



August 25, 2015

Filed electronically

Mr. John Traversy  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, ON  
K1A 0N2

Dear Mr. Traversy:

**RE: Broadcasting and Telecom Notice of Consultation CRTC 2015-239; *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc. (BTNC 2015-239)***

**File: 8657-C12-201505505**

## Introduction

1. Shaw Communications Inc. ("Shaw") provides these comments in response to Broadcasting and Telecom Notice of Consultation CRTC 2015-239, *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.* (the "Notice"). Shaw welcomes the opportunity to participate in this public proceeding with the objective of ensuring that the Commissioner for Complaints for Telecommunications Services Inc. (the "CTS" or "Agency") is well-positioned to help resolve customer complaints about their communications services. Shaw wishes to receive intervener status in this proceeding and to appear at the public hearing scheduled to commence on November 3, 2015.
2. As a network and content experience company operating in today's highly competitive environment, Shaw's focus is truly customer-centric, as reflected in our *Customer Advocacy Commitment* statement:

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We are committed to providing our customers with exceptional experiences and unparalleled customer service. We value your business so every interaction we have with you is our top priority, and we never want our customers to feel unheard.<sup>1</sup>

3. In this environment, there is a market imperative to prioritize the needs of customers, minimize complaints and resolve customer concerns without intervention by either the Commission or the CCTS. In fact, as stated by the Commission in BTNC 2015-239, the CCTS was created as “an integral component of a deregulated telecommunications market.” Consistent with the CCTS’s origins as a necessary tool in an increasingly “deregulated” telecommunications environment, the Television Service Provider Code of Conduct was introduced as a tool to inform and empower Canadians in an era of increasing customer control and choice following the decisions in the *Let’s Talk TV* proceeding. Accordingly, Shaw would be opposed to any approach that inappropriately expands the scope or mandate of the CCTS in a way that intrudes on the regulatory role of the Commission or that creates a burdensome additional layer of regulation.
4. Shaw supports a principled approach that is consistent with the Commission’s observation that:

... an increasing number of consumers are taking advantage of bundled offers which include local voice, wireless, Internet, and television services offered by the same service provider, making it ever more important to have a consistent approach to informing consumers and dealing with their complaints.<sup>2</sup>
5. This “consistent approach” will benefit both consumers and the industry. Incorporating issues related to the provision of television services into the CCTS mandate will enhance the overall usefulness of the CCTS.
6. While Shaw constantly strives to provide best in class customer service, we acknowledge that, in certain situations, a customer may feel more confident having a third party assist in resolving any dispute. In light of the CCTS’s recent consumer survey results showing that consumers are highly satisfied with the services provided by the CCTS, it is clear that our customers value the role of the CCTS in resolving these disputes.
7. The CCTS has also been effective in incorporating the administration of the *Wireless Code* and the *Deposit and Disconnection Code* into its overall scope of responsibility, without requiring significant changes to its governance structure and mandate. The oversight of

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<sup>1</sup> <http://www.shaw.ca/contact-us/customer-advocacy/>

<sup>2</sup> Paragraph 11, Broadcasting and Telecom Notice of Consultation CRTC 2015-239; *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.*

these Codes has been effected by the CCTS and has not posed an insurmountable challenge for the Agency's ombudsman role. If the CCTS's mandate for TVSP complaints is equally clear, adding the administration of a TVSP Code should also not necessitate significant changes or create unnecessary hurdles for the CCTS.

8. Most importantly, through administering these industry Codes and assisting in the resolution of consumer complaints, the CCTS is able to gather information and provide valuable insight into current industry trends and developments relating to consumer complaints. When this information is made available through the CCTS Annual Report, it assists the industry and the Commission in taking appropriate steps to reduce customer impacts and frustration. As the Commission has noted:

The CCTS's annual report is the key mechanism by which its stakeholders, including consumers, TSPs, and the Commission, can assess the CCTS's performance on matters such as the results of its complaint resolution activities, trends in complaints, operational improvements, and the effectiveness of public awareness initiatives. In this regard, the Commission considers that the annual report should be as comprehensive as possible.

9. Below, we provide a response to the Commission's questions regarding:

- the service an independent communications ombudsman provides to consumers;
- the consumer experience with the CCTS;
- public awareness of the CCTS;
- participation in the CCTS by communications service providers;
- the CCTS's mandate;
- the CCTS's structure;
- the CCTS's funding model; and
- a future review.

