



Association
des Sourds du Canada

DEAF
WIRELESS
CANADA
COMMITTEE



COMITÉ POUR LES
SERVICES
SANS FIL DES
SOURDS DU
CANADA

CNSDB
The Canadian National Society of the Deaf-Blind, Inc



Mr. Claude Doucet
Secretary General
Canadian Radio-television and Telecommunications Commission (CRTC)
Ottawa, ON KIA ON2

June 22, 2020

**Call for comments – Regulations to be made under the Accessible Canada Act,
Telecom and Broadcasting Notice of Consultation [CRTC 2020-124](#) (Ottawa, April
14, 2020) - Reply Comments**

Dear Secretary General,

Canadian Association of the Deaf-Association des Sourds du Canada (**CAD-ASC**), Deaf
Wireless Canada Consultative Committee-Comité pour les Services Sans fil des Sourds du
Canada (**DWCC-CSSSC**), Canadian National Society of the Deaf-Blind (**CNSDB**), and
Deafness Advocacy Association Nova Scotia (**DAANS**) [collectively, **CAD-ASC et al.**] files its
reply in accordance with the procedures set out in CRTC TBNC 2020-124 as amended.

In these Reply Comments, CAD-ASC et al. responds to a number of participating parties and
makes comments on some of the proposals that were made. Any failure on CAD-ASC et al.'s
part to respond to any given intervention or any issue raised by any participating party should
not be viewed as agreement with the said intervention or issue.

As noted in its Intervention, CAD-ASC et al. recognizes the importance of accessibility of
communications services and supports the objectives of the Accessible Canada Act (the "ACA").

Introduction

1. CAD et al. acknowledges and reviewed Interventions from TechNation, Rogers
Communications Inc (**Rogers**), Ligado Networks (**Ligado**), Distributel Communications Limited
(**Distributel**), TekSavvy Solutions Inc (**TekSavvy**), Canadian Wireless Telecommunications
Association (**CWTA**), Cogeco Communications Inc (**Cogeco**), Tbaytel, Saskatchewan
Telecommunications (**Sasktel**), TELUS Communications Inc (**TELUS**), Shaw Communications
Inc (**Shaw**), CNIB Foundation (**CNIB**), Media Access Canada (**MAC**), ARCH Disability Law
Centre (**ARCH**), Forum for Research and Policy in Communications (**FRPC**), Community Media
Advocacy Centre (**CMAC**), Broadcast Advocacy Group (**BAG**), CBC, Accessible Media Inc

(AMI), Canadian Association of Broadcasters (CAB), Pelmorex Weather Networks (Pelmorex), National Campus and Community Radio Association (NCCRA), Independent Broadcast Group (IBG), Blue Ant Media (Blue Ant), Wildbrain Television (Wildbrain), and Access Communications Cooperative (ACC).

Exemptions

2. Regardless of size of organizations, any regulated entity which maintains a customer/provider relationship with persons with a disability, should be required to consult with national disabled organizations for input and feedback on multi-year accessibility plans via online forms and feedback mechanisms prior to file accessibility plans including consultation plans on reporting and feedback process.

3. CAD-ASC et al agrees with CNIB, and ARCH that broadly, operational realities should not justify the creation of blanket exemptions to accessibility requirements. However, CAD-ASC fears that ARCH's suggestion of granting rare exemptions to be reviewed every five years will create legal loopholes that may be abused by regulated entities - something that flies against ACA's aim of removing barriers by 2040.

4. Tbaytel deems it *"appropriate for the Commission to issue orders exempting small wireless carriers and telecommunication service providers from reporting obligations under the ACA. Specifically, those broadcasters with less than 20,000 subscribers, as defined as an exemption criterion in Broadcasting Order CRTC 2017-320, Revised exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers, would be appropriate as an exemption parameter for the progress reporting requirements under the ACA."* Tbaytel thus deems *"it appropriate that the reporting requirements under the ACA should apply only to the 10 large service providers to which the Internet Code [CRTC 2019-269] currently applies."*

5. CAD-ASC et al. does not agree with Tbaytel's argument. Tbaytel's argument does not fit well with Roger's submission that *"[a]ccessibility is an important social policy initiative that should apply to every regulated entity."* Just as the Commission recently deemed internet as a basic service meaning access to internet is a right throughout Canada even in remote and / or Northern parts of Canada, so shall access to communications be a basic service / right to be implemented throughout Canada.

