



Telecom Decision CRTC 2022-322 and Telecom Order CRTC [2022-323](#)

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Reference: 2021-338

Ottawa, 28 November 2022

Public record: 1011-NOC2021-0338

Net2Web Inc. – Failure to become a participant in the Commission for Complaints for Telecom-television Services Inc.

Summary

The Commission finds that Net2Web Inc. (Net2Web) is providing telecommunications services and contravened section 24.1 of the *Telecommunications Act* (the Act) by failing to become a participant in the Commission for Complaints for Telecom-television Services Inc. (CCTS).

Accordingly, the Commission finds that Net2Web committed a violation pursuant to section 72.001 of the Act and imposes an administrative monetary penalty (AMP) of \$50,000 on Net2Web and additionally, pursuant to section 72.008, \$15,000 on Naved Ashraf in his capacity as Director of Net2Web. Payment of the AMPs is due within **30 days** of the date of this decision. In addition, the Commission is issuing a mandatory order requiring Naved Ashraf, and any other entity under his effective control that is providing telecommunications services within the mandate of the CCTS, to become a participant in the CCTS within **60 days** of the date of the mandatory order.

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 telecommunications service providers (TSPs). The CCTS is an integral component of a deregulated telecommunications market, and it provides a valuable service to Canadian consumers.
2. To ensure that Canadian consumers have recourse when they are unable to resolve complaints with their TSPs, since 2011, the Commission has required that all TSPs that provide services within the scope of the CCTS's mandate (in-scope services) be participants in the CCTS (the CCTS participation requirement).

¹ Formerly the Commissioner for Complaints for Telecommunications Services Inc.

3. The CCTS participation requirement was established pursuant to sections 24 (regarding carriers) and 24.1 (regarding non-carriers, also known as resellers) of the *Telecommunications Act* (the Act) as a condition of offering or providing telecommunications services.² The CCTS participation requirement is triggered 30 calendar days after the date on which the CCTS informs the person that the CCTS has received a complaint related to telecommunications services that the person provides and that falls within the scope of the CCTS's mandate (in-scope complaint).
4. To become a participant in the CCTS, a TSP signs the CCTS Participation Agreement, a contract in which the participant agrees to, among other things, abide by the Participation Agreement and the CCTS's By-laws, be bound by and observe the CCTS's Procedural Code, submit to and honour remedies levied by the CCTS, and cooperate in good faith with any investigation conducted by the CCTS.
5. The Commission takes any non-compliance with the regulatory obligations it imposes on TSPs seriously and uses the measures at its disposal that are most appropriate in the circumstances to promote compliance.

Administrative monetary penalties regime

6. Since 2014, the Act has included a general administrative monetary penalties (AMPs) regime,³ under which the Commission is empowered to impose AMPs on persons who contravene the Act or regulations or decisions made by the Commission under the Act. The purpose of a penalty imposed under this regime is to promote compliance with the Act, regulations, and Commission decisions.
7. The Commission set out its general approach under the general AMPs regime in Compliance and Enforcement and Telecom Information Bulletin 2015-111.

Show cause proceeding

8. In Telecom Notice of Consultation 2021-338, the Commission launched a show cause proceeding because Net2Web Inc. (Net2Web) had not become a CCTS participant as of the date of the notice.
9. In particular, the Commission called for Net2Web to show cause why the Commission should not find that it committed a violation under section 72.001 of the Act⁴ during the relevant time period by contravening the CCTS participation requirement. The Commission also required the TSP's Director to show cause why they should not be liable for any violation found to have been committed by the company that they direct.

² The CCTS participation requirement was imposed directly on non-carriers in 2016.

³ See sections 72.001 to 72.0093 of the Act.

⁴ This provision states that any contravention of the Act, or a Commission regulation or decision made thereunder (with some exceptions), constitutes a violation and may result in liability to pay an AMP.

