



Telecom Notice of Consultation CRTC 2021-338

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Ottawa, 5 October 2021

Public record: 1011-NOC2021-0338

Show cause proceeding and call for comments

A telecommunications service provider that has failed to become a participant in the Commission for Complaints for Telecom-television Services Inc.

Deadline for submission of interventions: 19 November 2021

Deadline for submission of replies: 6 December 2021

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The Commission requires all telecommunications service providers (TSPs) that offer services within the scope of the Commission for Complaints for Telecom-television Services Inc.'s (CCTS) mandate to be participants in the CCTS (the CCTS participation requirement).

As of the date of this notice, it appears that the following TSP has not become a participant as required: Net2Web Inc. (Net2Web).

The Commission therefore initiates a proceeding in which it requires

- Net2Web to show cause why it should not be found in violation of the *Telecommunications Act* for contravening the CCTS participation requirement; and
- the director of Net2Web to show cause why they should not be considered liable for any violation by the company that they direct.

Further, if Net2Web is found to have committed a violation,

- it is to show cause why an administrative monetary penalty (AMP) in the amount of \$50,000 should not be imposed against it;
- the director of Net2Web is to show cause why an AMP in the amount of \$15,000 should not be imposed against them; and
- Net2Web and its director are to show cause why a mandatory order requiring the company and its director to take the necessary steps to become a participant in the CCTS should not be issued.

The CCTS provides a valuable service to Canadians, helping consumers resolve disputes with their TSPs and television service providers. Given the important role played by the CCTS, the Commission considers non-compliance with the CCTS participation requirement to be a serious matter. In the event that TSP violations of the CCTS participation requirement are found, the Commission intends to pursue compliance with the CCTS participation requirement by all available means, including registering any AMP-related debts and mandatory orders in the Federal Court and initiating proceedings to enforce them.

Background

1. The Commission for Complaints for Telecom-television Services Inc. (CCTS)¹ is an independent body that assists Canadians who have been unable to resolve disputes regarding forborne telecommunications services with their service providers. The CCTS is an integral component of a deregulated telecommunications market and provides a valuable service to Canadian consumers.
2. To ensure that Canadian consumers have recourse when they are unable to resolve complaints with their TSP, the Commission requires all TSPs that provide services within the scope of the CCTS's mandate to be participants in the CCTS.
3. Specifically, in Broadcasting and Telecom Regulatory Policy 2016-102, the Commission required, pursuant to sections 24 (regarding carriers) and 24.1 (regarding non-carriers) of the *Telecommunications Act* (the Act), that as a condition of offering or providing telecommunications services, every person who is not a participant in the CCTS as of 17 March 2016, and continues to offer services within the scope of the CCTS's mandate, must become a participant in the CCTS commencing 30 calendar days after the date on which the CCTS informs the person that it has received a complaint related to telecommunications services provided by that person that fall within the scope of the CCTS's mandate (the CCTS participation requirement).
4. To become a participant in the CCTS, a TSP must sign the CCTS Participation Agreement, a contract in which the participant agrees, among other things, to abide by the Participation Agreement and the CCTS's By-laws, to be bound by and observe the CCTS's Procedural Code, to submit to and honour remedies levied by the CCTS, and to co-operate in good faith with any investigation conducted by the CCTS.
5. Since 2014, the Act has included a general administrative monetary penalties (AMPs) regime,² under which the Commission is empowered to impose AMPs on persons who contravene the Act or a regulation or decision made by the Commission under the Act. The purpose of a penalty imposed under this regime is to promote compliance with the Act and with such regulations and decisions, not to punish.

¹ Formerly the Commissioner for Complaints for Telecommunications Services Inc.

² See sections 72.001 to 72.0093 of the Act.

6. The Commission has set out its approach under the general AMPs regime in Compliance and Enforcement and Telecom Information Bulletin 2015-111.

Show cause proceeding

7. On 10 March 2020, the CCTS referred Net2Web Inc. (Net2Web) to the Commission, a non-carrier reseller of communication services, as a TSP that had failed to become a participant in the CCTS after being notified of an in-scope complaint. The CCTS also identified its director, named in Appendix 1 to this notice. As of the date of this notice, Net2Web has not become a participant.
8. The CCTS has provided the Commission with documentary evidence detailing its attempts to notify Net2Web of its obligations and to secure its participation. Upon the CCTS's referral, Commission staff undertook further activities to identify and validate the existence of the corporation that operates Net2Web and the director who controls it. These activities included searching publicly accessible databases, such as federal and provincial corporate records databases, for information regarding the corporation and its director and officers. Further, Commission staff also attempted to communicate with Net2Web and its director to explain their obligations. The nature and timing of those communications are set out in Appendix 2 of this notice.
9. The Commission adds to the record of this proceeding the evidence received from the CCTS and the evidence collected by Commission staff to date. The Commission intends to rely on this evidence when making its determinations on the matters set out in this notice. Net2Web and its director are to file any evidence and make submissions that support their respective positions with regard to the issues discussed below, which will also be considered by the Commission in making its determinations. If no such information is filed, the Commission may draw adverse inferences appropriate in the circumstances of this case.
10. The public record of the proceeding can be found on the Commission's website at www.crtc.gc.ca or by using the public record number provided above. Where the CCTS has designated information as confidential, an abridged version of the document containing the confidential information has been added to the public record of the file.
11. The Commission hereby launches a show cause proceeding to determine whether Net2Web has committed violations of the Act and, if so, to determine the appropriate enforcement measures in the circumstances.

