



January 11, 2019

The Broadcasting and Telecommunications Legislative Review Panel

c/o Innovation, Science and Economic Development Canada
235 Queen Street, 1st Floor
Ottawa, Ontario K1A 0H5
ic.btlr-elmrt.ic@canada.ca

**Re: BCBA's response to Review of the Canadian Communications
Legislative Framework Responding to the New Environment: A Call for
Comments**

Dear Sir/Madam,

Introduction

- 1 The British Columbia Broadband Association (BCBA) is a consortium of telecommunications service providers (TPS) in BC. Our members include small and medium-sized TSPs operating across British Columbia. Many of these operators provide services in rural and remote communities.
- 2 The BCBA agrees that it is indeed appropriate to review the legislative framework governing the communications industry in Canada. The industry has changed considerably since this framework was established.
- 3 First, the BCBA believes that the regulation of media (content and broadcasting) should be separated from the regulation of the distribution of telecommunications services. This separation would enable more effective regulation of telecommunications service providers (TSPs).
- 4 In order to effectively separate these jurisdictions, the CRTC should be separated into two branches. One branch should deal with content and broadcasting regulations, and a second branch should address issues relating to telecommunications.
- 5 This separation of jurisdictions will improve the speed and efficacy of CRTC proceedings. Currently, many proceedings take place over a period of years, and this delay in regulation weakens competition and innovation in the Canadian telecommunications market.
- 6 Second, the BCBA believes that the administration of spectrum, including auctions, should remain under the jurisdiction of Innovation, Science, and Economic Development Canada (ISED).
- 7 In order to ensure consistent regulation, the CRTC Telecommunications Branch and ISED should have a means of co-ordinating certain administrative functions. For example, where spectrum is allocated to new operators, the spectrum allocation process should be streamlined with the CRTC registration process.



- 8 Finally, the BCBA believes that the legislative framework should facilitate the participation of small operators. The current legislative framework does not foster competition, investment, and innovation arising from small and medium-sized businesses.
- 9 In the province of British Columbia, households and businesses are served by a wide variety of telecommunications carriers. TELUS and Shaw dominate the wireline service market, offering broadband connectivity to large and small cities across the province. In rural areas there is a patchwork of small and very small businesses and not-for-profit organizations bringing high-speed connections to areas that are beyond the reach of TELUS and Shaw. Some of these small operators have dozens of employees and revenues in the millions; many are characterized by owner-operators with few employees serving small communities.
- 10 These small operators bring economic diversity and investment to the communities in which they operate. These companies are part of a competitive, market-driven, and innovative telecommunications market. These companies are at the forefront of bridging the digital divide. These companies are not well served by the current legislative framework.

Regulatory Burden on Small Businesses

- 11 The BCBA is particularly concerned about the ability of small businesses to thrive amid an increasingly complex regulatory environment. This concern is two-fold. First, participating in policy-shaping activities is costly, forming a barrier to entry. Second, compliance with all regulations and regulatory bodies is a heavy administrative burden that cannot be borne by the smallest operators.
- 12 Firstly, participation in the public processes that form regulations and policies – that is, consultations with ISED and proceedings with the CRTC – is costly. As a result of the high cost of participation, the concerns of small operators are less prominent in these processes than the concerns of large national companies.
- 13 For example, to provide a full and in-depth response to this proceeding would require a team of researchers and policy analysts. The BCBA does not have the resources to bring such resources to bear in this consultation.
- 14 It is particularly difficult for small companies to participate in the proceedings administered by the CRTC. These proceedings take place over the course of several years, and incumbents regularly produce submissions that run hundreds of pages. Small companies simply do not have the resources to read, let alone respond to, these submissions.
- 15 And so, we see large national companies influencing regulatory decisions. These policy decisions, influenced by large national companies, make the business environment ever more challenging for small operators. In effect, the current legislative framework forms a barrier to entry to the telecommunications market.
- 16 Secondly, the cost of compliance with multiple regulatory agencies continues to increase. The extensive reporting required by ISED and the CRTC together



requires significant overhead that cannot realistically be met by very small owner-operated businesses. As a result, these businesses may not be registered properly or fully compliant with the CRTC and ISED. With the small-business segment improperly or incompletely registered, the CRTC and ISED do not gather accurate information; the impact of small telecommunications enterprises in Canada is not well understood by the agencies that are regulating them.

- 17 This cost of compliance reduces access to funding programs. Very small companies cannot access broadband funding initiatives, since they are unable to meet the administrative and reporting requirements of these programs. These small operators serve the same rural and remote communities that are targeted by funding programs. And so, rural consumers are denied the benefits of public funding, because the programs do not account for the limited overhead capacity and limited capital depth of small companies who serve them.

Calls for a Better Telecommunications Market Landscape

- 18 In the past year, several governmental agencies have directly addressed the issues that face rural Canadians. In April 2018, the Standing Committee on Industry, Science and Technology presented to parliament a report entitled "*Broadband Connectivity in Rural Canada: Overcoming the Digital Divide*". This report presented twelve recommendations that, together, would enhance the Canadian telecommunications market by supporting vigorous competition from small carriers. The new legislative framework should enable and support the implementation of these recommendations.
- 19 In the fall of 2018, the Auditor General of Canada released a report entitled "*Report 1 – Connectivity in Rural and Remote Areas*". This report also pointed to the unrealized potential of small carriers to contribute to the Canadian telecommunications market, and the obstacles to that contribution. The new legislative framework should recognize and remedy these obstacles.
- 20 Currently, the Competition Bureau of Canada is undertaking a Market Study under the working title "*Competition in Broadband Services*". The outcome of this study should also be reflected in the new legislative framework.

Closing Remarks

- 21 The new legislative framework should support a vibrant and vigorous competitive ecosystem that includes large, medium, and small carriers in urban and rural markets across Canada.
- 22 Regulations for small companies should be simplified in order to increase compliance and market access. This will improve the quality of information available to regulators, and will foster competition and innovation across Canada.
- 23 The CRTC should be separated into two branches, with a dedicated broadcasting branch and a dedicated telecommunications branch. This will improve the efficacy of telecommunications regulation.



British Columbia
Broadband Association

- 24 ISED should remain as the administrator of spectrum allocation. The CRTC and ISED should work together more closely in order to ensure consistent regulations and co-ordinated policy.
- 25 The BCBA thanks the Government of Canada for the opportunity to comment.

Kind regards,

A handwritten signature in cursive script that reads "Bob Allen".

Bob Allen
President
BC Broadband Association