



## Telecom Order CRTC 2021-354

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Ottawa, 29 October 2021

*File numbers: 1011-NOC2021-0069 and 4754-665*

### **Allocation of funds from Bell Canada's deferral account to the Ontario Association of the Deaf 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 in its proposal. In the circumstances, the Commission considered that such responses were unnecessary.

#### **Application**

4. By letter dated 29 April 2021, the Ontario Association of the Deaf (OAD) applied for costs with respect to its participation in the proceeding that led to Telecom and Broadcasting Regulatory Policy 2021-215.
5. The OAD 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 OAD submitted that it is Canada's oldest non-profit organization representing the interests of Deaf persons. The OAD submitted that it focuses on educating and advocating in the interest of Deaf Ontarians, including with respect to telecommunications accessibility issues.
7. The OAD submitted that it provided a fuller understanding of the issues affecting this class of subscribers by making concrete recommendations on the proposed Regulations, alongside Deafness Advocacy Association Nova Scotia (DAANS) and the Newfoundland and Labrador Association of the Deaf (NLAD).
8. The OAD submitted that it participated in the proceeding in a responsible way by providing a unique perspective that was both focused and structured.
9. The OAD requested that the Commission fix its costs at \$940, consisting entirely of analyst fees. The OAD filed a bill of costs with its application, claiming two 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 OAD has demonstrated that it meets the first criterion by having represented the interests of Deaf Canadians in Ontario and by having consulted its membership and relied on its membership's expertise.

13. The OAD assisted the Commission in developing a better understanding of the matters that were considered by providing a number of recommendations and comments on the draft Regulations, regarding matters such as requests for alternative formats of communication, including accessible information and communication technology, thereby satisfying the second criterion.
14. The OAD has also satisfied the remaining criterion through its participation in the proceeding. The OAD participated jointly with DAANS and NLAD in all stages of the proceeding, and diligently and responsibly raised issues regarding the proposed Regulations on behalf of Deaf Ontarians.
15. Accordingly, the Commission finds that the OAD 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 OAD 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 OAD participated jointly with DAANS and NLAD in all stages of the proceeding, and provided structured commentary and an appropriate amount of documentation. The OAD's submissions were organized and detailed, and its claim reflects the extent of its joint participation. Accordingly, the Commission finds that the amount of time claimed by the OAD is appropriate.
18. In light of the above, the total amount claimed by the OAD was reasonably and necessarily incurred and should be allowed.

### **Directions regarding costs**

19. The Commission **approves** the application by the OAD and **directs** Bell Canada to pay forthwith from its deferral account the amount of \$940 to the OAD.

### **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**

- *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