10. Furthermore, the Commission directed Net2Web to show cause why, if it is found to have committed a violation related to the CCTS participation requirement, the Commission should not impose an AMP against it in the amount of \$50,000. The Commission also required the Director of Net2Web to show cause why, if they are found liable for a violation related to the CCTS participation requirement in respect of the company that they direct, the Commission should not impose an AMP against them in the amount of \$15,000.
11. The Commission also sought comments on an additional potential enforcement measure in the form of a mandatory order. The Commission directed Net2Web to show cause why, if it is found to have committed a violation, the Commission should not impose a mandatory order requiring it to take all steps necessary to participate in the CCTS within 60 days of the date of the mandatory order. The Commission also required the Director of Net2Web to show cause why, if they are found liable for any violations committed by the company that they direct, they should not be named in the mandatory order, which would hold them further accountable for ensuring that the company takes the necessary steps to participate in the CCTS.
12. In Telecom Notice of Consultation 2021-338, the Commission identified Naved Ashraf as the Director of Net2Web. The Commission also made Naved Ashraf a party to the proceeding and provided notice that if they fail to file information for why they should not be liable for any violation committed by Net2Web, then the Commission may draw an adverse inference. The Commission did not receive any interventions from Naved Ashraf nor from Net2Web in response to Telecom Notice of Consultation 2021-338.
13. Commission staff informed Naved Ashraf of every step of the process by email, which included the publication of Telecom Notice of Consultation 2021-338 and the closing of the record of the proceeding. Commission staff also made sure that Naved Ashraf was well informed of the potential consequences.

Issues

14. The Commission has identified the following issues to be addressed in this decision:
 - Did Net2Web contravene section 24.1 of the Act, thereby committing a violation, by failing to participate in the CCTS?
 - If Net2Web contravened section 24.1 of the Act, should the Commission impose an AMP on Net2Web and an AMP on Naved Ashraf? If so, what should the amounts of the AMPs be?
 - If Net2Web contravened section 24.1 of the Act, should the Commission impose a mandatory order requiring Net2Web to participate in the CCTS?

Did Net2Web contravene section 24.1 of the Act, thereby committing a violation, by failing to participate in the CCTS?

Background

15. Section 24.1 of the Act allows the Commission to directly impose conditions of service on persons other than Canadian carriers (i.e., non-carriers) that offer telecommunications services.
16. In Broadcasting and Telecommunications Regulatory Policy 2016-102, the Commission directly imposed the CCTS participation requirement on all TSPs as follows:
 45. [...] the Commission requires, pursuant to sections 24 (regarding carriers) and 24.1 (regarding non-carriers) of the [Act], that as a condition of offering or providing telecommunication services,

[...]
 - every person who is not a participant in the CCTS as of 17 March 2016 become and remain a participant in the CCTS commencing 30 calendar days after the date on which the CCTS informs that person that the CCTS has received a complaint related to telecommunications services provided by it falling within the scope of the CCTS's mandate.
17. Prior to the publication of Telecom Notice of Consultation 2021-338, the CCTS provided the Commission with evidence of the CCTS's communications with Net2Web to inform the company that a complaint had been received,⁵ which triggered the CCTS participation requirement.
18. Commission staff also contacted Net2Web to ensure that the company was directly informed about the participation requirement and the show cause proceeding.

Commission's analysis

19. Given that Net2Web failed to respond to the show cause proceeding, there is nothing on the record of the proceeding that would call the evidence provided by the CCTS into question, nor is there evidence demonstrating that Net2Web has ceased offering in-scope telecommunications services.
20. Commission staff have independently verified that Net2Web continues to offer in-scope telecommunications services by checking net2web.ca, where the services are made available to customers.
21. Consequently, it appears that Net2Web was in contravention of the CCTS participation requirement from the date of the CCTS's original referral

⁵ The triggering complaints were received after 17 March 2016.

(26 June 2020) to the date of publication of Telecom Notice of Consultation 2021-338. Furthermore, it appears that the company remains in contravention of the participation requirement to this day.

