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29 March 2018

By GCKey

Mr. Claude Doucet
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Mr. Doucet:

Subject: FairPlay Canada Part 1 Application to disable on-line access to piracy sites CRTC File No. 8663-A182-201800467

1. The Independent Telecommunications Providers Association (“the ITPA”) has obtained a copy of the application noted above, dated 29 January 2018, filed by the FairPlay Canada coalition (“FairPlay Canada”). Pursuant to the procedures established by the Commission in its letter dated 15 February 2018, the ITPA hereby submits its intervention on the behalf its member companies. The list of ITPA member companies can be found in the Appendix to this intervention. As these companies’ trade association, the ITPA is also requesting to be made a party to this proceeding and reserves the right to provide further comments in any subsequent stages of this proceeding if the Commission establishes further process.

2. The ITPA takes no position on the merits of FairPlay Canada’s application or its requested relief. The ITPA’s focus in this proceeding is on any eventual regime that may

be established by the Commission and the implementation and operational costs that may be associated with such a regime.

3. Internet Service Providers such as ITPA member companies would inescapably be key components of such a proposal and subject to the decisions made by the Commission regarding the list of Internet sites that would be blocked. As last mile service providers, ITPA members will also be on the front lines of customer complaints regarding the blocked sites. Responding to complaints would be an ongoing expense that will inevitably scale up based on size of the ISPs customer base and the number of sites on the blocking list.¹

4. From the perspective of the ITPA and its members the Notice-Notice regime that is overseen by Industry, Science and Economic Development Canada is analogous in many ways to, and instructive in the analysis of, the FairPlay Canada proposal. The Notice-Notice regime relies on service providers that are not vertically integrated companies to devote time and labour to the delivery and tracking of notices to end-customers to address a problem that is not of their making. To date, the government has rejected calls by the industry to implement fees regulations to compensate service providers for their efforts to comply with the regime. The Notice-Notice regime results in a situation where ITPA members (i.e. small service providers operating in high-cost environments and facing intense competition) must devote scarce internal resources to non-revenue generating activities.

5. The FairPlay proposal represents *another* layer of non-revenue generating regulatory onus on top of the Notice-Notice regime.² The fact that the source of the onus is different from the Notice-Notice regime makes no difference whatsoever.

6. The ITPA would object to any regime that imposes costs without a cost recovery mechanism for service providers. The FairPlay proposal seeks to buttress or increase the

¹ It is the ITPA's position that any complaints that may ultimately be generated by such a regime should not trigger membership in the Complaints Commissioner for Telecommunication Services nor should complaints of this nature come under the mandate of the Complaints Commissioner.

² Recent Commission decisions regarding nuisance calls, caller-ID spoofing and call filtering are additional examples of non-revenue generating regulatory obligations that are facing ITPA members.

revenues enjoyed by rights holders and it is standard business practice for any business wanting to protect its property or assets to incur costs to reduce risk. Therefore, the rights holders must be responsible for all costs, administrative and operational, incurred by service providers such as ITPA members. The absence of a cost recovery mechanism in the Notice-Notice regime is a glaring mistake that must not be duplicated under the Commission's jurisdiction.

7. The FairPlay application does not address the issue of costs that may be incurred by non-vertically integrated service providers. The ITPA submits that FairPlay Canada should, for the record of this proceeding, identify the potential cost implications for non-vertically integrated service providers. If FairPlay Canada does provide this additional information in its reply comments, procedural fairness requires that parties be permitted to comment on that information.

Yours truly,

A handwritten signature in black ink that reads "Jonathan Holmes". The signature is written in a cursive, slightly slanted style.

Jonathan L. Holmes

Cc: FairPlay Canada

Appendix

Independent Telecommunications Providers Association (ITPA)

9315-1884 Québec inc.
Brooke Telecom Co-operative Limited
Bruce Telecom
City West Cable & Telephone Corp.
Cochrane Telecom Services
CoopTel
Execulink Telecom Inc.
Gosfield North Communications Co-operative Limited
Hay Communications Co-operative Limited
Huron Telecommunications Co-operative Limited
The Lansdowne Rural Telephone Company Limited
Mornington Communications Co-operative Limited
Nexicom Telecommunications Inc.
Nexicom Telephones Inc.
North Frontenac Telephone Corporation Limited
North Renfrew Telephone Company Limited
Quadro Communications Co-operative Inc.
Roxborough Telephone Company Limited
Sogetel inc.
Tuckersmith Communications Co-operative Limited
WTC Communications
Wightman Telecom Limited

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