6. For the very same reason, CAD-ASC et al. does not agree with Ligado's recommendation *"that the Commission consider exempting the following regulated entities from the ACA's reporting and feedback process obligations at this time:*

- a. TSPs that solely provide telecommunications services on a wholesale basis to wholesale service customers; and*

b. TSPs with total annual Canadian Telecommunications Service Revenues (CTSR) less than \$10 million.“

7. Like CWTA, CAD-ASC et al. believes that *“while the Accessibility plans and progress reports can be designed to accommodate smaller entities, no entity should be exempt from having to consider accommodation.”* CAD-ASC et al. agrees with Rogers’ submission *“that any proposal that would exempt or otherwise materially distinguish among different classes of regulated entities in the regulations would not be justified.”* CAD-ASC shares Rogers’ belief that *“there should [not] be any exceptions to the regulations that will be promulgated under the ACA. It is difficult to see how granting exemptions to the regulations would further the achievement of any of the principles outlined in section of the ACA.”* CAD-ASC et al. also shares TELUS’ assertion that *“all regulated entities should be held to the same standards with respect to accessibility and should comply with the ACA’s reporting obligations.”*

Timing

Initial Accessible Plans

8. CAD-ASC et al. agrees with the CNIB, MAC, FRPC, and CMAC, that regulated entities are given 12 months to prepare and publish the initial plans. Instructions for the feedback options and processes should be included with the initial publications.

9. CAD-ASC et al. agrees with CMAC that initial data on the reality of accessibility and inclusion in their entities should also be included.

10. CAD-ASC et al. agrees with ARCH that CRTC regulations regarding accessibility plans should require regulated entities to include the following information in their accessibility plans: concrete actions to be taken to remove barriers; the person responsible for taking these actions; timelines for completing these actions; performance indicators; the manner in which consultations with persons with disabilities were conducted; how consultation information was used to develop the plan; and how the section 6 principles in the ACA informed the plan.

11. CAD-ASC et al. agrees with ARCH that regulations require this essential information to be included in accessibility plans. If the CRTC does not include this essential information in mandatory regulations, but leaves it to voluntary guidance documents, it is likely that accessibility plans will not be as effective as possible. The ACA grants the CRTC regulatory authority to include these essential elements in regulations.

12. CAD-ASC et al. agrees with ARCH that the CRTC should coordinate the timing of accessibility plans, progress reports, and feedback processes. Regulated entities should publish their feedback process on the same date as they publish their accessibility plan. They should publish a progress report a year before each update to the accessibility plan, and use this progress report to inform the updated plan.

13. CAD-ASC et al. agrees with ARCH that the CRTC should publish its own database of accessibility plans, progress reports, and feedback processes for all regulated entities on its own website. Consequently, accessibility plans will be readily available in one location to many people immediately, even when a regulated entity does not have its own website. Additionally, CAD-ASC et al. suggests that if the companies do not have own website, the Commission will be responsible to upload it to a centralized location.

14. CAD-ASC et al. agrees with ARCH that some persons with disabilities will not be able to obtain these documents from a website or they may require the document in another format. Regulated entities should ensure that they have internal processes established and personnel assigned to make accessibility plans, progress reports, and feedback processes available in alternate formats within a reasonable timeframe.

Updated Plans

15. CAD-ASC et al. agrees with FRPC that regulated entities should publish updated plans every 12 months and not 36 months. Other groups, such as the CNIB, that have said two or three years, in CAD-ASC et al.'s view, it is too long because we all can acknowledge the speed of technology changes quickly, so CAD-ASC recommends that 12 months or within a year is a reasonable time frame.

