

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

**Broadcasting and Telecom Notice of
Consultation CRTC 2015-239**

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

Oral Comments

of

CCTS

3 November 2015

1. Mr. Chair, Commissioners, good morning. My name is Howard Maker, and I am the Commissioner of CCTS. We appreciate the opportunity to appear before you to continue our participation in the examination of CCTS - who we are, what we do, how we do it and, let's not forget, why we do it.
2. On my right is Marie Bernard-Meunier, the newly-appointed Chair of our Board of Directors and on my left is Josée Thibault, our Assistant Commissioner. The three of us will deliver CCTS' oral comments, beginning with Ms. Bernard-Meunier.
3. Mon propos sera très bref. Je viens tout juste d'assumer la Présidence du Conseil d'administration du CPRST mais je siège au sein de ce Conseil depuis sa création. Ma connaissance de cette institution et ma vision des défis qui l'attendent m'inspirent aujourd'hui 3 commentaires.
 - 1) Beaucoup de choses ont changé depuis notre premier examen devant le CRTC. Il y a 3 ans le CPRST en était encore à affiner, voire à mettre en place, tous les instruments nécessaires à son bon fonctionnement. Depuis, nous avons atteint notre vitesse de croisière. Nous croyons avoir fait les investissements humains et technologiques nécessaires pour répondre le mieux possible aux attentes de ceux qui se tournent vers nous pour résoudre les conflits qui les opposent à leurs fournisseurs de services. Nous avons aussi relevé le défi de la nouvelle législation sur les organismes sans but lucratif et nous nous sommes mis en conformité avec celle-ci.
 - 2) Nous abordons ce 2^e examen par le CRTC dans un esprit ouvert et constructif. Nous nous y sommes préparés avec soin et espérons avoir été à la hauteur de vos attentes en répondant à vos questions préalables. Les témoignages qui vont se succéder et les conclusions qui seront les vôtres nous permettront sûrement d'améliorer encore nos modes de fonctionnement mais je voudrais d'ores et déjà attiré votre attention sur un point essentiel. Le CPRST se heurte parfois au refus d'obtempérer de certains fournisseurs de service et dans ces circonstances il voudrait pouvoir compter sur le soutien effectif du CRTC. Dans sa présentation, le Commissaire reviendra plus en détails sur ce point, exemples à l'appui.
 - 3) Le CPRST se verra bientôt confier de nouvelles responsabilités dans le domaine de la télédiffusion. Je tiens à confirmer que nous serons heureux de relever ce nouveau défi. Nous sommes confiants que les préoccupations que nous avons

déjà exprimées, notamment sur l'impérieuse nécessité d'éviter les conflits d'interprétation en ayant des codes de conduite plus limpides, auront été entendues.

4. Je vous remercie de votre attention. A l'issue de la présentation que feront maintenant M. Maker et Mme Thibault, nous serons prêts à répondre à vos questions. Ils répondront à toutes celles ayant trait aux opérations du CPRST. Pour ma part je répondrai à vos questions sur la gouvernance de l'institution si tant est que vous en ayez.

Consumer Needs and Experience

Who we are and Why we exist

5. The government's vision was for CCTS to provide independent, impartial, timely, efficient, and informal resolution of complaints. The Commission subsequently requested that CCTS take on the additional responsibility of administering codes of conduct - the Deposit and Disconnection Code (DDC), the Wireless Code (TWC) and the television service provider (TVSP) code of conduct. We consider all this work to form part of our core mandate.
6. This mandate has largely contributed to CCTS' ability to quickly and effectively resolve over 53,000 complaints since inception, with close to 90% of these resolved in a manner satisfactory to both customer and service provider. CCTS also plays an important educational and informational role. We provide consumers with information about their telecom services by responding to their calls and through our public reporting. In 2014-15 alone, CCTS was contacted over 175,000 times by stakeholders seeking our services.
7. We take our responsibility to customers and the handling of their complaints very seriously. We have defined performance objectives for the timeliness of our contact centre response and investigative activities. I am pleased to say that CCTS has regularly exceeded these objectives.
8. Feedback from our in-house survey shows that customers are highly satisfied with our staff and our process. Overall customer satisfaction has increased year over year and is close to 90% for some key aspects of our service.
9. The value of CCTS, as currently structured, has been highlighted by virtually every intervener in this proceeding – our participating service providers (PSPs) as well as consumer and public interest groups.

