June 12, 2020

Mr. Claude Doucet
Secretary General
Canadian Radio-television and Telecommunications Commission
Ottawa Ontario K1A 0N2

VIA GCKEY

File No: 1011-NOC2020-0124

Dear Mr. Doucet

Re: Telecom and Broadcasting Notice of Consultation CRTC 2020-124, Call for comments – Regulations to be made under the Accessible Canada Act (ACA)

1. The Canadian Wireless Telecommunications Association ("CWTA") is the authority on wireless issues, developments and trends in Canada. Its membership is comprised of companies that provide services and products across the wireless industry, including wireless carriers and manufacturers of wireless equipment, who combine to deliver Canada's world-class wireless services, one of the key pillars on which Canada's digital and data-driven economy is built. Some of our members also provide internet and broadcast distribution services.

2. CWTA is pleased to participate in this important proceeding and to submit the following comments to the Canadian Radio-television Telecommunications Commission (the "Commission" or the "CRTC") on behalf of CWTA members and Cogeco Communications Inc.

Introduction

3. CWTA commends the CRTC's commitment to improving accessibility and removing barriers. Our industry shares the same commitment to these goals and has taken numerous important steps to improve accessibility in relation to telecommunication services for persons with disabilities.

4. As an industry, we are supportive of the principles enshrined in the ACA and of its overall objective to remove and prevent barriers to accessibility. We support requirements that will further that objective but at the same time are administratively efficient and do not impose an excessive administrative burden on regulated entities.

Timing

Accessibility plans

Question: Comment on how much time regulated entities should be given to prepare and publish their initial plans once the regulations are finalized (e.g. 12, 18, or 24 months). When should entities that become regulated entities after the regulations come into force be required to publish their initial accessibility plans?

5. At paragraph 7, 8 and 13 of *Telecom and Broadcasting Notice of Consultation CRTC 2020-124, Call for comments – Regulations to be made under the Accessible Canada Act (CRTC 2020-124)*, the Commission identifies ACA requirements including:

   "7. Each regulated entity must create and publish an accessibility plan, the purpose of which is to set out a plan respecting the policies, programs, practices, and services of the entity in relation to the identification, removal, and prevention of barriers in specific areas, namely:
   - information and communication technologies;
   - the procurement of goods, services, and facilities;
   - the design and delivery of programs and services;
   - "communication", insofar as it relates to the procurement of goods, services, and facilities, or the design and delivery of programs and services; and
   - employment equity (if the entity is not already subject to the *Employment Equity Act*)"

   "8. The accessibility plan must also set out a plan respecting any conditions, orders, or regulations established by the Commission that relate to the identification, removal, or prevention of barriers."

   And

   "13. The remaining requirements apply only to accessibility plans and progress reports. In particular, entities are required to consult with persons with disabilities in the preparation of every version of their plan and report, and they must set out the manner in which this consultation took place."

6. Given the broad and ambitious nature of these requirements, it is our view that a minimum of twenty-four (24) months would be a realistic timeline for regulated entities to prepare and publish their initial accessibility plan. We still consider this timeline to be aggressive given that it requires a consultative component with stakeholders, which will require significant planning and coordination. For example, identifying and engaging relevant and interested groups may be time-consuming. In addition, the timeline presupposes a 'best case' working environment, where restrictions on meetings like those currently imposed due to COVID-19, are lifted and activities can be undertaken in an efficient manner.

7. Entities that become regulated entities after the regulations come into force should be given the same amount of time to develop their initial plans. It should be noted that new entities will have the benefit of examples to work from which would aid their efforts in Plan development.

Question: Is the three-year default period for publishing updated plans appropriate, or should the regulations prescribe a different interval?

8. While ACA identifies a 3 year timeline for publishing updated plans, we submit that the regulations should prescribe a five (5) year timeline. A three year interval causes excessive administrative burden and lends itself to an ongoing plan development cycle. Updating accessibility plans every 5 years would be more appropriate and would allow service providers to better plan activities, gauge progress, gather data, and intelligently reassess targets. The ACA also requires that regulated entities file progress reports and, as such, there will be ample opportunity for those entities and interested parties to ensure that accessibility plans are being implemented

9. Should a regulated entity wish to submit an updated accessibility plan sooner than 5 years in order to meet its own specific operational or environmental needs, they should be allowed to do so. All requirements mandated for publishing and timing would still be applicable, as would the 5-year renewal timeline.

Question: Should the timing of publication be consistent with that required under any other federal laws, such as the Employment Equity Act?

