

**Before the Canadian Radio-television and
Telecommunications Commission**

**Broadcasting and Telecom Notice of
Consultation CRTC 2015-239/239-1,**

*Review of the structure and mandate of the Commissioner for
Complaints for Telecommunications Services Inc.*

Reply Comments

of

CCTS

11 September 2015

Introduction

1. In accordance with the procedures established in *Broadcasting and Telecom Notice of Consultation CRTC 2015-239 (as modified by NC 2015-239-1)*, *Review of the structure and mandate of the Commissioner of Complaints for Telecom Service* (NC 2015-239), the following constitutes the Commissioner of Complaints for Telecommunications Services' (CCTS) reply to interventions filed on 25 August 2015 (the "Reply").
2. Interventions were filed by a range of parties, including participating service providers (PSP) from all CCTS Member categories – Incumbent Local Exchange Carriers (ILECs), Cable Carriers (cablecos), Other TSPs (which includes smaller LECs, wireless and Internet service providers) – as well as public interest advocacy groups, including those representing the interests of consumers with disabilities. Given the divergent interests of the interveners, it is not surprising that the responses to the questions in Appendix 2 of the notice of consultation filed by parties on 25 August 2015 express a wide and often contradictory range of views and contain vastly different proposals for CCTS.
3. In light of this it is all the more noteworthy that parties are virtually unanimous in their support for the existence of and the work done by CCTS. There is also general agreement with the Commission's determination that CCTS administer the television service provider (TVSP) code of conduct.
4. Despite this strong support there are nevertheless calls for CCTS to broadly expand¹, or diminish², its scope and the services within scope. These requests run the gamut of simply adding to CCTS' scope certain (or all) services excluded by virtue of s. 3 of CCTS' Procedural Code, to having CCTS take on the roles and responsibilities of a consumer protection agency, including the responsibility for a wide array of the service needs of customers with accessibility issues. In addition, certain parties want CCTS to: i) Increase its work in the areas of surveying, trend analysis and reporting³; ii) Modify its procedures to eliminate or

¹ Alliance for Equality of Blind Canadians (AEBC); Canadian Internet Policy & Public Interest (CIPPIC); Consumers Council of Canada; Forum for Research and Policy in Communications (FRPC); Media Access Canada (MAC); National Pensioners Federation, Council of Senior Citizens' Organization of British Columbia, Public Interest Advocacy Centre (NPF-COSCO-PIAC); l'Union des consommateurs.

² SaskTel;

³ Bell Canada; TELUS; Rogers; Shaw; TekSavvy; AEBC; Consumers Council of Canada; FRPC; MAC; NPF-COSCO-PIAC; l'Union des consommateurs.

- accelerate certain steps within its process⁴; iii) Modify its funding formula – in some cases to have a greater proportion of its funding derived from complaints-based fees (CBF) and in others to have all or the majority of the funding coming from revenue-based fees (RBF).⁵
5. CCTS understands the desire for all customers to have support and recourse on every possible communication issue. However implementation of many of these proposals would bring with them a requirement for a larger staff with a greater breadth of experience and expertise, resulting in a potentially significant increase in workload and costs. Furthermore, in its view, any review of CCTS and associated proposals should be done in the context of Order in Council 2007-533, *Order requiring the CRTC to report to the Governor-in-Council on consumer complaints* – leading to the formation of CCTS. In this regard the government stated that “an independent agency with a mandate to resolve complaints from individual and small business retail customers (“Consumer Agency”) should be an integral element of that deregulated market”⁶.
 6. It is clear that from the outset CCTS was conceived as a complaints resolution body and its mandate - to provide independent, impartial, timely, efficient and informal resolution of complaints made by individual consumers and small business customers about the forborne telecommunications services⁷ – was established with this in mind. This focussed mandate has greatly contributed to CCTS’ ability to accept and resolve over 53,000 complaints since its inception, with close to 90% of these resolved in a manner satisfactory to both the customer and the service provider, most at the earliest stage of the process. The possibility of significantly widening the mandate runs the risk of moving CCTS too far away from these foundational principles.
 7. The following Reply is framed with this mandate in mind. It is also guided by CCTS’ experience with complaint resolution and code administration as well as its work in monitoring and reporting trends. The Reply is organized under headings which correspond to the broad areas addressed by the questions in Appendix 2 of the notice of consultation.

⁴ SaskTel; TELUS; Rogers; CNOC; l’Union des consommateurs.