16. CAD-ASC et al. agrees with ARCH that for many persons with disabilities, facilitated, in-person engagement is a more accessible and meaningful form of consultation than an online or written process. Regulated entities may need to use a variety of modalities to meaningfully engage persons with disabilities. Whatever process is used to gather input, it must engage diverse communities of persons with disabilities; provide support and accommodations to ensure accessibility including travel expenses; compensate participants; and produce an accessible document summarizing what was learned from the process.

Feedback

17. CAD-ASC et al. agrees with FRPC and numerous groups that feedback options and processes are published on the same date as initial plans released.

18. CAD-ASC et al. agrees with MAC with the suggestion that after accessibility plans are first published, an initial feedback period be allowed four months after the regulations come into effect, to ensure there is consumer input before going to final publication.

19. Whereas CNIB mentioned the discounts for persons with disabilities in their intervention. CNSDB wanted to make a comment regarding the Deaf-Blind:

20. Due to being in lower income brackets, many deaf-blind customers are unable to afford the plans from Telus, Rogers and Bell, with larger amounts of data, even after the discounts. However, when they look to flanker companies, they may find more affordable plans but with far less data than they need. Plans with larger amounts of data are often around the same price or

not much cheaper than those of the big three, due to the flanker companies not providing an equitable discount. This creates a significant barrier for the deaf-blind to access the level of data that enables them to meet their accessibility needs. This is an example where accessibility needs to be reported and groups such as CNSDB can respond and suggest better solutions for deaf-blind Canadians in the feedback processes. CNSDB would like to take the opportunity to clarify that they represent Deaf-Blind Canadians while CNIB is the voice for the blind and partially sighted that can hear.

21. CAD-ASC et al. agrees with ARCH that progress reports should measure the regulated entity's actions to date, based on the timeframes and performance indicators in the accessibility plan, as well as input from consultations and specific barriers reported through feedback processes.

22. CAD-ASC et al. agrees with ARCH that feedback mechanisms through which people with disabilities identify specific barriers to services and programs should be accessible and should include a response to the person who made the complaint or provided the feedback. Feedback should be tracked and used to inform accessibility plans when they are updated.

Manner of publication and form of preparation / Requests for alternate formats

23. CNSDB advises to add comments in response to CNIB regarding websites. Whereas CNIB commented, "CNIB recommends that websites [of telecom, broadcasters, BDUs and internet service providers] adhere to accessibility standards, and be user tested by knowledgeable and competent users of assistive technology. These technologies would include screen readers, screen magnification software, braille displays and mobile devices. Often, even websites that adhere to all World Wide Web Consortium (W3C) standards encounter problems when assistive technology users try to access information.

24. CNSDB agrees with this comment. However, we would like to point out that these are only minimum standards which may not meet the needs of all deaf-blind customers. It is essential to do better than just minimum standards. The deaf-blind have fewer options for access than hearing blind or sighted Deaf do.

25. An individual who is very low vision with no or extremely little hearing does not have the option to switch to a screen reader and listen if they are unable to read the text visually due to it being too small or of poor colour contrast. As for video content on websites, it is essential to have a text based transcript that provides descriptions and the spoken audio in text format, to ensure that those who cannot hear the descriptive and spoken audio and cannot see the video or captioning will still have access.

26. Websites must be tested by deaf-blind customers with a wide range of vision and hearing and types of assistive technology. CNSDB agrees that "often complicated PDFs are not accessible due to graphics, images or charts." Consultation should come from organizations such as CNSDB, that are run by and for the deaf-blind.

Substance of the feedback process

27. CAD-ASC et al. agrees with the BAG when it references the concern with the equality of employment. “Currently, Canada has extremely high rates of unemployment when it comes to people living with one or more disabilities. The broadcasting [and telecommunications] industry are industries that should provide leadership and be an example of equality.”

28. With respect to updated accessibility plans [in the feedback process]: barriers in the previous plan that were not removed, setbacks or limitations that explain why, strategies that address these challenges, and timelines for implementation of these strategies.