10. At this point there is no industry consensus concerning suitable publication timing. However, it is our view that there is no need to time the publication of accessibility plans or updates to coincide with requirements identified under other federal laws. Entities included under ACA have separate CRTC reporting requirements pursuant to other Commission regulations. Our primary concern is to ensure that the administrative burden associated with the reporting requirements identified as a result of ACA are mitigated to the greatest extent possible.

11. To this end, we respectfully submit that timing should be considered in a manner that appropriately addresses competing obligations, while respecting the principle of limiting administrative burdens.

Question: Should all regulated entities be required to publish their initial accessibility plans and updated accessibility plans on the same date?

12. All regulated entities should be required to use the same schedule for publishing plans, but not necessarily on the same date. In this scenario, all initial accessibility plans would be submitted within 2 years after regulations come in to effect and updated every 5 years thereafter.

13. The only exceptions to this schedule would be in instances of entities that become regulated after the regulations come into force.

Question: Should all regulated entities be required to publish initial and updated accessibility plans separately for each brand offered in the retail market, such as 'flanker' brands?

14. Participating regulated entities are of the view that 'flanker' brands should be expanded to include *affiliates, subsidiaries* and *related companies* (with flanker brands, affiliates, subsidiaries, and related companies together referred to as "related organizations").

15. How regulated entities will approach the development of accessibility plans will vary and depend on multiple factors. Flexibility will be necessary in order to ensure that each entity is able to find the most effective and efficient means of meeting the identified requirements. To that end, if entities prefer to file one plan for all of its related organizations then they should be allowed to do so. Alternately, if entities prefer to file one plan for some of its related organizations but have one or more related organizations file separately, then they should be allowed the flexibility to do that as well. This should be determined by the entity.

16. Related organizations may have very similar or very different accessibility plans depending on the current accessibility status and goals of each related organization. Some related organizations within an entity that is subject to ACA regulations may be more closely aligned than others. In order to minimize regulatory burden and ensure that accessibility plans are as accurate and specific as possible, regulated entities should have the flexibility to file on behalf of related organizations in a manner appropriate for each such entity.

17. Regardless of the approach used by a regulated entity (one plan or individual plans), the expectation is that all established deadlines are respected.

Progress reports

Question: Comment on when the first progress reports related to the accessibility plan should be published. When should entities that become regulated entities after the regulations come into force be required to publish their first progress reports?

18. At paragraph 10 of *CRTC 2020-124*, the Commission identifies:

> "10. A regulated entity must create and publish progress reports, which must set out information on the implementation of accessibility plans, feedback received through the feedback process, and how that feedback was taken into consideration. The Commission is to be notified of the publication of the initial report and of every subsequent update."

19. By their nature, progress reports are intended to show how an entity has progressed or moved forward on items identified in the accessibility plan. A reasonable timeframe for publishing initial progress reports is two (2) years. Allowing 2 years would provide

regulated entities sufficient time to ramp up activity, reflect on and incorporate feedback it receives through its feedback processes and evaluate its progress.

Question: How frequently should progress reports be required thereafter (e.g. every year, every two years, or every three years)?

20. Progress reports should be tied to the accessibility plan update process and timing. Specifically, we propose a five year cycle whereby an entity would file an accessibility plan, two years later the entity would file a progress report, two years after that the entity would file another progress report, and one year after that the entity would file an updated accessibility plan.

    For example:

    Initial accessibility plan – published 2 years after regulations come into force
    First progress report – published 2 years after initial accessibility plan
    Second progress report – published 2 years after first progress report
    Updated accessibility plan – published 5 years after initial accessibility plan

Question: Should all regulated entities be required to publish progress reports separately for each brand offered in the retail market, such as 'flanker' brands?

21. Participating regulated entities are of the view that 'flanker' brands should be expanded to include *affiliates, subsidiaries* and *related companies* (with flanker brands, affiliates, subsidiaries, and related companies together referred to as "related organizations").

22. How regulated entities will approach the development of progress reports will vary and depend on multiple factors. Flexibility will be necessary in order to ensure that each entity is able to find the most effective and efficient means of meeting the identified requirements. To that end, if an entity prefers to file one progress report for all of its related organizations then it should be allowed to do so. Alternately, if an entity prefers to file one progress report for some of its related organizations but have one or more related organizations file separately, then the entity should be allowed the flexibility to do that as well. This should be determined by the entity.

