

August 25, 2015

FILED BY GCKEY

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

Dear Mr. Traversy:

**Re: TNC 2015-239, Intervention – Telecom Notice of Consultation CRTC 2015 Review of the structure and mandate of the Commissioner for Complaints for Telecommunications services Inc.**

1. Pursuant to paragraph 7 of Telecom Notice of Consultation CRTC 2015-239-1 *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications services Inc.* July 24, 2015 ("TNC 2015-239"), Tbaytel hereby submits its intervention regarding the issues raised in this proceeding.
2. Respectfully submitted this 25<sup>th</sup> day of August 2015.

Yours truly,



Robert Olenick  
Regulatory Analyst

c.c. As per CRTC Distribution List

**Telecom Notice of Consultation CRTC 2015-239  
Review of the structure and mandate of the Commissioner for  
Complaints for Telecommunications Services Inc.**

**Comments**

**of**

**Tbaytel**

**AUGUST 25, 2015**

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**EXECUTIVE SUMMARY**

1. Tbaytel's comments and responses are premised on it being a small telecommunications services provider, with minimal contact with the Commissioner for Complaints for Telecommunications Services ("CCTS"), and therefore probably not as conversant with the processes and procedures of the CCTS as naturally may be the large incumbent local exchange carriers ("ILECs") and Cablecos.
2. The CCTS is a Consumer Agency presently working on behalf of consumers with respect to their complaints about phone, wireless, and Internet services. The inclusion of the Television Services Providers ("TVSPs") and the administration of its Code of Conduct into the operations of the CCTS will not affect the organizational or operating structure, but rather will provide for a single point of contact to which to bring complaints.
3. Because of the homogeneity of the complaint categories and the ability to apply all of them to all service providers, there is no reason to make changes to the CCTS mandate or any other elements of the CCTS. The TVSPs will be incorporated into the "Other TSPs" membership category and become transparent. If this does not transpire, then further disaggregation of the "Other TSPs" membership category should be considered.
4. The visibility of the CCTS will be enhanced through the increase in participants due to the addition of the TVSPs. Participation requirements are to remain the same for all small service providers, triggered by the first complaint about a service provider.
5. The CCTS should continue to move funding by the increased employment of the Complaint-Based Fees methodology.
6. The next review of the CCTS should be two years after the inclusion of the TVSPs and their related Code of Conduct, and should be more comprehensive than just the structure and mandate as allowed for by this current proceeding.

## **Introduction**

7. This intervention represents the comments of Tbaytel on the issues raised by the CRTC in Telecom Notice of Consultation CRTC 2015-239, *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.* (“TNC 2015-239”) dated June 4, 2015.
8. Tbaytel recognizes the Commissioner for Complaints for Telecommunications Services (“CCTS”) as Canada’s telecommunications ombudsman who helps consumers with complaints about their telephone, wireless, Internet services, and soon issues related to the provision of television services. These services are predominantly forborne, that is, a telecommunications service provider (“TSP”) is not required to have tariff-approval from the Canadian Radio-television and Telecommunications Commission (“the Commission” or “the CRTC”) to offer the service.
9. Tbaytel is a small incumbent local exchange carrier (“SILEC”) that provides a full suite of telecommunication services, wireline, broadband internet, wireless, and IPTV, in the exchange of Thunder Bay. The Thunder Bay exchange covers the City of Thunder Bay as well as the surrounding communities of Murillo, Kakabeka Falls, Nolalu, Lappe and Shuniah. There is a competitive landscape for all telecom services offered within the Thunder Bay exchange and Tbaytel competes rigorously with two national large ILECs as well as with one of the two major Canadian cable carriers. Further, Tbaytel was granted forbearance from the regulation of residential local exchange and from the regulation of business local exchange services in September 2009 and April 2012, respectively, in the exchange of Thunder Bay. The Thunder Bay exchange covers an area with a mix of an urban and rural subscriber base with a low population density.