Public Awareness

When and How Customers Hear about CCTS

10. Clearly consumers need to be aware of CCTS if they are to benefit from our services. Our strategy is to make sure that we are easily accessible to customers that need our services, when they need those services. We believe strongly that this is the most effective public awareness strategy for CCTS. While we have made efforts to become better known publicly, particularly through our public reporting and work with the media, our focus has not been on promoting “general awareness” of CCTS. The main reason is that we really don’t think this would be effective, and the cost of such activities can be substantial. The reality for a not for profit is that funding is not unlimited.
11. There is no benchmark for the optimum level of general public awareness. The statistics emanating from the CRTC’s April 2014 Wireless Code public opinion research and the Union des consommateurs survey provide very different information.¹ Also, the Commission’s April 2015 Wireless Code research report suggests that 56% of wireless subscribers are aware of CCTS. This latter research may indicate that general public awareness is higher than previously believed.
12. We intend to conduct a survey in 2015-16 to establish a baseline for general public awareness that will serve as our starting point going forward.
13. We are also taking a number of other steps to increase public awareness, both generally and specifically, for customers in need of our support, in particular through the use of social media.
14. Having said this, we must reinforce the crucial role that service providers play in increasing public awareness.
15. Our public awareness plan (the Plan) requires PSPs to engage in a number of customer awareness raising activities. Service provider responses to the Commission’s request for information might lead one to believe that they are largely compliant with their obligations under our Plan.

¹ The CRTC’s April 2014 research indicates that 13% of wireless subscribers are aware of CCTS whereas the Union des consommateurs’ survey indicates that 27% of respondents polled are aware of us.

16. However, the responses they provided to our survey of compliance with the Plan paint a dramatically different picture:
- of the 133 PSPs that received surveys only 47 responded, and
 - based on the information provided not one of the five elements of the Plan has been fully met by all PSPs.
17. Il est nécessaire que tous les FSP se conforment rigoureusement au Plan afin de mesurer son efficacité ou déterminer si des changements sont requis.
18. Comme je l'indiquerai plus tard, nous croyons qu'une partie du problème réside dans le fait que les FSP qui ne se conforment pas à leurs diverses obligations, n'encourent aucune conséquence.
19. Il est impossible pour le CPRST d'assurer le respect du Plan et des autres exigences liées à la participation sans l'aide du Conseil.

Participation

Who participates and When

20. We fully understand that any decision on participation will be made as a matter of policy in the public interest, however, we are hopeful that our experience with the current regime will serve to assist the Commission in making its decision.
21. From our perspective, there are two key issues to be determined:
- should participation be mandatory or voluntary; and
 - how should participation be triggered for those service providers that are not currently CCTS participants?
22. If participation is voluntary there is a real risk that many providers would withdraw from CCTS, creating a situation in which some customers are entitled to recourse to CCTS and others are not. Likewise there would be an unevenness in the manner in which we are able to administer the codes of conduct and the compliance data available to help determine the codes' effectiveness would be diluted. This would also precipitate funding issues and could ultimately diminish CCTS' independence, as service providers may threaten to or actually withdraw if they are unhappy with a CCTS decision. Needless to say CCTS would change dramatically.

23. With respect to how participation is triggered, while the current mechanism may make sense in theory, in practice it has:
- resulted in lengthy delays in the resolution of complaints;
 - consumed a disproportionate amount of CCTS' management and staff time, and;
 - added significantly to the overall administrative burden on CCTS.
24. Much of the cost and delay experienced with "sign-up" under the current mechanism would be greatly reduced if the Commission:
- specifically identified which providers are required to join; and,
 - disclosed to CCTS, on a confidential basis, providers' eligible annual revenues.

Mandate

25. CCTS' core mandate is to resolve complaints and administer codes of conduct. This mandate is appropriate and meets the needs of Canadians. Adding TV complaints and TVSP code administration will be a relatively straightforward exercise as no significant changes are required to governance or structure.
26. However, our value would be greatly diminished if the Commission were to stray from the foundational principles that shaped our current mandate.
27. We therefore urge the Commission to reject proposals that call for the addition of responsibilities that are more fittingly carried out by consumer protection agencies or other bodies that have more specific experience and expertise. Failure to do so will detract from our core work, add to our cost structure, complicate our mandate, and dilute our ability to quickly and effectively resolve customer complaints and administer codes of conduct.

