

Process for the Nomination and Selection of Consumer Group Directors of the Commissioner for Complaints for Telecommunications Services (CCTS)

March 11, 2008

Background

The Telecommunications Policy Review Panel, Final Report 2006 recommended the creation of an independent ombudsman for telecommunications services (including landline telephone, cellphone and Internet services). The Governor in Council responded to this recommendation and issued *Order requiring the CRTC to report to the Governor in Council on consumer complaints*, Order in Council P.C. 2007-533, 4 April 2007 (the Order). The Order stated that all telecommunications service providers (TSPs) should participate in and contribute to the financing of an independent telecommunications consumer agency that would, among other things, resolve complaints from individual and small business retail customers. The Order also stated that the consumer agency should be an integral component of a deregulated telecommunications market. In addition, the Order stated that the consumer agency's structure and mandate would be approved by the Canadian Radio-television and Telecommunications Commission (CRTC).

In CRTC Telecom Decision 2007-130, *Establishment of an independent telecommunications consumer agency* (20 December 2007), the CRTC ordered Canada's major telephone, cellphone and Internet services providers to create such a complaints body.

In that Decision, the CRTC required the member telephone, cellphone and Internet companies to permit two directors on their Board to be chosen from those nominated by Canadian "consumer groups".¹ The direction of the Commission, found at para. 50 of the Decision, reads as follows:

50. [. . .] The Commission notes, however, that there is currently no process in place for the nomination and appointment of the two consumer-group-appointed directors. The Commission considers that the Consumer Groups active in this proceeding should establish a transparent process for the nomination and appointment of the consumer-group-appointed directors. [Emphasis added.]

¹ These two consumer group directors are classified by the constating documents of the CCTS as part of the four "independent director" positions. There are three "industry directors" appointed by the CCTS member companies. The remaining two "other independent directors" are chosen through a separate process described in the CCTS constating documents as modified by Decision 2007-130.

Therefore, the CRTC expects Canadian consumer groups to self-identify and self-organize this transparent process to elect the two consumer group directors contemplated by the decision. This document describes how the consumer groups that will choose the directors are identified, how they will vote for directors and what the duties of those two directors will be.

What is a “consumer group” for the purposes of the CCTS Scheme?

Decision 2007-130 requires the consumer-group-appointed directors to be appointed through a “transparent” process by Canadian “consumer groups” – a term that is not defined by the CRTC. However, the CRTC tasked the Consumer Groups² that made submissions in the Telecom Public Notice 2007-16 (the proceeding leading to Decision 2007-130) with identifying and notifying other “consumer groups” who might have an interest in appointing consumer directors to CCTS.

The CRTC also asked the Consumer Groups to outline and set up the transparent consumer group appointed director nomination and selection procedure but to ensure that the other “consumer groups” identified also have the chance to nominate and vote for consumer group directors.

The present document defines “consumer group” and principles for selection of a “consumer representative”, based on those established by the Commonwealth Consumer Affairs Advisory Council of Australia and used by the consumer groups that select consumer group members of the Australian Telecommunications Industry Ombudsman (TIO) Council. The definition and principles are also informed by Consumers International’s definition of a consumer group.

“Consumer group” for the purpose of the CCTS consumer-group-appointed director nomination and selection process is a group (not an individual):

- (a) whose mission includes advancing the interests of consumers (or of a particular class of consumers);
- (b) that, due to its activities, membership or other relevant factors is publicly recognized as playing a legitimate role in advancing the interests of consumers; and
- (c) that is not-for-profit, non-partisan, independent of government and industry, and that receives no sponsorship or financial support from any commercial interest that is directed to a telecommunications objective of the donor or

² In Decision 2007-130, the CRTC used the term “Consumer Groups” (Capitalized Title Case) to identify those consumer groups that made actual submissions in PN 2007-16 and that self-identified as representing the consumer interest. This distinction is retained for the purposes of this document. Those groups are: The Public Interest Advocacy Centre as counsel for the National Anti-Poverty Organization and the Consumers’ Council of Canada, the Canadian Internet Policy and Public Interest Clinic, L’Union des consommateurs, the ARCH Disability Law Centre (ARCH), the Canadian Association of the Deaf, the British Columbia Public Interest Advocacy Centre for BCOAPO.

recipient, and that does not receive significant general or charitable support from any corporation.

