



## Telecom Decision CRTC 2021-4

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Reference: 2019-363

Ottawa, 11 January 2021

*Public record: 1011-NOC2019-0363*

### **Telecommunications service providers that have failed to become participants in the Commission for Complaints for Telecom-television Services Inc.**

*The Commission finds that Golden Rural High Speed, Redbox Solutions Ltd., Total Cable Service Inc., and WISP Internet Services Inc. committed violations of the Telecommunications Act (the Act) by failing to become participants in the Commission for Complaints for Telecom-television Services Inc. (CCTS). However, since the companies have now become participants in the CCTS, the Commission will not take further compliance and enforcement action against them in relation to the violations.*

*The Commission also finds that Pure Channel Communications Inc. committed a violation of the Act by failing to become a participant in the CCTS. However, since the company is no longer providing services within the scope of the CCTS's mandate, the Commission will not take further compliance and enforcement action against it in relation to its violation.*

*The Commission reserves its decision as it relates to MySignal.ca Solutions Inc.*

### **Background**

1. The Commission for Complaints for Telecom-television Services Inc. (CCTS)<sup>1</sup> 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, the Commission has required since 2011 that all TSPs that provide services within the scope of the CCTS's [mandate](#) be participants in the CCTS (the CCTS participation requirement).

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<sup>1</sup> 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) of the *Telecommunications Act* (the Act), as a condition of offering or providing telecommunication services. 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 seriously any non-compliance with the regulatory obligations it imposes on TSPs 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,<sup>2</sup> 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 has set out its general approach under the general AMPs regime in Compliance and Enforcement and Telecom Information Bulletin 2015-111.

#### **Show cause proceeding**

8. Between March 2017 and July 2018, the CCTS referred to the Commission the names of various TSPs (all of which are non-carrier resellers of telecommunications services) that had failed to become participants in the CCTS after being notified of an in-scope complaint.
9. In Telecom Notice of Consultation 2019-363, the Commission launched a show cause proceeding because the following TSPs had still not become CCTS participants as of the date of the notice: Golden Rural High Speed (Golden Rural), Redbox Solutions Ltd. (Redbox), Total Cable Service Inc. (Total Cable), Pure Channel Communications Inc. (Pure Channel), and WISP Internet Services Inc. (WISP) [collectively, the five TSPs], as well as MySignal.ca Solutions Inc. (MySignal.ca).
10. In particular, the Commission called for each of the TSPs to show cause why the Commission should not find that it committed a violation under section 72.001 of the

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<sup>2</sup> See sections 72.001 to 72.0093 of the Act.

Act<sup>3</sup> during the relevant time period by contravening the CCTS participation 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.

11. The Commission further directed each of the TSPs show cause why, if it is found to have committed a violation of the Act 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 of the Act 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.
12. The Commission also addressed 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 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 Orders, which would hold them further accountable for ensuring that the company takes the necessary steps to participate in the CCTS.
13. The Commission received three interventions; however, they did not address the questions set out in the notice.
14. In this decision, the Commission will address the five TSPs. The Commission's determinations concerning MySignal.ca will be addressed in a separate decision.

## **Issues**

15. The Commission has identified the following issues to be addressed in this decision:
  - Did the five TSPs commit violations of the Act?
  - If so, should the Commission (i) impose AMPs of \$50,000 and issue Mandatory Orders against the five TSPs, and (ii) find the five TSPs' respective Directors personally liable for the violations, impose AMPs of \$15,000 against them, and name them in the Mandatory Orders?

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<sup>3</sup> 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.

