



September 19, 2022

Claude Doucet
Secretary General
Canadian Radio-Television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Mr. Doucet:

Re: CENC 2022-218 - Call for comments – Codification of Commission practices in Compliance and Enforcement Proceedings

1. Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), herein provides its responses to the questions posed by the Commission in Compliance and Enforcement Notice of Consultation CRTC 2022-218 (the “Notice”).

Matters relating to the determination of deadlines

Q1. Should the Commission extend the rules pertaining to the computation of time and the winter holiday period under the Commission’s Rules of Procedure to UTR, VCR, and CASL proceedings?

2. Eastlink supports extending these rules to UTR, VCR, and CASL proceedings.

Q2. Should the Commission define “business days” in the context of CASL proceedings as excluding weekends, federal holidays, and provincial holidays in the province where the person subject to the requirement is located?

3. Eastlink supports this proposal.

Handling of third-party or sensitive information

Q3. Provide input on the conditions that would make it appropriate for the designated person to redact or omit information from the materials provided in support of a NOV.

4. The materials provided in support of a NOV must be sufficient to permit the company alleged to have committed the violation to formulate a fulsome defence. As the Commission may not know which materials could assist a company in locating or producing records relevant to its defence (e.g., evidence of implied consent), any redactions or omissions in the NOV must be limited to information that is clearly unrelated to the violations the company is alleged to have committed.

Q4. Provide any alternative methods which consider the sensitivity of this type of information against the Commission's ability to make fully informed decisions, and the obligation to ensure procedural fairness to the person making a representation.

5. Eastlink reserves the right to comment on this issue during the reply phase.

Administrative matters

Q5. With respect to certain documents issued by the designated person and decisions issued by the Commission that must be served, provide input on whether the current methods are appropriate, and why. If they are not, identify which of the methods are not appropriate, explain why, and suggest other methods.

6. We do not oppose the current methods of service (registered mail or bailiff).
7. Eastlink submits that, where possible, the documents should be addressed to a specific individual at the organization (e.g., its CEO or VP Regulatory) to ensure they reach the appropriate personnel in a timely manner.

Q6. With respect to the filing of representations as part of an application for review, provide input on whether the current methods are appropriate. If they are not, identify which of the methods are not appropriate, explain why, and suggest other methods.

8. Eastlink does not oppose the current methods of filing representations.

Q7. With respect to procedural requests to the designated person prior to the initiation of the review process, provide input on whether the current methods are appropriate when

procedural requests are made to the designated person, and why. If they are not, identify which of the methods are not appropriate, explain why, and suggest other methods.

9. Eastlink does not oppose the current approach.

Q8. With respect to the procedural requests to the Commission once the review process has been initiated, provide input on whether the current methods are appropriate when procedural requests are made and why. If they are not, identify which of the methods are not appropriate, explain why, and suggest other methods.

10. Eastlink does not oppose the current methods.

Q9. Should the minimum deadlines for parties to respond to NOV's be more than the 30 days currently provided under the Telecommunications Act? If so, should the minimum deadlines be a general proposition or apply under specific circumstances and considerations?

11. Eastlink supports providing organizations with a longer timeframe in which to respond to a NOV (e.g., 90 days).

12. The Commission indicates in the Notice that it expects organizations to support their representations with "fulsome arguments" and "substantive evidence". Accordingly, the Commission must ensure that its procedures allow organizations sufficient time to locate and produce relevant records, consult with legal counsel, formulate their arguments, and take any other steps necessary to prepare and present a fulsome defence to the NOV.

Q10. Provide input on whether the Commission should establish a standard timeframe for the designated person's representations in the case of an application for review, a Preservation Demand and a Notice to Produce, and how much time should be provided to the designated person to submit representations.

13. Eastlink supports setting a standard timeframe for the designated person's representations. In the interest of procedural fairness, that timeframe should not exceed that which is applicable to organizations for their own representations (e.g., 5 business days for preservation demands issued under CASL).

Q11. Provide input on whether the record of a review proceeding, including the representations made by a party requesting a review, should be made public on the Commission's website once the Commission has issued and published its decision. If so, should persons filing information as part of a review have the option of designating


information filed with the Commission as confidential, similar to what is currently provided under sections 30 to 34 of the Rules of Procedure?

14. The Commission's decisions in such proceedings are an important educational tool and, accordingly, should include sufficient detail to permit other organizations to understand the Commission's approach to interpreting and applying the legislation in the fact scenario at issue in the proceeding. However, Eastlink submits that disclosure of the underlying record of the proceeding is not required provided that the decision itself adequately describes the key facts and legal issues of the case.
15. The arguments and records filed by the organizations involved in a proceeding will likely include sensitive corporate and consumer data whose confidentiality must be maintained. Accordingly, to the extent the Commission determines that it is appropriate to make public organizations' representations in UTR/CASL proceedings, Eastlink submits that there must be a mechanism whereby the confidentiality of such records can be preserved.

Q12. Provide input on whether the Commission should establish service standards for these types of proceedings, and if so, what amount of time would be appropriate for these proceedings.

16. Eastlink supports setting a standard for the period of time in which the Commission aims to issue a decision once the record is closed.
17. However, we do not support setting service standards that would result in incomplete investigations, or, that would deny organizations sufficient time to investigate and respond to NOVs in a fulsome manner.

Respectfully submitted,



Marielle Wilson
Vice President, Regulatory

*** End of Document ***