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Pamela Miller
Director General
Telecommunications and Internet Policy Branch
Innovation, Science and Economic Development Canada
10th Floor, 235 Queen Street
Ottawa, Ontario K1A 0H5

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Dear Ms Miller,

Re: Canada Gazette, Part I, Volume 153, Number 10: Proposed Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation ([source](#))

Introduction

On March 9, 2019, in Part I, Vol. 153, No. 10, at p. 853, notice was given in the *Canada Gazette*, Part I, pursuant to s. 10(1) of the *Telecommunications Act* (the “Act”), that the Governor in Council proposed to make, under s. 8 of the Act, an Order providing policy direction (the “New Policy Direction”) to the Canadian Radio-television and Telecommunications Commission (the “CRTC” or the “Commission”).

The Principles behind the New Policy Direction are:

1. In exercising its powers and performing its duties under the Telecommunications Act, the Commission must implement the Canadian telecommunications policy objectives set out in section 7 of that Act, in accordance with the following:

- a. the Commission, when relying on regulation, should consider how the measures used can promote competition, affordability, consumer interests and innovation, namely the extent to which they*
 - i. encourage all forms of competition,*
 - ii. foster affordability and lower prices, particularly when there is potential for telecommunications service providers to exercise market power,*
 - iii. ensure that affordable access to high quality telecommunications services is available,*
 - iv. enhance and protect the rights of consumers in their relationships with telecommunications service providers,*
 - v. reduce barriers to entry and barriers to competition for new and smaller telecommunications service providers,*
 - vi. enable innovation in telecommunications services, including new technologies and differentiated service offerings, and*

- vii. stimulate investment in research and development and in other intangible assets that support the offer and provision of telecommunications services; and*
- b. the Commission, when relying on regulation, should demonstrate its compliance with this Order and should specify how the measures used can, as applicable, promote competition, affordability, consumer interests and innovation.*

Premise

Deafness Advocacy Association Nova Scotia (**DAANS**) is pleased to see the proposed *Direction* make reference to competition, affordability, consumer interests and innovation but sadly makes no mention whatsoever of accessibility. The absence of this term / concept will have critical, long-term consequences for the Deaf, Deaf-Blind and Hard of Hearing (**DDBHH**) in Canada.

Background

DAANS was founded in 1976 and incorporated in 1978. As a non-profit and nonpartisan organization, DAANS works with the public, private and non-profit sectors to remove old barriers and prevent new barriers faced by an estimated 58,000 Deaf, hard of hearing, late deafened and Deafblind Nova Scotians in a variety of areas including communication access, education, employment, health, legal services and recreation.

DAANS worked with three other organizations representing DDBHH Canadians. These four organizations collectively were / are involved with three CRTC proceedings – CRTC TNC 2018-98, TNC 2018-246 and TNC 2018-422 where we all made strong recommendations how telecommunications / internet products and services must become accessible to all DDBHH Canadians. DAANS was saddened to see so relatively few of these recommendations adopted – preventing DDBHH Canadians from using telecommunications products and services at par with their hearing counterparts.

DAANS completely agrees with National Association of the Deaf (**NAD**) from the States when asserting that *“equal access to telecommunications is absolutely necessary for [DDBHH] individuals to have equal opportunities in education, employment, public and private programs and services, and everyday life.”*

DDBHH Canadians rely on their eyes far more than their hearing counterparts and consequently tend to use sign language to communicate with the world. Since DDBHH Canadians are totally immersed in a visual (not aural) environment, they consume huge quantities of bytes (when up/downloading pixels via data plans) when making video calls while their hearing counterparts consume far less bytes when connecting via VOIP over an internet connection.

Telecoms’ accessibility plans vary from an additional 2GB at no extra cost to a monthly discount of up to \$20. However these accessibility plans actually don’t provide true accessibility since they do not adequately compensate for the heavy data usage required for video calling each other, making relay calls through *SRV Canada VRS* or leaving video messages.

Another example concerns the top five telecoms in the States introducing unlimited data plans in February 2017 as seen in [business insider](#), [wired.com](#), and [fortune.com](#). Such perfectly accessible unlimited data plans are not available in Canada (which would have otherwise fostered healthy competition between telecoms).

Space and time limitations do not permit a full complete listing of all the barriers and issues preventing DDBHH Canadians from using telecommunications products and services at par with their hearing counterparts.

Human rights framework

Under the heading of "Equality Rights" Section 15(1) of the Canadian Charter of Rights and Freedoms reads as:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Section 2 of the Canadian Human Rights Act reads as:

Proscribed Discrimination

2 The purpose of this Act is to extend the laws in Canada to give effect, within the purview of matters coming within the legislative authority of Parliament, to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered

Discriminatory Practices

Denial of good, service, facility or accommodation

5 It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public

- (a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual,*
- (b) to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.*

Canada ratified the [Convention on the Rights of Persons with Disabilities \(CRPD\)](#) on March 11, 2010

Article 2 "Definitions" includes the following wording:

For the purposes of the present Convention:

- *"Language" includes spoken and signed languages and other forms of non spoken languages;*

Article 9 "Accessibility" reads in part as:

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

- b. Information, communications and other services, including electronic services and emergency services.*

All these laws and convention either individually or collectively clearly state(s) that DDBHH Canadians have the same rights to use telecommunication services at par with their hearing counterparts.

Recommendation

DAANS strongly recommends that the word / concept “accessibility” be added to part (a) of the *Direction* so that it reads as:

the Commission, when relying on regulation, should consider how the measures used can promote competition, affordability, consumer interests, **accessibility** and innovation, namely the extent to which they

This simple yet powerful modification would bring the *Direction* and by extension, the CRTC in line with current and future human rights legislation (such as but not limited to: Canadian Charter of Rights and Freedoms, Canadian Human Rights Act and the CRPD) as described earlier.

This modification would also permit DDBHH in Canada to use telecommunications products and services at par with their hearing counterparts. Directly quoting from NAD, DAANS strongly believes that such will “*offer equal access to telecommunications is absolutely necessary for [DDBHH] individuals to have equal opportunities in education, employment, public and private programs and services, and everyday life.*”

Please do not hesitate to contact me should you have any questions.

Best regards,

Elliott Richman
DAANS Executive Director