⁵ All the I/SLECs except Bell Canada (i.e., TELUS, MTS Allstream, SaskTel, tbaytel) and the cablecos except Cogeco (i.e., Eastlink, Quebecor, Rogers, and Shaw) wish to see a greater proportion of funding from CBF and CNOC is calling for CCTS to be funded 100% from RBF (with an annual exemption for those PSP with no complaints).

⁶ *Order requiring the CRTC to report to the Governor in Council on consumer complaints*, (OIC- 2007-533), emphasis added.

⁷ Participation Agreement, s 2.3 - provided as CCTS(CRTC)4Jun15-1 Attachments 3 and 4, in English and French respectively.

Failure by CCTS to respond to certain positions or proposals should not be construed as agreement.

Customer Experience

8. As noted, the majority of intervening parties are pleased with the services provided by CCTS. As indicated by Bell Canada⁸, many service providers, including Bell, Rogers and TELUS, have sharpened their focus on customer service since the inception of CCTS in 2007. NPF-COSCO-PIAC specifically point to CCTS' primary focus on complaint resolution, its relatively simple process for complaint handling with accessibility through multiple channels, and its timely resolution of complaints as reasons for CCTS' high level of success. In this regard NPF-COSCO-PIAC note that CCTS' effectiveness relative to other organizations is likely due to the exclusion of numerous other regulatory tasks and responsibilities from CCTS' mandate⁹.

9. However, some PSPs have asked for changes to the complaint-handling process, alleging that CCTS is charging for and counting out-of-scope or invalid complaints¹⁰. As well, both SaskTel and Rogers¹¹ appear to be suggesting that the process somehow prevents service providers from exhausting every opportunity to resolve a complaint directly with their customers. SaskTel is asking that CCTS' intake process incorporate a practice by which the service provider is given an additional 5 business days after a complaint is received by CCTS to try to resolve the problem. It seems that SaskTel is suggesting that during this five day period PSPs would have an opportunity to resolve the complaint and if successful, that the complaint would not be counted against or billed to the PSP¹². TELUS and tbaytel have raised some concerns about the interaction between CCTS staff and themselves which appear to relate to the circumstances of specific intake processes or investigative situations¹³ related to customer complaints about these PSPs and, on this basis are asking for modifications to CCTS procedures. Finally, TekSavvy is requesting that modifications be made to the process in the case of complaints against PSPs reselling (or using wholesale inputs from other service providers) such that CCTS could compel a PSP's wholesale service provider to disclose information and documents regarding the complaint from that PSP's customer¹⁴. The modification envisions that if through its investigation CCTS finds some or

⁸ NC 2015-239, Bell Canada, Intervention 25 Aug 2015, paragraphs 2 & 6 through 9.

⁹ NC 2015-239, NPF-COSCO-PIAC, Intervention of 25 Aug 2015, paragraphs 12-13.

¹⁰ NC 2015-239, See 25 Aug 2015 Interventions of Bell Canada, para 43-44; SaskTel para 8; CNOC para 40-51,

¹¹ NC 2015-239, Rogers 25 Aug 2015 Intervention, para 6.

¹² NC 2015-239, SaskTel 25 Aug 2015 Intervention, para 6, 7 and 34.

¹³ NC0215-239, 25 August 2015 interventions of tbaytel, para30-34 and TELUS para 11, 25, 76-79.

¹⁴ NC 2015-239, TekSavvy 25 Aug 2015 Intervention, para 5, 33-34.

all the fault to be with the wholesale provider's service then this would be reported to the Commission.

10. As described in attachment 13 to CCTS(CRTC)4jun15-1, CCTS' complaint resolution process consists of up to 4 possible stages. One focus of PSP concern is on the first stage – the pre-investigation stage. This is the stage at which CCTS receives a complaint and only accepts it if the customer has first sought (and failed to receive) resolution directly with their provider. Then CCTS determines whether or not the complaint is in CCTS' mandate. It is important to note that if, on its face, CCTS can determine that the subject matter of the customer complaint is not in scope or that CCTS is otherwise precluded by its Procedural Code from accepting the complaint, CCTS does not accept the complaint nor is the complaint counted against or billed to the PSP.

