



27 February 2023

Filed online

Claude Doucet  
Secretary General  
CRTC  
Ottawa, ON K1A 0N2

Dear Secretary General,

**Re: *Call for comments on an application by Bell Canada, Cogeco Communications Inc., Bragg Communications Incorporated, carrying on business as Eastlink, and Saskatchewan Telecommunications regarding the increase of the maximum retail price of the basic service, [Broadcasting Notice of Consultation CRTC 2022-267](#) (Ottawa, 28 September 2022), [2022-267-1](#) (Ottawa, 27 October 2022), [2022-267-2](#) (Ottawa, 17 November 2022) and [2022-267-3](#) (Ottawa, 20 February 2023) – Reply***

- 1 On 24 February 2023 the Forum for Research and Policy in Communications (FRPC) intervened in the proceeding recommenced by BNoC 2022-267-3. This proceeding involved new information placed on the public record with respect to an application to raise the price of the “basic service” as provided for in [section 17.1 of the \*Broadcasting Distribution Regulations\*](#) ....<sup>1</sup>
- 2 Section 17.1 of the *BDU Regulations* states that

[e]xcept as otherwise provided under a condition of its licence, a licensee shall not charge a customer more than \$25 per month for the distribution of its basic service.
- 3 The “basic service” is defined in section 1 of the CRTC’s *Broadcasting Distribution Regulations*.
- A. **Interventions and replies in the 2022-267-3 proceeding**
- 4 It is unclear how many interventions were submitted to the CRTC on 24 February 2023. Its website for this proceeding currently lists submissions from 11 interveners including FRPC. This list does not include the intervention of the Public Interest Advocacy Centre (PIAC) (

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<sup>1</sup> Bell Canada, Cogeco, Eastlink and Sasktel, *Part 1 Application for a condition of licence with respect to section 17.1 of the Broadcasting Distribution Regulations*, (5 January 2022), at ¶1.

**B. Bell has confirmed that the ‘collective subscriber figure’ in 2022-267-3 significantly understates subscribers potentially affected by the \$3/month increase**

5 The CRTC set out a ‘collective subscriber figure’ in BNoC 2022-267-3 at paragraph 11:

In response to this request for information, the parties collectively submitted that a minimum of 1,515,708 subscribers could be subjected to an increase in their monthly bill. .

6 In paragraph 8 of its reply Bell now states that in fact, it had 1,917,674 subscribers to the “basic services” in 2022, as set out in its 2022 BDU Annual Return:

... This figure [1,917,674] refers to all our subscribers since all our subscribers have the basic service as required by section 17(1) of the Broadcasting Distribution Regulations (whether as a stand alone offering or in conjunction with other television services, such as a custom package or pre-assembled package).

[Bell’s underlining]

7 In other words, leaving aside whatever information the other seven parties to this proceeding provided to the CRTC (in confidence), just Bell alone has 25% more subscribers to the basic service than the ‘collective subscriber figure’ provided by the CRTC in BNoC 2022-267-3 suggested. Assuming the information that Bell provided to the CRTC in confidence about its “small basic service” consisted of a figure less than the ‘collective subscriber figure’ subsequently derived by the Commission, Bell has not explained why it failed to explain that it actually had significantly more subscribers to the “basic service” than to its ‘small basic service’. FRPC therefore disagrees with Bell’s claims in paragraph 12 that it has provided the CRTC with “reliable” and “appropriate” evidence

8 Bell’s reply now also confirms that the ‘collective subscriber figure’ set out in paragraph 11 of BNoC 2022-267-3 cannot assist the CRTC in determining first, the overall number of subscribers affected by the proposed rate increase and second, in estimating the number of subscribers who may find a higher-priced service unaffordable.

9 In the absence of reliable evidence about the central issue of this proceeding – whether the rate increase is affordable as required by subsection 3(1)(t)(ii) of the *Broadcasting Act* – the CRTC must decline to grant the applicants’ January 2022 proposition.

**C. Rogers’ claim that FRPC ‘expressed confusion’ about Rogers’ wording**

10 At paragraphs 1 and 2 of its reply Rogers suggest that FRPC was confused as to “the number of basic service subscribers” that each BDU filed with the CRTC in response to its 24 January 2023 request for information.

11 FRPC notes first that it was not confused by the number of basic service subscribers filed by each BDU, for the simple fact that such numbers were entirely redacted by the companies. One cannot be confused by something one cannot observe.

12 Second, FRPC notes that the companies themselves offered confusing evidence. Considering that the eight BDU parties to this proceeding are among the most experienced in terms of

CRTC proceedings, it is surprising that when the Commission asked for the number of subscribers to the “basic package”, the companies instead explicitly noted that they were providing information about the

- “small basic service” (Bell, Cogeco, Sasktel and Telus)
- “forfait de base” (‘basic package’) (Québecor [not Cogeco, as FRPC mistakenly noted in paragraph 15 of its 2022-267-3 intervention]), and the
- “small basic TV package” (Rogers).

13 Rogers, in fact, told the CRTC on 31 January 2023 that if it “were to approve “the Application and raise the maximum rate that could be charged by licensed BDUs for their **small basic TV package**, then these BDUs would be authorized to implement a rate increase to the **basic TV package ....**”, and then provided information about numbers of “**basic package subscribers**” (page 2).

