



Telecom Decision CRTC 2021-179 and Telecom Order CRTC [2021-180](#)

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Reference: 2019-363

Ottawa, 20 May 2021

Public record: 1011-NOC2019-0363

William Robert John McQuaid, operating as MySignal.ca Solutions Inc. – Failure to become a participant in the Commission for Complaints for Telecom-television Services Inc.

The Commission finds that William Robert John McQuaid, operating under the business name MySignal.ca Solutions Inc. (MySignal.ca), is providing telecommunications services and contravened section 24.1 of the *Telecommunications Act* (the Act) by failing to become a participant in the Commission for Complaints for Telecom-television Services Inc. (CCTS).

Accordingly, the Commission finds that Mr. McQuaid committed a violation pursuant to section 72.001 of the Act and imposes an administrative monetary penalty (AMP) of \$15,000 on Mr. McQuaid. Payment of the AMP is due within **30 days** of the date of this decision. In addition, the Commission is issuing a Mandatory Order requiring Mr. McQuaid, and any other entity under his effective control that is providing telecommunications services within the mandate of the CCTS, to become a participant in the CCTS within **60 days** of the date of the Mandatory Order.

Background

1. The Commission for Complaints for Telecom-television Services Inc. (CCTS)¹ is an independent body that assists Canadians who have been unable to resolve disputes regarding forborne telecommunications services with their telecommunications service providers (TSPs). The CCTS is an integral component of a deregulated telecommunications market, and it provides a valuable service to Canadian consumers.
2. To ensure that Canadian consumers have recourse when they are unable to resolve complaints with their TSPs, since 2011, the Commission has required that all TSPs that provide services within the scope of the CCTS's mandate (in-scope services) be participants in the CCTS (the CCTS participation requirement).

¹ Formerly the Commissioner for Complaints for Telecommunications Services Inc.

3. The CCTS participation requirement was established pursuant to sections 24 (regarding carriers) and 24.1 (regarding non-carriers, also known as resellers) of the *Telecommunications Act* (the Act), as a condition of offering or providing telecommunication services.² The CCTS participation requirement is triggered 30 calendar days after the date on which the CCTS informs the person that the CCTS has received a complaint related to telecommunications services that the person provides and that falls within the scope of the CCTS's mandate (in-scope complaint).
4. To become a participant in the CCTS, a TSP signs the CCTS Participation Agreement, a contract in which the participant agrees to, among other things, abide by the Participation Agreement and the CCTS's By-laws, be bound by and observe the CCTS's Procedural Code, submit to and honour remedies levied by the CCTS, and co-operate in good faith with any investigation conducted by the CCTS.
5. The Commission takes any non-compliance with the regulatory obligations it imposes on TSPs seriously and uses the measures at its disposal that are most appropriate in the circumstances to promote compliance.

Administrative monetary penalties regime

6. Since 2014, the Act has included a general administrative monetary penalties (AMPs) regime,³ under which the Commission is empowered to impose AMPs on persons who contravene the Act or regulations or decisions made by the Commission under the Act. The purpose of a penalty imposed under this regime is to promote compliance with the Act, regulations, and Commission decisions.
7. The Commission set out its general approach under the general AMPs regime in Compliance and Enforcement and Telecom Information Bulletin 2015-111.

Show cause proceeding

8. In Telecom Notice of Consultation 2019-363, the Commission launched a show cause proceeding because the following TSPs had not become CCTS participants as of the date of the notice: Golden Rural High Speed, Redbox Solutions Ltd., Total Cable Service Inc., Pure Channel Communications Inc., and WISP Internet Services Inc., as well as MySignal.ca Solutions Inc. (MySignal.ca).
9. In particular, the Commission called for each of the TSPs to show cause why the Commission should not find that they committed a violation under section 72.001 of the Act⁴ during the relevant time period by contravening the CCTS participation

² The CCTS participation requirement was imposed directly on non-carriers in 2016.

³ See sections 72.001 to 72.0093 of the Act.

⁴ This provision states that any contravention of the Act, or a Commission regulation or decision made thereunder (with some exceptions) constitutes a violation and may result in liability to pay an AMP.

requirement. The Commission also required the TSPs' respective Directors to each show cause why they should not be liable for any violation found to have been committed by the company that they direct.

