



## Telecom Decision CRTC 2022-340

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Ottawa, 15 December 2022

*Public record: 8665-C209-202204759*

### **Canadian Administrator of VRS (CAV), Inc. – Application requesting video relay service funding for 2023**

#### **Summary**

The Commission **approves** the application submitted by the Canadian Administrator of VRS (CAV), Inc. (CAV) for \$29,938,863 in funding from the National Contribution Fund (NCF) for 2023. This amount is to be disbursed from the NCF to the CAV in 12 equal monthly instalments, beginning in January 2023. Access to this funding will enable the CAV to continue to offer video relay service in Canada to the benefit of all Canadians, as envisioned by the Commission in Telecom Regulatory Policy 2014-187.

The Commission also **approves** the CAV's request for a four-year extension for its contracts with its suppliers from the date that the relevant contract expires.

#### **Background**

1. Video relay service (VRS) enables people who use sign language to conduct telephone calls and communicate with voice telephone users using sign language. VRS connects a sign language user with another party via an operator who can interpret between sign language and spoken language.
2. In Telecom Regulatory Policy 2014-187 (the VRS policy), the Commission
  - A. determined that VRS must be offered in Canada;
  - B. established a \$30 million funding cap to cover all administrative and service-related costs for VRS;
  - C. decided that VRS would be overseen and implemented by an independent VRS administrator; and
  - D. set out the minimum requirements that the VRS administrator must meet in order for funds to be released from the National Contribution Fund (NCF) for VRS.
3. In the VRS policy, the Commission also determined that a comprehensive review of VRS should be undertaken three years after the service becomes operational to ensure that the objectives identified in the VRS policy were being met.
4. In Telecom Regulatory Policy 2014-659, the Commission approved the structure and mandate of the VRS administrator, known as the Canadian Administrator of VRS

(CAV), Inc. (CAV). In particular, the Commission approved the CAV funding process, whereby an annual budget would be approved by the Commission before expenditures are incurred,<sup>1</sup> and amounts would be disbursed from the NCF in equal monthly instalments.

5. SRV<sup>2</sup> Canada VRS, the VRS developed by the CAV, was launched on 28 September 2016 in both American Sign Language and Langue des signes québécoise. Since 2 October 2017, the service has been available 24 hours a day, 7 days a week.
6. On 11 March 2021, the Commission published Telecom Notice of Consultation 2021-102 (the VRS review) in order to initiate the public proceeding for the review of VRS required by the VRS policy.

### **Application**

7. The Commission received an application from the CAV, dated 29 July 2022. In its application, the CAV requested that the Commission approve its proposal to seek \$29,938,863 in funding from the NCF for 2023. The amount represents projected expenditures of \$30,691,450 for 2023, with a projected positive balance in deferred contributions of \$3,752,587. A summary of the budget breakdown is set out in the appendix to this decision, along with a table detailing the CAVs deferred contributions account.<sup>3</sup>
8. The CAV stated that it had witnessed unprecedented growth in the usage of VRS at the beginning of the COVID-19 pandemic, which seems to have permanently altered users' habits. The growth in usage appears to be slowing down, but at a baseline that is much higher than before.
9. The CAV requested that detailed figures for professional services and operations costs be designated as confidential, stating that such disclosure would result in material financial loss, prejudice its position, and affect contractual negotiations with third parties.

### **Request for relief regarding contract duration**

10. The CAV included with its budget application a request for relief in relation to the contract duration restrictions specified in the VRS policy, namely, that the initial contract signed between a provider and the administrator must be for no more than four years, with the option of an extension. The CAV requested that, for its current contracts with vendors, the Commission eliminate those restrictions, or at least allow an additional four-year extension.

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<sup>1</sup> The CAV must submit its projected annual budget to the Commission by 31 July each year for approval.

<sup>2</sup> SRV stand for "service de relais vidéo".

<sup>3</sup> Detailed budgetary information was provided to the Commission in confidence.

11. The CAV stated that its business model is based around the use of third-party suppliers to achieve the requirements of the VRS policy. The CAV noted that its contracts with its video technology platform provider and its video interpretation providers will end in December 2023 and in March and April 2024, respectively. The CAV submitted that there is no longer sufficient time to conduct the request for proposal (RFP) process as required by the VRS Policy, because to run the process takes 15 months for its video interpreter providers and 30 months for its video technology platform provider.
12. The CAV noted that, in the absence of a Commission decision on the VRS policy and on any potential new requirements, engagement in an RFP process would likely result in duplicate efforts and cause confusion.
13. The Commission received interventions from the Deaf and Hard of Hearing Coalition (DHH Coalition)<sup>4</sup> and the Canada Deaf Grassroots Movement (CDGM).