14 Third, FRPC notes that Rogers has unfortunately chosen to wait to 27 February 2023 to offer the “minor clarification” (paragraph 3 of Rogers’ reply) that the information it gave the CRTC on 31 January 2023 did not describe either the “basic package” requested by the CRTC, or the “small basic TV package” described by Rogers, but the “BDU customers who subscribe only to our basic service ... either on its own or more discretionary TV services that are selected on an *a la carte* basis and/or within theme packages”.

15 FRPC notes, moreover that Rogers’ answer in paragraph 3 creates yet more uncertainty by stating that “[t]hose are the basic service subscribers that could be subjected to an increase of some kind in their monthly bill ....” Rogers does not state that these are the only ones of its subscribers who will be affected by basic-service rate increase, while simultaneously implying that some of these subscribers will not be so affected (‘could be subjected’).

16 FRPC respectfully submits that Rogers’ ‘clarification’ has not clarified either its individual response to the CRTC, and has still not provided the CRTC with the evidence it needs to determine whether the increase is affordable for BDU subscribers such as those currently served by Rogers.

#### D. Bell’s claim that FRPC ‘obfuscated’ the companies’ answers to the crtc

17 At paragraph 7 of its reply, Bell alleges that FRPC attempted “to obfuscate” the lack of comparability in the companies’ responses to the CRTC’s January 2023 questions.

18 FRPC notes that the [Cambridge Dictionary defines ‘obfuscate’ online](#) as “the act of making something less clear and less easy to understand, especially intentionally ....”. Bell has not explained how FRPC’ quotation of the descriptions used by the companies themselves in their answers to the CRTC’s question constitutes obfuscation by FRPC.

19 FRPC also observes that it had nothing to do with the companies’ decisions to provide the CRTC with information that was not clear and not easy to understand. Rather, Bell, Cogeco, Sasktel and Telus decided to answer the CRTC’s question about subscribers to the “basic package” by providing information about subscribers to the “small basic service”, Cogeco

described subscribers to the “forfait de base” [basic package] and Rogers provided data about subscribers to the “small basic TV package”. Only Shaw responded with information about subscribers to the “basic service. FRPC respectfully submits that it would be irrational to ascribe any effort to ‘obfuscate’ the companies’ information to FRPC, as FRPC was unaware that the companies were in fact providing such information to the Commission.

20 FRPC denies Bell’s allegation that FRPC ‘obfuscated’ the companies’ information.

**E. Bell’s unsubstantiated claim that FRPC raised “certain issues” beyond the scope of 2022-267-3**

21 At paragraph 3 of its reply Bell alleges that “certain issues raised by FRPC ... are beyond the scope of this subsequent phase of the proceeding.”

22 Bell offered no evidence about the specific issues that FRPC allegedly raised.

23 FRPC denies Bell’s allegation.

**F. Bell’s argument that BDU subscriber rates should rise because they have not increased and regulated rates often increase, does not meet the test set out in Parliament’s broadcasting policy for Canada**

24 In terms of evidence, Bell has not provided any evidence showing that the cost of the basic service has increased.

25 In terms of argument, Bell has not set out the provision in Parliament’s broadcasting policy for Canada which states that BDU rates may increase and be unaffordable if the rates have not increased in the past several years – because Parliament did not state such a provision in the broadcasting policy. Instead, subsection 3(1)(t)(ii) requires the CRTC to determine whether the increase described in BNoC 2022-267 will make basic service affordable or unaffordable for all, many, or some BDU subscribers.

The Forum has appreciated this opportunity to reply to other parties in this proceeding, and looks forward to the CRTC’s determinations.

Sincerely,



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**Appendix 1 CRTC Open Proceedings – Interventions – 2022-267-3 (as of 5:25 pm 27 February 2023)**

The screenshot shows the CRTC Interventions website interface. The browser address bar displays the URL: `applications.crtc.gc.ca/ListeInterventionList/Default-Default.aspx?en=2022-267&dt=i&lang=e&S=O&PA=b&PT=nc&PST=a`. The page title is "Interventions".

On the left side, there is a navigation menu with categories: "Broadcasting Proceedings", "All Proceedings Open for Comments", "All Proceedings Closed For Comments", "Resources", "Telecom Proceedings", and "Compliance and Enforcement Proceedings".

The main content area features a "Public process number: 2022-267" header. Below this, there is a search box with the placeholder text "Search: Intervener / Company" and buttons for "Search" and "Clear".

The search results are displayed as a table with the following columns: "Intervener", "Company", "Last update", and "Intervention #". The table shows 5 entries, each with a "Related Documents" link.

Intervener	Company	Last update	Intervention #
Beckman, W N (Bil)	Saskatchewan Telecommunications (SaskTel)	29 November 2022	455
Kovacs, Peter	Rogers Communications Canada Inc.	29 November 2022	452
Lawford, John	Public Interest Advocacy Centre	13 December 2022	468
Eby, Kurt	Pelmorex Weather Networks	29 November 2022	461
Ménard, Marc	Pab	29 November 2022	212
Verge, Nathalie	Ministère de la Culture et des Communications du Québec	29 November 2022	460
Fortune, Joel	Independent Broadcast Group/Le groupe de diffuseurs indépendants	13 December 2022	469

The bottom of the screenshot shows a Windows taskbar with the date and time: "5:25 PM 2023-02-27".