



## Telecom Order CRTC 2016-222

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*File numbers: 8622-V42-201510735, 8661-P8-201510199, and 4754-514*

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

#### **Application**

1. By letter dated 1 March 2016, the Canadian Internet Policy and Public Interest Clinic (CIPPIC) applied for costs with respect to its participation in the proceeding initiated by the Part 1 applications from the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, and the Public Interest Advocacy Centre (collectively, PIAC et al.), and from 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. CIPPIC submitted that it 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, CIPPIC submitted that it represented a significant group of subscribers with a strong interest in the outcome of the proceeding because the proceeding dealt with matters that fall under CIPPIC's mandate, which is to advocate in the public interest on matters at the intersection of law and technology. CIPPIC indicated that it had assisted the Commission in developing a better understanding of the matters that were considered, for example, by providing a description of the market segment at issue and the discriminatory impact that the Unlimited Music service could have on competing services.
5. CIPPIC requested that the Commission fix its costs at \$10,590, consisting of \$6,300 for legal fees and \$4,290 for analyst fees. CIPPIC filed a bill of costs with its application.

6. CIPPIC made no submission as to the appropriate parties to be required to pay any costs awarded by the Commission (the costs respondents).

### **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 CIPPIC for its 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. CIPPIC has satisfied these criteria through its participation in the proceeding. In particular, CIPPIC's submissions concerning Videotron's zero-rating practices and the negative impact of these practices on innovation, specifically the development of new services, assisted the Commission in developing a better understanding of the matters that were considered. CIPPIC also made helpful submissions on Videotron's billing practices and the potential impact of such practices on the Commission's Internet traffic management practices framework.
10. The rates claimed in respect of legal and analyst 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 CIPPIC 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 CIPPIC's application for costs.

## **Directions regarding costs**

13. The Commission **approves** the application by CIPPIC for costs with respect to its participation in the proceeding.
14. Pursuant to subsection 56(1) of the *Telecommunications Act*, the Commission fixes the costs to be paid to CIPPIC at \$10,590.
15. The Commission **directs** that the award of costs to CIPPIC 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