



## Telecom Order CRTC 2024-112

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Ottawa, 23 May 2024

*File numbers: 1011-NOC2021-0009 and 4754-675*

### **Determination of costs award with respect to the participation of the Public Interest Advocacy Centre in the additional process initiated by Compliance and Enforcement and Telecom Decision 2022-170**

#### **Application**

1. By letter dated 26 February 2024, the Public Interest Advocacy Centre (PIAC) applied for costs with respect to its participation in the additional process initiated by Compliance and Enforcement and Telecom Decision 2022-170 (the proceeding). In that decision, the Commission established overarching guiding principles for a future network-level botnet-blocking framework. In addition, the Commission requested that the CRTC Interconnection Steering Committee (CISC) examine a number of issues and report back, after which interested parties would have an opportunity to comment on the report. On 8 January 2024, a letter was issued setting out the additional process for interested parties to submit comments on the CISC report, including all of the issues that the Commission referred to CISC in Appendix 2 of Compliance and Enforcement and Telecom Decision 2022-170.
2. The Commission did not receive any interventions in response to the application for costs.
3. PIAC submitted that it had met the criteria for an award of costs set out in section 68 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) because it represented a group or class 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.
4. In particular, PIAC submitted that it represents the interests of consumers, including vulnerable and low-income consumers, because, in PIAC's view, any network-level blocking framework to limit botnet traffic affects the fundamental freedoms and rights of consumers across Canada. PIAC also noted that it participated in the additional process to provide a public interest perspective on the matter.
5. PIAC submitted that it had assisted the Commission in developing a better understanding of the matters that were considered by raising a number of consumer issues that it believed were not adequately addressed in the CISC report and that

should be addressed before implementing a network-level botnet-blocking framework.

6. PIAC requested that the Commission fix its costs at \$2,671.28, consisting entirely of legal fees. PIAC's claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which PIAC is entitled in connection with the HST.
7. PIAC submitted that the responsibility for payment of costs should be allocated among costs respondents based on the most recent data provided to the Commission by the telecommunications service providers.

### **Commission's analysis**

8. The criteria for an award of costs are set out in section 68 of the Rules of Procedure, which reads as follows:
  68. The Commission must determine whether to award final costs and the maximum percentage of costs that is to be awarded on the basis of the following criteria:
    - (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.
9. 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, PIAC has demonstrated that it meets this requirement. Specifically, PIAC represented the interests of consumers, including vulnerable and low-income consumers, by making submissions in the proceeding that provided a public interest perspective.
10. PIAC has also satisfied the remaining criteria through its participation in the proceeding. In particular, PIAC's submissions, especially regarding the scope of the blocking framework and on transparency, accountability and privacy issues, assisted the Commission in developing a better understanding of the matters that were considered. Further, PIAC participated in the proceeding in a responsible way. Accordingly, the Commission finds that the applicant meets the criteria for an award of costs under section 68 of the Rules of Procedure.
11. The rates claimed in respect of legal fees are in accordance with the rates established in the *Guidelines for the Assessment of Costs*, as set out in Telecom Regulatory Policy

2010-963. The Commission finds that the total amount claimed by PIAC was necessarily and reasonably incurred and should be allowed.

12. This is an appropriate case in which to fix the costs and dispense with taxation, in accordance with the streamlined procedure set out in Telecom Public Notice 2002-5.
13. The Commission has generally determined that the appropriate costs respondents to an award of costs are the parties that have a significant interest in the outcome of the proceeding in question and have participated actively in that proceeding. The Commission considers that the following parties had a significant interest in the outcome of the proceeding and participated actively in the proceeding: Bell Canada; Independent Telecommunications Providers Association; Rogers Communications Canada Inc.; and TELUS Communications Inc.
14. The Commission considers that, consistent with its practice, it is appropriate to allocate the responsibility for payment of costs among costs respondents based on their telecommunications operating revenues (TORs) as an indicator of the relative size and interest of the parties involved in the proceeding.<sup>1</sup> However, as set out in Telecom Order 2015-160, the Commission considers \$1,000 to be the minimum amount that a costs respondent should be required to pay, due to the administrative burden that small costs awards impose on both the applicant and costs respondents.
15. Accordingly, the Commission finds that the responsibility for payment of costs should be allocated entirely to Bell Canada.

### **Directions regarding costs**

16. The Commission **approves** the application by PIAC for costs with respect to its participation in the proceeding.
17. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC at \$2,671.28.
18. The Commission **directs** that the award of costs to PIAC be paid forthwith by Bell Canada.

Secretary General

### **Related documents**

- *Development of a network-level blocking framework to limit botnet traffic and strengthen Canadians' online safety*, Compliance and Enforcement and Telecom Decision CRTC 2022-170, 23 June 2022; as amended by Compliance and Enforcement and Telecom Decision CRTC 2022-170-1, 11 October 2022

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<sup>1</sup> TORs consist of Canadian telecommunications revenues from local and access, long distance, data, private line, Internet, and wireless services.

- *Guidance for costs award applicants regarding representation of a group or a class of subscribers*, Telecom Information Bulletin CRTC 2016-188, 17 May 2016
- *Determination of costs award with respect to the participation of the Ontario Video Relay Service Committee in the proceeding initiated by Telecom Notice of Consultation 2014-188*, Telecom Order CRTC 2015-160, 23 April 2015
- *Revision of CRTC costs award practices and procedures*, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010
- *New procedure for Telecom costs awards*, Telecom Public Notice CRTC 2002-5, 7 November 2002