## **Positions of parties**

### **The DHH Coalition and the CDGM**

14. On 6 September 2022, the DHH Coalition and the CDGM filed interventions that introduced concerns about the budgetary impact for the CAV of the eventual implementation of a 9-8-8 suicide prevention hotline as set out in Telecom Regulatory Policy [2022-234](#) (the 9-8-8 policy).
15. Both parties noted that, in the 9-8-8 policy, the Commission directed telecommunications services providers to implement any changes required for the implementation of the 9-8-8 hotline by the later of 30 November 2023, or within six months after the date on which the Public Health Agency of Canada files a letter with the Commission stating to which 1-8XX number calls to the three-digit code should be routed.
16. Both parties noted that the CAV budget application was filed prior to the release of the 9-8-8 policy. Consequently, it does not mention funding for the design, establishment, development, alpha and beta testing, operation and maintenance of 9-8-8 calling through the VRS. Therefore, both parties strongly believe that the CAV's budget should be increased to take into account the 9-8-8 hotline.
17. Both parties cited their interventions in the proceeding that led to the 9-8-8 policy, initiated by Notice of Consultation 2021-109, in which they argued that Deaf and hard of hearing consumers should have the same rights and access and the same privilege and opportunity to utilize the proposed 9-8-8 hotline at the same time as their hearing counterparts.

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<sup>4</sup> The DHH Coalition is made up of the Deafness Advocacy Association of Nova Scotia, the Newfoundland and Labrador Association of the Deaf, and the Ontario Association of the Deaf.

18. The DHH Coalition reiterated its intervention in the proceeding that led to the 9-8-8 policy, stating that there must be a new funding mechanism set up under the NCF, separate and distinct from the one set out in Telecom Regulatory Policy 2014-659, to cover any and all of the CAV's expenses related to VRS calls made to the 9-8-8 hotline.
19. Both parties stated that they would support the CAV's proposed 2023 budget only after it is increased or modified to take into account the expenses involved in making 9-8-8 calls through VRS. Both parties submitted that the Commission should make an interim determination to approve the CAV's proposed budget once modified to take into account such expenses.

### **The CAV's response**

20. The CAV filed a response to the DHH Coalition and the CDGM, dated 16 September 2022.
21. The CAV submitted that, as the independent administrator of VRS in Canada, it is in the best position to determine funding requirements related to 9-8-8 service.

### **Commission's analysis**

22. The Commission notes that the CAV's request for \$29,938,863 is under the \$30 million cap as established in the VRS policy.
23. Furthermore, the Commission acknowledges that the CAV continues to comply with the requirements set on in Appendix B of the VRS policy.

### **Request for relief regarding contract duration**

24. The Commission considers that the CAV's request to eliminate the current restrictions on contract duration would be more suitably dealt with in the context of the VRS review. However, the Commission will consider the matter of allowing a four-year extension in the context of the CAV's budget application.
25. The Commission is of the view that it would be prudent for the CAV to wait for the completion of the VRS review and the issuance of a new regulatory policy before entering into any RFP processes, so that the CAV would be aware of any new requirements and be able to include them in its contracts.
26. The Commission notes that the CAV's contracts with its video interpreter providers and its video technology platform provider will be ending soon and there is insufficient time to run an RFP process. The Commission further notes that the CAV has already exercised its option for an extension.
27. As a result, the Commission finds that it is appropriate to approve an additional four-year extension. This will allow the CAV sufficient time to determine how to best implement any new requirements that might result from the VRS review, to run RFP

processes, and to implement any required changes or modifications to the platform and procedures, within one cycle. It will also minimize the likelihood of further extension requests by giving the CAV the flexibility it needs for the RFP process.

