



## Telecom Order CRTC 2021-173

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Ottawa, 13 May 2021

*File numbers: 1011-NOC2020-0124 and 4754-650*

### **Allocation of funds from Bell Canada's deferral account to the CNIB Foundation for its participation in the proceeding initiated by Telecom and Broadcasting Notice of Consultation 2020-124**

#### **Background**

1. In Telecom and Broadcasting Notice of Consultation 2020-124-2, the Commission approved a proposal by Bell Canada to use up to \$125,000 from the company's deferral account to fund public interest and accessibility intervener participation in the proceeding initiated by Telecom and Broadcasting Notice of Consultation 2020-124 (the proceeding) and, if funds remained, in a follow-up proceeding. In the proceeding, the Commission considered regulations to be made under the *Accessible Canada Act* (ACA) regarding the accessibility reporting requirements for broadcasting undertakings, Canadian telecommunications common carriers, and telecommunications service providers.
2. The Commission indicated that it would distribute these funds in a manner that closely resembles its general practices and procedures in respect of applications for final telecommunications costs awards, including the application of the eligibility criteria for costs awards set out in section 68 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure).
3. The Commission noted that Bell Canada did not submit, as part of its proposal, that it required the opportunity to respond to applications for a share of the available funds. In the circumstances, the Commission considered that such responses were unnecessary.

#### **Application**

4. By letter dated 22 July 2020, the CNIB Foundation applied for costs with respect to its participation in the proceeding.
5. The CNIB Foundation submitted that it had met the criteria set out in section 68 of the Rules of Procedure because it represented a group of subscribers that had an interest in the outcome of the proceeding, it had assisted the Commission in developing a better understanding of the matters that were considered, and it had participated in a responsible way.

6. In particular, the CNIB Foundation submitted that it is a non-profit organization that represents the interests of persons with disabilities, specifically Canadians who are blind or partially sighted.
7. The CNIB Foundation submitted that it provided a fuller understanding of the issues affecting this class of subscribers by preparing a 15-page intervention and 7-page reply to the proceeding's interventions.
8. The CNIB Foundation further submitted that it participated in the proceeding in a responsible way by advancing the interests of blind Canadians on a national basis and by making concrete recommendations provided by stakeholders from within the organization's community, in collaboration with other accessibility stakeholders.
9. The CNIB Foundation requested that the Commission fix its costs at \$5,170, consisting entirely of analyst fees. The CNIB Foundation filed a bill of costs with its application, claiming 11 days at the rate of \$470 per day for an in-house analyst.

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

### **Eligibility**

10. In Telecom and Broadcasting Notice of Consultation 2020-124-2, the Commission stated the following:
  15. [...] Eligibility for a share of these funds will be evaluated according to the criteria set out in section 68 of the Rules of Procedure, namely
    - a. whether the applicant had, or was the representative of a group or a class of subscribers that had, an interest in the outcome of the proceeding;
    - b. the extent to which the applicant assisted the Commission in developing a better understanding of the matters that were considered; and
    - c. whether the applicant participated in the proceeding in a responsible way.
11. The Commission further indicated that it would have regard to whether the applicant had explained how the costs claimed were reasonably and necessarily incurred in the circumstances.
12. In Telecom Information Bulletin 2016-188, the Commission provided guidance regarding how an applicant may demonstrate that it satisfies the first criterion with respect to its representation of interested subscribers. The CNIB Foundation has demonstrated that it meets the first criterion by representing the interests of Canadians who are blind or partially sighted and by elaborating on its membership and expertise.

13. The CNIB Foundation assisted the Commission in developing a better understanding of the matters that were considered by explaining specific outstanding issues and challenges to be addressed in the proposed regulations to be made under the ACA, thereby satisfying the second criterion.
14. The CNIB Foundation has also satisfied the remaining criterion through its participation in the proceeding. The CNIB Foundation participated in all stages of the proceeding, filing timely, organized, and detailed submissions throughout.
15. Accordingly, the Commission finds that the CNIB Foundation meets the criteria for an award of costs set out in Telecom and Broadcasting Notice of Consultation 2020-124-2.

### **Consultant fees**

16. The CNIB Foundation claimed fees for the work of its in-house analyst at the rate of \$470 per day, which is consistent with the *Guidelines for the Assessment of Costs*, as set out in Telecom Regulatory Policy 2010-963.

### **Time claimed**

17. In the present case, the CNIB Foundation participated in all stages of the proceeding, raised relevant issues, and made unique submissions. Accordingly, the Commission finds that the amount of time claimed by the CNIB Foundation is appropriate.
18. In light of the above, the total amount claimed by the CNIB Foundation was reasonably and necessarily incurred and should be allowed.

### **Directions regarding costs**

19. The Commission **approves** the application by the CNIB Foundation and **directs** Bell Canada to pay forthwith from its deferral account the amount of \$5,170 to the CNIB Foundation.

### **2019 Policy Direction**

20. The Governor in Council issued a policy direction in which it directed the Commission to consider how its decisions can promote competition, affordability, consumer interests, and innovation (the 2019 Policy Direction).<sup>1</sup> The Commission considers that its determinations in this order are consistent with the 2019 Policy Direction.
21. In particular, the present order, which requires the reimbursement of reasonably and necessarily incurred costs relating to public interest intervener participation in the

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<sup>1</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227, 17 June 2019

proceeding, contributes to enhancing and protecting the rights of consumers in their relationships with service providers, including rights related to accessibility.

Secretary General

### **Related documents**

- *Call for comments – Regulations to be made under the Accessible Canada Act, Telecom and Broadcasting Notice of Consultation CRTC 2020-124, 14 April 2020; as amended by Telecom and Broadcasting Notices of Consultation CRTC 2020-124-1, 13 May 2020; and 2020-124-2, 4 June 2020*
- *Determination of costs award with respect to the participation of the Canadian Association of the Deaf in the proceeding leading to Telecom Regulatory Policy 2016-496, Telecom Order CRTC 2017-129, 3 May 2017*
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers, Telecom Information Bulletin CRTC 2016-188, 17 May 2016*
- *Revision of CRTC costs award practices and procedures, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010*