November 20, 2009

VIA EPASS

Mr. Robert Morin
CRTC
1 Promenade du Portage
Les Terrasses de la Chaudière
Central Building
Gatineau, QC
K1A 0N2

Dear Mr. Morin:

Subject: Nomadic VoIP E9–1–1 service, Telecom Notice of Consultation CRTC 2009–194 – Reply Comments

1. In accordance with paragraph 31 of Telecom Notice of Consultation CRTC 2009–194 (TNC 2009–194 as amended by the Commission’s letter of May 12, 2009, the Canadian Cable Systems Alliance (CCSA), on behalf of its Member Companies, hereby files its reply comments on the issues in this proceeding.

2. CCSA is in receipt of comments from Bell Aliant Regional Communications, Limited Partnership, Bell Canada and Télécab, Société en commandite (collectively, the Companies), Bragg Communications Inc., operating as “EastLink”,Cogeco Cable Inc., Rogers Communications Inc., Shaw Communications inc., and Quebecor Media Inc., on behalf of its affiliate Videotron Ltd. (collectively, the Cable Carriers), the Canadian Independent Telephone Company Joint Task Force (“JTF”), the Coalition of Internet Service Providers Inc. (CISP), the City of Calgary (Calgary), Comwave Inc. (Comwave), Execulink Telecom Inc. (Execulink), MTS Allstream Inc. (MTS Allstream), Primus Telecommunications Canada Inc. (Primus), TELUS Communications Company, and the VON Coalition Europe and the VON Coalition (VON).
3. In these reply comments, CCSA wishes to address the following points:

- the infeasibility of requiring small ASPs to implement and pay for a location determination platform (LDP), in light of the disproportionate costs and the very small base of subscribers, as well as other deficiencies of this proposal and the shrinking number of nomadic VoIP end-users; and

- the requirement for an effective and comprehensive cost recovery mechanism, in the circumstances where the Commission requires all ASPs, including small ASPs, to implement a LDP, or any alternative solution for nomadic VoIP 9-1-1 service that would require ASPs to incur costs.

I. LDP is not feasible for small ASPs

4. CCSA remains of the view expressed in its previous submissions that it would not be feasible for its Member Companies, who are small ASPs, to implement the proposed LDP and recover these costs from among their own customers. The economic evaluation study indicated that LDPs for the Member Companies would collectively cost at least $25 million, based on a per company cost of $427,000. This equates to approximately $328 for each high-speed Internet end-customer served by these companies.

5. CCSA strongly disagrees with the assertion by The Companies in their comments that the estimated costs may be inflated, or that concerns about cost recovery could be eliminated by spreading the cost recovery over multiple years.¹

6. First, the costs used in CCSA’s economic evaluation were based on the costs that an actual representative company would incur. The project inputs and costing of these inputs were informed directly by staff at the company as well as experts familiar with the operating and technical characteristics of a number of small cable operators. If anything, the costs are likely to be understated since projects of such a magnitude tend to have far more wide-ranging impacts that are revealed only once the project has been initiated.

7. In addition, the cost estimates assumed that the cable company had already incurred costs to become CLEC. Since a large number of CCSA members have not

become CLECs and some may not do so in the near term, the costs to implement the proposed LDP would be even greater than that estimated.²

8. Furthermore, it is not reasonable to expect that the CCSA Member Companies could recover the cost over several years. These are small privately-held companies that do not have access to the financial resources required to fund an up-front investment of the magnitude indicated to implement a LDP. The limited financial resources available to these companies would need to be diverted from network and service-related initiatives that are of critical importance to their future. A slowdown or delay in these initiatives would not benefit the companies or their customers. Rather, it would create an advantage for larger competitors, such as the ILECs, who would face weakened competitors in these markets. This could serve to further undermine the viability of small ASPs.

9. CCSA addressed the relative competitive disadvantage in its Comments of November 6, 2009, notably at paragraphs 22 and 23. EastLink also highlighted the perversity of mandating cable companies to pay for and implement a system to support E9–1–1 functionality for VoIP providers when these companies are unable to compete in the telephony market due to the prohibitive costs of provisioning 9–1–1 in some serving areas.³

10. It is not in the public interest to impose regulatory obligations that would impose significant financial burdens on small ASPs. It is disconcerting that The Companies are dismissive of the risks this would pose for small ASPs if they were required to implement a LDP and bear sole responsibility for the costs. The Companies appear to have greater concern regarding the financial stability of VoIP service providers.⁴ However, by comparison to these mainly resale-based service providers, the CCSA Member Companies have invested far more and brought about much greater benefit to Canadians.