22. In light of the above, the Commission finds that Net2Web contravened section 24.1 of the Act, thereby committing a violation, by failing to become a participant in the CCTS from 26 June 2020 to the date of this decision.
23. Should Net2Web continue to refuse to become a participant in the CCTS, the Commission may initiate further proceedings against the company. Any such proceedings could address further instances of non-compliance as a result of Net2Web's continued failure to become a participant in the CCTS.

If Net2Web contravened section 24.1 of the Act, should the Commission impose an AMP on Net2Web and an AMP on Naved Ashraf? If so, what should the amounts of the AMPs be?

Background

24. Pursuant to section 72.001 of the Act, a contravention of a provision of the Act, a regulation, or a decision made by the Commission under the Act constitutes a violation and the person who commits the violation is subject to the imposition of an AMP.
25. Failing to abide by conditions of service that are imposed pursuant to sections 24 and 24.1 of the Act is a violation, which the Commission may address by imposing an AMP pursuant to section 72.001. Pursuant to section 72.008, officers, directors, agents, or mandataries of a corporation that commits a violation may be held liable for that violation if they directed, authorized, assented to, acquiesced, or participated in the violation, whether or not the corporation is proceeded against.
26. In determining the amount of the AMPs, the Commission must take into account the following factors set out in subsection 72.002(1) of the Act:
 - a) the nature and scope of the violation
 - b) the history of compliance with the Act, regulations, and Commission decisions made under the Act
 - c) any benefit the person obtained from the commission of the violation
 - d) the person's ability to pay
 - e) factors established by any regulations
 - f) any other relevant factor

Commission's analysis

27. In Telecom Notice of Consultation 2021-338, Naved Ashraf was identified and made a party to the proceeding as the Director of a company providing telecommunications

services. They were given sufficient notice that their company could be liable for \$50,000 and that they could be personally liable for up to \$15,000 for failing to abide by the CCTS registration requirement if their company was found to have committed a violation. Naved Ashraf was offered multiple opportunities to present evidence and make submissions throughout the show cause proceeding, which they failed to take advantage of.

28. The Commission considers that, in these circumstances, it would be appropriate to impose an AMP on both the company and Naved Ashraf for the violation.

Nature and scope of the violation

29. Net2Web has not become a participant in the CCTS, despite having 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 binding complaint resolution process. The requirement to be a participant in the CCTS reflects the importance of the CCTS and its value to consumers.
30. In terms of the scope of the violation, the length of time that a TSP has been in non-compliance may be a relevant consideration. Net2Web has been subject to the CCTS participation requirement for almost 28 months.
31. When assessing the scope of a violation, the Commission can also examine the number of subscribers who do not have access to the CCTS as a result of their TSP's failure to become a participant in the CCTS. In Telecom Notice of Consultation 2021-338, the Commission encouraged Net2Web to submit this information. However, it did not do so. Therefore, the Commission will draw the adverse inference that it must in the circumstance.
32. Consequently, because of Net2Web's failure to provide information and its failure to remedy its non-compliance, the Commission finds that the violation is both serious and ongoing.

History of compliance

33. There is no evidence that Net2Web has committed any previous violations of the Act, regulations, or Commission decisions made under the Act. However, it appears that Net2Web has failed to register with the Commission and provide financial information annually as required in Telecom Regulatory Policy 2017-11.

Benefit obtained from the violation

34. By failing to become a participant in the CCTS, Net2Web has purposely shielded itself from the dispute resolution mechanisms of the CCTS, which can require TSPs to, for example, pay monetary compensation to customers. As a result, Net2Web may have received a benefit; however, given that the CCTS was unable to resolve these disputes, the specific benefit Net2Web has derived is unknown. Net2Web did not provide any evidence disputing that it has received any benefits. Consequently, the

Commission will draw the adverse inference that it must in the circumstance and find that Net2Web benefitted from the violation.

Ability to pay

35. The Commission did not receive any information from Net2Web or Naved Ashraf on their ability to pay. Despite the requirement that TSPs register with the Commission and provide financial information annually, Net2Web has not done so. Furthermore, in Telecom Notice of Consultation 2021-338, the Commission encouraged Net2Web to file financial information and encouraged Naved Ashraf to file evidence regarding their personal ability to pay. Net2Web and Naved Ashraf did not provide any such information.