Concerns Raised about CCTS Mandate

28. Some service providers have raised questions about certain aspects of how we fulfil our mandate. These include: 1) whether CCTS should be allowed to identify code breaches if these breaches have not been directly raised by customers in their complaints; 2) whether CCTS is engaging in policy-making when we interpret provisions of a code, and; 3) whether an additional level should be added to the complaint resolution process.

29. We will address each of these issues in turn.

1) Codes of Conduct –breach identification

30. Some service providers have taken issue with CCTS itself identifying breaches. These PSPs insist that our role is to only report on breaches specifically identified by customers.

31. We strongly disagree.

32. When making a complaint, customers rarely identify specific sections of TWC that they think have been breached. Instead, customers tell us about their problems and ask for help. Analyzing whether a PSP complied with the code is not only necessary to resolve complaints but is specifically required by section 4 of our Procedural Code². If during the course of investigating a complaint CCTS discovers a breach, we would be remiss if we – the administrator of that code - did not identify the breach, bring it to the attention of the service provider and publicly report it.

2) Codes of Conduct - TWC “interpretations”

33. Some service providers have complained that CCTS is engaging in “policy-making” because, in the course of complaint resolution, we interpret how specific sections of TWC apply to the unique sets of facts that arise in the thousands of complaints that we receive.

34. To be clear, when CCTS determines the applicability of TWC provisions to a specific fact situation, we are doing so to fulfil our role as code administrator. We are not engaging in policy-making.

35. The need for exactly this type of interpretation was specifically recognized and addressed by the Commission in TRP 2013-271. The Commission, stated that *“there may be issues of interpretation that [the Commission] has not anticipated. In order to ensure the greatest benefit to consumers, if any part of the Code or a consumer’s contract is ambiguous, or if it is unclear how the terms of the Code or the contract are to be applied,*

² Section 4 of the Procedural Code requires CCTS to consider “[...] general principles of law, good industry practice, any relevant codes of conduct or practice, and what is fair and reasonable in the circumstances of the Complaint.” **(emphasis added)**

then the Code and the contract must be interpreted in a manner that is favourable to the consumer.”³

36. The Commission’s direction makes it clear that in the course of resolving code-related complaints there is a need and an expectation for CCTS to interpret the provisions of the codes of conduct, not only to administer them but also to ensure timely and informal resolution of the complaint.
37. Si l’on empêche le CPRST d’interpréter les dispositions des codes au contexte des plaintes ou de faire rapport des violations aux codes qui sont identifiées lors des enquêtes sur les plaintes, les clients seront privés des protections offertes par les codes.
38. Cela dit, nous comprenons le besoin d’une plus grande transparence pour expliquer la logique des décisions rendues par le CPRST dans l’administration des codes et la résolution des plaintes. Le CPRST travaille sur une version annotée du Code sur les services sans fil et prévoit la rendre publique d’ici la fin de 2015. Notre objectif, si nos ressources nous le permettent, est d’assurer la mise à jour périodique des annotations. Nous espérons pouvoir produire des versions annotées des autres codes de conduite que nous administrons.

3) CCTS Process – When complaints are accepted

39. It appears that certain PSPs are trying to leave the impression that CCTS is accepting complaints that service providers have not yet had an opportunity to investigate and resolve. This seems to be the basis for Sasktel’s proposal (which Rogers supports) to change our process. Under the Sasktel proposal, when customers contact CCTS with a complaint, service providers would be given an additional five days to attempt to resolve the complaint prior to CCTS formally accepting, counting and billing for it.
40. We feel strongly that implementing this recommendation is not necessary, would be unfair to customers, would delay resolution of complaints, and would increase CCTS’ operating costs.
41. CCTS’ Procedural Code precludes us from accepting a complaint if the customer has not first afforded the provider a reasonable opportunity to resolve it. This is the right focus – it encourages communication and resolution of issues directly between providers and their customers.