## **CCTS Background**

10. The CCTS was established in 2007 as an independent consumer agency by direction of the Governor in Council to take over from the CRTC and now resolve

complaints from individual and small business retail customers about TSPs' unregulated services. The Governor in Council also determined that the governance structure of an effective Consumer Agency should be designed to ensure its independence from the telecommunications industry by incorporating elements such as: a governing body composed of a majority of members who are not affiliated with any telecommunications service provider; a chief executive officer appointed by the governing body and also not affiliated with any telecommunications service provider; and a budget set by its governing body and provided by the industry at a level sufficient to effectively execute its mandate, and further stated that all telecommunications services providers ("TSPs") should participate in and contribute to the financing of an effective Consumer Agency with its structure and mandate approved by the Commission.

### **Tbaytel and the CCTS**

11. While the CCTS was established in 2007, Tbaytel became a member in early 2009, being a TSP whose annual Canadian telecommunications services revenues exceeded \$ 10 million. Tbaytel is classified as a member of the subgroup of CCTS participants who fall under the bylaw definition of "Other TSPs". Only large incumbent local exchange carriers ("ILECs") and Cablecos are not included in the Other TSPs Participating Service Providers membership category.<sup>1</sup>
12. As reported in the CCTS Annual Reports covering the period July 23, 2007 through January 31, 2015, the CCTS had accepted 58,532 complaints. Included in this total were 52 complaints that the CCTS accepted regarding Tbaytel, less than .1% of the total. In TNC 2015-239, the Commission referenced the percentage of households subscribed to telecommunications services, high speed Internet services, and television services, and with the last census (2011) indicating that there are over 13.3 million households in Canada, the total number of complaints

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<sup>1</sup> Based on the information provided in the Amended and Restated Participation Agreement (Amended and Restated April 10, 2014), the "Other TSPs" membership category makes up about 92% of the total membership.

pales in comparison to the potential number that could have been submitted, considering the number of households subscribed.<sup>2</sup>

### **General Comments**

13. Tbaytel welcomes the opportunity to provide its comments and responses to the discussion questions posed by the Commission on: the service that the CCTS, as a telecommunications consumer agency, provides to consumers; the consumer experience with the CCTS; the public awareness of the CCTS; the company participation in the CCTS; and the mandate, activities, structure, funding of the CCTS; and the need for any future review.
14. Tbaytel's comments give recognition to the fact that the CCTS is a Consumer Agency functioning predominantly on behalf of consumers. Further, Tbaytel's comments will reflect its interactions with the CCTS and the limited number of complaints the CCTS has brought forward to Tbaytel.
15. It is noted that the Commission has excluded the following from the scope of this proceeding:
  - The contents of any of the codes administered by the CCTS, namely, the Wireless Code, the Deposit and Disconnection Code, and the forthcoming TVSP Code;
  - The appropriateness of the CCTS becoming the administrator of the forthcoming TVSP Code; and
  - The interaction between the CCTS and the Commission's new power to impose Administrative Monetary Penalties ("AMPs") on TSPs for violations of the *Telecommunications Act* and any decisions or regulations the Commission makes pursuant to the *Telecommunications Act*.

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<sup>2</sup> The CCTS in its 2013-2014 Report reported that it had accepted 11,340 complaints.

**Tbaytel Comments on the Specific Issues Raised and Discussion Questions  
Posed by the Commission**

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

The CCTS currently helps consumers with complaints about their phone, wireless and Internet services. Adding issues related to the provision of television services to the CCTS's mandate will provide consumers with a single point of contact for complaints about their communications services. As set out in the Commission's most recent Communications Monitoring Report, in 2013, 99% of Canadian households subscribed to telephone services; 85% subscribed to television services, and 79% subscribed to high-speed Internet services.