Factors established by any regulations

36. No such factors have been established.

Other relevant factors

37. Naved Ashraf has demonstrated a lack of cooperation by failing to respond to letters from Commission staff, including from the Chief of Consumer, Research and Communications, and to requests for information, which were sent on 21 October 2020 and on 3 February 2021. Naved Ashraf also chose to abstain from participating in the show cause proceeding despite being made aware of the proceeding.

38. Given this lack of cooperation, the imposition of an AMP would be consistent with the purpose of a penalty under the general AMPs regime, which is to promote compliance with the Act, regulations, and Commission decisions made under the Act. The contravention of the CCTS participation requirement could also negatively impact the effectiveness of the CCTS in helping resolve consumer complaints and thereby harm consumers. Accordingly, an AMP would be appropriate.

39. In addition, the Commission considers general deterrence in determining the amount of the AMP. Failure to impose an appropriate AMP for the contravention of the CCTS participation requirement could encourage non-compliance with that requirement more generally.

Conclusion

40. In light of the above, the Commission considers that an AMP of \$50,000 on Net2Web and an AMP of \$15,000 on Naved Ashraf, as set out in Telecom Notice of Consultation 2021-338, would be appropriate.

41. In the event of future non-compliance by Net2Web or Naved Ashraf, the Commission may take past violations into account and may impose larger AMPs than the ones imposed in this decision. The Commission's AMP guidelines, set out in Compliance and Enforcement and Telecom Information Bulletin 2015-111, specifically indicate

that “[m]ore strict responses may be appropriate, depending on the context, to bring a person into compliance, deter future non-compliance, and prevent harm.”

42. The Commission notes that it may impose an AMP against a company not exceeding \$15,000,000 and against an individual not exceeding \$50,000 for subsequent contraventions of the Act.

If Net2Web contravened section 24.1 of the Act, should the Commission impose a mandatory order requiring Net2Web to participate in the CCTS?

Background

43. Pursuant to section 51 of the Act, the Commission has the authority to issue a mandatory order to order a person to do what is required of them under the Act.
44. In Telecom Notice of Consultation 2021-338, the Commission expressed the preliminary view that if any of the TSPs in question were found to be in violation of the Act, then a mandatory order should be issued requiring that the TSP become a participant in the CCTS within 60 days of the date of the mandatory order. Moreover, the Commission expressed the view that Naved Ashraf should also be included in the mandatory order to ensure that the company they direct takes the necessary steps to participate in the CCTS.

Commission’s analysis

45. Net2Web was given sufficient notice that if it did not comply with the CCTS participation requirement, the Commission would impose a mandatory order requiring it to do so.
46. Consequently, the Commission considers that it would be appropriate to impose a mandatory order on Naved Ashraf, in their capacity as Director of Net2Web.
47. Accordingly, the Commission imposes a mandatory order on Net2Web and Naved Ashraf, in their capacity as Director of Net2Web, as set out in the Appendix to this decision, requiring Net2Web and any other entity under Naved Ashraf’s effective control that is providing telecommunications services within the mandate of the CCTS to become a participant in the CCTS. The Commission intends to register this mandatory order with the Federal Court pursuant to subsection 63(1) of the Act.

Conclusion

48. The Commission finds that Net2Web contravened section 24.1 of the Act, thereby committing a violation, by failing to become a participant in the CCTS from 26 June 2020 to the date of this decision.

49. The Commission considers that an AMP of \$50,000 on Net2Web and an AMP of \$15,000 on Naved Ashraf, as set out in Telecom Notice of Consultation 2021-338, would be appropriate.