**A. The service an independent communications ombudsman provides to consumers**

10. The CCTS Annual Report for 2013-2014 states that 11,340 complaints were accepted during the year, of which 11,196 were successfully concluded (a nearly 99% efficiency level).<sup>3</sup> Further, the CCTS responded to 130,468 phone inquiries and received 50,103 pieces of written correspondence. The Consumer Survey indicated that 89% of respondents were

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<sup>3</sup> In the 2013-2014 year, the CCTS accepted 96 complaints for Shaw representing 0.85% of total industry complaints.

satisfied with the timeliness of the CCTS processes; a further 75.1% felt that the resolution and investigation process was fair.

11. In view of the above, it is indisputable that the CCTS has clearly responded to the demands and needs of consumers in assisting to resolve complaints. There is a clear and tangible consumer benefit in having an independent ombudsman available to assist in resolving complaints that a customer was unable to resolve with his/her service provider.
12. Shaw further acknowledges that there will be efficiencies associated with having the CCTS incorporate into its mandate complaints relating to the TVSP Code and reporting on any complaints in respect of such services.

**B. The consumer experience with the CCTS**

13. The Commission has asked parties to comment on the appropriateness and effectiveness of the CCTS consumer survey in measuring consumer satisfaction. Shaw believes the CCTS survey remains the appropriate tool for obtaining feedback on the quality of service from the perspective of the consumer. The survey results continue to be a useful measurement to gauge the customer's experience in using the CCTS services.
14. With respect to potential improvements, we believe the CCTS could seek further information in the customer survey to ascertain how and by what means the customer became aware of the existence of the CCTS. Collecting this information and making it publically available would help determine the appropriate steps or possible improvements for increasing public awareness.
15. Shaw also submits that the CCTS should consider introducing a survey/mechanism to receive feedback from the industry service providers on processes and areas for improvement. Although the consumer is always the main focus, some improvements can be made to improve the response and complaint handling processes for industry members which would ultimately benefit consumers. This approach would recognize the "duality" of the customer-service provider relationship. If these results were published for public consumption, it would provide all stakeholders with important feedback with respect to identifying areas for improvement.
16. In any case, the foregoing suggestions are by way of further improvement of the CCTS feedback process and should not detract from the fact that, to date, the results of the customer survey demonstrate that the vast majority of consumers are satisfied with the CCTS services as an appropriate mechanism to resolve disputes.

### C. Public awareness of the CCTS

17. In BTNC 2015-239, the Commission cites a 2014 Harris poll showing that only 13% of wireless customers were aware of the CCTS. The Commission then suggests there is “limited” customer awareness of the CCTS. Shaw does not concur with the Commission’s inference that there is a general lack of awareness. Further, the salient issue is not whether all Canadians are aware of the CCTS but rather whether there is sufficient awareness amongst customers that have a need to use the services of the CCTS. Specifically, those customers who have a complaint that they are unable to resolve with their service provider.
18. In Shaw’s submission, the CCTS along with industry participants have taken appropriate measures which have successfully resulted in customer awareness. According to the 2013-2014 Annual Report, 13,850 phone calls to the CCTS were generated by industry bill messages alone. While it appears from the CCTS responses to the Commission requests for information that it has, in prior years, reported the results of its consumer surveys to assess CCTS awareness, such information was not included in the most recent CCTS Annual Report. Moreover, CCTS’s response to requests for information indicates that the Board has provisioned funds for the 2015-16 budget to “conduct its own public polling”. Shaw submits that CCTS reinstate the reporting of the foregoing metrics to increase visibility for the industry on what is working or not working related to public awareness.
19. We also wish to bring to the Commission’s attention that CCTS responses to the requests for information corroborates Shaw’s view that it is appropriate that consumers need only become aware of the CCTS once a complaint arises and, therefore, there is no need to increase general awareness of the CCTS. In its responses, CCTS expressly states that awareness is a function of “experiencing a problem”. Shaw also notes that the steps described by CCTS to “make itself better-known to the public” through a variety of methods, further mitigates concerns with respect to customer awareness.
20. Shaw reminds the Commission that, as recently as 2012, the CCTS Board of Directors expanded the scope of participating service provider commitments designed to ensure that customers were made aware of CCTS and the independent dispute resolution service that it offers. In particular, pursuant to the 2012 amendments to the *Public Awareness Plan*, the following measures are now in effect:

- The service providers will notify customers about CCTS on their web sites and in the “white pages” using prescribed text. The prescribed text has been made more clear and concise;
- The service providers are required to place on their web sites a notice about CCTS and a link to the CCTS web site. The plan has been amended to provide more direction to the service providers regarding placement on their site, with the intention of making the relevant page easier for consumers to find. It is also intended to ensure that CCTS is properly described as an independent organization and not part of the provider’s internal complaint-handling process;
- Service providers were previously required to place notices about CCTS on customers’ bills twice per year. They are now required to do so four times per year. In addition, they will now also provide notice to customers who do not receive bills, such as pre-paid wireless customers;
- Under the original plan, a service provider that could not resolve a customer’s complaint was required to notify the customer about the right of recourse to CCTS following the completion of its internal complaint-handling process. This notification requirement has been changed and the notice must now be given following the second level of escalation in the company’s complaints process; and
- Service providers may choose to amend their Terms of Service to include reference to CCTS as an available dispute resolution mechanism.