1. **Comment on how an independent communications ombudsman serves the needs of consumers.**
  - **Address the service that it provides by resolving complaints about phone, wireless, and Internet services, reporting on these complaints, and administering related codes of conduct.**
  - **Address the service it would provide by resolving complaints about television services, reporting on these complaints, and administering related codes of conduct.**
  
16. With the telecommunications market moving more towards deregulation and the CRTC's regulatory presence diminishing, the Government determined that an independent agency would be a necessary and integral component of such a deregulated market to replace the Commission, so to speak, and to give individual and small business retail customers a continued point of contact to bring perceived complaints and issues about their service providers. The CCTS, through administering its related codes, is representing the customers of phone, wireless, Internet and television services, provides these customers the means to expedite their complaints against TSPs, after first attempting with the TSPs to get beneficial results. The CCTS will continue with each customer's complaint until a resolution is reached that is satisfactory to the customer.
  
17. By reporting on these complaints, the CCTS provides an indication of possible trends of where complaints are arising or where the CCTS is focusing its efforts, or both.



### **The consumer experience with the CCTS**

- 2. The CCTS surveys customers who have used its services and publishes the results in order to obtain feedback on the quality of service it provided and to identify areas for improvement. Does the survey provide an effective and appropriate measurement of consumer satisfaction?**
18. The response as to whether the Customer Survey is an effective and appropriate measurement of consumer satisfaction should be left to the customers themselves.
- 3. For consumers who have made a complaint with the CCTS, comment on your experience in using the CCTS for resolving your dispute.**
19. With respect to consumer experience, Tbaytel will reserve its comments until after all of the interventions have been submitted and after the November 3 – 9, 2015 on-line forum has concluded.

### **Public awareness of the CCTS**

**For the CCTS to be fully effective, consumers must be aware of its existence and the assistance it can provide. While the CCTS accepted and concluded over 11,000 complaints in 2014-2015, public awareness of the CCTS appears to be limited. The CCTS's website describes its current approach to developing public awareness.**

20. In documents submitted on July 20, 2015 in response to the Commission's June 4, 2015 request for information with respect to the Promotion of the CCTS, and to the CCTS on May 28, 2015, with respect to the CCTS' Public Awareness Plan and its Compliance Self-Reporting Form, Tbaytel has provided information on how it has adhered over the years to the CCTS' Public Awareness Plan.
- 4. What measures, including online approaches, should the CCTS take to promote itself and increase public awareness of the CCTS?**
- 5. Are there specific consumer segments where the CCTS should focus its promotional activities?**

**6. Are the current measures used by CCTS participants to promote the CCTS sufficient? If not, what additional measures could participants in the CCTS take to promote the Agency?**

21. The current measures used by the CCTS participants to promote the CCTS are sufficient. As the saying goes, "... You can only lead a horse to water...". Tbaytel believes that the low number of accepted complaints in relation to the potential number of complaints is not the result of unawareness of the CCTS, but rather the result of the continued efforts of the TSPs in meeting the needs and wishes of their customers.

22. There is no need to add more. The structure is set by the TSPs, with changes becoming more and more costly. As noted, changes or additions are not necessary, but what has become more effective is the role that the TSPs' Customer Care Representatives play in informing customers, whose issues they have not been able to settle, of their right and ability to choose to escalate their concerns to the CCTS to deal with.

**7. How could TVSPs promote the CCTS? Should TVSP participation be leveraged to promote the CCTS, such as by a requirement to broadcast public service announcements about the CCTS?**

23. TVSPs should not be expected to do any more or any less than the other CCTS participants in promoting the CCTS. The very fact that the TVSPs and its Code will soon fall under the administration of the CCTS gives rise on its own to a significant increase in the number of outlets providing information on the CCTS.

**8. How should the effectiveness of these public awareness initiatives be measured?**

24. The effectiveness of public awareness can not be measured, and why should it, to what end? Any method used would render meaningless results. For example, do more complaints mean more awareness, or just the CCTS turning a customer's single concern into multiple complaints?