23. Related organizations may have very similar or very different progress reports depending on the current accessibility status and goals of each related organization. Some related organizations within a regulated entity may be more closely aligned than others. In order to minimize regulatory burden and ensure that progress reports are as accurate and specific as possible, regulated entities should have the flexibility to file on behalf of related organizations in a manner appropriate for each given regulated entity.

24. Regardless of the approach used by a regulated entity (one report or individual reports), the expectation is that all established deadlines are respected.

Feedback processes

Question: Comment on whether a description of the feedback process should be published on the same date as the initial accessibility plan. When should entities that become regulated entities after the regulations come into force be required to publish such a description?

25. At paragraph 11 of *CRTC 2020-124*, the Commission identifies:
> "A regulated entity must establish and make public a feedback process by which interested persons can communicate with the regulated entity regarding the implementation of accessibility plans and any barriers these persons have encountered in dealing with the entity."

26. Since the purpose of the feedback process is to receive feedback on how the entity is implementing its accessibility plan, as well as feedback on barriers, we think the feedback process should be included as part of a regulated entity's initial accessibility plan and would therefore be published at the same time.

Question: How frequently should an updated description be required thereafter (e.g. every year, every two years, or every three years)?

27. We do not think that it is necessary to establish a specific timeline for updating feedback processes particularly since the ACA does not set out an expectation or requirement with respect to updated descriptions of the feedback processes. Feedback processes would be reviewed by regulated entities as part of the progress report and accessibility plan update process. Any changes to the feedback process would be included in a regulated entities' updated accessibility plan. Establishing a specific deadline by which an entity must update the description of its feedback process would just lead to administrative burden and unnecessary cosmetic changes in order to meet the requirement.

<u>Manner of publication and form of preparation</u>

Question: Comment on what the publication requirements should be. For example:

- ***Should the initial and updated accessibility plans, progress reports, and feedback process descriptions be published in a prominent location, such as on a website, mobile website, or mobile application? In what other ways can the publication requirements ensure that relevant accessible information can be easily found by the public?***
- ***Should a telephone number, email address, and a telephone number for TTY/IP Relay be provided, to enable persons with disabilities to contact regulated entities regarding the publications?***
- ***Should the Commission prescribe additional formal specifications, such as font size, file type, or others? For example, should electronic publications be required to adhere to generally accepted accessibility guidelines, such as those published by the World Wide Web Consortium?***

28. Accessibility plans (including feedback process) and progress reports should be published on regulated entities' websites, however the specific location should not be

mandated. While most regulated entities maintain sites that are devoted to accessibility products and services, a regulated entity should be able to identify if this is the most appropriate location for the plans to be housed. It would be appropriate for the Commission to require that the section of an entity's website on which accessibility plans, progress reports, and the feedback process are published be consistent with the Web Content Accessibility Guidelines (WCAG).

29. However, it is unnecessary for the Commission to prescribe additional formal specifications as it relates to font sizes, files types, etc. and each entity should determine what format is preferred for publication.

30. Persons with disabilities would be able to contact regulated entities using the mechanisms identified and provided in the "feedback process" that is included in the accessibility plans. Mechanisms should not be prescribed in order to allow regulated entities the flexibility to communicate using the most effective mechanism for their customers.

Question: Comment on when and how regulated entities should be required to notify the CRTC of the publication of a document. Should it be on the same day the document is published, by providing the URL and link?

31. Regulated entities should be required to provide a link or links for the published document(s) to the CRTC within thirty (30) days of publication.

32. This requirement should be limited to the following publications: accessibility plans (initial and updated), feedback process (if different than what is included in the plan), and progress reports.

Question: Comment on whether alternative or additional forms of publication, other than on a website or mobile application, should be required (e.g. for a regulated entity without a website). If so, what would be acceptable alternative or additional methods of publishing a document?

33. The Commission has previously identified how documents should be made available to customers. In *Broadcasting and Telecom Regulatory Policy CRTC 2009-430, Accessibility of telecommunications and broadcasting services*, paragraph 53 identifies that the Commission considers websites to be a particularly important source of information and customer service.

34. Publication of accessibility plans and progress reports to a website should be considered the preferred and sufficient form of publication for all entities.

Requests for alternate formats

Question: Comment on what, if any, rules should apply to how a person can request that a document be provided in an alternate format.

35. It is unnecessary for the Commission to establish mandatory rules for the manner in which a person can request an alternate format. Currently each regulated entity has its own internal process by which a person can request a document in an alternate format, and, for administrative efficiency, regulated entities should be able to make use of these already-established processes.

