

April 1, 2021

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

VIA GCKEY

CRTC File #: 1011-NOC2020-0124 and 1011-NOC2021-0069

Dear Mr. Doucet:

**Re: Reply Comments – The Canadian Radio-television and Telecommunications Commission
Accessibility Reporting Regulations (TBNC 2021-69)**

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. CWTA-member wireless services providers, who combine to deliver Canada’s world-class, facilities-based wireless services (an important foundation of Canada’s digital and data-driven economy), may also provide internet and broadcast distribution services.
2. CWTA is pleased to submit the following reply comments to the Canadian Radio-television Telecommunications Commission (the “Commission” or the “CRTC”) on behalf of CWTA members and Cogeco Communications Inc. (together as the “CWTA Interveners”).

Introduction

3. As an industry, we remain supportive of the principles enshrined in the Accessible Canada Act (ACA) and of its overall objective to remove and prevent barriers to accessibility.
4. In CWTA’s comments to TBNC 2021-69, CWTA Interveners provided numerous suggestions that were intended to bring greater harmonization between regulations proposed by CRTC and those proposed by Employment and Social Development Canada (ESDC), and to help build an effective reporting framework.
5. While many of the interveners to these proceedings support the objectives of the ACA, there are differing opinions to “how” regulations should support this. Comments provided show an

absence of consensus with respect to the procedural matters upon which the CRTC is seeking comment and, in many cases, fall outside of the scope of this proceeding entirely.

6. As the Commission reviews interventions, we urge it to maintain a balanced approach to establishing the reporting requirements, and to ensure that regulations are efficient, proportional, and harmonized in order to meet identified objectives.

Accessibility Plans and Progress Reports

Timing of accessibility plans

7. CWTA reiterates that regulated entities should be afforded a minimum of twenty-four (24) months to develop and publish their initial accessibility plan. Several interveners have recommended a shorter timeframe, but this is neither practical nor feasible.
8. While regulated entities are aware of the ACA and are committed to fulfilling their responsibilities thereunder, regulated entities cannot invest and deploy resources in the absence of regulatory determinations that provide the necessary clarity for the in-scope items. The range of divergent views in this proceeding, as well as ***Telecom and Broadcasting Notice of Consultation CRTC 2020-124, Call for comments – Regulations to be made under the Accessible Canada Act (ACA)***, demonstrates the challenges and risks of proceeding in the absence of regulatory clarity. As such, it is neither fair nor reasonable to suggest that regulated entities should be well down the road to developing their plans to justify shorter timeframes for the filing of initial plans.
9. CWTA Interveners are of the collective view that a minimum of 24 months is a suitable, albeit aggressive timeframe. This timing would allow regulated entities the ability to develop meaningful plans in consultation with people with disabilities.
10. This approach is also consistent with that put forward by the Accessible Canada Regulations proposed by ESDC.

Timing of progress reports

11. In its joint submission, Deafness Advocacy Association Nova Scotia (DAANS), Newfoundland and Labrador Association of the Deaf (NLAD) and Ontario Association of the Deaf (OAD), (collectively, DHH Coalition) argue that regulated entities should be required to publish progress reports each year, including those years in which updated accessibility plans are to be published.
12. This approach is inconsistent with the one being put forward by ESDC. Requiring the development and publication of a progress report in the same year that the accessibility plan is to be updated results in an additional burden on the regulated entity and the resources (both internal and external) required to complete the necessary work, without adding any meaningful value to stakeholders.