### **Participation in the CCTS by communications service providers**

**The Commission currently requires all TSPs (including local and long distance service providers, wireless service providers, and Internet service providers) that provide services within the scope of the CCTS's mandate to participate in the CCTS. This requirement is set to expire on 20 December 2015.**

**For non-participant TSPs, the current membership requirement is triggered by a complaint. Specifically, a non-participant TSP that offer services within the scope of the CCTS is required to become a participant in the CCTS within five days of the date that the CCTS notifies it that the CCTS has received an in-scope complaint about it.**

**In Broadcasting Notice of Consultation 2015-105, the Commission stated that it intends to require all licensed TVSPs and related exempt undertakings to adhere to the TVSP Code which will be administered by the CCTS.**

### **Telecommunications service providers**

- 9. Should participation in the CCTS continue to be mandatory for all TSPs that provide services within the CCTS's mandate? Why or why not? Provide supporting rationale.**
  
25. The creation of the Consumer Agency, the CCTS, was an agreed-to condition in the formation of the forbearance framework by the Canadian Radio-television and Telecommunications Commission ("the Commission" or "the CRTC"). The forbearance regime, originally established for the large companies and subsequently extended to the small local exchange carriers ("SILECs") has proven beneficial for all parties. There will always be customer complaints that have to be dealt with, be it by the Commission or the CCTS, and the TSPs will also have to be involved, whether regulated by the Commission or as a mandatory participant with the CCTS, and someone will always have to be paid for the administration of customer complaints, either the Commission through the Telecommunications Fees or the CCTS, as the Consumer Agency. In either instance, participation was mandatory. Accordingly, the requirement to become a participant five days after being served with a customer complaint, the process in place at the current time, remains satisfactory.

- 10. Should participation in the CCTS become immediately mandatory on a going-forward basis for small TSPs that are not currently CCTS participants (i.e. instead of the requirement being triggered by a complaint)?**
26. The current membership requirement in the CCTS by the small TSPs should remain as it presently is, that is, triggered by a complaint. Why penalize a small TSP for not seeing their customers escalate their complaints to the CCTS?
- 11. With the recent amendments to the Telecommunications Act that allow the Commission to directly impose conditions of service on resellers, should the requirement that TSPs participate in the CCTS be imposed directly on resellers on a going-forward basis?**
27. If it is the reseller that is providing the service to the customer, and the reseller is who the customer is familiar with, and is who bills the customer with the expectation of payment, then yes, the requirement that TSPs participate in the CCTS be imposed directly on resellers on a going-forward basis.

#### **Television service providers**

- 12. Should participation in the CCTS be mandatory for all licensed TVSPs and related exempt undertakings? Why or why not? Provide supporting rationale.**
28. If the Commission goes through with its intent to require all licensed TVSPs and related exempt undertakings to adhere to a TVSP Code and have it administered by the CCTS, then it is only logical that all licensed and related exempt undertakings be made to participate in the CCTS on a mandatory basis. This would treat all service providers the same and provide a single consistent point of contact for complaints about their communications services, especially at a time, as the Commission has noted, consumers are increasingly taking advantage of bundled offers from the same provider that include local voice, wireless, Internet and television services.

### The CCTS's mandate

**The CCTS's website provides a description of its primary mandate. Its mandate includes tracking and reporting on trends in complaints and administering industry codes.**

29. Part of the mandate of the CCTS is to provide independent, impartial, timely, efficient and informal resolution of complaints by complainants against Participating Service Providers within the framework of the CCTS' Procedural Code. The CCTS' Procedural Code, in addition to outlining the functions, powers, and duties of the CCTS, identifies both the services that fall within and without of the scope of the CCTS' mandate.
30. On the whole, Tbaytel has not seen the impartiality mentioned above, rather it has seen the CCTS pursue Tbaytel, albeit consistent with its mandate as a Consumer-first Agency. to have it provide remedies to "aggrieved" customers in those cases where Tbaytel has already reviewed and made a decision contrary to what the customer is seeking.
31. The CCTS has discussed the reluctance on the part of TSPs to cooperate, but Tbaytel can say the same about the CCTS. For example, receiving emails asking for information that basically say, *please respond at your convenience, but no later than two days from now*, does little to generate co-operation. The same is true in those cases where there is an expectation on the part of the TSP to know everything that the CCTS staff wants. It is as if the two parties are looking at two different complaints. The CCTS asks each customer what it would take to resolve the complaint and yet it seem that this gets ignored, with the Customer's Incident Report cryptically listing numerous, and sometimes unrelated Complaint Natures for follow-up. Another such point is the discretion that the Commissioner of the CCTS has by section 6.19 of its Procedural Code to extend time for taking action, especially when a customer has missed the 20 day window by section 6.10 of the Code to indicate that matters were resolved to his satisfaction.
32. Tbaytel appreciates that the CCTS does not need input from TSPs in matters affecting how it carries out its mandate, but with respect to matters that affect how

the TSPs “participate” with the CCTS it would be nice to at least have the opportunity to do so.