Has a violation been committed?

12. Pursuant to section 24.1 of the Act, as a condition of offering or providing telecommunications services, a TSP is required to become a participant in the CCTS within 30 calendar days after it has been informed by the CCTS that it has received a complaint related to telecommunications services it has provided that fall within the scope of the CCTS's mandate.

13. It appears that the CCTS received one or more in-scope complaints regarding Net2Web, and that the CCTS subsequently notified the company and its director of those complaints. As shown in Appendix 2 to this notice, the time frame within which Net2Web was required to join the CCTS has expired. It appears that by failing to join the CCTS within 30 days of receiving notification of an in-scope complaint from the CCTS, Net2Web has been in non-compliance with the CCTS participation requirement imposed pursuant to section 24.1 of the Act from that date to the date of the present notice (the relevant time period).
14. Further, it appears that Net2Web continues to offer telecommunications services within the scope of the CCTS's mandate. As of the publication date of this notice, Net2Web's website continues to promote in-scope telecommunications services.
15. Pursuant to section 72.001 of the Act, every contravention of a provision of the Act and every contravention of a regulation or decision made by the Commission under the Act constitutes a violation and the person who commits the violation is liable,
 - (a) in the case of an individual, to an administrative monetary penalty not exceeding \$25,000 and, for a subsequent contravention, a penalty not exceeding \$50,000; or,
 - (b) in any other case, to an administrative monetary penalty not exceeding \$10,000,000 and, for a subsequent contravention, a penalty not exceeding \$15,000,000.
16. In light of the above, the Commission **directs** Net2Web to show cause why the Commission should not find that it committed a violation under section 72.001 of the Act during the relevant time period by contravening the CCTS participation requirement.

If a violation is found to have been committed, should Net2Web's director be held liable?

17. Section 72.008 of the Act provides that an officer or director of a corporation that commits a violation is liable for the violation if they directed, authorized, assented to, acquiesced in, or participated in the commission of the violation.
18. Information obtained from corporate records searches, including from publicly accessible databases, appears to demonstrate that Net2Web has a single director.
19. CCTS and Commission staff communicated with Net2Web's director by phone and in writing to explain the CCTS participation requirement and the potential consequences of non-participation in the CCTS.
20. Accordingly, there is evidence that the director of Net2Web is aware of the CCTS participation requirement and has failed to ensure the compliance of the corporation they direct. Further, despite the correspondence between the CCTS and the director and, later, between Commission staff and the director, there is no indication that the director would be unable, in their capacity as a director, to ensure the compliance of

their corporation with the CCTS participation requirement. On the basis of the evidence on the record at this time, it appears that Net2Web's director may have directed, authorized, assented to, acquiesced in, or participated in the commission of the violation and that they might consequently be held liable for the commission of a violation by Net2Web, in accordance with section 72.008 of the Act.

21. In light of the above, the Commission **directs** the individual named in Appendix 1 to this decision to show cause why they should not be liable for any violation found to have been committed by the company that they direct.

If a violation is found to have been committed, what are the appropriate enforcement measures?

Imposition of AMPs

22. Section 72.002 of the Act sets out the factors that the Commission must take into account in determining the appropriate amount of an AMP:

- the nature and scope of the violation;
- the person's history of compliance;
- any benefit the person obtained from the commission of the violation;
- the person's ability to pay;
- factors established by any regulations; and
- any other relevant factor.

Nature and scope of the apparent violations

23. Net2Web does not appear to be a participant in the CCTS, despite the fact that it and its director have been (i) informed of the CCTS participation requirement, and (ii) given instructions regarding how to respect it. As a result, its customers are being deprived of a Commission-sanctioned, binding complaint resolution process. As noted above, the requirement to be a participant in the CCTS, imposed by the Commission through a section 24.1 condition of service, reflects the importance of the CCTS and its value to consumers.
24. In terms of the scope of the apparent violation, the length of time a company has been in apparent non-compliance may be a relevant consideration. The time that has elapsed since Net2Web apparently became subject to the CCTS participation requirement is approximately 16 months.
25. Another consideration that may be relevant to the scope of the apparent violation is the number of subscribers who do not have access to the CCTS as a result of a TSP's failure to join the CCTS. Accordingly, the Commission encourages Net2Web, as well as its director, to submit information in this regard. They may designate certain information as confidential in accordance with the Act and with the *Canadian*

Radio-television and Telecommunications Commission Rules of Practice and Procedure (the Rules of Procedure).³

26. On the basis of the evidence on the record at this time, it appears that there are serious and ongoing violations, and that significant AMPs may be appropriate.

