



Deaf Wireless Canada Consultative Committee - Comité pour les Services Sans fil des Sourds du Canada (DWCC-CSSSC)

c/o Canadian Association of the Deaf-Association des Sourds du Canada (CAD-ASC)

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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

1. 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”).

2. Deaf Wireless Canada Consultative Committee / Comité pour les Services Sans fil des Sourds du Canada (DWCC-CSSSC, or DWCC) makes these representations with respect to the proposed policy *Direction*, in accordance with the Notice in the *Canada Gazette*.

3. DWCC is a national advocacy group established in 2015 as a standing committee of the Canadian Association of the Deaf-Association Sourds du Canada (CAD-ASC). The mandate of DWCC is to advocate for accessible wireless communications equality for DDBHH Canadians including, but not limited to:

1. Cost reasonable accessible wireless data plans for ASL and LSQ users for two-way video calls.

2. Accessible industry-wide promotions of wireless services and products.
3. Removal of disparities in costs of the same accessible wireless products and services within each company.
4. Provision of functional equivalent wireless products and services including wireless applications (apps).
5. Accessible wireless emergency services (including emergency alerts and direct text to 911).
6. Nationwide public awareness, education and outreach on current accessible wireless and mobile communication products and services.

4. A standard practice estimating the number of Deaf Canadians uses CAD-ASC's traditional 'one in ten' formula with strong caveats. This formula estimates there are 357,000 culturally Deaf Canadians and 3.21 million hard of hearing Canadians. (That said, the Canadian National Society of the Deaf Blind (CNSDB) estimates there are 69,700 Deaf-Blind Canadians over the age of 12 living with the dual disability of deafness and blindness that limit their everyday activities.) DWCC advocates for more than 357,000 culturally Deaf, Deaf-Blind and hard of hearing Canadians, with respect to [telecommunications functional equivalency](#) of signing ASL and LSQ consumers.

5. In terms of membership, DWCC consists of Deaf, Deaf-Blind, and Hard of Hearing (DDBHH) consultants, analysts and committee volunteers across Canada, and focuses on representing the signing American Sign Language (ASL) and Langue des Signes du Québec, (LSQ) telecommunication service customers. DWCC's members have everyday experience as communications consumers, often using communication accessible goods and services such as relay services.

6. Given DWCC's experience advocating in this area, DWCC believes that this new policy *Direction* is a necessary step in the right direction for protecting consumers interests in the telecommunications industry. The proposed New Policy Direction provides the CRTC with a clear message that it must redirect its telecommunications policies towards consumer interests and protections.

7. While DWCC is pleased to see the redirection back to the consumer end, we would nevertheless like to set out our very strong concern that the *Direction* makes no mention whatsoever ever of accessibility. The absence of this term will have critical, long-term negative consequences for the Deaf in Canada.

8. Our position that the absence of 'accessibility' from the *Direction* will have negative consequences flows from our experience in the last five years before the CRTC, where we appeared on behalf of Deaf, Deaf-Blind and Hard of Hearing Canadians (DDBHH). DWCC participated in a dozen or more important regulatory proceedings, and made 99 recommendations in nine separate reports and final submissions. Despite extensive research, professionally conducted surveys of the DDBHH in Canada, a wealth of evidence and our best efforts to communicate with the CRTC through its hearing panels, DWCC estimates that it has had just sixteen (16) policy successes. In other words, the CRTC has effectively rejected 84% of our proposals for ensuring that

Canada's telecommunications system serves all people in Canada, and not just Hearing Canadians.

9. A telecommunications system whose regulatory frameworks ignore the concerns of DDBHH people in Canada causes social and economic problems. We are perplexed that despite repeated appearances before the CRTC with respect to telecommunications policies, it does not appear to grasp the fact that DDBHH people generally use sign language to connect to the world - they cannot use voice-based networks to communicate, and as a result, policies that reduce the price of voice-based telecommunications do not benefit DDBHH people. DDBHH people instead need to communicate visually, because they use sign language. As a result, DDBHH people rely heavily on data when video calling each other; they make relay calls through *SRV Canada VRS* or they leave video messages. They need data plans with more data at a lower cost to meet their accessibility needs for video communication.