11. However, if the complaint is found to be in scope, CCTS accepts it and the pre-investigation stage is initiated with the complaint being sent to the PSP. The PSP then has 30 days to try to resolve the complaint directly with the customer, and failing this, to provide all the relevant information related to the complaint to CCTS. This step in the process allows CCTS to bring the complaint to the attention of a more senior representative at the PSP which often results in prompt resolution. If resolution is not reached at this point and CCTS, upon receiving the *additional* information from the PSP, subsequently determines that the complaint is actually out of scope, the PSP is charged for the work done to this point and the complaint is tracked. This charge is necessary in order to recover the cost of processing the complaint to this stage.

12. When deciding whether or not a complaint is in-scope, CCTS applies a purely "jurisdictional" test. If the complaint is from a customer who is complaining about a retail forborne telecom service received from his/her service provider, CCTS accepts the complaint, unless one of the limitations or restrictions in section 3, 4 or 8 of the Procedural Code applies to the complaint. Certain service providers, such as Bell Canada, TELUS, CNOC and others, want CCTS to refuse to accept complaints at the pre-investigation stage when those complaints have (in their eyes) no merit. Essentially, they want CCTS to investigate these complaints at the pre-investigation level (i.e., before CCTS has all the relevant information about the complaint from the PSP) and to decline to accept them if the complaint is without merit. In CCTS' opinion it is not possible, or appropriate, to divert otherwise eligible complaints from the process solely because the service provider believes that they will be found to be without merit. Without first collecting and reviewing the information needed from both

parties there is no way for CCTS or anyone else to determine the merit of the customer's complaint.

13. SaskTel wishes to avoid having the complaint counted against it, as well as to avoid the fee for the complaint, by giving PSPs another 5 business days to what is essentially its internal resolution process. CCTS finds this troubling as PSPs have already had at least one, and often multiple, opportunities to resolve the complaint prior to the customer having contacted CCTS. Since the first order of screening for CCTS is to ensure that the customer has sought resolution with their service provider, it is not clear why another 5 business days is required. Nor is it clear what Rogers means when it asserts that service providers should be given every opportunity to resolve the issue directly with the customer. CCTS submits that the process is very much geared toward this very approach. The public awareness plan requires that PSPs inform customers who complain to it directly about CCTS only after the second level of escalation at the PSP has not resolved the matter. We also note that some service providers, including Rogers, have multiple levels of customer escalation and that customers are free to exhaust those prior to complaining to CCTS if they so choose. However, from a customer's perspective time is of the essence as many complaints relate to incorrect billing or service delivery problems and additional steps in the CCTS process will likely delay resolution and unnecessarily frustrate customers.

14. Some PSPs also appear to object to being charged at the investigation level when, after an investigation, CCTS finds that the provider did in fact meet all of its obligations toward its customer. However, as noted, the charge is driven by the work performed in resolving the complaint, not by the merit or lack thereof of the complaint itself. CCTS' costs are the same either way. CCTS does not track complaints based on whether or not they have merit (it would be impossible to do so when between 85 and 90% of complaints are resolved amicably). Even if it was possible to do so, not charging the PSP for complaints that are ultimately found to be without merit would simply result in greater overhead costs to the organization as CCTS would still have to do the investigative work, whether or not PSPs are billed directly.

15. The issues raised by tbaytel and TELUS relate to experiences between individual members of their and CCTS' staff¹⁵ that, in CCTS' view, are best dealt with at the time of or in direct

¹⁵ For example tbaytel at para 31 of its intervention refers to an information request with a two day turnaround time. Such a request would only be made after the initial 30 day request did not yield all the necessary information. TELUS at para 11a and b. of its intervention indicates that it had encountered variations in the approaches of different CCTS investigators with respect to information requests.

response to the incident(s) in question. CCTS has always worked with individual PSPs to address issues and improve the flow of information between the PSP and the CCTS, and is committed to continue doing so. However, CCTS would caution against modifying the timelines associated with its processes on the basis of one or two PSPs' reaction to individual exchanges with CCTS staff. These procedures have been established to balance the need for timely resolution and the ability of PSPs with varied resources to respond as required to CCTS' requests for information.

16. Finally, CCTS' mandate is to quickly resolve retail customer complaints. Broadening this mandate to require CCTS to investigate whether a wholesaler's actions played a role in an ensuing complaint from a PSP's customer, as is suggested by TekSavvy, would take CCTS in a direction far from that contemplated in the original Order-in-Council, and would add considerable delay in resolving the complaint to the detriment of retail customers. In CCTS' view these issues are better dealt with by the Commission.

