



## Broadcasting Notice of Consultation CRTC 2022-267

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Reference: [2022-0019-5](#)

### **Call for comments on an application by Bell Canada, Cogeco Communications Inc., Bragg Communications Incorporated, carrying on business as Eastlink, and Saskatchewan Telecommunications regarding the increase of the maximum retail price of the basic service**

#### **Summary**

The Commission calls for comments on an application filed by Bell Canada, Cogeco Communications Inc., Bragg Communications Incorporated, carrying on business as Eastlink, and Saskatchewan Telecommunications requesting to increase the maximum retail price of the small basic service from \$25 to \$28 and to implement a yearly indexing mechanism for inflation.

The deadline for the receipt of interventions is **28 October 2022**. Only parties that file interventions may file a reply to matters raised during the intervention phase. The deadline to file replies is **14 November 2022**.

#### **Background**

1. In Broadcasting Regulatory Policy 2015-96, the Commission announced that licensed broadcasting distribution undertakings (BDUs) were required to provide customers with a small entry-level basic service, starting March 2016.
2. As set out in sections 17.1 and 46.1 of the *Broadcasting Distribution Regulations* (the Regulations), a licensee shall not charge a customer more than \$25 per month for the distribution of its basic service, except as otherwise provided under a condition of its licence. This basic service is comprised of the programming services that are either required or allowed to be included in the basic package pursuant to sections 17 and 46 of the Regulations<sup>1</sup>, including services designated by the Commission under

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<sup>1</sup> These services include the community channel and the proceedings of the provincial legislature in one or both official languages, if offered other Canadian over-the-air stations where fewer than 10 local or regional stations are available over the air (to a maximum of 10 Canadian over-the-air stations), local AM and FM stations, in the case of terrestrial BDUs, one out-of-province designated education service in each official language in provinces and territories where no such services are designated, and one set of United States 4+1 signals.

paragraph 9(1)(h) of the *Broadcasting Act* (the Act) for mandatory distribution on the basic service.

3. The Commission set a \$25 monthly price cap that BDUs could charge to their customers for the basic service, exclusive of equipment such as set-top boxes, in order to provide Canadians with the choice between a reasonably priced entry-level offering and the television service provider's first-tier offering. This monthly price cap has not been updated since March 2016.
4. At the time of the proceeding leading to Broadcasting Regulatory Policy 2015-96, several intervening BDUs submitted that the \$25 maximum monthly fee should be subject to an annual adjustment for inflation. Rogers Communications Inc. (Rogers) also suggested that the amount be reviewed on a regular basis. However, the Commission opted not to include an annual adjustment mechanism based on inflation and indicated that it may choose to review the amount in the future.

### **Application requesting to increase the maximum retail price of the basic service**

5. In January 2022, Bell Canada, Cogeco Communications Inc., Bragg Communications Incorporated, carrying on business as Eastlink, and Saskatchewan Telecommunications (hereafter the applicants) filed an application under Part 1 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* requesting to increase the maximum retail price of the basic service by 12%, from \$25 to \$28, and to implement a yearly indexing mechanism for inflation.
6. The applicants also requested that the proposed \$28 price cap be effective 1 April 2022, and that it be adjusted on a yearly basis starting on 1 April 2023, based on the annual consumer price index (CPI) for the period ending 31 December of the preceding calendar year. The applicants indicated that using the CPI rather than the Gross Domestic Product Price Index (GDP-PI) would result in a more moderate retail price increase for the time being.
7. The applicants also submitted that the wholesale fees of the 9(1)(h) services, which were a factor that the Commission considered in setting the price cap for the small basic service, have increased by 18.5% in the English-language market and by 13% in the French-language market since Broadcasting Regulatory Policy 2015-96 was published.
8. The applicants further submitted that the inflation adjustments of prices are a common regulatory mechanism, which has been used by the Commission in different contexts, including the latest review of the local and community television policy with respect to the allowable contribution to local expression.<sup>2</sup>

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<sup>2</sup> In Broadcasting Regulatory Policy 2012-154, the Commission determined that the maximum contribution to local expression by each terrestrial BDU licensee would be based on the 2010 contribution level, with the amount being subsequently adjusted yearly for inflation based on the annual CPI, as reported for the

9. The applicants further noted that the Commission applies the percentage change in inflation as a standard factor in determining permissible prices for many regulated telecommunications services for the large and small incumbent local exchange carriers. They indicated that permitting such adjustments based on inflation for the basic service price cap would result in a rate regulation regime for BDUs that would be consistent with that which applies to the telecommunications service providers.
10. As such, the applicants requested the imposition of the following condition of licence:

As an exception to section 17.1 of the *Broadcasting Distribution Regulations*, effective 1 April 2022, a licensee shall not charge a subscriber more than \$28 per month for the distribution of its basic service, adjusted annually for inflation effective 1 April of each year, starting in 2023, based on the annual Canadian consumer price index, as reported by Statistics Canada for the period ending 31 December of the preceding calendar year.