33. As an example, in late 2014 the CCTS launched its TSP Portal. This portal was described as a tool designed to provide a place for service providers to quickly and securely respond to the CCTS complaints and to track how many active complaints and their due dates, and their status according to the CCTS complaint process. This tool benefits the CCTS, and only the TSPs by indicating whether the due date is on a weekend day or a holiday. The portal was created to give TSPs a view of what cases they need to action. The TSP can longer just send an email with a c.c. but now has to upload what was sent to the customer. Documentation and correspondence still needs to be created outside of the portal. The sending of any confidential information to the CCTS from the TSP is not possible, because if it is sent through the portal it is automatically sent to the customer involved. The sending of confidential information requires a separate email to the CCTS. Further, printing from the portal is not possible.
34. It would have been beneficial to work co-operatively with the CCTS in the development of the Portal that could have provided both the CCTS and the TSPs with a tool to help expedite resolution to customer complaints.
35. All of this may not matter at all because of its size and the number of Tbaytel complaints the CCTS has dealt with. In the CCTS’ 2013-2014 Annual Report, the CCTS identifies “that it is an independent organization dedicated to working with consumer and small business customers and participating Canadian telecommunications service providers...”. The Chair in her message states “...that the CCTS has worked effectively with service providers in their efforts to prevent and resolve complaints at the earliest stages.” Further, Commissioner Maker indicates that, “Our management team engages in regular communications with many providers...”. The CCTS in its July 20, 2015 response to the CRTC, CCTS(CRTC)4jun15 NC 2015-239, stated that the “CCTS meets regularly with a number of service providers to discuss issues of mutual concern, both substantive and procedural, and this has been effective in enhancing communications and

improving relationships”, and also stated that the “..CCTS shares with service providers its concerns about broader issues, such as concerns about compliance with the CCTS process...”. It is too bad that these meetings, discussions, and communications have not been extended to all TSPs

36. It is noted from CCTS(CRTC)4jun15 NC 2015-239 that the CCTS is seeking to work with the CRTC to put in place a more robust regime to deal with non-compliance, particularly before the first Participating Service Provider refuses to implement a resolution, a recommendation, or a decision. This appears to be an effort on the part of the CCTS to curtail a TSP from responding to a resolution, a recommendation, or a decision.
- 13. Does the CCTS’s mandate remain appropriate with respect to the categories of complaints it can address about telecommunications services (i.e. compliance with contract terms, billing disputes and errors, service delivery, and credit management for telecommunications services and complaints related to codes of conduct that the CCTS administers)? Why or why not?**
37. The CCTS’ mandate remains appropriate with respect to the categories of complaints it can address. Each of the categories mentioned; compliance with contract terms, billing disputes and errors, service delivery, credit management, and complaints related to codes of conduct, are broad enough in nature to ensure that the majority of, if not all customers’ complaints would be considered in scope and available for follow-up with the TSPs for resolution.
- 14. Should the CCTS address the same types of issues for consumers of services provided by TVSPs that it addresses for consumers of telecommunications services? Why or why not? What additional issues, if any, should it address?**
38. The issues that are addressed for consumers of telecommunications services are sufficiently generic to be applied in the cases of TVSPs’ service complaints, and as mentioned above, most customer complaints can be slotted into one of the complaint categories.

- 15. Certain services associated with the telecommunications industry are excluded from the scope of the CCTS, such as alarm monitoring, telemarketing, and accessibility services. Are there specific services provided by TVSPs that should be excluded from the CCTS's mandate?**
39. Some TVSP services that could be excluded from the scope of the CCTS mandate could be: Described Video, Closed Captioning, Accessible Set-top boxes and remote controls, Simultaneous Substitution, and Adult Programming.