Customer Survey

17. The genesis of the CCTS customer survey was a desire on the part of CCTS management to gauge how satisfied customers were with its employees and processes. The intent was to use the results to improve CCTS performance and customer service. CCTS added to these service-related questions a few additional questions that attempted to measure the effectiveness of PSP public awareness measures. The survey was designed and created by CCTS in-house with the sole intention of gathering this customer feedback. The purpose was never to gain a general sense stakeholder satisfaction with CCTS. In this regard Bell Canada, Cogeco, Consumers Council of Canada, FRPC, Quebecor and Rogers find the survey to be a good measure of customer satisfaction with CCTS.
18. NPF-COSCO-PIAC, TELUS and l'Union des consommateurs seek more transparency in reporting of survey information, questions or issues¹⁶. NPF-COSO-PIAC and l'Union des consommateurs also requested, among other things, that the survey include information regarding how customers learned about CCTS. TELUS and Shaw request that a similar survey be made of PSPs to determine their level of satisfaction¹⁷. As well the AEBC/CNIB, Consumers Council of Canada and FRPC requested additional questions or surveys to gauge,

¹⁶ NC 2015-239 25 August 2015 Interventions of: NPF-COSCO-PIAC, para 18-19; TELUS, para 26; l'Union des consommateurs para 13

¹⁷ NC 2015-239 25 August 2015 Interventions of TELUS para 11 & 25; Shaw, para 15

among other things, the level of satisfaction for customers with accessibility issues, the level of unresolved complaints not brought to the CCTS and satisfaction with CCTS as an entity¹⁸.

19. With respect to transparency of reporting, the question of “how did the customer hear about the CCTS” has been part of the CCTS survey since it was created in 2010. The results were reported in each subsequent Annual Report except for 2013-14 due to limitations around length of the report and budget. PIAC asked CCTS about this omission after the Annual Report was released and, at that time CCTS indicated that the results were largely unchanged from the previous year. Nonetheless CCTS plans to reintroduce these results in its 2014-15 Annual Report.

20. Transparency has been raised by a number of parties in relation to other aspects of CCTS’ activities and reporting and will be addressed more fully later in this Reply in the context of CCTS’ mandate. In general CCTS is not opposed to providing more transparency in its Annual Report but cautions against public reporting merely for sake of reporting, and is against “dumps” of raw data. In these instances the information provides no further edification but consumes time and effort both in its collection, analysis and dissemination, and in the subsequent need to contextualize and explain raw data so that it is not misunderstood or misused.

21. As well CCTS is not opposed to adding questions to its current survey if deemed appropriate for this target audience (i.e., customers), or to consider a survey of PSPs as requested by TELUS and Shaw. Once again, however, such surveys would increase the workload and financial requirement of CCTS and therefore would have to be balanced against other competing initiatives as well as the overall level of available funding.

Public Awareness

22. The majority of the intervening service providers are satisfied that the Public Awareness Plan imposes sufficient obligations on providers to promote public awareness and believe that no additions should be made to the PSPs’ requirements in this regard. While not suggesting any changes to the Plan, Cogeco does question how useful the currently required

¹⁸ NC 2015-239 25 August 2015 Interventions of AEBC/CNIB, para 7; Consumers Council of Canada, 13-15; FRPC, para 142.

billing messages are in promoting public awareness¹⁹. Only Cogeco and TekSavvy²⁰ suggest that, with the addition of the TVSP code to its mandate, public broadcast announcements and potentially other tools could also be used to promote awareness of CCTS.

23. A number of parties suggest that CCTS should increase its efforts to promote public awareness through its website. Bell Canada suggests that the additional responsibility and the need for the CCTS to make changes to its website to reflect the addition of the TVSP code provides CCTS with an opportunity to improve its website. Bell Canada, Quebecor and TELUS also suggest CCTS should use data analytics and search engine optimization tools to maximize its visibility when customers with issues search the Internet²¹. NPF-COSCO-PIAC propose that CCTS have a dedicated marketing and communications budget, multi-language promotional material, a customer outreach program and report newsworthy events in a timely manner. The Consumers Council of Canada alleges that there is a huge public awareness gap and advocates for CCTS and a diverse group of stakeholders develop and administer surveys to determine the extent of this gap.
24. CCTS' public awareness objectives are to ensure that customers know about CCTS when they need its services. In addition, its mandate requires CCTS to be efficient and effective. In that regard, every dollar spent on public awareness initiatives must maximize awareness for customers who need recourse to CCTS when they need recourse to CCTS. The proposals put forward by NRF-COSCO-PIAC and the Consumers Council of Canada, for example, would require a significant amount of human and financial resources and that would, in turn, have an impact on CCTS' funding requirements. CCTS, at this time, has no assurance that these initiatives will increase awareness for customers in need, or provide an appropriate degree of impact per dollar spent. As noted in its 25 August 2015 Comments, CCTS has Board approval to conduct a public awareness poll in 2015/16. As well CCTS has hired a Communications Officer to, among other things, harness the public awareness value of the Internet and social media.
25. In terms of Cogeco's comment regarding the Plan's requirement for billing message notifications of CCTS at least four time a year, contrary to Cogeco's allegation, CCTS can attest to the fact that this does increase customer awareness of CCTS. Indeed, other PSPs