Publication of accessibility plans and progress reports

13. The DHH Coalition also argues that while regulated entities may choose to publish one accessibility plan that flexibility should not be extended to progress reports and that "...progress reports are to be reported individually and separately for the parent company and each of its brands / flankers."
14. The DHH Coalition reasons that since regulated entities may operate their respective brands or organizations as separate entities, and that the brands may be viewed by the public as independent from each other, they should therefore be required to produce progress reports separately for each brand. CWTA Interveners respectfully submit that this proposal could well require the preparation of progress reports in a manner that is artificial and completely detached from the operational realities of a regulated entity. To impose such a requirement would be to add an unwarranted administrative burden that will detract from the realization of real accessibility objectives.
15. How regulated entities will approach the development of accessibility plans will vary and depend on multiple factors. Flexibility is critical to ensure that each regulated entity is able to find the most effective and efficient means of meeting the identified requirements. This is not only in the interest of the regulated entity, but also of those that benefit from accessibility measures. Provided that an organization prepares and carefully oversees the implementation of its plan in a manner that is consultative and transparent, such that the public and stakeholders understand it and the progress being made by the regulated entity in terms of its actual operations, requiring brand-specific progress reports would be both unnecessary and counterproductive. Indeed, the production of one accessibility plan and one progress report will allow the regulated entity to better manage and find efficiencies as it develops and consults on content. This approach would also make it easier for the public to evaluate progress in relation to the published plan in a holistic manner.
16. CWTA reiterates its strong support for flexibility in relation to how a regulated entity decides to publish its accessibility plans and reports. If the publication of one accessibility plan and one progress report is sufficient to satisfy both the CRTC regulations, and the regulations published by ESDC, the publication of a single progress report should also be allowed.
17. Such an approach is appropriate and would effectively meet the needs of both the regulated entity and consumers.

Form of accessibility plans and progress reports

18. ARCH Disability Law Centre (ARCH) also suggests that the Commission impose stricter and more specific requirement on regulated entities to report on what they refer to as "essential elements". The Canadian Association of the Deaf-Association des Sourds du Canada (CAD-ASC), Deaf Wireless Canada Consultative Committee-Comité pour les Services Sans fil des Sourds du

Canada (DWCC-CSSSC), and Canadian National Society of the Deaf-Blind (CNSDB) (collectively, CAD-ASC et al.) submission also identifies additional requirements.

19. CWTA submits that the currently proposed form of the plans and reports is consistent with what is proposed by ESDC and should be maintained; harmonization across regulations remains an extremely important element to regulated entities.
20. In addition, both ARCH's and CAD-ASC et al.'s recommendations for defined and specific set of reporting obligations falls outside the scope of this proceeding.

Retention of accessibility plans and progress reports

21. In its submission, ARCH suggests also that regulated entities should be required to publish and retain previous accessibility plans and progress reports (up to 2040) as a means to “promote monitoring, transparency and accountability”. On its face, this recommendation appears to advocate for the retention of this information on a regulated entity's website.
22. CWTA Interveners do not support this and question what added value this provides given that consultation and feedback processes will provide this function. Further, the regulations published by ESDC require organizations to maintain a copy of each accessibility plan, progress report, and description of feedback process on its digital platform for at least six years and maintain an electronic copy for another year. This ensures that older versions of accessibility plans and progress reports are available, and increasing the requirement to 2040 will bring the CRTC regulations out of harmony with those of ESDC.

Feedback

Feedback process

23. CWTA notes that comments provided concerning the feedback process generally relate to: requiring a regulated entity to provide substantive responses to all feedback; requiring a regulated entity to make this feedback publicly available within a defined period; and requiring a regulated entity to retain feedback for a defined period (until 2040).
24. CWTA further notes that all of these proposals fall outside the scope of the current proceeding.
25. However, as these may form part of the Commission's consideration, it is important to understand that a regulated entity may not always be able to provide substantive feedback within a defined (usually short) time for a number of reasons (i.e., nature of how the feedback was provided, regulated entity's control over the barrier, the nature of the feedback may not require a response).
26. The Commission's proposed regulations contemplate that a regulated entity is required to acknowledge the feedback through the same manner in which it was received. Any additional

requirement to communicate specific information to each individual would be resource intensive and burdensome. In some cases, depending on how the feedback is provided, it may not even be possible.

27. In addition, as feedback informs both the plan development and progress reporting processes, feedback is made public and tracked via those processes. Ultimately, the goal is improved accessibility. Feedback is important to this objective; it is not, however, helpful to the end-goal to require burdensome feedback response requirements that divert resources from achieving the ACA's key objectives.
28. Accordingly, CWTA reiterates its previous position: allowing regulated entities to build a structured and defined feedback process will better ensure that the feedback of consumers is received in a timely manner, acknowledged appropriately as required under the proposed regulations, and reaches the accountable person at the regulated entity, while also minimizing confusion and administrative burden.

