



## Telecom Order CRTC 2016-221

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*File numbers: 8622-V42-201510735, 8661-P8-201510199, and 4754-510*

### **Determination of costs award with respect to the participation of the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, and the Public Interest Advocacy Centre in the proceeding initiated by their application and that of Vaxination Informatique regarding Videotron's Unlimited Music service**

#### **Application**

1. By letter dated 3 February 2016, the Public Interest Advocacy Centre (PIAC), on behalf of itself, the Consumers' Association of Canada, and the Council of Senior Citizens' Organizations of British Columbia (collectively, PIAC et al.) applied for costs with respect to their participation in the proceeding initiated by their Part 1 application and that of Vaxination Informatique regarding the billing practices of Quebecor Media Inc. and its wholly owned subsidiaries Videotron Ltd. and Videotron G.P. (collectively, Videotron) in respect of Videotron's Unlimited Music service (the proceeding).
2. The Commission did not receive any interventions in response to the application for costs.
3. PIAC et al. submitted that they 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 they represented a group or class of subscribers that had an interest in the outcome of the proceeding, they had assisted the Commission in developing a better understanding of the matters that were considered, and they had participated in a responsible way.
4. In particular, PIAC et al. submitted that they represented Canadian consumers, users of telecommunications services, and the public interest at large. Additionally, PIAC et al. indicated that they assisted the Commission in developing a better understanding of the matters that were considered through their concise and focused intervention, the way in which they framed the issues, and their distinct point of view.
5. PIAC et al. requested that the Commission fix their costs at \$17,332.97, consisting of \$15,896.38 for legal fees and \$1,436.59 for disbursements. PIAC et al.'s claim included the Ontario Harmonized Sales Tax (HST) on fees less the rebate to which PIAC et al. are entitled in connection with the HST. PIAC et al. filed a bill of costs with their application.
6. PIAC et al. submitted that Videotron is the appropriate party to be required to pay any costs awarded by the Commission (the costs respondent).

## Commission's analysis and determinations

7. The record of the proceeding initiated by PIAC et al.'s and Vaxination Informatique's Part 1 applications was rolled into the proceeding initiated by Telecom Notice of Consultation 2016-192. The Commission stated in that notice that it would rule on the Part 1 applications based on the broader record generated by the notice. Although the record of the proceeding initiated by the Part 1 applications has not closed, the record generated to date is sufficient to justify the Commission examining whether costs should be awarded to PIAC et al. for their participation in the proceeding so far.
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. PIAC et al. have satisfied these criteria through their participation in the proceeding. In particular, PIAC et al.'s application raised the issue of whether a wireless service provider can exempt data consumed through certain services from the data caps that are included in a customer's Internet service plan based on the content of these services, which assisted the Commission in developing a better understanding of this issue. PIAC et al.'s submissions on Videotron's billing practices also assisted the Commission in this regard.
10. The rates claimed in respect of legal fees are in accordance with the rates established in the Commission's *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 et al. 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. The Commission considers that Videotron had a significant interest in the outcome of the proceeding and actively participated in the proceeding as the party whose telecommunications service was at issue. Therefore, Videotron is the appropriate costs respondent to PIAC et al.'s application for costs.

## Directions regarding costs

13. The Commission **approves** the application by PIAC et al. for costs with respect to their participation in the proceeding.
14. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to PIAC et al. at \$17,332.97.
15. The Commission **directs** that the award of costs to PIAC et al. be paid forthwith by Videotron.

Secretary General

## Related documents

- *Examination of differential pricing practices related to Internet data plans*, Telecom Notice of Consultation CRTC 2016-192, 18 May 2016; as amended by Telecom Notice of Consultation CRTC 2016-192-1, 3 June 2016
- *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