Reminders

50. The Commission hereby notifies Net2Web and Naved Ashraf of their right to apply to the Commission to review and rescind or vary this decision under section 62 of the Act, and to seek leave of the Federal Court of Appeal to appeal this decision before that Court under section 64 of the Act.
51. Any review and vary application under section 62 of the Act must be made within **90 days** of the date of this decision pursuant to subsection 71(1) of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, and the Commission will place all related documentation on its website.
52. In accordance with section 64 of the Act, an application for leave to appeal must be made to the Federal Court of Appeal within **30 days** of the date of this decision or within such further time as a judge of that Court grants in exceptional circumstances.
53. The amounts of \$50,000 for Net2Web and \$15,000 for Naved Ashraf are due within **30 days** of the date of this decision and must be paid to “The Receiver General for Canada” in accordance with subsection 72.009(3) of the Act. For any amount owing that is not paid within 30 days, interest calculated and compounded monthly at the average bank rate plus 3% will be payable on that amount and will accrue during the period beginning on the due date and ending on the day before the date on which payment is received.
54. If payment has not been received within **30 days** of the date of this decision, the Commission intends to take measures to collect the amount owing, which may include certifying the unpaid amount⁶ and registering the certificate with the Federal Court.⁷

⁶ Pursuant to subsection 72.009(4) of the Act.

⁷ Pursuant to subsection 72.009(5) of the Act.

Policy Directions

55. The 2006 Policy Direction⁸ and the 2019 Policy Direction⁹ (collectively, the Policy Directions) state that the Commission, in exercising its powers and performing its duties under the Act, shall implement the telecommunications policy objectives set out in section 7 of the Act, in accordance with the considerations set out in the Policy Directions, and should specify how its decisions can, as applicable, promote competition, affordability, consumer interests, and innovation.
56. The Commission reviewed the record of this proceeding in light of the Policy Directions and considered their aspects to the extent necessary, using measures that are efficient and proportionate to their purpose. The Commission considers that its determinations in this decision are compliant with the 2019 Policy Direction, since they promote consumer interests by ensuring that TSPs that do not participate in the CCTS to resolve complaints incur a penalty that is crafted to bring them back into compliance with their obligations. The Commission remains of the view that the dispute resolution process, which is an integral component of a deregulated telecommunications market, enhances and protects the rights of consumers in their relationships with TSPs.
57. Further, the Commission considers that the requirement that all TSPs participate in the CCTS, and the enforcement of that requirement, are consistent with the 2006 Policy Direction. The CCTS participation requirement is competitively neutral and symmetrical because it applies to all TSPs that offer in-scope services. Moreover, the Commission reiterates its determination from paragraph 36 of Broadcasting and Telecom Regulatory Policy 2016-102 that market forces are not sufficient to sustain a critical mass of participation in the CCTS for it to operate effectively.
58. Accordingly, in compliance with paragraph 1(b)(i) of the 2006 Policy Direction, this decision advances the telecommunications policy objectives set out in paragraphs 7(a), (b), and (h) of the Act.¹⁰

Secretary General

⁸ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

⁹ *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

¹⁰ The cited objectives of the Act are 7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions; 7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; and 7(h) to respond to the economic and social requirements of users of telecommunications services.

Related documents

- *A telecommunications service provider that has failed to become a participant in the Commission for Complaints for Telecom-television Services Inc.*, Telecom Notice of Consultation CRTC 2021-338, 5 October 2021
- *Application of regulatory obligations directly to non-carriers offering and providing telecommunications services*, Telecom Regulatory Policy CRTC 2017-11, 17 January 2017
- *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
- *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

Appendix to Telecom Decision CRTC 2022-322

Telecom Order CRTC 2022-323

The Commission hereby orders Net2Web Inc. (Net2Web) and Naved Ashraf, in their capacity as Director of Net2Web, pursuant to section 51 of the *Telecommunications Act* (the Act), within **60 days** of the date of this order, to

- comply with the requirement set out at paragraph 45 of *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, and made pursuant to section 24.1 of the Act, that as a condition of offering or providing telecommunications services, the company and any other entity under the effective control of Naved Ashraf that is providing telecommunications services within the mandate of the Commission for Complaints for Telecom-television Services Inc. (CCTS) become participants in the CCTS for as long as it and any such entity continue to offer services within the scope of the CCTS's mandate; and
- file proof with the Commission that they have done so.