11. CCSA acknowledges the concerns raised by other parties that an exemption for small ASPs from implementing LDP would create gaps in the coverage of

² See the response to CCSA(CRTC to CCSA)28Aug09–3. See also EastLink, Comments of November 6, 2009, at para. 7.
³ EastLink, Comments of November 6, 2009, at paras. 6–7.
⁴ The Companies, Comments of November 6, 2009, paragraph 46. In response to certain alternative proposals, The Companies stated, “Forcing VSPs to forklift their infrastructure would have drastic impacts on their financial stability.”
nomadic VoIP 9–1–1 service. Ideally, the chosen solution for nomadic VoIP 9–1–1 service should be as comprehensive as possible. However, an exemption for small ASPs would not significantly alter the effectiveness of the proposed LDP, which suffers from other shortcomings that have a far greater impact on its potential coverage.\(^5\)

12. As CCSA previously noted, its Member Companies’ high-speed Internet end-customers represent less than 1% of the total. If nomadic VoIP end-users were distributed proportionate to the high-speed internet customer base, this would equate to less than 2,000 nomadic VoIP end-users within the serving territories of CCSA member companies. This figure may be as small as 900 potentially affected households based on information filed by the Cable Carriers in their comments.\(^6\) Submissions by Comwave and VON also point to the small and shrinking base of VoIP end-users.\(^7\)

13. CCSA remains of the view expressed in its previous comments that an exemption for small ASPs, defined as those serving no more than 10,000 high-speed Internet end-customers, would not have a material impact on the effectiveness of the proposed Canadian i2 solution, particularly in light of other deficiencies.\(^8\) These deficiencies, when considered in light of the significant costs, cast doubt on whether it would be an efficient use of resources to mandate a LDP for any ASP.

II. Cost recovery must ensure that small ASPs are compensated for any costs incurred

14. If notwithstanding the concerns identified above, the Commission were to require all ASPs to implement a LDP, it is critical that this be accompanied by an effective cost recovery mechanism. The same applies in the case of any alternative solution for VoIP 9–1–1 service that requires ASPs to directly incur costs.

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\(^5\) CCSA, Comments of November 6, 2009, paras. 27–28.
\(^6\) Cable Carriers, Comments of November 6, 2009, para. 11.
\(^7\) Comwave, Comments of November 6, 2009, para. 23; VON, Comments of September 12, 2009, para. 17.
\(^8\) The Cable Carriers filed extensive evidence respecting technical challenges associated with the Canadian i2 model, including a technical analysis prepared by CableLabs, as discussed in their Comments of November 6, 2009, paras. 17–24. See also CISP, Comments of November 6, 2009, para. 8, and JTF, Comments of November 6, 2009, para. 14, 20.
15. CCSA submits that its Member Companies would face a significant and disproportionate burden on their limited financial resources if they were required to recover from their high-speed Internet end-customers the costs associated with implementing a LDP. This view was echoed in the comments of the JTF, representing the small ILECs.\(^9\)

16. CCSA remains of the view that the VoIP service providers and their end-users should be responsible for the costs of any solution. It is only these providers and their end-customers that would derive any benefit from an enhancement to the nomadic VoIP 9–1–1 service. Similar views were expressed by several other parties, including the Cable Carriers, EastLink, Execulink, the JTF, MTS Allstream and TELUS.\(^10\) The suggestion of others that the proposed solution will result in future benefits as a justification for a more broadly based cost recovery mechanism is purely speculative.

17. CCSA disagrees with the concerns raised by The Companies with respect to a cost recovery mechanism.\(^11\) CCSA particularly takes issue with the claim of The Companies that a cost recovery mechanism would represent a subsidy for ASPs. The purpose of the cost recovery mechanism is to minimize the requirement for ASPs to subsidize the operating costs of VoIP service providers which are the sole beneficiaries of a LDP.

18. As has been noted by CCSA and other parties that support a cost recovery mechanism, the Commission has overseen cost recovery mechanisms that could be used as a basis for recovering the costs of implementing a solution for VoIP 9–1–1 service.\(^12\)

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\(^9\) JTF, Comments of November 6, 2009, paras. 10–13. Similar concerns were raised by EastLink, Comments of November 6, 2009, paras. 10–11, and Execulink, Comments of November 6, 2009, para. 13.

\(^10\) Cable Carriers, Comments of November 6, 2009, paras. 56–57, 61–62; EastLink, Comments of November 6, 2009, para. 8; Execulink, Comments of November 6, 2009, paras. 6–7; JTF, Comments of November 6, 2009, paras. 24–25; MTS Allstream, Comments of November 6, 2009, para. 9; and TELUS, Submission of August 7, 2009, Appendix 1.

\(^11\) The Companies, Comments of November 6, 2009, paras. 34–36.

\(^12\) See for example, the Cable Carriers, Comments of November 6, 2009, paras. 58–60.
III. Conclusion

19. CCSA submits that it would not be feasible for its Member Companies to implement a LDP and recover those costs from its own subscribers. The costs of the proposed solution would be disproportionate relative to the potential benefits such an initiative could provide for the shrinking number of nomadic VoIP end-users, and in light of significant deficiencies associated with the proposal.

20. CCSA remains of the view that, in the circumstances that the Commission mandates such a proposal, it would be appropriate to provide an exemption for small ASPs, defined as those serving no more than 10,000 high-speed Internet end-customers. An exemption would not materially impact the effectiveness of the proposed Canadian i2 solution, particularly in light of other deficiencies.

21. Moreover, if the Commission proceeds to mandate a LDP-based solution or other solution that requires all ASPs to directly incur costs, then an effective cost recovery mechanism is critical to implementation. A cost recovery mechanism should place the burden of the costs on the primary beneficiaries, being the VoIP service providers and their end-users, and not on the ASPs.

22. CCSA appreciates the opportunity to provide comments on this matter.

Sincerely,

Christopher J. Edwards
Vice-President, Corporate & Regulatory Affairs