10. The Commission further directed each of the TSPs to show cause why, if it is found to have committed a violation related to the CCTS participation requirement, the Commission should not impose an AMP against it in the amount of \$50,000. The Commission also required the Director of each of the TSPs to show cause why, if they are found liable for a violation related to the CCTS participation requirement in respect of the company that they direct, the Commission should not impose an AMP against them in the amount of \$15,000.
11. The Commission also sought comments on an additional potential enforcement measure in the form of a Mandatory Order. The Commission directed each of the TSPs to show cause why, if it is found to have committed a violation, the Commission should not impose a Mandatory Order requiring it to take all steps necessary to participate in the CCTS within 60 days of the date of the Mandatory Order. The Commission also required the Director of each of the TSPs to show cause why, if they are found liable for any violations committed by the company that they direct, they should not be named in the Mandatory Order, which would hold them further accountable for ensuring that the company takes the necessary steps to participate in the CCTS.
12. In Telecom Notice of Consultation 2019-363, the Commission identified Will McQuaid as the Director of MySignal.ca, made him a party to the proceeding, and provided notice that should he fail to file information for why he should not be liable for any violation committed by MySignal.ca, then the Commission may draw an adverse inference. The Commission did not receive any interventions from Mr. McQuaid nor from MySignal.ca in response to Telecom Notice of Consultation 2019-363.

Issues

13. The Commission has identified the following issues to be addressed in this decision:
 - Who has been providing telecommunications services under the business name MySignal.ca?
 - Did Mr. McQuaid contravene section 24.1 of the Act, thereby committing a violation, by failing to become a participant in the CCTS?
 - If Mr. McQuaid contravened section 24.1 of the Act, should the Commission impose an AMP on Mr. McQuaid? If so, what should the AMP amount be?
 - If Mr. McQuaid contravened section 24.1 of the Act, should the Commission issue a Mandatory Order requiring Mr. McQuaid to become a participant in the CCTS?

Who has been providing telecommunications services under the business name MySignal.ca?

Background

14. The CCTS's referral stated that the TSP in question was operating under the name MySignal.ca Solutions Inc. However, communications with the TSP also indicated that it has operated under the name MySignal.ca Communications Corporation. The CCTS identified Mr. McQuaid as the individual with whom they had been corresponding.
15. The Commission was unable to identify an incorporated entity operating MySignal.ca or any of its aliases. Commission staff sent a letter to Mr. McQuaid on behalf of MySignal.ca in July 2018 requesting specific information, including the name(s) of the company's Director(s), under the reasonable assumption that the TSP is an incorporated company in Canada. However, MySignal.ca did not respond to that correspondence.
16. In November 2019, after several unsuccessful attempts, Commission staff reached Mr. McQuaid and had a lengthy telephone conversation in which he signaled that he intended to register MySignal.ca as a participant in the CCTS. However, following that conversation, MySignal.ca did not contact the CCTS and Commission staff were unable to reach Mr. McQuaid through any method. Over the intervening period, Commission staff used several tools, methods, and information sources in their numerous efforts to correspond with Mr. McQuaid and research the company and its operations. Of note, during this research, Mr. McQuaid identified himself as the owner and Chief Executive Officer of MySignal.ca on his LinkedIn profile.
17. Commission staff sent a final request for information to Mr. McQuaid on 11 September 2020 to gather more information on MySignal.ca's corporate structure, but did not receive a response.

Commission's analysis and determinations

18. While most TSPs choose to incorporate themselves when providing telecommunication services, the Act does not require that a TSP structure its affairs in any one particular way. Rather, a TSP may choose to operate under whichever legal structure it thinks is advantageous within the Act's definition of "person." In particular, subsection 2(1) of the Act states that a person includes

any **individual**, partnership, body corporate, unincorporated organization, government, government agency and any other person or entity that acts in the name of or for the benefit of another, including a trustee, executor, administrator, liquidator of the succession, guardian, curator or tutor. [emphasis added]
19. Because the Act's definition of "person" also includes individuals, Mr. McQuaid himself may be considered a TSP if he is providing telecommunications services.

20. Given the information found during the research noted above, combined with Mr. McQuaid's failure to provide information, the Commission considers it appropriate to draw the inference that Mr. McQuaid is providing telecommunications services as an individual.
21. Accordingly, the Commission finds that Mr. McQuaid, operating under the business name MySignal.ca, is providing telecommunications services as an individual and should be held personally liable for any violations of the Act.

Did Mr. McQuaid contravene section 24.1 of the Act, thereby committing a violation, by failing to become a participant in the CCTS?

