signes québécoise (LSQ). The discussions will also be displayed in Communication Access Realtime Translation (CART). These discussions will provide the Commission with a better understanding of VRS users' needs, whether the service is meeting those needs, and how it can be improved.

When will the virtual discussions be held?

12. The virtual discussions will take place after the deadline for the reply phase.

Who can participate in the virtual discussions?

13. Only parties who file an intervention indicating that they wish to participate in the virtual discussions will be able to participate. The Commission will accept interventions in writing or in sign language.
14. If a party has already submitted an intervention and would like to participate in the virtual discussions, they must submit a new intervention expressing that they wish to participate in the discussions. Their original intervention does not need to be resubmitted but will remain part of the record.

How will participants find out the dates for the virtual discussions?

15. After the deadline for the intervention phase, Commission staff will contact parties that expressed an interest in participating in the virtual discussions to provide them with more detailed information on how to participate.

Will there be a transcript of the virtual discussions?

16. The virtual discussions, which will include real-time interpretation in English, French, ASL, LSQ, and CART, will be recorded, and the recordings will be considered video transcripts of the discussions. The video transcripts will be posted to the Commission's YouTube channel, added to the public record of this proceeding, and posted on the Commission's website.

Will there be an opportunity to comment on the virtual discussions?

17. The Commission intends to provide parties with an opportunity to make final replies to allow all parties to comment on the discussions. The deadline for final replies will be set after the virtual discussions have been completed.

Requests for disclosure

18. The Commission received two requests for disclosure following receipt of the CAV's responses to the Commission's RFIs.

19. On 15 June 2021, the OVRSC-COSRV filed a request for disclosure asking that all of the evidence the CAV filed in confidence be disclosed. The OVRSC-COSRV submitted that withholding the confidential information would impact the quality of interventions for a number of questions posed in Telecom Notice of Consultation 2021-102.
20. On 30 July 2021, the DHH Coalition also filed a request for disclosure. They stated that abridged answers prevent the DHH Coalition and other parties from providing a complete and fulsome record.
21. The CAV responded to the OVRSC-COSRV's request on 23 June 2021 and to the DHH Coalition's request on 7 August 2021. In its responses, the CAV stated, among other things, that the disclosure of the confidential information would
 - cause the CAV and its suppliers and contractors specific direct harm by disclosing to actual or potential competitors specific, unique characteristics of the architecture developed for VRS in Canada;
 - jeopardize the CAV's negotiating position if suppliers or potential suppliers in contract negotiations were able to ascertain the amount that the CAV has been paying or has set aside to acquire the services in question;
 - undermine the operation of competitive market forces between service providers to the CAV's detriment; and
 - cause the CAV specific direct harm by providing potentially nefarious parties specific details about the CAV's procedures in relation to internal financial control processes.

General principles

22. Requests for disclosure of information designated as confidential are addressed in sections 38 and 39 of the *Telecommunications Act* (the Act) and sections 30 to 34 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*.
23. In evaluating a request for disclosure, the Commission first assesses whether the information falls into a category of information that can be designated as confidential pursuant to section 39 of the Act. The Commission then assesses whether disclosure of particular information is in the public interest. Generally, this is done by considering whether the disclosure would result in specific direct harm and whether that harm outweighs the public interest in disclosure.
24. Harm may be more likely to outweigh the public interest where the information is more disaggregated or where the degree of competition is greater. Conversely, the public interest may be more likely to outweigh any harm where the information is more important to the ability of the Commission to obtain a full and complete record on which to make its decision.

25. Further information regarding the general procedures and the factors considered may be found in Broadcasting and Telecom Information Bulletin 2010-961.

Commission's analysis and determinations

26. The Commission has reviewed the requests filed by the OVRSC-COSRV and the DHH Coalition as well as the reply comments filed by the CAV. The Commission considers that the CAV has made convincing arguments that the public interest would not be served by disclosing certain information because the potential risks outweigh the advantages put forth by the OVRSC-COSRV and the DHH Coalition. However, disclosure of some information, as specified in the Appendix to this notice, is appropriate and in the public interest. In this case, the CAV has not established the likelihood of specific and direct harm that would outweigh the public interest in the disclosure of the designated information.
27. The CAV is to file with the Commission the information indicated in the Appendix to this notice by **28 March 2022**.