Other matters

29. CAD-ASC et al. agrees with the CNIB about the absence of enforcement mechanisms and assessment of penalties. At this time ACA regulations are unpublished, however it is our hope also that the Commission will have the legislative authority to mandate improved accessibility in these matters, and that regulated entities must begin to understand that continued non-compliance will bring appropriate monetary penalties (AMP) under the Accessible Canada Act. This includes telecommunications companies as regulated entities with the accessibility plans and unresolved issues related to these plans. And the Commission itself would also be subjected to these AMPs under the Act as well.

30. We do agree with the CNIB that there are still flaws and gaps to the system, for example, the CCTS doesn't have a mandate to hear accessibility complaints but it does however report data on the consumer complaints about accessibility. Likewise, we must bring to light that there is currently no one, no independent body, that has oversight for the complaints about the CAV (Canadian Administrator of Video Relay Services), and even IP Relay Services for another example. The Commission will also need to be overseen for its own accessibility issues, we agree with the CNIB that there are two potential independent bodies through which these complaints could be managed, they could be addressed with the Accessibility Standards Canada and also the Chief Accessibility Officer attached to the Canadian Human Rights Commission. CAD-ASC et al agrees with “*Either body would be operationally independent of the Commission and be better versed on accessibility barriers.*”

31. CAD-ASC et al., especially CNSDB, has comments related to deaf-blind in response to some comments made in the CNIB document as follows:

32. Whereas CNIB mentioned specifically about the discounts for persons with disabilities. CNSDB wanted to make a comment regarding the deaf-blind. Due to being in lower income brackets, many deaf-blind customers are unable to afford the plans from Telus, Rogers and Bell, with larger amounts of data, even after the discounts. However, when they look to flanker companies, they may find more affordable plans but with far less data than they need. Plans with larger amounts of data are often around the same price or not much cheaper than those of the big three, due to the flanker companies not providing an equitable discount. This creates a significant barrier for the deaf-blind to access the level of data that enables them to meet their accessibility needs. This is an example where accessibility needs to be reported and groups

such as CNSDB can respond and suggest better solutions for deaf-blind Canadians in the feedback processes.

Canadian Transportation Agency

33. According to paragraph 18 of the proceeding, the “*Commission is of the preliminary view that ... its reporting regulations under the ACA should broadly align with the other regulatory bodies under that legislation, namely the Canadian Transportation Agency[CTA]...*” Both TECHNATION and Tbaytel agree with this preliminary view. CAD-ASC et al. does not agree for two reasons.

34. Firstly, very few (if any) of the Commission’s regulated entities are subject to CTA regulations so there will be little (if any) to no overlap or conflict between any potential CTA and CRTC regulations. Secondly, the transportation industry is stable technology wise. For example, the evolution from wooden biplanes to propeller planes to jets was very slow.

35. Secondly and on the other hand, communications technology changes much faster than transportation technology as seen in Ligado’s comments below:

“Communications needs change as new technologies unleash enhanced capabilities and former innovations become commonplace. Importantly, the pace of change of communications services means that what is considered as accessible today may be rendered obsolete in the future.

The migration of Canadians from landline telephones to wireless devices exemplifies the impact of technological change. For many years, regulators doubted that wireless voice services constituted a true substitute for wireline voice services. In the early 2000s, an accessibility telecommunications plan might have focused on the availability of accessible landline voice services. Today, wireless services, powered by ubiquitous wireless broadband networks, are perhaps the most vital communications medium for persons today. Broadband data and the supercomputing capabilities in today’s wireless devices empower Canadians with disabilities in ways that were unfathomable even a few short years ago.”

36. The rapid transition from 1G to 5G as shown in the table below also demonstrates how telecommunications technology and marketplace is evolving faster than those under regulated by CTA.

1G	1980s	Analog voice
2G	1991	Digital voice and texting
3G	1998	Mobile data
4G	2008	Mobile broadband
5G	2020s	Wireless edge

Accessibility plans

37. CWTA, Rogers, TELUS, believe that twenty-four (24) months would be a realistic timeline for regulated entities to prepare and publish their initial accessibility plan. TECHNATION believes that the three-year default period for publishing accessibility plans, as set forth in the ACA, is appropriate.