Background

22. Section 24.1 of the Act allows the Commission to directly impose conditions of service on persons other than Canadian carriers (i.e. non-carriers) that offer telecommunication services.
23. Section 24.1 applies to "persons" as defined in the Act. Therefore, the Commission may impose conditions of service on non-carriers, including those that are providing telecommunications services as individuals.
24. In Broadcasting and Telecommunications Regulatory Policy 2016-102, the Commission directly imposed the CCTS participation requirement on all TSPs as follows:
45. [...] the Commission requires, pursuant to sections 24 (regarding carriers) and 24.1 (regarding non-carriers) of the [Act], that as a condition of offering or providing telecommunication services,
- [...]
- every person who is not a participant in the CCTS as of 17 March 2016 become and remain a participant in the CCTS commencing 30 calendar days after the date on which the CCTS informs that person that the CCTS has received a complaint related to telecommunications services provided by it falling within the scope of the CCTS's mandate.
25. Prior to the publication of Telecom Notice of Consultation 2019-363, the CCTS provided the Commission with evidence regarding its communications with MySignal.ca to inform the company that an in-scope complaint had been received, triggering the CCTS participation requirement.
26. Commission staff also contacted MySignal.ca to ensure that Mr. McQuaid was directly informed about the CCTS participation requirement and the show cause proceeding.

Commission's analysis and determinations

27. Given that Mr. McQuaid failed to respond to the show cause proceeding, there is nothing on the record of the proceeding that would call the evidence provided by the CCTS into question, nor is there evidence demonstrating that Mr. McQuaid has ceased offering in-scope services.
28. Further, Commission staff have independently verified that Mr. McQuaid continues to offer in-scope services by checking www.mysignal.ca, where the services are made available to consumers.
29. Consequently, it appears that Mr. McQuaid was in contravention of the CCTS participation requirement from the date of the CCTS's original referral (4 July 2018) to the date of publication of Telecom Notice of Consultation 2019-363. Further, it appears that he remains in contravention of this requirement to this day.
30. In light of the above, the Commission finds that Mr. McQuaid contravened section 24.1 of the Act, thereby committing a violation, by failing to become a participant in the CCTS from 4 July 2018 to the date of this decision.
31. Should Mr. McQuaid continue to refuse to become a participant in the CCTS, the Commission may initiate further proceedings against him. Any such proceedings could address further instances of non-compliance as a result of his continued failure to become a participant in the CCTS.

Should the Commission impose an AMP on Mr. McQuaid? If so, what should the AMP amount be?

Background

32. Pursuant to section 72.001 of the Act, a contravention of a provision of the Act, a regulation, or a decision made by the Commission under the Act constitutes a violation and the person who commits the violation is subject to the imposition of an AMP.
33. Failing to abide by conditions of service that are imposed pursuant to sections 24 and 24.1 of the Act is a violation, which the Commission may address by imposing an AMP pursuant to section 72.001. In determining the amount of the AMP, the Commission must take into account the following factors set out in subsection 72.002(1) of the Act:
 - a) the nature and scope of the violation;
 - b) the history of compliance with the Act, regulations, and Commission decisions made under the Act;
 - c) any benefit the person obtained from the commission of the violation;
 - d) the person's ability to pay;
 - e) factors established by any regulations; and
 - f) any other relevant factor.

Commission's analysis and determinations

34. In Telecom Notice of Consultation 2019-363, Mr. McQuaid was identified and made a party to the proceeding as the Director of a company providing telecommunications services. While he was not given notice that he, as an individual, would be considered a TSP providing in-scope services, he was given sufficient notice that he could be personally liable for an AMP of up to \$15,000 for failing to abide by the CCTS participation requirement. In addition, Mr. McQuaid was offered multiple opportunities to present evidence and make submissions throughout the show cause proceeding, which he failed to take advantage of.
35. The Commission considers that, in these circumstances, it would be appropriate to impose an AMP on Mr. McQuaid for the violation.

Nature and scope of the violation

36. Mr. McQuaid has not become a participant in the CCTS, despite having been (i) informed of the CCTS participation requirement, and (ii) given instructions regarding how to respect it. As a result, his customers are being deprived of a binding complaint resolution process. The requirement to be a participant in the CCTS reflects the importance of the CCTS and its value to consumers.
37. In terms of the scope of the violation, the length of time that a TSP has been in non-compliance may be a relevant consideration. Mr. McQuaid has been subject to the CCTS participation requirement for almost three years.
38. The Commission can also, when assessing the scope of a violation, examine the number of subscribers who do not have access to the CCTS as a result of their TSP's failure to become a participant in the CCTS. In Telecom Notice of Consultation 2019-363, the Commission encouraged Mr. McQuaid to submit this information. However, he did not do so. Therefore, the Commission will draw the adverse inference that it must in the circumstance.
39. Consequently, because of his failure to provide information and his failure to remedy his non-compliance, the Commission finds that the violation is both serious and ongoing.

History of compliance

40. There is no evidence that Mr. McQuaid has committed any previous violations of the Act, regulations, or Commission decisions made under the Act.