### **The 9-8-8 hotline**

28. The Commission acknowledges the concern of the DHH Coalition and the CDGM that the CAV enable Deaf and hard of hearing consumers to have access to the 9-8-8 hotline at the same time as their hearing counterparts. However, the matter of the 9-8-8 hotline is a separate proceeding on which the Commission made its determinations in the 9-8-8 policy. The Commission further notes that the interveners and the CAV submitted comments on the public record of the 9-8-8 proceeding, and that the CAV has indicated it will ensure that the 9-8-8 hotline in its three-digit form is available through the VRS app.
29. The Commission notes that the VRS policy states that the CAV is an independent body that will ensure the viewpoints of VRS users are considered throughout the ongoing operations of VRS. The Commission considers that the CAV is in the best position to determine its funding needs for the 9-8-8 hotline and to decide how to make the 9-8-8 hotline available through the VRS app.

### **Conclusion**

30. In light of all of the above, the Commission **approves**, effective 1 January 2023, the CAV's application seeking \$29,938,863 in funding from the NCF for expenditures expected to be incurred in 2023.
31. The Commission **directs** the Central Fund Administrator of the NCF to remit the approved amount of \$29,938,863 to the CAV in 12 equal monthly instalments, beginning on 1 January 2023.
32. The Commission **approves** the CAV's request for a 4-year extension for its contracts with its suppliers from the date the relevant contract expires.

### **Policy Directions**

33. The 2006 Policy Direction<sup>5</sup> states that the Commission, in exercising its powers and performing its duties under the *Telecommunications Act* (the Act), should implement the telecommunications policy objectives set out in section 7 of the Act.
34. The Commission considers that the continued funding of VRS, a form of local exchange service accessible to sign language users, furthers the policy objectives set

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<sup>5</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

out in paragraphs 7(a), (b), (c), (e), (f), (g), (h) and (i) of the Act.<sup>6</sup> In particular, the Commission notes that VRS responds to the social and economic needs of VRS users and provides access to social, medical and other services that hearing Canadians can access by telephone.

35. Additionally, the 2019 Policy Direction<sup>7</sup> provides that when the Commission exercises its powers and performs its duties under the Act, it should consider how its decisions can promote competition, affordability, consumer interests, and innovation. The Commission considers that its determinations in this decision promote consumer interests, because they will enhance and protect the rights of consumers in their relationships with TSPs, including rights related to accessibility.

Secretary General

### Related documents

- *Introduction of 9-8-8 as the three-digit abbreviated dialing code for mental health crisis and suicide prevention services and Northwestel Inc.'s application for modified implementation of ten-digit local dialing*, Telecom Regulatory Policy CRTC 2022-234, 31 August 2022
- *Call for comments – Review of video relay service*, Telecom Notice of Consultation CRTC 2021-102, 11 March 2021; as amended by Telecom Notice of Consultation CRTC 2021-102-1, 26 April 2021; Telecom Notice of Consultation CRTC 2021-102-2, 30 June 2021; and Telecom Notice of Consultation CRTC 2021-102-3, 14 March 2022
- *Structure and mandate of the video relay service administrator*, Telecom Regulatory Policy CRTC 2014-659, 18 December 2014
- *Video relay service*, Telecom Regulatory Policy CRTC 2014-187, 22 April 2014

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<sup>6</sup> The policy objectives cited 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; (c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; (e) to promote the use of Canadian transmission facilities for telecommunications within Canada and between Canada and points outside Canada; (f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; (g) to stimulate research and development in Canada in the field of telecommunications and to encourage innovation in the provision of telecommunications services; (h) to respond to the economic and social requirements of users of telecommunications services; and (i) to contribute to the protection of the privacy of persons.

<sup>7</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

## Appendix to Telecom Decision CRTC 2022-340

### The CAV's expenditure requirements for 2023

Expense Category	2023 Budget	% of Total 2023
Board	\$135,000	<1%
Administration	\$374,298	1%
Marketing – education and outreach	\$350,000	1%
Professional services	\$1,440,134	5%
Operations	\$26,700,912	87%
Wages	\$1,691,106	6%
<b>Total expenditures</b>	<b>\$30,691,450</b>	<b>100%</b>

### Summary of the CAV's budget request for 2023

Item	Amount
Estimated expenditures for 2023	\$30,691,450
Subtract projected deferred contributions ending balance	-\$3,752,587
Funding request before reserves	\$26,938,863
Add balance sheet reserve of \$1M	\$1,000,000
Add contingency of \$2M	\$2,000,000
<b>Total 2023 budget request</b>	<b>\$29,938,863</b>