



April 29, 2010

VIA WEB-FILE

Mr. Robert A. Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, ON., K1A 0N2

Dear Mr. Morin,

Re: Telecom Notice of Consultation CRTC 2010-43-2
CIPPIC's comments on behalf of OpenMedia.ca with respect to the forbearance
framework for mobile wireless data services

In accordance with paragraph 3.1 of Telecom Notice of Consultation CRTC 2010-43-2 CIPPIC is writing you today to provide you our comments, filed on behalf of OpenMedia.ca, with respect to the issue of the Commission's continued forbearance of ss. 24 and 27(2), (3) and (4) to mobile wireless data services.

As noted in our letter of March 15, 2010 to the Commission on this subject, we support the Canadian Wireless Telecommunications Association (CWTA)'s proposal made in its letter of March 10, 2010 to reapply ss. 24 and 27(2) to mobile wireless data services without unreasonable delay. Mobile wireless data services are fast becoming an important and central means of accessing broadband services in Canada. It is necessary, in CIPPIC's view, that the Commission re-establish its powers under ss. 24, 27 (2), (3) and (4), particularly in order to ensure there is no undue discrimination in the provision of such services.

We wish to reiterate our view, stated in our letter of March 15, that the current framework for assessing unjust discrimination with respect to ITMPs is that set out in Telecom Regulatory Policy CRTC 2009-657.

As noted in TRP CRTC 2009-657 at paras. 113-115, a consistent framework for assessing all manner of broadband is technically neutral and in line with the Policy Direction. CIPPIC would wish to note further that the TRP 2009-657 framework is flexible and takes into account the exigencies of different mediums. Its benefit is that it does so in a consistent and principled manner. In addition, CIPPIC notes that the framework is to be applied *ex post*, and that it is simple and reasonable, and as such its application will provide guidance to wireless broadband providers as their services develop.

In light of this, the Commission should clarify that the TRP CRTC 2009-657 framework will be used to address wireless broadband. In the alternative, the Commission should commit to examining the issue of discriminatory wireless broadband ITMPs *a priori* at a future date, as set out in para. 115 of the TRP.

We thank you for receiving our comments. If you have any questions, please do not hesitate to contact us.

Yours Truly,

A handwritten signature in black ink, appearing to read "Tamir Israel". The signature is fluid and cursive, with the first name "Tamir" and last name "Israel" clearly distinguishable.

Tamir Israel
Staff Lawyer
CIPPIC

CC: Interested parties to TNC CRTC 2010-43

Steve Anderson, Open Media
By Email only

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