41. The CCTS had previously referred MySignal.ca to the Commission. However, this was prior to the Commission directly imposing the CCTS participation requirement on resellers as condition of service under section 24.1 of the Act. No compliance and enforcement action was taken at that time.

Benefit obtained from the violation

42. By failing to become a participant in the CCTS, Mr. McQuaid has purposely shielded himself from the dispute resolution mechanisms of the CCTS, which can require TSPs to, for example, pay monetary compensation to customers. As a result, he may have received a benefit; however, given that the CCTS was unable to resolve these disputes, the specific benefit Mr. McQuaid has derived is unknown. Mr. McQuaid did not provide any evidence disputing that he has received any benefits. Consequently, the Commission will draw the adverse inference that it must in the circumstance and find that Mr. McQuaid benefitted from the violation.

Ability to pay

43. The Commission does not have any current information about Mr. McQuaid's ability to pay. Despite the requirement that TSPs register with the Commission and provide financial information annually, Mr. McQuaid has not done so. Further, while the Commission, in Telecom Notice of Consultation 2019-363, encouraged the TSPs and their respective Directors to file evidence of the TSPs' and the Directors' personal ability to pay, Mr. McQuaid did not provide any such information.

44. In addition, pursuant to section 241 of the *Income Tax Act*, Commission staff requested financial information related to Mr. McQuaid's ability to pay from the Canada Revenue Agency (CRA). The information received indicates that Mr. McQuaid has not been reporting income to the CRA for the requested years.

Factors established by any regulations

45. No such factors have been established.

Other relevant factors

46. Mr. McQuaid has demonstrated a lack of co-operation by failing to respond to letters from Commission staff, including from the Chief Consumer Officer, and to requests for information, which were sent on 9 July and 12 December 2018. Mr. McQuaid also chose to abstain from participating in the show cause proceeding despite being made aware of the proceeding.

47. Given this lack of co-operation, the imposition of an AMP would be consistent with the purpose of a penalty under the general AMPs regime, which is to promote compliance with the Act, regulations, and Commission decisions made under the Act. The contravention of the CCTS participation requirement could also negatively impact the effectiveness of the CCTS in helping resolve consumer complaints and thereby harm consumers. Accordingly, an AMP would be appropriate.

48. In addition, the Commission considers general deterrence in determining the amount of the AMP. Failure to impose an appropriate AMP for the contravention of the CCTS participation requirement could encourage non-compliance with that requirement more generally.

Conclusion

49. In light of the above, the Commission considers that an AMP of \$15,000, as set out in Telecom Notice of Consultation 2019-363, would be appropriate.

50. In the event of future non-compliance by Mr. McQuaid, the Commission may take past violations into account and may impose larger AMPs than the one imposed in this decision. The Commission's AMP guidelines, set out in Compliance and Enforcement and Telecom Information Bulletin 2015-111, specifically indicate that "[m]ore strict responses may be appropriate, depending on the context, to bring a person into compliance, deter future non-compliance, and prevent harm."

51. The Commission notes that it may impose an AMP against an individual not exceeding \$50,000 for subsequent contraventions of the Act.

Should the Commission issue a Mandatory Order requiring Mr. McQuaid to become a participant in the CCTS?

Background

52. Pursuant to section 51 of the Act, the Commission has the authority to issue a Mandatory Order to order a person to do what is required of them under the Act.

53. In Telecom Notice of Consultation 2019-363, the Commission expressed the preliminary view that if any of the TSPs in question were found to be in violation of the Act, then a Mandatory Order should be issued requiring that the TSP become a participant in the CCTS within 60 days of the date of the Mandatory Order. The Commission also expressed the view that the individuals named in the notice should also be included in the Mandatory Orders to ensure that the companies they direct take the necessary steps to participate in the CCTS.

Commission's analysis and determinations

54. While Telecom Notice of Consultation 2019-363 referred to Mr. McQuaid as the Director of a company, the onus was on him to demonstrate why a Mandatory Order would not be appropriate.

55. Mr. McQuaid was given sufficient notice that if he did not comply with the CCTS participation requirement, the Commission would impose a Mandatory Order requiring him to do so.

56. In light of the above, the Commission considers that it would be appropriate to impose a Mandatory Order on Mr. McQuaid.

57. Accordingly, the Commission imposes a Mandatory Order on Mr. McQuaid, as set out in the Appendix to this decision, requiring him and any other entity under his effective control that is providing telecommunications services within the mandate of the CCTS, to become a participant in the CCTS. The Commission intends to register this Mandatory Order with the Federal Court pursuant to subsection 63(1) of the Act.