11. The applicants also considered that this condition of licence should apply equally to all licensed BDUs. Therefore, they requested that the Commission amend the *General Authorizations for Broadcasting Distribution Undertakings* to include the condition of licence above as an authorization. The applicants submitted that this would provide the Commission with the necessary time to correspondingly amend section 17.1 of the Regulations, for which they propose the following language:

Except as otherwise provided under a condition of its licence, effective 1 April 2022, a licensee shall not charge a subscriber more than \$28 per month for the distribution of its basic service, adjusted annually for inflation, effective 1 April of each year, starting in 2023, based on the annual Canadian consumer price index, as reported by Statistics Canada for the period ending 31 December of the preceding year.

### **Call for comments**

12. In light of the above, the Commission calls for comments on the applicants' request to increase the maximum retail price of the small basic service and to implement a yearly indexing mechanism for inflation. More specifically, the Commission is seeking comments on:

- the appropriateness of raising the price cap amount;
- the appropriateness of implementing any kind of indexing mechanism;
  - i. the appropriateness of using, as proposed by the applicants, the CPI as the inflation index for the indexing mechanism, or whether another basis of calculation should be considered;

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period ending 31 December of the preceding calendar year. However, the Commission notes that when it reviewed its local and community television policy in Broadcasting Regulatory Policy 2016-224, it established new priorities (i.e., the funding of local news) and changed its local expression contribution framework, which no longer includes adjustments for inflation.

- ii. the idea of implementing a yearly indexing mechanism in relation to the price cap for the basic service, or to initiate proceedings to this end at set intervals, without yearly indexing;
  - iii. the appropriateness of 1 April for the yearly adjustments or another date, such as the beginning of each calendar year (1 January), or with the beginning of each broadcast year (1 September);
- the possibility of increasing the price cap by the dollar amount increase of the wholesale rates paid by the BDUs for the 9(1)(h) services; and
  - the option to increase the price cap to a fixed amount for a set number of years without the inclusion of a yearly indexing mechanism.
13. In order to allow for a more holistic consultative approach, including evaluating the need, effects and impacts of the changes requested by the applicants, the Commission makes other BDUs currently required to submit annual aggregate returns parties to this proceeding and asks them to provide the same financial and subscriber information to the Commission that was previously collected from the applicants and that was added to the public record. The list of BDUs required to submit annual aggregate returns is set out in appendix 1.
14. The Commission will accept interventions that it receives on or before **28 October 2022**.

## **Procedure**

15. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, answers, replies and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website under "[Statutes and Regulations](#)." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
16. The BDUs listed in Appendix 1 below are made parties to this proceeding and are thereby required to file the information requested in Appendix 2 with the Commission by **12 October 2022**. The Commission will add the information to the record of the proceeding.
17. The Commission invites interventions that address the issues and questions set out above. The Commission will accept interventions that it receives on or before **28 October 2022**. Only parties that file interventions may file a reply to matters raised

during the intervention phase. The deadline for the filing of replies is **14 November 2022**.

18. The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.
19. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line **\*\*\*End of document\*\*\*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
20. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
21. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

**by completing the**  
[\[Intervention/comment/answer form\]](#)

or

**by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

or

**by fax at**  
819-994-0218

22. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed or served. The Commission advises parties who file or serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.
23. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the

deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.

24. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

### **Important notice**

25. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, email or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, email addresses, postal/street addresses, telephone and fax numbers, etc.
26. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
27. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
28. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

### **Availability of documents**

29. Links to interventions, replies and answers filed for this proceeding, as well as other documents referred to in this notice, are available on the Commission's "[Consultations and hearings: have your say](#)" page.
30. Documents are available upon request during normal business hours by contacting:

Documentation Centre  
[Examinationroom@crtc.gc.ca](mailto:Examinationroom@crtc.gc.ca)  
Tel.: 819-997-4389  
Fax: 819-994-0218

Client Services  
Toll-free telephone: 1-877-249-2782  
Toll-free TTY: 1-877-909-2782

Secretary General

## Related documents

- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Let's Talk TV: A World of Choice – A roadmap to maximize choice for TV viewers and to foster a healthy, dynamic TV market*, Broadcasting Regulatory Policy CRTC 2015-96, 19 March 2015
- *Revised approach regarding contributions by broadcasting distribution undertakings to local expression*, Broadcasting Regulatory Policy CRTC 2012-154, 15 March 2012
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010

## **Appendix 1 to Broadcasting Notice of Consultation 2022-267**

### **List of broadcasting distribution undertakings currently required to submit annual aggregate returns and being made parties to the proceeding**

- Québecor Media Inc.
- Rogers Communications Inc.
- Shaw Communications Inc.
- TELUS Communications Inc.



## **Appendix 2 to Broadcasting Notice of Consultation 2022-267**

### **Questions**

1. Please provide the following information:
  - the total number of basic package subscribers (includes those that are subscribing to one or more traditional programming services a la carte in addition to the basic package);
  - the number of basic package subscribers who do not receive a credit to their account (this number should not exceed the number of basic package subscribers provided above);
  - the number of basic package subscribers who bundle their television service with another non-television service, such as wireline telephone or internet; and
  - the number of basic package subscribers who bundle their television services with another non-television service and who do not receive a credit to their account (this number should not exceed the numbers provided above).
2. Please provide the aggregated total of subscribers across all your broadcasting distribution undertaking systems.