



DEAF
WIRELESS
CANADA
COMMITTEE

COMITÉ POUR LES
SERVICES
SANS FIL DES
SOURDS DU
CANADA

Canadian
Association of the Deaf



Association
des Sourds du Canada



Mr. Claude Doucet
Secretary General
Canadian Radio-television and Telecommunications Commission (CRTC)
Ottawa, ON K1A 0N2

December 10, 2021

Call for comments – Accessibility - mobile wireless service plans that meet the needs of Canadians with various disabilities, Telecom Notice of Consultation CRTC TNC 2020-178 - Request for Information (RFI) Response - Question 5

Dear Secretary-General,

1. The DWCC et al., specifically the three organizations of Deaf Wireless Canada Consultative Committee-Comité pour les Services Sans fil des Sourds du Canada (**DWCC-CSSSC**), Canadian Association of the Deaf-Association des Sourds du Canada (**CAD-ASC**), and Canadian National Society of the Deaf-Blind (**CNSDB**) [collectively, **DWCC et al.**] participate in this critical proceeding dealing with the review of Wireless Accessibility.
2. On November 23, 2021, DWCC et al. received a procedural request for information (RFI) along with all the participating parties.
3. As the DWCC et al. had to do extensive research and consult with telecommunication industry experts, they opted to respond to Question 5 separately, so the team could collaborate on only the response for this question, as follows:

Q5. Forbearance

In TRP 2021-130, the Commission was unable to find, as a question of fact, that competition alone is sufficient to protect the interests of users of retail mobile wireless services; however, it went on to find that continued retail forbearance was consistent with the policy objectives of the Act.

Ultimately, the Commission determined that it was preferable that the interests of users be met through market forces accompanied by targeted wholesale and retail regulatory measures, rather than through broad-based retail regulation. In that decision, the Commission could make additional findings with respect to retail forbearance in the present proceeding if the record justified it.

In these circumstances, is it necessary for the Commission to reassert any currently forborne powers in order to ensure that the interests of persons with disabilities are met? Explain why or why not with reference to how the proposed course of action would be consistent with the policy objectives.

DWCC et al.'s Response:

Introduction

4. It is a fundamental human right for Deaf, Deaf-Blind and Hard of hearing Canadians have access to communication. As described in the *Accessible Canada Act*, this access includes all kinds of communication in section 5 (c) information and communication technologies; (c.1) communication, other than information and communication technologies, which leads to wireless communications. It means Deaf, Deaf-Blind and Hard of Hearing Canadians deserve full accessibility with wireless communication.

5. Those who use visual and tactile communication with sign language rely on video communications. In Canada, the more significant population comprises persons who can hear and are dependent on aural-oral communications. For years the telecommunication focus has been on the majority consumer group, so voice minutes and voice plans have been the CRTC's central topic of regulation, aimed at the telecommunications and wireless service providers.

6. Typically, data packages have been considered more for entertainment than information and communication, focusing on streaming and the uploading and downloading videos and not necessarily on the two-way communication features of internet usage, including over a wireless connection.

7. Carriers currently offer retail packages with unlimited voice calls and limited data calls, throttled to very low speed beyond a fixed monthly usage limit. The **communication equity** to voice calls for the deaf is the video conferencing available through various applications.

8. As the result of the Covid-19 pandemic, suddenly, there has been an accelerated switch to the attention of the video quality for two-way use of Zoom communications. Now data packages are at the forefront of service provisions. Truthfully, video quality issues for our consumer group have been a critical concern, but for our **accessibility needs**.

9. Video communication is and always will be essential to wireless services. As the DHH Coalition says in its documents, as with unlimited voice calls, regulators should treat unlimited video data the same for our accessibility group.

Establishing Service Objectives and Parameters

10. In Policy 2016-496¹ established universal service objectives, and targets tracked by Innovation, Science and Economic Development Canada as outlined [here](#)² where "Our goal is for all Canadians to have access to high-speed Internet of at least 50 megabits per second (Mbps) download and 10 Mbps upload speeds."³ When less than 10 Mbps, it becomes a problem for those who use Sign Language over a video connection. When the WSPs start slowing down (network management) at 512kps, it seriously impedes video communications.

¹ Telecom Regulatory Policy CRTC 2016-496: Modern telecommunications services – The path forward for Canada's digital economy, link: <https://crtc.gc.ca/eng/archive/2016/2016-496.htm>

² Ministry of Innovation, Science and Economic Development Canada - <https://www.ic.gc.ca/eic/site/139.nsf/eng/00036.html>

³ CRTC - What you should know about Internet speeds - <https://crtc.gc.ca/eng/internet/performance.htm>

11. Speed performance seemed to be for voice services and streaming and not so much on one-to-one video communications, and progress needs to be made for universal access to high-speed internet, especially with consideration to accessibility.

12. CRTC is correct that “the Internet has evolved into a multi-dimensional communications medium”⁴ including the wireless internet connectivity sphere. About the download ratio, people look at the download speeds and not the upload rates, which affect video communication. CRTC must instead consider two-way **symmetrical** video communication over a wireless connection for our primary accessibility.

13. The above presents our rationale for the minimum speeds of network management required for stable video communication. We now turn to the topic of forbearance in response to the RFI query.