Modifying question 11 of Telecom Notice of Consultation 2021-102 regarding the CAV's annual budget process

28. In Telecom Regulatory Policy 2014-659, the Commission established that the CAV must file a Part 1 application every year to request funding for its next fiscal year by 31 July (hereafter, CAV Part 1 Budget Approval Application). Accordingly, the CAV submitted its CAV Part 1 Budget Approval Application to the Commission for the 2022 operating year on 31 July 2021.
29. Although the CAV Part 1 Budget Approval Application is separate from the review of VRS initiated by this notice, the public record of the CAV Part 1 Budget Approval Application has raised broader issues that can more appropriately be considered as part of this proceeding.
30. In response to the CAV Part 1 Budget Approval Application for the 2022 operating year, the Commission received a procedural request from the DHH Coalition asking that the CAV's budget application be filed in sign language. They also requested that sign language interventions and replies to interventions be allowed. The procedural request was supported by the Canada Deaf Grassroots Movement and agreed to by the CAV.
31. While the procedural requests made in relation to the CAV Part 1 Budget Approval Application are not factors to be considered in this proceeding, the Commission recognizes that there is some intersection between that application and the matters being considered more broadly as part of this notice.
32. Although Telecom Notice of Consultation 2021-102 has a section dedicated to the CAV budget with questions related to the budget cap and the appropriateness of the minimum requirements for approving the requested funds, more pointed questions regarding the process by which the CAV applies to the Commission for budget approval were not included.

33. The Commission considers it appropriate to reformulate question 11 of Telecom Notice of Consultation 2021-102 in order to broaden the issue that the Commission is considering, specifically by asking dedicated questions on the process by which the CAV applies to the Commission for budget approval and how this process can be improved. Question 11 has been modified as follows:

11(a) The CAV must file its annual budget application in French and English, by 31 July each year, to receive funding from the National Contribution Fund (NCF). Is this process still appropriate? If not, what changes or additions are required and why?

11(b) The CAV must meet all of the requirements set out in Appendix B of Telecom Regulatory Policy 2014-187 (the VRS Policy) to receive funds from the NCF. Are these minimum requirements still appropriate? If not, what changes or additions are required and why?

Placing a research report on the public record

34. To gain a better understanding of VRS in other countries, the Commission appointed the Canadian Centre on Disability Studies Inc., operating as Eviance, to conduct a comparative analysis of video relay services being offered internationally.
35. Eviance's report includes research on current VRS regulations, how VRS is funded, and the functionality, features, and services of VRS provided in other countries, including the United States.
36. The [full report](#) is available in English and French on the Commission's website. In addition, the [Summary of Findings](#) section of the report has been interpreted into ASL and LSQ and is also available on the Commission's website.
37. The Commission is adding Eviance's report to the public record for this proceeding so that parties can refer to the report, and the Commission can take the results into account in making its determinations.

Secretary General

Related documents

- *Call for comments – Review of video relay service*, Telecom Notice of Consultation CRTC 2021-102, 11 March 2021; as amended by Telecom Notices of Consultation CRTC 2021-102-1, 26 April 2021; and 2021-102-2, 30 June 2021
- *Structure and mandate of the video relay service administrator*, Telecom Regulatory Policy CRTC 2014-659, 18 December 2014
- *Video relay service*, Telecom Regulatory Policy CRTC 2014-187, 22 April 2014
- *Procedures for filing confidential information and requesting its disclosure in Commission proceedings*, Broadcasting and Telecom Information Bulletin CRTC 2010-961, 23 December 2010; as amended by Broadcasting and Telecom Information Bulletin CRTC 2010-961-1, 26 October 2012

Appendix to Telecom Notice of Consultation CRTC 2021-102-3

Disclosure of information designated as confidential

Apart from the information set out below, the Commission finds that the Canadian Administrator of VRS (CAV), Inc. (CAV) has properly designated as confidential information that is likely to

- contain financial, commercial, scientific, or technical information that is confidential; and
- affect contractual or other negotiations of any person.

The disclosure of this information is not in the public interest because it would not assist parties in responding to the questions in the notice, and it would not otherwise lead to a fuller and more complete record on which the Commission will make its decision.

However, disclosure of some information, as specified below, is appropriate and in the public interest. In this case, the CAV has not established the likelihood of specific and direct harm that would outweigh the public interest in the disclosure of the designated information.

The CAV is to disclose the information filed in confidence in its response to the following request for information set out in the Commission's letter dated 11 March 2021 associated with Telecom Notice of Consultation 2021-102:

Question 3: Provide the amount each Board of Director receives in compensation and the method used to set this amount.

In response to question 3, the CAV provided an abridged reply stating, among other things, that information designated as confidential relates to the terms and conditions regarding professional compensation negotiated by the CAV with its Board of Directors.

The CAV is to file a modified version of CAV(CRTC)11Mar21-3 NOC 2021-102, providing a range of the compensation amounts paid to its board members for each of the following components: Annual Retainer, Committee Fees, and Attendance Fees.