21. Shaw notes that, as part of its obligation to meet the above-noted commitments, its customers online are currently directed to the “Customer Advocacy Commitment”, a specific page on Shaw’s website which explains our commitment to customers. A specific link included in this information (“Other Avenues for Customer Advocacy”) evidences Shaw compliance with Measures 1 and 2, above. We provide detailed information on the means by which a customer can contact customer service in the event that he/she has any concerns or feedback to share. The information provides a thorough explanation of three steps by which a customer can contact the Shaw resolution team, the regional leadership team or the executive leadership team as needed.

22. Shaw respectfully submits that the foregoing measures are the most efficient and best means “used by CCTS participants to promote the CCTS”. With respect to the specific question as to whether TVSP participation should be leveraged to promote the CCTS, such as by a requirement to broadcast public service announcements about the CCTS, Shaw

submits that such a step would be unnecessary and, moreover, inappropriate. Other industry ombudsmen do not undertake public advertising campaigns and instead rely on communication to the public from individual members. A good example of this industry-accepted approach is the Ombudsman for Banking Services and Investments (<https://www.obsi.ca/home>). This entity engages in no external communications through PSAs or other advertising material.

23. In that regard, Shaw's website would be amended to advise customers that complaints about television services would be among the subject areas on which the CCTS could be contacted by a customer. Therefore, the requirement to broadcast public service announcements would be superfluous. Any awareness activities must be targeted towards consumers who have a complaint that cannot be resolved by their service provider. Wider awareness would be inefficient and would drive unnecessary calls and create administrative burdens for the CCTS.
24. In view of the foregoing, Shaw does not see the need for additional measures by the CCTS to promote itself and to increase public awareness of its services.

**D. Participation in the CCTS by communications service providers**

25. In BTNC 2015-239, the Commission asked parties to comment on whether participation in the CCTS should continue to be mandatory for all telecom service providers. The Commission also asked whether mandatory participation should be extended to TVSPs once the CCTS is tasked with the administration of the TVSP Code of Conduct.
26. Shaw continues to believe that participation in the CCTS should be *voluntary* for all service providers
27. Industry members should be able to distinguish themselves in the competitive market by being members of the CCTS. In addition, the CCTS should be encouraged to grow and maintain membership through proven value – for both consumers and industry participants – in the market.
28. As nearly five years have transpired since the Commission made its determination with respect to membership in the CCTS, it is now an appropriate time for the Commission to revisit this ruling and, in fact, give strong consideration to a voluntary approach to CCTS participation/membership.

29. Shaw notes that the CCTS had previously taken the position that voluntary membership would present significant challenges with respect to overall funding and funding obligations of remaining members in the event that certain members withdrew. Shaw notes that the current environment, which is far more attuned to consumer needs and preferences, would ensure that there would be a significant base of membership in the CCTS, even if such participation was on a voluntary basis.
30. However, if the Commission decides to maintain mandatory participation, this approach must apply as broadly as possible to all carriers and resellers and should continue to be triggered by a complaint. These mandatory participation principles are essential to achieve a result of competitive equity. Further, in view of the recent amendments to the *Telecommunications Act*, which permit the Commission to directly impose conditions of service on resellers, reseller TSPs should be required to participate directly on a going forward basis. Therefore, there will no longer be a need for the Commission to mandate reseller participation indirectly through reseller arrangements entered into between incumbents and such parties.

#### **E. CCTS's mandate**

31. Shaw notes that pursuant to the CCTS Procedural Code, the "in scope" services that fall within the mandate of the CCTS are expressly limited to complaints from customers regarding forborne (unregulated) retail telecommunications services. In addition, 16 specific services which currently fall outside of the Agency's mandate are expressly enumerated in the Procedural Code, including Internet applications, broadcasting services, telemarketing/unsolicited telecommunications and pricing.<sup>4</sup>
32. The current scope of CCTS's mandate remains appropriate with respect to ensuring that its role should be tailored and specifically focused to address the range of complaints that are appropriate for such an industry body (i.e., complaints of contract terms, billing disputes and errors, service delivery and credit management for telecommunications services). Moreover, it is appropriate that it continue to oversee complaints related to any Codes under its administration.