History of compliance

27. There is no evidence that either Net2Web or its director has committed any previous violations of the Act or of regulations or Commission decisions made under the Act.

Benefit obtained from the violation

28. If a TSP has improperly shielded itself from the dispute resolution mechanisms of the CCTS, which can require TSPs to, for example, pay monetary compensation to customers, it may have received a benefit as a result of its apparent non-compliance. This factor suggests that significant AMPs may be appropriate in this case. Given that Net2Web has a single director, it may be reasonable to conclude that the director named in Appendix 1 has indirectly benefited as well.

Ability to pay

29. The Commission does not have any current information about the ability of Net2Web or its director to pay.

30. Accordingly, the Commission encourages Net2Web to file financial information, which it may designate as confidential in accordance with the Act and with the Rules of Procedure.

31. The director of Net2Web also has the opportunity to file information relating to their personal ability to pay. If they seek to demonstrate that they do not have the ability to pay the proposed AMP amount, they are to file supporting evidence. This information may be submitted to the Commission in confidence as set out in paragraph 30 of this notice.

32. In addition, pursuant to section 241 of the *Income Tax Act*,⁴ the Commission intends to request financial information from the Canada Revenue Agency related to the ability of Net2Web and its director to pay. The Commission intends to use any such information to supplement or corroborate information filed by Net2Web or its director.

Factors established by any regulations

33. At this time, no such factors have been established.

³ They may also consult Broadcasting and Telecom Information Bulletin 2010-961 for more information regarding the procedure for designating information as confidential.

⁴ *Income Tax Act*, R.S.C. 1985, c. 1 (5th Suppl.), s. 241(4)(d)(xvii)

Other relevant factors

34. Net2Web and its director have demonstrated a lack of cooperation by failing to respond to a request for information that was sent on 20 February 2021 or to a letter from the Commission's Chief of Consumer, Research and Communications.
35. It appears that Net2Web is willfully ignoring attempts by the CCTS and Commission staff to ensure its compliance with its regulatory obligations. The Commission intends to take Net2Web's lack of cooperation into account, as the Commission takes non-compliance with the regulatory obligations it imposes on TSPs seriously. In these circumstances, the Commission will use the measures at its disposal that are most appropriate in the circumstances to promote compliance. The apparent contravention of the CCTS participation requirement could negatively impact the reputation and perceived effectiveness of the CCTS in helping resolve consumer complaints. Accordingly, this consideration suggests that a significant AMP may be appropriate.
36. The Commission also considers that general deterrence should be taken into account in determining the proposed AMP amount. The apparent contraventions in this case could encourage non-compliance with the CCTS participation requirement more generally. The Commission considers that if a contravention is found, any AMP levied should be sufficient to act as a deterrent without being unduly punitive.
37. The Commission is of the preliminary view that a consideration of all the prescribed factors on the basis of the evidence currently on the record indicates that an AMP in the amount of \$50,000 for Net2Web, should it be found to have committed a violation, would be appropriate. Further, the Commission considers that an AMP in the amount of \$15,000 for the director of Net2Web, should they be found to be liable for a violation committed by the corporation they direct, would be appropriate, in light of the factors set out in the Act.
38. In light of the above, the Commission **directs**
 - Net2Web to show cause why, if it is found to have committed a violation of the Act related to the CCTS participation requirement, the Commission should not impose an AMP against it in the amount of **\$50,000**; and
 - in the event that the Commission finds that Net2Web has committed a violation, the individual listed in Appendix 1 to show cause why they should not be held liable for the violation of the TSP they direct and why the Commission should not impose an AMP against that individual in the amount of **\$15,000** in these circumstances.

Mandatory Order

39. The imposition of AMPs represents only one enforcement measure that the Commission may take to promote compliance with the Act. Given the serious and longstanding nature of the apparent violation in the present circumstances, the Commission considers that if it were to find that a violation has been committed, it

would be necessary to consider whether additional enforcement measures would help to ensure that Net2Web achieves compliance.

40. Accordingly, the Commission **directs** Net2Web to show cause why, if it is found to have committed a violation, the Commission should not impose a mandatory order requiring the company to take all steps necessary to participate in the CCTS within **60 days** of the date of the order.
41. Further, the Commission **directs** the individual listed in Appendix 1 of this notice to show cause why, if they are found liable for any violations committed by Net2Web, they should not be named in a mandatory order that would hold them personally accountable for ensuring that the company they direct takes the necessary steps to participate in the CCTS.
42. If a mandatory order is imposed, failure to abide by its terms could form the basis for finding subsequent violations of the Act to have been committed.