Forbearance

14. In researching the topic of Forbearance, DWCC et al. discovered more about how the concept applies in the area of regulation and governance. We appreciate those who have shared their knowledge and time to provide us with what we needed to know.

15. The Commission addressed the analytical framework for assessing competition in telecommunications markets in Telecom Decision CRTC 94-19, Review of the regulatory framework (TD 94-19). The framework first requires a definition of the relevant product and geographic markets. It then requires an assessment of the competition in those markets based on competitiveness indicators such as market shares and concentration levels, demand conditions, the ability of existing suppliers to expand output in response to a price increase, barriers to entry, evidence of rivalrous behaviour, and the nature of innovation and technological changes. The Commission used this framework in reaching its findings that continued retail forbearance was consistent with the policy objectives of the Telecommunications Act.

16. CRTC 2010-445 confirms that 24, 27(2), 27(3), and 27(4) of the Telecommunications Act S.C. 1993, c. 38 were NOT forborne. In other words, the CRTC confirmed these sections were still in effect). Section 27(2) is the part dealing with “unjust discrimination.”

17. CRTC decision 2010-445 established sections 24 and 27(2) were not forborne from retail wireless. Therefore, the Commission already has the regulatory tools to declare that offering unlimited voice conversations to non-disabled users confers undue preference than deaf people not provided with this function.

18. Furthermore, under Section 24, the Commission has the power to impose conditions to carriers to require that disabled customers be offered unlimited conversations. The best way to implement this is to provide them with "no data-overage" plans, where the throttled speed beyond a monthly usage limit is high enough to allow video conferencing. It achieves the goal of granting disabled people equivalent service to those who can use voice calls in an unlimited fashion.

⁴ CRTC - Internet Services for Canadians - <https://crtc.gc.ca/eng/internet/>

19. Modulating the throttled speed on existing commercially available packages does not invoke rate regulation and would be simple for carriers to implement. It would not cause questions on the differential or ITMP policies since the carriers would remain agnostic to the applications used for the video conferencing or any other type of use.

20. As such, DWCC et al. does not see the need to reinstate currently forborne sections as 27(2) and 24 are sufficient to achieve the goals of providing deaf people with the functional equivalent of unlimited voice calls that non-deaf people have. DWCC et al. feel strongly that the CRTC can assert its powers under Section 24, more than it has in the past since the Accessible Canada Act has authorized the federal government to enhance its commitment to all government structures and services, including those that regulated under federal mandate.

Industry Directives and Regulatory Powers

21. In the 2006 policy decision, the CRTC defined access to broadband Internet service and voice telephone service as part of its "universal service objective." What it appears is that video calling communications are missing. We are now in the 21st century, and the gaps need to be closed. Telecommunications encompasses both voice and video communications. In hindsight, all policies are outdated and need modernizing to show the current state with the evolution of technology.

22. Just as technology evolves, accessibility efforts must also evolve to achieve communication equity⁵. Innovation Science and Economic Development (**ISED**) Minister of Industry, according to section 8 of the Telecommunications Act b, made the annexed *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*.

Policy Direction 2019⁶

23. Since the 2006 Policy Direction⁷, telecommunications has modernized, and with due process, the Direction now includes a direction concerning accessibility for customers, as follows:

"In exercising its powers and performing its duties under the Telecommunications Act, the Commission must implement the Canadian telecommunications policy objectives set out in section 7 of that Act, in accordance with the following:

- a. the Commission should consider how its decisions can promote competition, affordability, consumer interests and innovation, in particular, the extent to which they:
 - iv. enhance and protect the rights of consumers in their relationships with telecommunications service providers, **including rights related to accessibility,**"

⁵ Communication Equity terminology introduced - Communication Services for the Deaf (CSD) - [link](#)

⁶ ISED Policy Direction 2019 - [link](#)

⁷ Policy Direction 2006 Regulations - [link](#)

24. However, we have seen where CRTC has obligations to the new Direction and can use this Direction to ensure equal access to Deaf, Deaf-Blind and Hard of hearing telecommunications services. The CRTC would do well to adhere to this direction when considering its policy decisions for the issue of forbearance giving way to accessibility in addition to referencing the *Accessible Canada Act*, introduced and in effect since 2019.

CRTC Accessibility Policy

25. In closing, DWCC et al. would like to deliver a reminder that it is time for the CRTC to update its Accessibility Policy, currently [BTRP CRTC 2009-430](#),⁸ which is now outdated. With the introduction of many new accessibility-related policies: TRP 2017-187,⁹ TRP 2014-659;¹⁰ TRP 2018-466;¹¹ and TBRP 2021-215,¹² it is time to update the Accessibility Policy.

Concluding Remarks

26. DWCC et al. greatly appreciate the Commission's consideration of its Response. Should you have any questions, please do not hesitate to contact all of us.

Sincerest regards,

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Parties to TNC 2020-178

***** END OF DOCUMENT *****

⁸ CRTC BTRP 2009-430 - Accessibility Policy - [link](#)

⁹ CRTC TRP 2014-187 - Video Relay Services - [link](#)

¹⁰ CRTC TRP 2014-659 - Structure and mandate of the video relay service administrator - [link](#)

¹¹ CRTC TRP 2018-466 - Review of the regulatory framework for text-based message relay services - [link](#)

¹² CRTC TBRP 2021-215 - The CRTC Accessibility Reporting Regulations - [link](#)