### The CCTS's structure

The CCTS's structure is set out in various documents including its Procedural Code and bylaws.

- 16. Is the current structure of the CCTS's Board of Directors and the voting structure appropriate?**
- 17. Should the CCTS change the structure of its Board of Directors to reflect the addition of television services to its mandate? If so, how and why?**
- 18. Should the CCTS change its voting structure to reflect the addition of TVSP participants and complaints related to the provision of television services to its mandate? If so, how and why?**
40. The current structure of the CCTS' Board of Directors and the voting structure remain appropriate and there is no reason to neither change the structure of the Board of Directors nor its voting structure to accommodate the addition of television services. As previously mentioned, all the services provided by all of the communications providers can all be subject to the same categories of complaints and accordingly because of this homogeneity, the TVSPs as a group can be incorporated into the CCTS' "Other TSPs" membership category.
41. If there is any consideration for change because of the TVSPs, there should also be consideration for change with respect to the entirety of the "Other TSPs" membership category, with the possibility for some degree of disaggregation.
- 19. Do the remedies provided by the CCTS to consumers as set out in its Procedural Code, including compensation up to \$5,000 per complaint, remain appropriate and sufficient to meet the needs of consumers of both telecommunications and television services?**



42. If the remedies in themselves are going to remain, then what is identified in the Procedural Code is more than sufficient. The filing of a complaint by a customer should have its sole purpose the resolution of the complaint to the “mutual satisfaction of both the customer and the TSP”, and not as a possible source of revenue for the customer for merely submitting a complaint.
- 20. Comment on whether any changes are required to the categories of complaints the CCTS reports on its annual and mid-year reports as a result of the addition of services provided by TVSPs to its mandate.**
43. Each of the present categories of complaints, i.e. compliance with contract terms, billing disputes and errors, service delivery, credit management, and related codes of conduct apply to all complaints about all types of services providers, and as noted above with TVSPs listed in the “Other TSPs” membership category, there is no reason to change CCTS reporting.
- 21. Are there other modifications to the CCTS structure that could make its operations more effective or efficient? If yes, describe the modifications and provide the rationale for their adoption.**
44. At the present time Tbaytel does not foresee any modifications to the CCTS’ structure that could make the CCTS’ operations more effective or efficient. However, the addition of the TVSPs and the administration of the TVSP by the CCTS have not yet been confirmed. It is therefore possible that once this becomes a reality and after a period of time, with experience and more information, decisions could be made in the future on modifications.

### **The CCTS’s funding mode**

**The CCTS describes its funding model on its website.**

#### **22. Is the CCTS’s current funding model appropriate?**

45. The current funding model is appropriate and should continue to move and be more reflective of Complaint-Based Fees.

**23. Should the CCTS change its funding model to reflect the addition of television services to its mandate? If so, how and why?**

46. The CCTS should not change its funding model to reflect the addition of television services to its mandate.

### **A future review**

**The Commission most recently reviewed issues related to the CCTS five years ago. The purpose of a review is to ensure that the Agency and related requirements continue to respond to consumers' needs in a rapidly changing environment.**

**24. What is the appropriate time frame for the next review of the CCTS?**

47. The appropriate time frame for the next review should be two years after the inclusion of TVSPs and its Code of Conduct. What should not be precluded is the initiating of a review at the request of Participating Service Providers, with the allowance for greater scope than what was afforded by this proceeding. Tbaytel is aware that either the CCTS can call for a review at any time.

**25. Is the current CCTS performance report the appropriate framework for measuring the performance of the Agency? If not, what measures are appropriate and why?**

48. The current CCTS Performance Report is an appropriate framework for measuring the performance of the Consumer Agency. Providing additional narrative might be of some benefit. The final decision on what measures are appropriate and that could be changed should be left to the CRTC.

49. All respectfully submitted this 25<sup>th</sup> day of August 2015.

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