Direct video calls

29. CAD-ASC et al., at paragraph 23 of their submission, note: "Deaf, Deaf-Blind, and Hard of hearing Canadian should have an option to provide feedback by, not through the relay services, but face to face in their primary languages of ASL or LSQ through **direct video calls.**"
30. CWTA Interveners note that Canada VRS is available to consumers looking to provide feedback using sign language. As the Commission is well aware, Canada VRS connects callers with a sign language interpreter who provides real time interpretation for telephone calls. In addition the service is free to use.
31. The use of Canada VRS provides a suitable mechanism that will allow for reliable, consistent and efficient communication in ASL or LSQ across all regulated entities.

Alternate Formats

Mandatory formats and timing

32. While some interveners have advocated for a broader list of mandatory alternate formats including ASL and LSQ (ARCH, CAD-ASC et al.), as well as specific timelines for providing these formats (ARCH, DHH Coalition), CWTA submits that the flexibility currently afforded is preferable especially given the inherent differences in each regulated entity's respective customer base and needs, as well as the resources available to the regulated entity.
33. CWTA supports the Commission's views concerning the provision of ASL and LSQ videos, which the Commission noted can be "especially resource-intensive exercise for many regulated

entities”¹. CWTA also supports the current CRTC view concerning the list of mandatory alternate formats, as well as the timing for the provision of these formats when requested.

34. However, should the Commission decide to establish specific timelines for the provision of these formats, the timing should be consistent with that identified by ESDC in their draft regulations in order to maintain harmonization.

Additional Out-of-scope Items

Consultation

35. CWTA believes the context of the comments concerning consultation, especially those that attempt to outline the manner in which the consultation should occur and the groups which should be consulted, to be out-of-scope for this proceeding, as well as the Commission’s regulation-making role in connection with the ACA.
36. However, CWTA would reiterate that 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 and this may include regulated entities collaborating on consultations.
37. As previously noted, CWTA supports the development of a guide that sets out suggestions for undertaking consultations. 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.
38. To be clear, 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.

Summary

39. ***Timing of accessibility plans:*** Regulated entities should be afforded a minimum of twenty-four (24) months to develop and publish their initial accessibility plan. CWTA Interveners are of the collective view that a minimum of 24 months is a suitable, albeit aggressive timeframe. This timing would allow regulated entities the ability to develop meaningful plans in consultation with people with disabilities.
40. ***Timing of progress reports:*** Requiring the development and publication of a progress report in the same year that the accessibility plan is to be updated results in an additional burden on the

¹ TBNC 2021-69 at paragraph 70; CWTA Interveners acknowledge the encouragement put forth by the Commission as it relates to the preparation of sign language videos that summarize the highlights of their accessibility plans, progress reports, and feedback processes.

regulated entity and the resources (both internal and external) required to complete the necessary work, without adding any meaningful value to stakeholders.

41. **Publication of accessibility plans and progress reports:** Regulated entities should have the flexibility to decide how to publish their accessibility plans and reports. If the publication of one accessibility plan and one progress report is sufficient to satisfy both the CRTC regulations, and the regulations published by ESDC, the publication of a single progress report should also be allowed.
42. **Form of accessibility plans and progress reports:** The currently proposed form of the plans and reports is consistent with what is proposed by ESDC and should be maintained; harmonization across regulations remains an extremely important element to regulated entities.
43. **Retention of accessibility plans and progress reports:** The regulations published by ESDC require organizations to maintain a copy of each accessibility plan, progress report, and description of feedback process on its digital platform for at least six years and maintain an electronic copy for another year. This ensures that older versions of accessibility plans and progress reports are available, and increasing the requirement to 2040 will bring the CRTC regulations out of harmony with those of ESDC.
44. **Feedback:** Allowing regulated entities to build a structured and defined feedback process will better ensure that the feedback of consumers is received in a timely manner, acknowledged appropriately as required under the proposed regulations, and reaches the accountable person at the regulated entity, while also minimizing confusion and administrative burden.
45. **Direct video calls:** The use of Canada VRS provides a suitable mechanism that will allow for reliable, consistent and efficient communication in ASL or LSQ across all regulated entities.
46. **Mandatory formats and timing:** The flexibility currently afforded is preferable especially given the inherent differences in each regulated entity's respective customer base and needs, as well as the resources available to the regulated entity.
47. **Additional Out-of-scope Items (Consultation):** 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 and this may include regulated entities collaborating on consultations.
48. In closing, CWTA urges commission to maintain a balanced approach to establishing the reporting requirements, and to ensure that regulations are efficient, proportional, and harmonized in order to meet identified objectives.

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