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**Via GCKey**

April 23, 2019

Mr. Claude Doucet  
Secretary General  
CANADIAN RADIO-TELEVISION AND  
TELECOMMUNICATIONS COMMISSION  
Ottawa (Ontario) K1A 0N2

**Re: Telecom Notice of Consultation CRTC 2018-422 (the “Notice”) – *Call for comments – Proceeding to establish a mandatory code for Internet services*  
Cogeco Final submission**

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Dear Mr. Doucet:

1. Pursuant to the procedure set out in paragraph 52 of the Notice in the above-noted proceeding, Cogeco Communications Inc. on behalf of its subsidiary Cogeco Connexion Inc. (“**Cogeco**”) is pleased to submit its final submission.
2. As a preliminary note, pursuant to section 39 of the *Telecommunications Act* and section 32 of the Canadian Radio-Television and Telecommunications Commission Rules of Practice and Procedure, certain information provided in this submission has been provided in confidence to the Commission. This information is commercially sensitive and is treated consistently in a highly confidential manner by Cogeco. Public disclosure of this information would provide existing and potential competitors with strategic information that would enable competitors to develop marketing strategies, sales tactics and compensation plans which could prejudice Cogeco’s competitive position and hence cause specific direct harm to Cogeco. Therefore, Cogeco requests

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that the Commission neither publish nor reveal this confidential information. An abridged version of these responses is being provided for the public record.

3. Cogeco wishes to highlight that its views and concerns regarding the mandatory code of conduct to address the clarity and content of contracts for retail fixed Internet access services (the "**Internet Code**") proposed by the Commission in the Notice have been described and discussed at length in previous stages of this proceeding, namely in Cogeco's initial submission, its reply comments and its response to the Commission's requests for information ("**RFIs**").
4. As previously stated, Cogeco agrees with several principles contained in the proposed Internet Code, namely those seeking to protect and better inform Canadian consumers in their relationships with Internet service providers ("**ISPs**").
5. However, Cogeco refers the Commission to its previously described five main recommendations (and to their supporting rationale), which stated that the currently proposed Internet Code ought to be amended in order to :
  - not be overly prescriptive;
  - be consistent with the other industry codes and more specifically, the TVSP Code;
  - not mandate trial/cooling-off periods;
  - apply to all Canadian Internet service providers; and
  - not apply to the small business market.
6. Without restricting the importance of any of the aforementioned principles, Cogeco wishes to specifically reemphasize the negative, extensive and long-term consequences that would arise from the proposed application of the Internet Code to the small business market, as previously described by numerous intervenors (including Cogeco).

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7. Small business customers' needs are more complex than those of individual customers and often require customized service offerings. As such, the imposition of rigid rules of the proposed Internet Code will prevent individual negotiations between small business customers and ISPs and small business customers from obtaining a solution that truly meets their needs.
  
8. Such complex and personalized needs of small business customers can also require additional equipment, significant build-out costs and non-standard installations. For instance, #####  
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9. Today, ISPs such as Cogeco usually advance these initial build-out and installation costs and amortize them over the course a fixed term agreement (with the term varying usually #####). In case a small business customer wishes to terminate the agreement prior to the expiry of the negotiated term, ISPs are able to recoup a significant portion of the non-amortized costs by charging early cancellation fees, as calculated and described in individual service agreements.
  
10. The significant limitations on early cancellation fees contained in the proposed Internet Code would thus severely undermine the ability of ISPs to recuperate those costs. The first consequence of such limitations would be a new rule requiring small business customers to pay all initial build-out and installation costs upfront. Small business customers, who may have limited financial flexibility, will be negatively impacted by this new requirement. In some cases, such a customer may not be able to afford Internet access services at all.

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11. A second consequence flowing from the proposed caps on early cancellation fees and the underlying inability by ISPs to recoup incurred upfront costs is the probable business decision by ISPs to not expand their network to currently un-served, or underserved, areas. This will in turn have inevitable negative consequences related to competition in the marketplace, consumer choice and innovation.

12. What is certain is that as a result of both outcomes, the ultimate losers will be the small business customers that, ironically, the CRTC aims to protect by extending the application of the Internet Code to them.

13. Again, specifically for Cogeco, #####  
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14. For similar reasons, the proposed trial periods would lead to the same results harming the small business customers. In fact, the new possibility for a small business customer to readily cancel its Internet service within days of a costly and complex installation before the termination of an agreed upon term will either force an ISP to charge the customer significant upfront costs or plainly refuse to serve customers which require such complex installations.

15. In conclusion, in light of the CRTC Forecast 2020-2021 released on April 11, 2019, Cogeco wishes to comment on the implementation timeline of the proposed Internet Code.

16. The CRTC Forecast 2020-2021 contains a confirmation to the effect that the CRTC “will begin preparing to consolidate the CRTC’s various codes of conduct for service providers which will involve the launching of a CRTC proceeding”.

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17. In this context, given the very extensive costs and time efforts estimated to implement the proposed Internet Code (as confirmed by Cogeco to the CRTC in the initial submission and as detailed in its responses to the RFIs), Cogeco urges the CRTC to be mindful of implementing an industry code which will be reviewed and most probably amended a few months later, resulting in significantly increased costs, multiplication of internal changes, and most importantly, confusion for Canadian customers.

18. As such, if the CRTC's intent is, as it appears from the CRTC Forecast 2020-2021, to consolidate all current and upcoming industry codes, it should not mandate the implementation of the Internet Code protections prior to a final, reviewed and consolidated code proceeding.

Trusting the whole is satisfactory we remain.

Yours truly,



**Leonard D. Eichel**  
Senior Director, Regulatory Affairs, Telecommunications

cc: Nathalie Dorval, Cogeco inc. ([nathalie.dorval@cogeco.com](mailto:nathalie.dorval@cogeco.com))  
Scott Shortliffe, CRTC ([scott.shortliffe@crtc.gc.ca](mailto:scott.shortliffe@crtc.gc.ca))  
Barbara Cuber, CRTC ([barbara.cuber@crtc.gc.ca](mailto:barbara.cuber@crtc.gc.ca))  
Millay, Celia, CRTC ([celia.millay@crtc.gc.ca](mailto:celia.millay@crtc.gc.ca))  
Nanao Kachi, CRTC ([nanao.kachi@crtc.gc.ca](mailto:nanao.kachi@crtc.gc.ca))

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