36. Provided that the regulated entity clearly describes how requests can be made and what formats are available, each regulated entity should be able to determine its own processes in relation to the provision of documents.

Question: Comment on whether the Commission should prescribe specific alternate formats that must be provided upon request (e.g. formats that are compatible with adaptive technologies, audio formats, visual formats, etc.).

37. Regulated entities will provide the accessibility plan or progress report in an ‘alternate’ or ‘accessible’ format where a customer makes a request.

38. Any prescribed formats established by the Commission should be limited to those formats it has already identified as an alternate format in other policies. These formats have been identified as part of previous industry consultations, and are compatible with various technologies, and can be provided efficiently by regulated entities.

Question: Comment on how much time a regulated entity should be given to provide a document in an alternate format.

39. We submit that the Commission should not establish firm deadlines for the provision of a document in an alternate format, and instead should specify that the provision of an alternate format must be ‘timely and reasonable’.

40. How quickly a regulated entity would be able to provide documentation in an alternate format will be dependent on numerous factors including the size of the document, the nature of the requested format, and the resources available to the entity to produce the format (i.e. can it be done internally, etc.).

41. If the Commission specifies formats beyond those it has previously identified, then regulated entities would require additional time in order to determine how to produce and provide those formats.

42. The regulated entity would identify to the customer the amount of time they will require to produce the documentation and if the customer feels it is unreasonably excessive would be able to avail themselves of the CRTC’s existing complaints process.

<u>Substance of the feedback process</u>

Question: Comment on what steps a regulated entity’s feedback process should include to help ensure that persons with disabilities have an opportunity to provide

regulated entities with meaningful feedback on their accessibility plans and on the barriers that they have encountered.

43. The ACA sets out requirements related to a duty to consult and a requirement related to a feedback process in the following manner:
    - 51(4) and 53(3) identify a duty to consult concerning the development of the accessibility plan and the progress reports; and
    - 52 (1) identifies that a regulated entity must establish a process for receiving feedback related to the manner in which it is implementing its accessibility plan, and the barriers encountered by persons that deal with the regulated entity.

44. Based on the language of the ACA, regulated entities included in this response understand that there are to be two distinct and separate processes: (i) consultation with members of the accessibility community when developing and updating accessibility plans and progress reports, and (ii) an ongoing process for receiving feedback related to the implementation of those accessibility plans and progress reports and other barriers.

45. Based on the considerations set out in Appendix 3, it appears there may be an expectation to integrate ongoing consultations into the feedback process. For example, there is a proposal to open the feedback process on a recurring basis in order to collect comments on the accessibility plan or that large entities set up feedback committees as part of the feedback process. It is our view that there should be no expectation that the feedback process includes a requirement for ongoing consultations. Given these will be undertaken for the development of the plans and progress reports, we do not view additional consultations for ongoing feedback as a practical expectation.

46. Regulated entities should be free to establish their consultations with people with disabilities in the manner most effective for the purpose of developing and updating accessibility plans and progress reports. The form and manner of this consultation can be set out in the resulting accessibility plan or progress report. Separately, regulated entities must establish an ongoing process to receive and respond to feedback from people with disabilities about the implementation of the accessibility plan and any barriers they have encountered, but this feedback process does not need to establish ongoing consultations.

47. Specific to gathering feedback as identified in 52(1), regulated entities would look to leverage existing mechanisms, currently in place, to the greatest degree possible in order to support the feedback process contemplated within the ACA.

48. While there may be some commonality in approaches, identifying one industry approach is not feasible since what works for one organization may not work for another. For the feedback process to become a useful and used mechanism for both the regulated entity and consumers, it needs to work within the broader organizational construct.

49. At most, we think that any regulation in this area should require an entity to make the feedback process easy to find, identify a contact at the entity (such as a person or a title), provide the contact information, and describe the purpose of the feedback process. Being more prescriptive than this, when entities have yet to publish their accessibility

plans, threatens to complicate the process of creating effective dialogue with people with disabilities.

Question: When regulated entities receive feedback, how should they respond, and within what time period? Should regulated entities be able to respond collectively to a common concern? Appendix 3 to this notice sets out additional considerations with respect to the feedback process.

50. As set out above, we understand the feedback process to be separate and distinct from the duty to consult. With that in mind, we think the feedback process should be simple and easy for the public to use, and should allow entities to quickly and easily respond. As noted above, we do not support certain proposals in Appendix 3, such as the proposal for large entities to set up 'feedback committees' or to require in-person meetings by phone or video for all manner of feedback. We view these as impractical and overly complex proposals for ongoing feedback in light of the existing consultations required under the Act.