If there is any question of whether a group so qualifies, a majority of the Consumer Groups (who participated in PN 2007-16) shall determine the matter. After the determination of the first full list of “consumer groups” for the purposes of the first election of consumer group directors, the power of determining if the definition of “consumer group” is met in the future shall fall to the then members of the consumer groups by a simple majority vote.

Qualifications of Nominees

Once qualified consumer groups are selected, qualified nominees must be nominated in accordance with the process detailed below. Appointments must be made on merit. However, in order to stand as a nominee, nominees further must demonstrate the following:

- expertise in consumer affairs;
- links to relevant consumer organizations;
- capacity and willingness to consult with relevant consumer organizations;
- knowledge of, or the ability to acquire knowledge of, telecom related consumer issues.

Process for Nomination

A. Voting consumer group members

In order to invite and qualify the “consumer groups” mentioned above into the nomination and election process, the Consumer Groups presently are undertaking the following steps::

1. All "Consumer Groups" who participated in PN 2007-16 are being made aware of the requirements of Decision 2007-130 and the opportunity to take the role of Consumer Group founders of the nomination and election process.
2. All consumer groups that participated in any CRTC proceedings in the last 3 years have been identified by the CRTC and are being contacted by the Consumer Groups;
3. Any other consumer group that responds to this public invitation by March 25, 2008, and has the qualifications of “consumer group” noted above is being solicited to join the initial identified voting consumer groups by posting of this notice on the public websites of the Consumer Groups.

Once this group of voting consumer groups is closed (March 28, 2008) it will be closed for the period of the election but new members may join in the future for future elections.

B. Nomination by voting members:

Once the voting consumer groups are selected, they may nominate one candidate for consumer group director of the CCTS by

1. Each voting member may nominate one candidate.
2. Each voting member is required to do an initial vetting of the candidate for interest, availability, accommodation issues and qualification for the position (consumer or other public interest experience).
3. Each voting member nominating must provide a short biography of the candidate with the nomination.

A complete slate of candidates will be compiled from these nominations and circulated the week of March 31, 2008. The voting consumer groups will determine whether the nominees meet the nomination qualifications above. Any objection by a consumer group to the admissibility of a nominee will be decided by voting consumer groups by way of a simple majority vote by the end of the week of March 31, that is 4 April 2008.

C. Voting:

The final voting process for candidates will take place, via electronic mail, on Wednesday, April 9, 2008. Any run-off voting as required would take place April 14, 2008. Voting will proceed as follows:

1. Each voting member consumer group may make up to three selections. Candidate ranked number 1 gets 5 points, ranked number 2 gets 3 points, number 3 gets one point.
2. Winners are the two with the most points. If there is a tie for second, or a three-way or more tie for first or second, then there will be a run-off election with one vote per group per position not yet decided.
3. CRTC staff will take the votes by e-mail at the address: philippe.kent@crtc.gc.ca.
4. CRTC will inform the voting consumer groups of the successful candidate.
5. The consumer group that proposed the successful nominee will then immediately advise the candidate and ensure that the candidate is content with taking the position.
6. If a successful candidate refuses to serve after election, the second (or third) placed candidate and so on will be acclaimed as director.
7. Any future election shall follow the timetable set by the CCTS Board according to the above rules or such other rules as the voting consumer groups may from time to time determine.

Timeline

March 10th and 17th week: posting on websites inviting nominations and applications for voting status

Mar. 25th: closing of applications for consumer group voting status;

March 28th: decision on voting organizations; send list to voting members (and CRTC and CCTS) of candidates with biographies and list of voting organizations to all voting organizations

March 31st week: Nominations and closing of nominations (closing deadline: April 3rd)

April 9, 2008: Voting Apr. 9th; April 10th votes tallied

April 14th: run-off voting as required

April 15th:: name directors (and terms - if different, longer term goes to person with higher number of point in the vote(s))

** Other than the initial posting, the communications of this process will occur via email.

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