¹⁹ NC 2015-239 25 August 2015 Intervention of Cogeco, para 17-19.

²⁰ NC 2015239 25 August 2015 Interventions of Cogeco, para 20; TekSavvy para 8-15 - TekSavvy's intervention is also filed on behalf of Hastings Cable Vision Ltd.

²¹ NC 2015-239 25 August 2015 Interventions of Bell Canada para 21-23; Quebecor para 11-12; TELUS para 36-38; NPF-COSCO-PIAC para 58.

are aware of this fact and regularly inform CCTS of the timing of this notification so CCTS can reallocate its call centre staff to respond to the consequent customer calls and queries.

Participation

26. While not in agreement on the appropriate “trigger” for participation, parties generally support mandatory participation for all service providers – TSPs, including resellers, and TVSPs, including licenced and exempt service providers. Even Quebecor, an advocate of voluntary participation, recognizes that CCTS’ mandate to administer the DDC and TWC and the future TVSP code of conduct necessitates the participation of service providers offering the services governed by the codes²². Shaw is a proponent of voluntary participation, suggesting that in light of the fact that customer service is a competitive differentiator providers will voluntarily join CCTS to distinguish themselves²³.
27. As more fully explained in CCTS’ 25 August 2015 comments in this proceeding, even under the existing mandatory participation regime, CCTS is often faced with difficulties in signing up service providers and ensuring that they fully comply with the requirements of participation²⁴. Further, based on Canadian experience in the banking sector²⁵, it is reasonable to conclude that in a voluntary participation regime, some TSPs and TVSPs would opt out of CCTS even if they believed there was some value to them in participating in CCTS. Such uneven participation would severely diminish the effectiveness of CCTS. It would conflict with the Commission’s expressed goal of providing customers of TSPs and TVSPs alike with a single agency to deal with their complaints. The inconsistency in participation would frustrate customers and raise serious concerns about funding as there would be no predictability of revenues on which to operate. Finally, and most importantly, it would undermine CCTS’ independence as voluntary participation would allow participants to unilaterally withdraw from CCTS if they were not happy or in agreement with one of its decisions.

Mandate

28. The majority of interveners believe that CCTS’ current mandate is appropriate and should continue with the same service exclusions (adjusted for TVSP participation) as outlined in s.

²² NC 2015-239, Quebecor’s 25 August 2015 Intervention para 20-22.

²³ NC 2015-239, Shaw’s 25 August 2015 Intervention para 26-30.

²⁴ NC 2015-239 CCTS’ 25 August Comments para 31-35.

²⁵ As discussed in greater detail in PIAC’s “Consumer Protection for Airline Passengers – A Report for the *Canada Transportation Act* Review Secretariat” <http://www.piac.ca/wp-content/uploads/2015/08/PIAC-Consumer-Protections-for-Airline-Passengers-Final-Report-31-March-2015.pdf>

3 of the Procedural Code. However, there are a few interveners calling for an expansion of mandate²⁶, particularly with respect to the services included in mandate, while others are asking for a reduction in the services²⁷ under the CCTS' purview. As well Rogers, Shaw and TELUS request that limitations be placed on CCTS' ability to interpret the codes of conduct in relation to particular customer complaints and, if such interpretation is permitted that there be greater transparency of the interpretations themselves and the rationale for the decisions reached based on these interpretations.²⁸

29. In fulfilling its mandate, CCTS addresses all complaints except those regarding issues specifically prohibited by s.3, 4 or 8 of the Procedural Code. The services listed in s.3, such as telemarketing and 900/976 services, are within the mandate of other industry or regulatory bodies and typically require a different expertise and process to administer. CCTS is of the view that this mandate continues to be appropriate and that the only changes required to s.3 of the Procedural Code and other constating documents are those that would permit CCTS to accept complaints about television services and permit the administration of the TVSP code of conduct.

