



Telecom Order CRTC 2021-350

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Ottawa, 29 October 2021

File numbers: 1011-NOC2021-0069 and 4754-666

Allocation of funds from Bell Canada's deferral account to the Canadian National Institute for the Blind for its participation in the proceeding initiated by Telecom and Broadcasting Notice of Consultation 2021-69

Background

1. In Telecom and Broadcasting Notice of Consultation 2021-69, the Commission called for comments on the text of the draft *Canadian Radio-television and Telecommunications Commission Accessibility Reporting Regulations* (the Regulations). It was the second of two consultations on the structure, form, and content of the Regulations to be made under the *Accessible Canada Act* (ACA).
2. In Telecom and Broadcasting Notice of Consultation 2020-124-2, the Commission approved a proposal by Bell Canada to use funds in its deferral account to fund public interest participation in the regulation-making proceedings under the ACA. 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. In that notice of consultation, the Commission noted that Bell Canada did not submit that it required the opportunity to respond to applications for a share of the available funds as part of its proposal. In the circumstances, the Commission considered that such responses were unnecessary.

Application

4. By letter dated 26 April 2021, the Canadian National Institute for the Blind (the CNIB Foundation) applied for costs with respect to its participation in the proceeding that led to Telecom and Broadcasting Regulatory Policy 2021-215.
5. The CNIB Foundation submitted that it had met the criteria for an award of costs 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 represented the interests of persons with disabilities by holding a focus group discussion with Canadians with sight loss to gain their insight and feedback on the Regulations.
7. The CNIB Foundation submitted that it provided a fuller understanding of the issues by preparing an intervention informed by its focus group to reflect the perspective of Canadians with sight loss.
8. The CNIB Foundation submitted that it participated in the proceeding in a responsible way as its participation was cost effective, evidence-based, and reflective of the people it represents.
9. The CNIB Foundation requested that the Commission fix its costs at \$6,815, consisting entirely of analyst fees. The CNIB Foundation filed a bill of costs with its application, claiming 14.5 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. In the present case, the CNIB Foundation has demonstrated that it meets the first criterion by having consulted directly with persons with disabilities relating to sight loss, including by preparing a plain language summary of the proposed regulations for their benefit.
13. The CNIB Foundation assisted the Commission in developing a better understanding of the matters that were considered by providing commentary on the proposed

wording of the Regulations, including the publication requirements for accessibility plans and progress reports, 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 responsibly, relying judiciously on internal resources and meeting all procedural requirements.
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.

Fees and time claimed

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.
17. In the present matter, the CNIB Foundation raised relevant issues and made unique submissions, providing an appropriate amount of documentation in the circumstances. 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 \$6,815 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).¹ 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 proceeding, contributes to enhancing and protecting the rights of consumers in their relationships with service providers, including rights related to accessibility.

¹ *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

Secretary General

Related documents

- *The Canadian Radio-television and Telecommunications Commission Accessibility Reporting Regulations, Telecom and Broadcasting Regulatory Policy CRTC 2021-215, 7 July 2021*
- *Call for comments – The Canadian Radio-television and Telecommunications Commission Accessibility Reporting Regulations, Telecom and Broadcasting Notice of Consultation CRTC 2021-69, 18 February 2021*
- *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*
- *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*