10. Despite our attempts to communicate the needs of DDBHH people in Canada to the CRTC, it currently allows wireless companies to provide *soi-disant Accessibility Plans* with discounts that do little to ensure that DDBHH are treated equitably by Canada's telecommunications system. The CRTC is allowing Canada's wireless companies to terminate previously 'grandfathered' plans that worked for DDBHH people. It has even allowed wireless companies to set expiry dates for new accessibility plans.

11. By comparison, the five largest American telecoms introduced unlimited data plans in February 2017 (see, for example, [business insider](#), [wired.com](#), and [fortune.com](#)).

12. It is clear to DWCC that the current legislative framework for telecommunications regulation permits the CRTC to ignore our concerns, as well as the very high social and economic costs that its accessibility-unfriendly policies have imposed on DDBHH Canadians.

Context - 20th and 21st Century Human Rights Legislation

13. The CRTC's failure to exercise its authority on behalf of DDBHH people in Canada is all the more troubling considering the tremendous progress that has been made by with respect to accessibility legislation. Section 2 of the 1977 *Canadian Human Rights Act* prohibits discrimination and discriminatory practices based on disability. The 1982 *Charter of Rights and Freedoms* provides in section 15(1) that "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 ... physical disability", while section 15(2) clarifies that laws and programs that ameliorate the conditions of people disadvantaged by physical disability are lawful.

14. More recently, Canada ratified the United Nations [Convention on the Rights of Persons with Disabilities](#) (CRPD) on March 11, 2010, and just four months ago (on 3 December 2018) Canada acceded to the Convention's accompanying *Optional*

Protocol, which establishes procedures to strengthen the implementation of the Convention. It requires states to “take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, ... to information and communications, including information and communications technologies and systems”

15. Finally, the *Accessible Canada Act*, also known as Bill C-81, passed third reading in the House of Commons and is now being reviewed by the Senate (currently at its Committee Stage allowing the Senate to potentially make amendments). Parts of the Act have been publicly amended to include technology and communications that would apply to DDBHH Canadians. We welcome this legislation - but our experience of the past several decades nevertheless leaves us seriously concerned that without explicit direction from the Governor in Council, the CRTC will continue to ignore the concerns set out by, and the recommendations made by, DWCC on behalf of DDBHH Canadians. We emphasize that we ascribe no ill motives to any agency; but without direction from the Governor in Council, we fear that the interests of accessibility will continue to suffer, as have the interests of consumers and the issue of affordability over the past decade.

Recommendation: Add requirement for accessibility to the proposed *Policy Direction*

16. Given the historical context we have provided, and the change in legislative attitudes towards accessibility issues, DWCC respectfully urges the Governor in Council to add a specific reference to accessibility to the *Direction*, as follows:

(a) the Commission, when relying on regulation, should consider how the measures used can promote competition, affordability, consumer interests, innovation **and accessibility of Deaf people and persons with disabilities**, namely the extent to which they

17. This amendment allows all the sub-directions to include and apply accessibility to every aspect of telecommunications decision-making listed in the *Direction* to ensure that the CRTC addresses concerns about accessibility and the full, equitable inclusion of all peoples in Canada in its approach to telecommunications.

18. DWCC very much appreciates the steps that the Governor in Council has taken with this important proposal to provide the CRTC with a new *Direction*. We assume that the new *Direction* will replace the existing *Direction* (that, as it happens, does not even mention accessibility) either immediately, or within a specified timeframe. (We take the liberty of assuming that the existing *Direction* will be replaced because unless this happens, the CRTC may find it difficult to know on which *Direction* it is to rely.)

The DWCC will be pleased to answer any questions if clarifications are required. Our contact information is provided below.

[submitted electronically]

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