

CRTC Ruling on Telecom Service Provider Access to Condo Buildings

In a [recent decision](#), the Canadian Radio-Television and Telecommunications Commission (“**CRTC**”) threatened to cut off all telecommunications services to a condominium building if the condominium corporation did not provide timely access on reasonable terms and conditions to a fourth telecommunications service provider (“**TSP**”).

There were already three TSP’s providing services to TSCC No. 2322 (the “**Corporation**”). Discussions between the Corporation and Beanfield Technologies Inc. (“**Beanfield**”) failed to result in any access rights being granted to Beanfield. The Corporation’s position was that:

- The building’s infrastructure could not accommodate Beanfield’s network, as there wasn’t sufficient capacity in the existing conduits for Beanfield’s fibres;
- Allowing Beanfield to install additional conduits (which Beanfield offered to do at its own expense) would cause unnecessary disruption to residents;
- If access was given to Beanfield to construct additional conduits, the construction would have to be done by contractors approved by the Corporation;
- As there were already three TSP’s in the building there was sufficient competitive choice for residents to select a TSP.

Beanfield brought an application to the CRTC requesting that the CRTC require the Corporation to provide access to Beanfield. Beanfield also requested that access be granted on commercially reasonable terms as set out in either its standard access agreement or in the access agreements which the Corporation had previously entered into with Bell or Rogers.

The CRTC determined that at a minimum Beanfield should be entitled to access from the street to the building’s main terminal room, access to the units upon request for its services, plus access required for the purpose of installing, operating, maintaining and replacing Beanfield’s facilities. However, the CRTC felt that it was not appropriate for the terms of either the Bell or Rogers contract to apply as Beanfield was not entitled to benefit from negotiations in which it did not participate. The CRTC also did not support the Corporation’s position that Beanfield’s installations could only be carried out by contractors approved by the Corporation, on the basis that this was a term that the parties should negotiate between themselves.

Ultimately the CRTC did not order the Corporation to provide access to Beanfield. Instead, the CRTC left it to the parties to finalize negotiations for access, with strong negative ramifications for the Corporation and in particular, the residents, if Beanfield was not granted the access rights as described above:

- If access is not granted to Beanfield within 60 days, then the existing TSP’s would not be permitted to provide services to any new resident of the condominium or to any current resident who was not an existing customer of the applicable TSP.
- If access is not granted to Beanfield within 90 days, then the existing TSP’s would not be able to upgrade or modify the services currently being provided to existing customers.
- If access is not granted within 120 days, then the CRTC would consider either issuing an order requiring that access be granted to Beanfield or alternatively, issue a decision that

the existing TSP's would no longer be permitted to provide any services to the condominium residents.

The CRTC decision was aimed at facilitating competition and maximizing consumer choice, so that residents would be able to select the TSP of their choice regardless of the type of dwelling in which they resided.

This decision by the CRTC puts all condominium corporations on notice that they cannot deny timely access on reasonable terms and conditions to any new TSP.