30. Some interveners, for example CIPPIC, suggest that CCTS' mandate should be expanded to include all of the s.3 exclusions. The nature of the majority of the s. 3 service exclusions is such that their addition would significantly expand CCTS' mandate. As a result, CCTS would be required to add various types of expertise not possessed by its current staff. With regard to many of those exclusions there would be the attendant risk of conflicting outcomes arising because multiple agencies would be required to review the same complaint. This could dramatically alter CCTS' ability to quickly resolve customer complaints, increase the costs of operation, and reduce customer satisfaction.

31. SaskTel, on the other hand, is seeking the elimination of long distance (LD) and directory assistance (DA) services from CCTS' mandate on the basis that there are very few complaints for these services. CCTS submits that the issue is not the frequency but the importance of the complaint from the customer's perspective. In the case of LD, the vast majority of the complaints represent a significant monetary value to small business customers. It is

²⁶ See NC 2015-239, CIPPIC's 25 August 2015 Intervention, para 4-10, for example.

²⁷ See NC 2-15-239 SaskTel's 25 August 2015 Intervention para 25, suggests that the due to low complaint volume LD and DA could be excluded from the mandate.

²⁸ NC 2015-239 25 August 2015 Interventions of: Rogers (para E7, 9-13, 26-29) and TELUS (para 12-15, 30), ask the Commission to clarify that interpretation of industry codes of conducts are outside of the scope of CCTS' mandate.

conceivable that without the intervention of CCTS these complaints would not be resolved in a timely and satisfactory manner.

32. CCTS outlined the challenges it has encountered in the administration of industry codes in its comments in this and the TVSP code of conduct proceedings²⁹. The Wireless Code (TWC) in particular called for CCTS to interpret whether the code was applicable to an individual customer and, if so, the intent of the various code provisions in the context of a particular complaint. For this reason, in its submissions in the TVSP code of conduct proceeding, CCTS urged the Commission to make the wording and intent of each code provision as clear as possible. In CCTS' view this will go a long way in avoiding the controversy that has ensued in relation to CCTS' ability to interpret the code and the actual interpretations themselves.
33. However, CCTS continues to be of the view that a mandate to both administer industry codes of conduct and to apply the code in resolving complaints necessarily brings with it an obligation to interpret the intent of the code generally, as well as specifically in relation to a complaint. To suggest otherwise would effectively preclude CCTS from applying the provisions of a code to a particular complaint, unless the facts of the complaint at hand applied to a specific provision in a crystal clear manner. Each complaint has a unique set of facts that have to be analyzed in the context of the code of conduct: first to determine whether it falls within the scope of the code; and, second to determine, given the intent of the provision, whether the complaint has merit. That is why it is not possible to develop a "one size fits all" approach to complaint resolution in the context of an industry code. What's more, it is clear from Rogers' reply comments in the TVSP code of conduct proceeding that Rogers also understands, at least from a service provider perspective, that there are problems associated with too rigid an interpretation of code provisions. In response to CCTS' call for greater clarity in the wording of the proposed TVSP code of conduct Rogers stated:

"For its part, the CCTS also suggested changes in order to set out requirements in the most precise manner possible, thereby reducing the need for its intervention.

Rogers supports the use of clear and specific language in the Code's provisions so that the Commission's expectations are clear. However, we are concerned that the CCTS' efforts to define a large number of additional terms beyond those already defined by the Commission in the Code's glossary (or even in the Wireless Code), go too far. In most cases, the ordinary meaning of the word will suffice. Should the Commission rigidly define these terms, especially those related to a BDU's promotional efforts, service

²⁹ See CCTS' 25 August 2015 Comments and CCTS(CRTC)4Jun15-2 NC 2015-239 as well as its 25 May 2015 submission in Broadcasting Notice of Consultation CRTC 2015-105, *Call for comments on a Television Service Providers Code of Conduct working documents*.

providers will lose flexibility in the marketplace, hindering the sector's competitiveness and disadvantaging consumers in the long run. A code of conduct must be a living document, adaptable to a dynamically changing industry. The challenge is to ensure enough precision in its provisions so that all parties understand their obligations, while at the same time providing room for different approaches in meeting these obligations. This may necessitate the need for the CCTS to address disputes and make an interpretation after considering the views of interested parties. However, any attempt to address in advance all possible scenarios risks handcuffing BDUs at a time when they should be encouraged to be creative. That said, where the CCTS is required to intervene and make an interpretation, Rogers is concerned about how these determinations will be communicated to industry participants³⁰."

