



Telecom Regulatory Policy CRTC 2023-91

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Amendments to the *Telecommunications Fees Regulations, 2010*

Summary

The Commission amends, with the approval of the Treasury Board, the *Telecommunications Fees Regulations, 2010*, as proposed in Telecom Notice of Consultation 2022-32.

These amendments (i) change the definition of “contribution-eligible revenues” to align the telecommunications fees calculation with the calculation used for the telecommunications contribution regime, and (ii) update the definition of “related” to align with recognized accounting standards.

The amendments, which were registered on 13 March 2023 and came into force on that date, will be published in the *Canada Gazette*, Part II.

Introduction

1. In Telecom Notice of Consultation 2022-32, the Commission called for comments on proposed amendments to the *Telecommunications Fees Regulations, 2010* (Fees Regulations).
2. The Commission proposed to replace the current reference to Telecom Circular 2007-15 in section 1 of the Fees Regulations with a reference to Telecom Information Bulletin 2019-396. This would align the telecommunications fees calculation, as it relates to contribution-eligible revenues, with the contribution calculation, such that retail Internet service revenues and retail paging revenues would no longer be deductible when determining contribution-eligible revenues in the telecommunications fees calculation.
3. The Commission also proposed to replace the current definition of the term “related” in section 1 of the Fees Regulations. Specifically, the Commission proposed to update the current definition of this term, which references section 3840 of the outdated *Canadian Institute of Chartered Accountants Handbook*, with a reference to International Accounting Standard 24¹ in the *CPA Canada Handbook – Accounting*,

¹ Information on International Accounting Standard 24 can be found on the International Financial Reporting Standards Foundation’s [website](#).

which is the successor to the *Canadian Institute of Chartered Accountants Handbook*. This would provide for the consistent treatment of related entities under both the contribution regime and the telecommunications fees regime.

4. The Commission received interventions from various telecommunications service providers (TSPs) to whom the amendments would apply, an association, and an individual. Parties generally supported the proposed amendments, with some parties proposing additional changes to the amendments.

Issues

5. The Commission has identified the following issues to be addressed in this decision:
 - Aligning the contribution regime with the telecommunications fees regime
 - Impact of the proposed amendments on TSPs
 - Retroactivity of the proposed amendments
 - Including an ambulatory incorporation in the proposed amendments

Aligning the contribution regime with the telecommunications fees regime

Positions of parties

6. Rogers Communications Canada Inc. (RCCI) submitted that the formula used for the National Contribution Fund (NCF) should not be adopted as a mechanism for calculating telecommunications fees. It argued that since the NCF was designed with a specific purpose and mandate, namely to expand broadband coverage in Canada, its funding approach is not necessarily transferable to other uses and purposes. RCCI added that telecommunications fees are not akin to funds collected for the NCF and should not be allocated on the same basis.
7. RCCI also submitted that telecommunications fees should continue to be allocated on the basis of the Commission's current regulatory activities, since the nature of the Commission's regulatory activities and costs supported by telecommunications fees do not fit the same mould as the NCF's broadband subsidy mandate. It argued that the Commission's regulatory activities and operations do not reflect the revenues that form the basis of contribution-eligible revenues for the NCF. RCCI added that, since the Commission's regulatory activities and operations continue as they have in the past, telecommunications fees should remain the same.

Commission's analysis

8. The Commission notes that for a period starting when Telecom Decision 2006-71 was issued, it applied the same mechanism for calculating contribution-eligible revenues to both the contribution regime and the telecommunications fees regime. Specifically, both the contribution regime and the telecommunications fees regime referenced the

formula set out in Telecom Circular 2007-15 to calculate contribution-eligible revenues. This was the case until the update to the contribution regime calculation in Telecom Information Bulletin 2019-396.

9. Therefore, given that it has been the Commission's past practice to use the same mechanism for calculating contribution-eligible revenues for both the contribution regime and the telecommunications fees regime, which has resulted in a more effective and efficient telecommunications fees regime, the Commission is of the view that it would be appropriate to use this approach.
10. In Telecom Regulatory Policy 2016-496, the Commission noted that retail Internet access and texting services are now used by consumers largely as a substitute or replacement for traditional voice services. As a result of this shift, the Commission's regulatory activities increasingly involve retail Internet issues, whether it be the Broadband Fund, the proceeding on telecommunications in the Far North, or the Internet Code. Accordingly, the Commission considers that amending the Fees Regulations to include retail Internet service revenues and retail paging revenues² in the determination of contribution-eligible revenues would better reflect the Commission's ongoing regulatory activities and costs.
11. Accordingly, as proposed in Telecom Notice of Consultation 2022-32, the Commission is of the view that aligning the contribution regime with the telecommunications fees regime would be appropriate.