Conclusion

58. The Commission hereby notifies Mr. McQuaid of his right to apply to the Commission to review and rescind or vary this decision under section 62 of the Act, and to seek leave of the Federal Court of Appeal to appeal this decision before that Court under section 64 of the Act.
59. Any review and vary application under section 62 of the Act must be made within **90 days** of the date of this decision pursuant to subsection 71(1) of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, and the Commission will place all related documentation on its website.
60. In accordance with section 64 of the Act, an application for leave to appeal must be made to the Federal Court of Appeal within **30 days** of the date of this decision or within such further time as a judge of that Court grants in exceptional circumstances.
61. The amount of \$15,000 is due within **30 days** of the date of this decision and must be paid to “The Receiver General for Canada” in accordance with subsection 72.009(3) of the Act. For any amount owing that is not paid within 30 days, interest calculated and compounded monthly at the average bank rate plus 3% will be payable on that amount and will accrue during the period beginning on the due date and ending on the day before the date on which payment is received.
62. If payment has not been received within **30 days** of the date of this decision, the Commission intends to take measures to collect the amount owing, which may include certifying the unpaid amount⁵ and registering the certificate with the Federal Court.⁶

⁵ Pursuant to subsection 72.009(4) of the Act.

⁶ Pursuant to subsection 72.009(5) of the Act.

Policy Directions

63. The 2006 Policy Direction⁷ and the 2019 Policy Direction⁸ (collectively, the Policy Directions) state that the Commission, in exercising its powers and performing its duties under the Act, shall implement the telecommunications policy objectives set out in section 7 of the Act, in accordance with the considerations set out in the Policy Directions, and should specify how its decisions can, as applicable, promote competition, affordability, consumer interests, and innovation.
64. The Commission reviewed the record of this proceeding in light of the Policy Directions and considered their aspects to the extent necessary, using measures that are efficient and proportionate to their purpose. The Commission considers that its determinations in this decision are compliant with the 2019 Policy Direction, since they promote consumer interests by ensuring that TSPs that do not participate in the CCTS to resolve complaints incur a penalty that is crafted to bring them back into compliance with their obligations. The Commission remains of the view that the dispute resolution process, which is an integral component of a deregulated telecommunications market, enhances and protects the rights of consumers in their relationships with TSPs.
65. Further, the Commission considers that the requirement that all TSPs participate in the CCTS, and the enforcement of that requirement, are consistent with the 2006 Policy Direction. The CCTS participation requirement is competitively neutral and symmetrical because it applies to all TSPs that offer in-scope services. Moreover, the Commission reiterates its determination from paragraph 46 of Broadcasting and Telecom Regulatory Policy 2016-102 that market forces are not sufficient to sustain a critical mass of participation in the CCTS for it to operate effectively.
66. Accordingly, in compliance with paragraph 1(b)(i) of the 2006 Policy Direction, this decision advances the telecommunications policy objectives set out in paragraphs 7(a), (b), and (h) of the Act.⁹

Secretary General

⁷ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

⁸ *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

⁹ The cited objectives of the Act are 7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions; (b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; and (h) to respond to the economic and social requirements of users of telecommunications services.

Related documents

- *Telecommunications service providers that have failed to become participants in the Commission for Complaints for Telecom-television Services Inc.*, Telecom Decision CRTC 2021-4, 11 January 2021
- *Telecommunications service providers that have failed to become participants in the Commission for Complaints for Telecom-television Services Inc.*, Telecom Notice of Consultation CRTC 2019-363, 1 November 2019
- *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.*, Broadcasting and Telecom Regulatory Policy CRTC 2016-102, 17 March 2016
- *Guidelines regarding the general administrative monetary penalties regime under the Telecommunications Act*, Compliance and Enforcement and Telecom Information Bulletin CRTC 2015-111, 27 March 2015

Appendix to Telecom Decision CRTC 2021-179

Telecom Order CRTC 2021-180

William Robert John McQuaid is hereby ordered, pursuant to section 51 of the *Telecommunications Act* (the Act), within **60 days** of the date of this order, to

- comply with the requirement set out at paragraph 45 of *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.*, Broadcasting and Telecom Regulatory Policy CRTC 2016-102, 17 March 2016, and made pursuant to section 24.1 of the Act, that as a condition of offering or providing telecommunications services, he and any other entity under his effective control that is providing telecommunications services within the mandate of the Commission for Complaints for Telecom-television Services Inc. (CCTS) be a participant in the CCTS for as long as he and any such entity continue to offer services within the scope of the CCTS's mandate; and
- file proof with the Commission that he has done so.