34. The descriptions of a rigid approach to code provision definitions described by Rogers apply equally to CCTS. It would be impossible for CCTS to perform its mandate if it were constrained from applying its logic and judgement to the extent that Rogers and TELUS are demanding. Contrary to the allegations of these parties, this is not policy-making but rather an essential aspect of the execution of the CCTS mandate as it relates to code administration.
35. Similar to its position in the TVSP code of conduct proceeding, Rogers requests that CCTS make its interpretations public to benefit all providers. CCTS appreciates that some frustrations would be eliminated if PSPs had an understanding of how CCTS has interpreted a particular code provision. To this end CCTS is developing an annotated guide to TWC. Unfortunately, this has been delayed due to time and resource constraints. CCTS is currently working on the annotated guide and is in the process of securing additional resources to help finalize it. However, as Rogers correctly notes, a code of conduct is a living document and as such there will be a need to update the annotated guide(s) from time to time to reflect the application of code provisions to the unique facts of new complaints.
36. CCTS does, however, agree with some of the concerns expressed by TELUS regarding certain references to advertising and promotions in the draft TVSP code of conduct³¹. CCTS is not seeking an expanded mandate in these areas, nor does it believe that it is the intention of the Commission to expand CCTS' mandate. In this regard CCTS asks the Commission to ensure that the language of the TVSP code does not inadvertently broaden CCTS' mandate.

³⁰ Broadcasting Notice of Consultation 2015-105, Rogers' 4 June 2015 reply comments in the BNC 2015-105 TVSP code of conduct proceeding, **emphasis added**.

³¹ NC 2015-239 TELUS' 25 August 15 intervention para 62.

Funding

37. Most interveners are in agreement with CCTS deriving its funding based on a mixed complaint and revenue-based funding mechanism. In general the majority of PSPs are asking that the current 40% CBF to 60% RBF split move toward at least a 50%/50% split and TELUS is asking that up to 60%³² of the funding be derived from CBF. The lone exception to this is CNOC. CNOC is requesting that CCTS be 100% funded through a revenue-based mechanism. CNOC also wants an exemption from paying fees in a given year for any PSP that has no complaints that year³³.
38. All interveners also acknowledge that the addition of TVSP code administration will increase the workload of CCTS and that TVSPs should contribute to CCTS on the same basis as TSPs. Shaw, while acknowledging this to be the case, nonetheless wants CCTS to subsume the additional costs of bringing TVSPs into CCTS into its current budget³⁴. Shaw has also suggested the CCTS perform an additional survey of PSP satisfaction. While Shaw is more direct than other interveners about not wanting to increase funding, the vast majority of PSPs and others have asked that CCTS increase its survey, trend analysis or reporting functions, (none of which are complaints driven activities) but seem reluctant to acknowledge that there will be a need to fund all of these additional activities. CCTS also notes that to the extent that CCTS is asked to undertake such additional activities, as well as increase the proportion of funding provided by CBF, the price at each level will by necessity increase in a potentially significant way.
39. With regard to the funding formula itself, CCTS' main concerns are that the funding formula be as simple as possible to administer and that it adequately provide for CCTS' funding needs, including ongoing cash flow requirements, and its independence. Expanding CCTS' mandate and/or its requirement to conduct surveys, increase trend analysis and other research or administer additional industry codes will increase the cost and potentially the complexity of CCTS' operations.
40. CCTS encourages the Commission to provide direction on this issue by outlining any policy objectives that it wishes to see addressed, and allowing CCTS and the PSPs (through the Members) to determine what funding formula will best achieve these objectives.

³² NC 2015-239 25 August 2015 Interventions of: TELUS (para 79) is asking for that 60% of CCTS' funding comes from complaints and others (e.g., Quebecor para 43, Rogers para 40, Shaw para 47) believe that proportion of complaint to revenue-based funding should be 50%.

³³ CNOC, NC 2015-239 25 August 2015 Intervention, para 57-59.

³⁴ Shaw, NC 2015-239 25 August 2015 Intervention, para 47.

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