51. Given the broad nature and size of regulated entities, there is no one-size-fits-all solution that would be applicable. The requirements should make clear that regulated entities should have the flexibility to make use of their own existing processes and mechanisms to the extent possible, and these existing processes will necessarily vary by entity.

52. While we would support a guide that sets out suggestions for conducting a feedback process, we strongly oppose any requirement to make the proposals set out in Appendix 3 or any other guide, mandatory for all regulated entities. Should regulated entities opt not to use provided guides or templates, this should not be interpreted as a failure to meet obligations.

General questions

Classes of and possible exemptions for regulated entities

Question: Comment on whether it would be appropriate for the Commission to distinguish among different classes of regulated entities in its regulations. If so, on what basis (e.g. number of employees, level of revenues, eligibility for exemption from certain other regulatory obligations, etc.)?

53. The ACA is an important societal measure and should therefore be applicable to all regulated entities equally in order to afford the greatest benefit to consumers and further the objectives of the ACA.

54. It is important to note that accessibility plans and progress reports would be appropriate to the size and circumstance of each regulated entity so would not cause more hardship for one organization than any other. That said, while the Accessibility plans and progress reports can be designed to accommodate smaller entities, no entity should be exempt from having to consider accommodation.

Question: Comment on whether it would be appropriate for the Commission to issue orders exempting any regulated entity or class of regulated entities from the reporting obligations under the ACA at this time. If so, what entity or classes of entities should be exempted and on what terms? For example, should any of the broadcasting undertakings currently subject to an exemption order issued under section 9(4) of the* Broadcasting Act *also be exempted under the ACA? Similarly, should any of the telecommunications service providers currently falling under the scope of the exemption from the reseller registration obligation established in Telecom Regulatory Policy 2019-354 also be exempted under the ACA?

55. Please refer to response above.

Guidance documents

Question: Comment on whether it would be helpful if the Commission were to provide guidance material to assist in the implementation of planning and reporting obligations and ensure that documents are relevant for persons with disabilities.

56. Guidance material would be helpful in assisting with the planning, development and implementation of the various documents discussed as part of this consultation.

57. Guidance material helps to guide interpretations of the requirements across individual regulated entities, forces a level of consistency across the industry, and manages expectations of stakeholders.

58. As identified in previous responses, while guidance material is helpful, it should not be mandatory or binding, and a regulated entity's decision not to follow any or all of the recommendations in guidance material should not be seen as a failure to meet obligations.

Question: Although the use of a template is not mandatory, it can help to promote efficient, consistent reporting and support comparisons by consumers. Consistent templates could reduce the regulatory burden for regulated entities and promote ease of use by individuals and groups interested in understanding and comparing these documents.

59. We would support the Commission providing a template. Templates are helpful to provide a road-map and help identify where a regulated entity might be missing or overlooking a requirement. However, the use of such a template should not be mandatory and should serve solely as a guidelines, given the different sizes and organizational realities of various regulated entities.

60. Each entity would have specific needs that may not lend to having to use a defined template. Requiring entities to follow prescribed formats and a forced structure may result in additional confusion for all parties as they attempt to provide clear information to

consumers. For example, areas that are not applicable to a carrier but still need to be completed may raise questions for the consumer.

Question: Comment on whether you agree with the Commission's view that it is appropriate to provide templates to regulated entities for reporting on accessibility plans and providing progress reports. If so, provide your comments on the proposed templates for accessibility plans and progress reports, set out in Appendices 1 and 2 respectively.

61. As set out in the response above, we would support the Commission providing a template, provided that the use of such a template is not mandatory and serves solely as a guide. We do not have specific comments on the proposed templates set out in Appendices 1 and 2 at this time, pending further clarification from the Commission regarding the questions posed in this proceeding. We reserve the right to reply to the comments of others regarding Appendices 1 and 2.

Other matters within the Commission's regulation-making authority

Question: Comment on whether there are any other matters within the Commission's regulation-making authority under the ACA that should be addressed in the regulations.

62. The CWTA appreciates the ongoing consultations and the work being done across various regulatory bodies to harmonize efforts. We are supportive of any effort that reduces confusion, as well as regulatory burdens placed on regulated entities.

63. To this end, CWTA respectfully notes that additional clarity is required concerning the specific scope of the various regulations currently being developed, as well as the roles and responsibilities of all stakeholders (i.e. CRTC, ESDC, the Accessibility Commissioner) in the various processes contemplated by the ACA.

*** End of document ***