## Did the five TSPs commit violations of the Act?

### Commission's analysis and determinations

16. On the dates shown in the table below, the CCTS informed the Commission that the five TSPs were in non-compliance with the participation requirement. The CCTS later informed the Commission that four of the five TSPs became participants in the CCTS, bringing themselves into compliance:

<b>TSP</b>	<b>Date of CCTS referral to the Commission</b>	<b>Date the TSP became a participant in the CCTS</b>
<b>Golden Rural</b>	25 September 2017	13 February 2020
<b>Pure Channel</b>	15 May 2018	N/A
<b>Redbox</b>	13 June 2018	12 March 2020
<b>Total Cable</b>	23 August 2018	7 January 2020
<b>WISP</b>	14 March 2017	25 November 2019

17. Commission staff contacted the five TSPs to provide them with information on their obligation to participate in the CCTS if they planned to continue providing telecommunications services, as well as explanations of the process for becoming a participant in the CCTS, and of the show cause proceeding.
18. With respect to Pure Channel, the company did not become a participant in the CCTS and, instead, ceased providing services within the scope of the CCTS's mandate sometime between 1 May 2019 and 30 June 2019.
19. The Commission finds that, during the time periods listed in the table above (in the case of Pure Channel, beginning on 15 May 2018 and ending on 30 June 2019), the five TSPs (i) appeared to continue providing telecommunications services that were within the scope of the CCTS's mandate, and received one or more complaints that triggered the CCTS participation requirement; and (ii) appeared to be in contravention of the CCTS participation requirement by failing to become participants after being notified that the CCTS had received in-scope complaints.
20. The five TSPs did not provide any evidence to show cause that they should not be found in contravention of the CCTS participation requirement during the time periods in question.
21. In light of the above, the Commission determines that the five TSPs committed violations of section 72.001 of the Act by failing to comply with the CCTS participation requirement during the following time periods:
- Golden Rural: 25 September 2017 to 12 February 2020
  - Pure Channel: 15 May 2018 to 30 June 2019

- Redbox: 13 June 2018 to 11 March 2020
- Total Cable: 23 August 2018 to 6 January 2020
- WISP: 14 March 2017 to 24 November 2019

**Should the Commission (i) impose AMPs of \$50,000 and issue Mandatory Orders against the five TSPs, and (ii) find the five TSPs' respective Directors personally liable for the violations, impose an AMP of \$15,000 against them, and name them in the Mandatory Orders?**

**Commission's analysis and determinations**

22. Although Golden Rural, Redbox, Total Cable, and WISP were in contravention of the CCTS participation requirement, they are now participants in the CCTS. Accordingly, it is unnecessary for the Commission to issue Mandatory Orders requiring them or their respective Directors to take the necessary steps for the companies to become participants in the CCTS.
23. Pursuant to subsection 72.002(2) of the Act, the purpose of an AMP is to promote compliance and not to punish. The Commission is of the view that the compliance objective has been achieved in these cases, and that the imposition of AMPs would involve additional administrative effort with minimal incremental benefit to promoting compliance.
24. Since the Commission commenced show cause proceedings to enforce the CCTS participation requirement, there has been improved compliance with the CCTS participation requirement and the number of referrals from the CCTS has decreased. The Commission considers that general compliance in the industry has also been achieved.
25. In light of the above, the Commission determines that it will not take any further enforcement action against Golden Rural, Redbox, Total Cable, or WISP, or their respective Directors, including the imposition of AMPs.
26. The compliance and enforcement process, which included education and the show cause proceeding, should serve to prevent any future non-compliance by Golden Rural, Redbox, Total Cable, and WISP.
27. With respect to Pure Channel, the company is no longer providing services within the scope of the CCTS's mandate. Accordingly, although Pure Channel was in contravention of the CCTS participation requirement, no further compliance and enforcement action is necessary.
28. However, in the event of future non-compliance by any of the five TSPs, the Commission may take past violations into account and may impose larger AMPs than the ones proposed in this show cause proceeding. 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.”

## Policy Directions

29. The 2006 Policy Direction<sup>4</sup> and the 2019 Policy Direction<sup>5</sup> (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.
30. 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 participate in the CCTS to resolve complaints from individual and small business retail customers. This 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.
31. Further, the Commission considers that the requirement that all TSPs participate in the CCTS, and enforcement of that requirement, are consistent with the 2006 Policy Direction. The 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 36 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.
32. 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.<sup>6</sup>

## Secretary General

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<sup>4</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

<sup>5</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

<sup>6</sup> 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 Notice of Consultation CRTC 2019-363, 1 November 2019
- *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Service 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