³ TRP 2013-271, para 378: <http://www.crtc.gc.ca/eng/archive/2013/2013-271.htm>

42. Also, under our public awareness plan, PSPs are obliged to inform customers of their right of recourse to CCTS only after the second escalation of a complaint within their organization, effectively making CCTS the third step for many customers seeking to resolve complaints. Many providers already have multiple internal levels for complaint resolution. Sasktel, for example has three and Rogers has four.
43. In addition, the very first step in our process is to allow the provider another chance to resolve the complaint before we investigate it.
44. Implementing the Sasktel proposal would send customers that have already made reasonable efforts to resolve their complaints with their providers back to these same providers for yet another attempt at resolution. It effectively makes CCTS the fourth step for many customers seeking to resolve complaints.
45. The additional step would increase our costs as we would require additional staffing to do this work. Further these costs could no longer be recovered through complaint-based fees since this work would not be done in relation to an *accepted complaint*. It would also require us to make significant changes to our case management system to allow for a new “level” in the process.
46. The only thing Sasktel’s proposal would do is to artificially reduce the number of complaints publicly reported and directly billed for each provider. In our view, this would reduce service provider motivation to resolve complaints quickly, delay resolution for customers and make CCTS less effective and efficient.

Funding

47. CCTS has identified two main issues related to funding: 1) the adequacy of funding generally and 2) the funding formula.

1) Adequacy of funding

48. The overall level of funding must be sufficient to allow CCTS to adequately fulfil our core mandate in an independent, timely and professional manner.
49. Should the Commission decide to expand CCTS’ mandate, of its own accord or by accepting some of the many suggestions made by interveners, our operating costs will increase. PSPs have a right to demand that CCTS work efficiently and be accountable for our spending. However, any additional initiatives will need sufficient funding to ensure that they do not interfere with CCTS’ ability to perform our core mandate.

50. Moreover, an organization that exists for public policy purposes and that is entirely funded by its participants is potentially vulnerable to the use of funding as a tool to put pressure on, or to exert influence over that organization. For the record, we are not suggesting that this is currently the case. However, it is important that CCTS be able to count on sufficient levels of general funding as well as the timely payment of fees to meet its financial and operational obligations.

2) Funding Formula

51. CCTS is funded by the PSPs. The vast majority of the funding comes from a 60/40 combination of revenue-based and complaints based fees. The majority of the PSPs are pushing for a greater share of the funding to be complaints driven.

52. Le CPRST estime que la convention d'adhésion lui offre les moyens suffisants pour obtenir un consensus organisationnel avec ses FSP au sujet de la structure de sa formule de financement. Cela pourrait se traduire par le maintien du modèle actuel, avec ou sans ajustements, ou par l'adoption d'un tout autre modèle. Nous invitons le Conseil à clairement faire connaître les objectifs stratégiques qu'il souhaite aborder par le biais de la formule de financement. Cependant, nous l'exhortons de ne pas être normatif et de plutôt laisser le CPRST et les FSP déterminer la formule de financement qui répondra le mieux aux besoins de l'organisation.

Compliance and Enforcement

53. Before concluding I would like to talk briefly about compliance and enforcement.

54. The Participation Agreement (PA) imposes on PSPs a number of fundamental requirements. At present, we have compliance problems with all of them, including the public awareness plan, the delivery of revenue declarations, the payment of CCTS fees, and compliance with the Procedural Code. We believe that compliance and enforcement are key structural pieces that are missing from this model.

55. We briefly referred to our compliance challenges with the public awareness plan. But there are also PSPs that do not provide us with their annual certification of revenues, others that have never paid any fees to CCTS, and still others that have long-overdue fees. For the first time ever we now have two PSPs that are refusing to implement

binding complaint dispositions. While the PA contains remedies for non-compliance, unfortunately these remedies are not sufficient, practical or realistic.

56. CCTS needs the Commission's help if we are to continue to efficiently and effectively fulfil our mandate. By partnering with us, the Commission will send a strong message to consumers and the industry. This is fundamental to CCTS' credibility with all stakeholders. Effective enforcement mechanisms must be meaningful and timely. Ideally there would be a direct link between a provider's full and complete participation in CCTS and that provider's right to offer service.
57. We think that simplification of some existing processes (for example, changes to the participation trigger and the confidential sharing of revenue data) will make compliance and enforcement more straight-forward. We also believe that an unequivocal directive outlining the requirement to comply with all aspects of the PA and related Commission determinations is necessary. We are asking the Commission to work with us to develop a Commission-based enforcement process to which CCTS can have recourse when a PSP is in default of its participation obligations.
58. Thank you, we look forward to responding to any questions that the panel may have for us today.

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