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<sup>4</sup> The full list of exceptions is as follows: Internet applications or content, Broadcasting services, Emergency services, Payphones, Equipment, Inside Wiring, Yellow pages or business directories, Telemarketing or unsolicited messages, Security services such as alarm monitoring, Networking services, 900 and 976 services, Pricing of products or services, Rights of way, Plant (including, without limitation, poles, towers, conduit, trenches, and other support structures), Claims of false or misleading advertising, and Privacy issues.



33. However, Shaw is concerned that unless the mandate of the CCTS is clearly delineated, in practice it would oversee certain disputes and related areas that are properly within the mandate of the CRTC. As the Commission noted in its most recent review of the structure and mandate of the CCTS:

The Commission also considers that it would be duplicative to add regulated services to the CCTS's scope of complaints because the Commission is mandated to receive and address complaints about these services. Accordingly, the Commission considers that the record does not justify requiring the CCTS to expand its current scope of complaints at this time.<sup>5</sup>

34. Since the foregoing determination was made, there have been no developments that warrant a departure from the above approach. Therefore, Shaw would oppose any proposals to expand the scope of eligible complaints administered by the CCTS beyond the administration of the TVSP Code of Conduct.

35. It is particularly important for the scope of the CCTS's mandate to be tailored appropriately to ensure that it will address the same types of issues for consumers of services provided by TVSPs that it currently addresses for consumers of telecommunications services. In that regard, issues such as pricing, packaging, network, plant issues/support structures, and customer owned equipment should remain outside of the mandate of the CCTS.

36. In addition, issues outside of the scope of the TVSP such as privacy policies, specific rates for individual channels and packages, options to remove or add individual channels or packages, accessibility, broadcasting content (ratings and advisories), simultaneous substitution, emergency alert system compliance, local avails and undue preference/Wholesale Code issues are matters that should continue to be overseen by the Commission and therefore should be excluded from the CCTS mandate.

37. As Shaw noted in its recent comments filed in respect of the proposed TVSP Code, a cautionary approach should be applied to ensure that the subject matter of Codes does not go beyond the stated objectives for such instruments, namely: transparency in TVSP contracts; ensuring that Canadians have the "necessary information to make informed choices about their television services and are empowered in their relationship with TVSPs"; and "clarity of information in TVSP service agreements."

38. Shaw submits that the scope of the CCTS's oversight over services provided by TVSPs should be similarly circumscribed. It would be neither appropriate nor procedurally justified for the

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<sup>5</sup> Paragraph 29 of Telecom Regulatory Policy CRTC 2011-46

Commission to delegate the oversight of disputes to the CCTS on matters other than the “consumer contract” aspects of the TVSP-customer relationship. Therefore, it is imperative that complaints with respect to TVSP services are similarly limited to issues of compliance with the terms of service or contract, billing disputes, service delivery problems and credit management. This can be achieved through appropriate amendment to the CCTS Procedural Code. Shaw cannot underscore enough the importance for the Commission to ensure that CCTS’s mandate with respect to TVSP services is clear, to avoid CCTS, consumer and industry confusion.

39. While the definition of “Customer” and “Small Business” in the CCTS Procedural Code remains relevant to the services provided by TVSPs, as noted above, the Procedural Code would need to be amended to include the relevant broadcasting services that would now fall within the mandate of the CCTS. In that regard, we note that the current code contains a rather “circular” definition of “Telecommunication Service Providers” (defined, essentially, as any telecommunications service provider that provides telecommunications services to Canadian customers). For the purposes of greater certainty and clarity, Shaw proposes the following definition to be added to the CCTS Procedural Code for a TVSP:

(l) “Television Service Provider” means any Canadian licensed or exempt undertaking that provides subscription television services to customers. Such services typically distribute programming from conventional over-the-air television and radio stations and distribute pay audio, pay television, pay-per-view (PPV), video-on-demand (VOD), and specialty services. Television Service Providers include terrestrial cable, Internet Protocol television (IPTV), and national satellite direct-to-home (DTH) service providers.

#### **F. CCTS’s structure**

40. Shaw submits that the current CCTS Board of Directors and voting structure remains appropriate and is working effectively. It is not evident that the structure of the CCTS Board needs to be altered simply by virtue of the fact that an additional responsibility – the TVSP Code – is being added to its mandate. The current structure of the CCTS Board is already well calibrated to provide for the participation of all stakeholders while at the same time remaining independent from the industry. Of the current seven-member Board, three directors are represented by the industry, including one nominee from cable companies and one nominee of the incumbent local exchange carriers (ILECs) as well as one independent participating service provider.

