



Telecom Order CRTC 2019-31

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Determination of costs award with respect to the participation of the Equitable Internet Coalition in the proceeding initiated by an application by Quebecor Media Inc., Videotron Ltd., and Videotron G.P. (collectively, Videotron) to stay, and review and vary, the implementation of Telecom Decision 2017-105 regarding Videotron's Unlimited Music program

Application

1. By letter dated 18 July 2017, the Public Interest Advocacy Centre (PIAC) applied for costs, on behalf of the Equitable Internet Coalition¹ (the Coalition), with respect to the Coalition's participation in the proceeding initiated by an application by Quebecor Media Inc. (Quebecor), Videotron Ltd., and Videotron G.P. (collectively, Videotron)² to stay, and review and vary, the implementation of Telecom Decision 2017-105 regarding Videotron's Unlimited Music program (the proceeding). In a letter dated 15 June 2017, the Commission denied Videotron's application to review and vary Telecom Decision 2017-105, which required that Videotron come into compliance with subsection 27(2) of the *Telecommunications Act* (the Act) by 19 July 2017 regarding the undue preference conferred by its Unlimited Music program.³ Nevertheless, the Commission exercised its discretion under section 50 of the Act to extend the deadline by which Videotron was to come into compliance to 4 August 2017. Having made its final determination on the review and vary application, the Commission determined that it was not necessary to address Videotron's request for a stay of the implementation of Telecom Decision 2017-105.

¹ The Equitable Internet Coalition included the British Columbia Public Interest Advocacy Centre; the Consumers' Association of Canada; the Council of Senior Citizens' Organizations of British Columbia; the National Pensioners Federation; and PIAC.

² In the period following the consideration of this application by the Commission, Videotron underwent a corporate reorganization where the assets of Videotron G.P. were acquired by Videotron Ltd. and Videotron G.P. was dissolved and wound up in Videotron Ltd. Videotron Ltd. remains wholly owned by Quebecor Media Inc. For more information, see Broadcasting Decision CRTC 2017-453.

³ See Telecom Procedural Letter addressed to Dennis Béland (Quebecor Media Inc.), RE: Application by Quebecor Media Inc., Videotron Ltd., and Videotron G.P. (collectively, Videotron) to stay, and review and vary, the implementation of Telecom Decision 2017-105 regarding Videotron's Unlimited Music program, 15 June 2017

2. The Commission did not receive any interventions in response to the application for costs.
3. PIAC submitted that the Coalition 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 the Coalition represents the interests of consumers and seniors, with an emphasis on vulnerable consumers and seniors, in the provision of important public services.
5. PIAC requested that the Commission fix the Coalition's costs at \$2,390.98, consisting entirely of legal fees. The claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which the Coalition is entitled in connection with the HST. PIAC filed a bill of costs with its application.
6. PIAC, on behalf of the Coalition, claimed 7.7 hours at a rate of \$290 per hour for legal fees, consisting of 1.2 hours for legal counsel to review the file and 6.5 hours for legal counsel to draft the Coalition's intervention.
7. PIAC submitted that Quebecor is the appropriate party to be required to pay the Coalition's costs awarded by the Commission (the costs respondent). PIAC served Quebecor with its application.

Commission's analysis and determinations

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. The Coalition has satisfied these criteria through its participation in the proceeding. For example, the Coalition assisted the Commission in developing a better understanding of the matters considered by making fulsome and cogent submissions on the issue of the stay requested by Videotron.
10. 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 the Coalition was necessarily and reasonably incurred and should be allowed.
11. 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.
12. 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. While a number of parties participated actively in the proceeding, the Commission considers that Videotron clearly had the most significant interest in its outcome. Significantly, Videotron initiated the proceeding and sought relief that would have had a specific and substantial impact on itself regarding the Commission's direction requiring Videotron to bring itself into compliance with subsection 27(2) of the Act. Although neither the stay request nor the review and vary application was granted, the Commission exercised its discretion to extend the deadline within which Videotron was to come into compliance with the Act.
13. In the circumstances, and given the relatively small amount claimed, Quebecor, on behalf of Videotron, is the appropriate costs respondent to PIAC's application for costs.

Directions regarding costs

14. The Commission **approves** the application by PIAC for costs with respect to the Coalition's participation in the proceeding.
15. Pursuant to subsection 56(1) of the Act, the Commission fixes the costs to be paid to the Coalition at \$2,390.98.
16. The Commission **directs** that the award of costs to the Coalition be paid forthwith by Quebecor.

Secretary General

Related documents

- *Videotron G.P. – Acquisition of assets (corporate reorganization)*, Broadcasting Decision CRTC 2017-453, 18 December 2017

- *Complaints against Quebecor Media Inc., Videotron Ltd., and Videotron G.P. alleging undue and unreasonable preference and disadvantage regarding the Unlimited Music program*, Telecom Decision CRTC 2017-105, 20 April 2017
- *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