



Telecom Order CRTC 2021-352

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Allocation of funds from Bell Canada's deferral account to Deafness Advocacy Association Nova Scotia for its participation in the proceeding initiated by Telecom and Broadcasting Notice of Consultation 2021-69

Background

1. In Telecom and Broadcasting Notice of Consultation 2021-69, the Commission called for comments on the text of the draft *Canadian Radio-television and Telecommunications Commission Accessibility Reporting Regulations* (the Regulations). It was the second of two consultations on the structure, form, and content of the Regulations to be made under the *Accessible Canada Act* (ACA).
2. In Telecom and Broadcasting Notice of Consultation 2020-124-2, the Commission approved a proposal by Bell Canada to use funds in its deferral account to fund public interest participation in the regulation-making proceedings under the ACA. The Commission indicated that it would distribute these funds in a manner that closely resembles its general practices and procedures in respect of applications for final telecommunications costs awards, including the application of the eligibility criteria for costs awards set out in section 68 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure).
3. In that notice of consultation, the Commission noted that Bell Canada did not submit that it required the opportunity to respond to applications for a share of the available funds in its proposal. In the circumstances, the Commission considered that such responses were unnecessary.

Application

4. By letter dated 28 April 2021, the Deafness Advocacy Association Nova Scotia (DAANS) applied for costs with respect to its participation in the proceeding that led to Telecom and Broadcasting Regulatory Policy 2021-215.
5. DAANS submitted that it had met the criteria for an award of costs set out in section 68 of the Rules of Procedure because it represented a group 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.

6. In particular, DAANS submitted that it represents the interests of Nova Scotians who are Deaf, Deaf-Blind, Hard of Hearing, and late-deafened by working with the public, private, and non-profit sectors to remove and prevent barriers in a variety of areas including communications access.
7. DAANS submitted that it provided a fuller understanding of the issues affecting this class of subscribers by preparing an intervention and reply that, among other things, provided detailed recommendations on the wording of the proposed Regulations, and by responding to the comments of certain service providers.
8. DAANS submitted that it participated in the proceeding in a responsible way by working alongside the Newfoundland and Labrador Association of the Deaf (NLAD) and the Ontario Association of the Deaf (OAD) to present submissions that were focused, structured, and unique.
9. DAANS requested that the Commission fix its costs at \$4,288.25, consisting of \$4,230.00 for in-house analyst fees and \$58.25 for disbursements. DAANS filed a bill of costs with its application.

Commission's analysis and determinations

Eligibility

10. In Telecom and Broadcasting Notice of Consultation 2020-124-2, the Commission stated the following:
 15. [...] Eligibility for a share of these funds will be evaluated according to the criteria set out in section 68 of the Rules of Procedure, namely
 - 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.
11. The Commission further indicated that it would have regard to whether the applicant had explained how the costs claimed were reasonably and necessarily incurred in the circumstances.
12. In Telecom Information Bulletin 2016-188, the Commission provided guidance regarding how an applicant may demonstrate that it satisfies the first criterion with respect to its representation of interested subscribers. In the present case, DAANS incorporated organized and detailed responses about its community members into its submissions and has demonstrated that it meets the first criterion by having represented the interests of Deaf, Deaf-Blind, Hard of Hearing, and late-deafened Nova Scotians.

13. DAANS assisted the Commission in developing a better understanding of the matters that were considered by providing a number of recommendations on how the spirit of the ACA could be incorporated into the proposed Regulations, thereby satisfying the second criterion.
14. DAANS also satisfied the remaining criterion through its participation in the proceeding. DAANS participated jointly with NLAD and the OAD in all stages of the proceeding, and diligently and responsibly raised issues regarding the proposed Regulations on behalf of Deaf, Deaf-Blind, Hard of Hearing, and late-deafened Nova Scotians.
15. Accordingly, the Commission finds that DAANS meets the criteria for an award of costs set out in Telecom and Broadcasting Notice of Consultation 2020-124-2.

Disbursements, fees, and time claimed

16. The disbursements claimed by the applicant for office expenses raise no issues in the circumstances.
17. DAANS claimed fees for the work of its in-house analyst at the rate of \$470 per day, which is consistent with the *Guidelines for the Assessment of Costs*, as set out in Telecom Regulatory Policy 2010-963.
18. In the present matter, DAANS participated jointly with NLAD and the OAD in all stages of the proceeding, raised accessibility issues faced by Deaf Nova Scotians, and provided an appropriate amount of documentation. DAANS's submissions were organized and detailed. The Commission finds that the amount of time claimed by DAANS is appropriate.
19. In light of the above, the total amount claimed by DAANS was reasonably and necessarily incurred and should be allowed.

Directions regarding costs

20. The Commission **approves** the application by DAANS and **directs** Bell Canada to pay forthwith from its deferral account the amount of \$4,288.25 to DAANS.

2019 Policy Direction

21. The Governor in Council issued a policy direction in which it directed the Commission to consider how its decisions can promote competition, affordability, consumer interests, and innovation (the 2019 Policy Direction).¹ The Commission considers that its determinations in this order are consistent with the 2019 Policy Direction.

¹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227, 17 June 2019

22. In particular, the present order, which requires the reimbursement of reasonably and necessarily incurred costs relating to public interest intervener participation in the proceeding, contributes to enhancing and protecting the rights of consumers in their relationships with service providers, including rights related to accessibility.

Secretary General

Related documents

- *The Canadian Radio-television and Telecommunications Commission Accessibility Reporting Regulations, Telecom and Broadcasting Regulatory Policy CRTC 2021-215, 7 July 2021*
- *Call for comments – The Canadian Radio-television and Telecommunications Commission Accessibility Reporting Regulations, Telecom and Broadcasting Notice of Consultation CRTC 2021-69, 18 February 2021*
- *Call for comments – Regulations to be made under the Accessible Canada Act, Telecom and Broadcasting Notice of Consultation CRTC 2020-124, 14 April 2020; as amended by Telecom and Broadcasting Notices of Consultation CRTC 2020-124-1, 13 May 2020; and 2020-124-2, 4 June 2020*
- *Guidance for costs award applicants regarding representation of a group or a class of subscribers, Telecom Information Bulletin CRTC 2016-188, 17 May 2016*
- *Revision of CRTC costs award practices and procedures, Telecom Regulatory Policy CRTC 2010-963, 23 December 2010*