41. Shaw submits that the Board structure remains appropriate and that it would be inappropriate at the current time to alter the governance arrangements of the Board simply by virtue of the addition of the TVSP Code to CCTS's mandate. CCTS's effective governance is evidenced by its success as an effective ombudsman, as reflected in the consumer satisfaction metrics highlighted in the Annual Report. The current Board structure, constituted by the depth of expertise and industry knowledge reflected in the current slate of members, is sufficiently well-placed to address issues with respect to administering those elements of the TVSP Code that would fall within CCTS's mandate.

42. As CCTS noted in its responses to the Commission's requests for information:

...CCTS' accomplishments demonstrate that its directors have successfully provided the governance framework within which CCTS has been able to accomplish its mandated objectives of complaint-handling, Code administration, and public reporting. The Board has also directed the development of needed infrastructure, including the setting of performance standards, the adoption of two separate strategic plans, the adoption of public awareness commitments for CCTS and for the Participating Service Providers, the development and adjustment of the funding formula, and multiple amendments to the constating documents to accomplish a number of different objectives.<sup>6</sup>

43. Thus, it is evident that the CCTS Board has *already* taken the necessary steps to address the additional responsibilities and mandate relating to overseeing the administration of a TVSP Code. This in turn underscores that a specific change in the CCTS voting structure to reflect the addition of TVSP participants would not be required.

44. With respect to the remedies provided by the CCTS to consumers pursuant to Section 12 of the CCTS Procedural Code, Shaw submits that the \$5,000 limit remains appropriate. There is no evidence that this limit has been set at a level too low for residential or small business complaints. According to the 2014 CCTS Annual Report, of the 7,795 complaints involving compensation, only 25 complaints received the maximum compensation of \$5,000.00. It is also difficult to see how TVSP complaints would need to be subject to a higher compensation threshold than is warranted for complaints in the telecom arena (Internet, local phone, long distance, wireless).

45. Shaw does not believe that any changes are required to the categories of complaints the CCTS reports on in its Annual and Mid-Year Reports by virtue of the addition of services provided by TVSPs to its mandate. As noted above, it will be important for the CCTS to continue to delineate accurately the specific in-scope issues that fall within its administrative mandate. In that regard, this range of matters should mirror the categories

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<sup>6</sup> CCTS(CRTC)4Jun15-2, Notice of Consultation 2015-239

of complaints currently overseen with respect to its administration of the Wireless Code and the Deposit and Disconnection Code.

#### **G. CCTS's funding model**

46. As described by the CCTS, complaint-based fees provide for 40% of CCTS's budget, with the remaining 60% recovered from "Revenue-based Fees" from participating service providers with greater than \$10 million in Canadian telecommunications revenues.

47. Although we are not opposed to changing the funding model to reflect the addition of television services to the CCTS's mandate if required, it would be inappropriate to, in effect, double the CCTS's budget following inclusion of contributions from TVSPs. Our preference would see the CCTS's budget subsume the additional responsibility within its current budgetary levels. Furthermore, to ensure that those generating the complaints shoulder a higher burden of CCTS costs, we would like to see the CCTS continue to move towards a funding model with increased emphasis on recovery through complaint-based fees. While we appreciate that this type of funding model raises its own set of challenges, we believe it may now be appropriate for the CCTS reduce the percentage recovered from "Revenue-based Fees" from the current 60% to 50%. This effectively balances cost recovery between revenue and complaint-based fees while signaling a move towards increased focus on those generating complaints incurring higher costs.

#### **H. Future review**

48. Shaw submits that a five year timeframe to review CCTS's role and mandate continues to be appropriate. Shaw further submits that the metrics used by CCTS in the current CCTS performance report are appropriate for measuring the performance of the Agency.

#### **Conclusion**

49. In summary, Shaw reiterates that:

- Consumers see benefit to the CCTS;
- No major changes to the CCTS structure or funding model will be required to incorporate TVSP complaints;
- The CCTS should take steps to gather and publically report metrics on the effectiveness of current Public Awareness activity through its Customer Survey; and

- The Commission must ensure the CCTS scope and mandate for TVSP complaints is clear to avoid industry confusion and customer frustration.

50. Shaw appreciates the opportunity to file these comments and looks forward to further participation in this process to review the structure and mandate of the CCTS.

Sincerely,

Shaw Communications Inc.

A handwritten signature in black ink, appearing to read "Dean Shaikh". The signature is fluid and cursive, with the first name "Dean" and last name "Shaikh" clearly distinguishable.

Dean Shaikh  
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