Other potential enforcement measures

43. The Commission intends to pursue compliance with the CCTS participation requirement by all means at its disposal. In general, this could include registering any AMP-related debts and mandatory orders in the Federal Court and initiating proceedings to enforce such orders.

Procedure

44. The Rules of Procedure apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the content, format, filing, and service of interventions, answers, replies, and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website at www.crtc.gc.ca, under "Statutes and regulations." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
45. Net2Web and the individual listed in Appendix 1 are made parties to this proceeding. They are to file their submissions with the Commission by **19 November 2021**.
46. Interested persons may also file interventions on these matters. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **19 November 2021**. The intervention must be filed in accordance with section 26 of the Rules of Procedure.

47. Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a template for the accompanying cover letter to be filed by parties, can be found in Telecom Information Bulletin 2011-693.
48. All parties may file replies to interventions with the Commission by **6 December 2021**. Parties can consult the Commission's website to determine who has filed interventions for the purpose of exercising their right of reply.
49. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website at www.crtc.gc.ca, for additional information that they may find useful when preparing their submissions.
50. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
51. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that enable text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
52. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention/comment/answer form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax to
819-994-0218

53. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing or, where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file documents by electronic

means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.

54. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
55. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

Important notice

56. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes all personal information, such as full names, email addresses, postal/street addresses, and telephone and fax numbers.
57. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
58. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
59. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

60. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at www.crtc.gc.ca by using the public record number provided at the beginning of this notice or by visiting the "Consultations and hearings – Have your say!" section, then selecting "our applications and processes that are open for comment." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.

61. Documents are also available at the following address, upon request, during normal business hours:

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage
Gatineau, Quebec J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Toll-free telephone: 1-877-249-2782
Toll-free TDD: 1-877-909-2782

Secretary General

Related documents

- *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.*, Broadcasting and Telecom Regulatory Policy CRTC 2016-102, 17 March 2016
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Guidelines regarding the general administrative monetary penalties regime under the Telecommunications Act*, Compliance and Enforcement and Telecom Information Bulletin CRTC 2015-111, 27 March 2015
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Procedures for filing confidential information and requesting its disclosure in Commission proceedings*, Broadcasting and Telecom Information Bulletin CRTC 2010-961, 23 December 2010, as amended by Broadcasting and Telecom Information Bulletin CRTC 2010-961-1, 26 October 2012
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010

Appendix 1 to Telecom Notice of Consultation CRTC 2021-338

Director made party to this proceeding⁵

- Naved Ashraf (Net2Web Inc.)

⁵ Commission staff have verified, by corporate records searches, the director's name provided by the CCTS.

Appendix 2 to Telecom Notice of Consultation CRTC 2021-338

Summary of the evidence filed by the Commission for Complaints for Telecom-television Services Inc. (CCTS)

Before referring a non-participating TSP to the Commission, the CCTS makes multiple attempts to sign up the TSP, including sending a participation package at least twice, which includes, among other things, a cover letter that sets out the date by which the company is to become a participant.

If the TSP has not become a participant in the CCTS within the time frame specified in the second package, the CCTS sends a letter to the Commission's Chief of Consumer, Research and Communications to inform them that the TSP has failed to become a participant in the CCTS as required.

The letter includes the relevant dates, the name of the individual within the TSP that the CCTS attempted to contact, evidence that the CCTS sent the participation package to the TSP on two occasions, the steps that the CCTS took to reach the TSP, and a copy of the complaint that triggered the requirement. The referral documentation has been placed on the record of this proceeding. Below is the timeline of the events involving Net2Web Inc. (Net2Web) with regard to the CCTS participation requirement, as submitted by the CCTS.

Company name	Date of complaint	Date of first notice from CCTS	Date required to become a participant	Date of second notice from CCTS	Referral date to Commission
Net2Web Inc.	10-Mar-2020	06-May-2020	05-Jun-2020	08-Jun-2020	26-Jun-2020

Timelines of Commission staff interactions with Net2Web

Commission staff used, among other things, corporate records searches to validate the legal names of Net2Web and its director. That information has been placed on the record of this proceeding.

The following table sets out the timelines of Commission staff interactions with Net2Web.

Company name	Commission staff email	TSP's response	Commission staff 2 nd email	TSP's response	Other staff interaction with TSPs	TSP's response
Net2Web Inc.	21 October 2020	nil	3 February 2021	Nil	Left message for Naved Ashraf on 4 March 2021 Spoke with Naved Ashraf on 29 June 2021	nil