38. CAD-ASC et al. still stands by its belief that without exception all regulated entities shall file their initial accessibility plans within 12 months.

Updating accessibility plans

39. Updating accessibility plans should be done every five years according to CWTA, Rogers, TELUS. CAD-ASC et al. strongly believes such accessibility plans must be updated annually simply to properly take rapid changes in telecommunications technology, services, goods and marketplace into account.

Publication timing

40. Both CAD-ASC et al. and Rogers agree with CWTA belief that there is “*no need to time the publication of accessibility plans or updates to coincide with requirements identified under other federal laws. Entities included under ACA have separate CRTC reporting requirements pursuant to other Commission regulations.*” In other words, regulated entities already have proscribed deadlines for their annual reports and these deadlines should match those for their documents required under ACA.

All initial and updated accessibility plans on the same calendar date

41. Contrary to Roger’s belief, CAD-ASC et al., CWTA agree that all regulated entities should be required to use the same schedule for publishing plans, but not necessarily on the same calendar date.

Related organizations and initial / updated accessibility plans

42. CAD-ASC et al. likes and in fact wholeheartedly agrees with CWTA’s and TELUS’ assertion that the concept of “flanker brands” must be expanded to include “*affiliates, subsidiaries and related companies (with flanker brands, affiliates, subsidiaries, and related companies together referred to as ‘related organizations.’*” This matches Shaw’s comment that “[t]he term ‘flanker brand’ is, in itself, too narrow to serve as a touchpoint for a discussion of appropriate flexibility, as it is commonly used to refer to a mobile wireless service provider’s secondary or tertiary retail brand, whereas connectivity companies may indeed have a wide range of branded services.”

43. CWTA, Rogers, TELUS and Shaw all believe that parent organizations should have the flexibility to either create and update accessibility plans for their related organizations either individually or in groups or even both as circumstances may warrant.

44. Since average Canadian consumers, especially DDBHH consumers do not know the actual relationships between such related organizations, each regulated entity – actually each related organization - must be required to independently publish initial and updated accessibility plans.

45. Manner of publication and form of preparation Question 31

As Rogers understands it, “most regulated entities already have pages on their websites that are devoted to accessibility products and services.” Accessibility plans (including feedback process) and progress reports may be contained on such websites.

46. DDBHH consumers become customers of a particular related organization after comparing Accessibility plans from a number of competing regulated entities / related organizations. Contrary to CWTA’s and Rogers’ recommendations, CAD-ASC et al. strongly recommends that the Commission mandated and defines specific locations of such websites to make such comparisons easier. Such websites must be given prominent locations and easily navigated to from the related organization’s main page.

CONCLUSION

47. Compliance must be enforced now that the *Accessible Canada Act* is here, as it was the hallmark and most common request from all of the nationwide consultations for the implementation of the Act itself. Our Act must have enforcement mechanisms to ensure compliance is in place with regulatory requirements.

48. Deaf, Deaf-Blind and hard of hearing Canadians have often faced challenges, and unnecessary inconsistency created by telecommunication service providers that offer discounts for persons with disabilities, such as Telus, Rogers and Bell Canada. CAD-ASC et al., echo other consumer groups including CNIB’s comment whereas “smaller carriers – including their own discount brands – fail to make any packages available to meet the actual communication needs of Deaf, Deaf-Blind and hard of hearing Canadians. This “includes additional data to facilitate independent video communications using sign language. CAD-ASC et al. concurs that “to ensure all telecommunication service providers comply with the CRTC’s decision that they make available wireless service packages for Canadians with disabilities...” [[CRTC 2016-496](#) and [CRTC 2018-98](#)] “...and clearly advertise these on their website, and the recommendation of the implementation of administrative monetary penalties for non-compliance.

CAD-ASC et al. appreciates the Commission’s consideration of its Reply to Interventions and looks forward to its response. Should you have any questions, please do not hesitate to contact all of us.

Regards,

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