Impact of the proposed amendments on TSPs

Positions of parties

12. Cogeco Communications Inc. (Cogeco) submitted that, without further changes to the existing calculation method for determining annual telecommunications fees, the Commission's proposed amendments would result in a significant increase in the fees collected from Canadian carriers and in the Commission collecting fees from telecommunications carriers that are well in excess of the costs that would need to be covered.
13. Cogeco added that in its case, and based on the application of its contribution-eligible revenues, the total industry contribution-eligible revenues, and the latest Commission costs related to the regulation of telecommunications activities, the company would see its telecommunications fees double year over year.

Commission's analysis

14. The Commission's proposed amendments will not change the total amount of fees collected; rather, beginning in the 2023-2024 fiscal year, the Commission will include

² Texting revenues are included as part of retail paging revenues.

TSPs' Internet and paging revenues in the calculation of the proportion of the Commission's annual regulatory costs that each company is responsible for paying.

15. The change in calculation will not result in over collection. Although the change in calculation may change the percentage that each company pays, the Commission will collect only the amount that it needs to operate.
16. With respect to Cogeco's comment on its fees doubling, the percentage of the total amount of fees collected by each company will change depending on the change in its new contribution-eligible revenues relative to its old contribution-eligible revenues. Some companies will see a higher percentage and others a lower percentage.
17. Accordingly, the Commission considers that, while its proposed amendments will result in some TSPs paying a higher percentage and others a lower percentage, the amendments will result in a more proportionate and equitable distribution of the telecommunications fees among TSPs.

Retroactivity of the proposed amendments

Positions of parties

18. Bell Canada submitted that the Commission should make the proposed amendments to the Fees Regulations retroactive to 1 January 2020, the date on which the Commission's revenue-based contribution regime was amended.

Commission's analysis

19. The Commission considers that its proposed amendments, which would simplify annual reporting for TSPs, would result in a more effective and efficient telecommunications fees regime. Therefore, making its proposed amendments retroactive to 1 January 2020 would be inconsistent with such an outcome, given the potential impacts that retroactivity could have on the regulatory certainty of telecommunications fees for TSPs.
20. In addition, the *Telecommunications Act* (the Act) does not give the Commission express authority to make regulations with retroactive effect. Accordingly, the Commission considers that it would not be appropriate to make the proposed amendments retroactive to 1 January 2020.

Including an ambulatory incorporation in the proposed amendments

Positions of parties

21. Bell Canada submitted that the amended version of the Fees Regulations should add the phrase "or as such terms may be amended over time" to more clearly link the mechanisms for contribution and fee payment calculations and obviate the need for future consultations.

Commission's analysis

22. Subsection 68(1) of the Act prescribes Treasury Board supervision over the manner in which the fees are calculated. Accordingly, in the interests of transparency and in deference to this supervisory role, the Commission considers that it would not be appropriate in this instance to modify its proposed amendments to include an ambulatory incorporation.

Conclusion

23. In light of the above, the Commission amends, with the approval of the Treasury Board, the *Telecommunications Fees Regulations, 2010*, as proposed in Telecom Notice of Consultation 2022-32. The amendments were registered on 13 March 2023 and came into force on that date. A copy of the amendments is provided in the appendix to this decision and will be published in the *Canada Gazette*, Part II.

Secretary General

Related documents

- *Call for comments – Proposed amendments to the Telecommunications Fees Regulations, 2010*, Telecom Notice of Consultation CRTC 2022-32, 16 February 2022
- *The Canadian revenue-based contribution regime, effective 1 January 2020*, Telecom Information Bulletin CRTC 2019-396, 4 December 2019
- *Modern telecommunications services – The path forward for Canada's digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016
- *The Canadian revenue-based contribution regime*, Telecom Circular CRTC 2007-15, 8 June 2007
- *Part VII application to revise the Telecommunications Fees Regulations, 1995*, Telecom Decision CRTC 2006-71, 6 November 2006

Appendix to Telecom Regulatory Policy CRTC 2023-91

Regulations Amending the *Telecommunications Fees Regulations, 2010*

Amendment

1. The definitions *contribution-eligible revenues* and *related* in section 1 of the *Telecommunications Fees Regulations, 2010*¹ are replaced by the following:

contribution-eligible revenues means revenues calculated in accordance with the formula set out in Part A of the Appendix to the Telecom Information Bulletin CRTC 2019-396, entitled *The Canadian revenue-based contribution regime*, effective 1 January 2020 and published on 4 December 2019. (*revenus admissibles à la contribution*)

related with respect to telecommunications service providers has the same meaning as *related party* within the International Accounting Standard 24 in the *CPA Handbook — Accounting*, as amended from time to time. (*apparentés*)

Coming into Force

2. These Regulations come into force on the day on which they are registered.

¹ SOR/2010-65