

CANADIAN COMMUNICATION SYSTEMS ALLIANCE INC.

**Before the Ontario Standing Committee on General
Governance**

**Bill 257 – An Act to enact the Building Broadband Faster Act,
2021 and to make other amendments in respect of
infrastructure and land use planning matters**

Comments

March 26, 2021

Summary Conclusions and Recommendation

1. The Canadian Communication Systems Alliance (“CCSA”) is greatly encouraged by the introduction of the Building Broadband Faster Act (the “Act”) and commends the Government of Ontario for this important initiative.
2. CCSA’s comments are focused on, first, the scope of the Act and, second, the levels of administrative intervention – and therefore the timeliness – of remedial action under the Act.
3. CCSA recommends that:
 - the scope of the Act’s application should not be limited, by the phrase “broadband projects of provincial significance”, at s. 1 of the Act, so as to exclude the network projects of smaller proponents;
 - the process for designation of broadband network building projects at s. 27(1) of the Act be driven down to an administrative level such that the system is capable of responding to the development and proposal of new projects over time;
 - the timelines for the procedural steps for remedial action (ss. 4, 6, 9 and 24(2) of the Act) be shortened and, to the extent possible, the authority to react to compliance failures should be driven down to the lowest administrative level possible.

Introduction – CCSA’s Members

4. CCSA represents about 100 independent communications companies, from sea to sea to sea, across the country. Our members provide bundled TV, internet and telephone services to Canadians mostly living in smaller communities and rural areas.
5. Thirty-seven of those members are Ontario companies. Together, those companies offer communications services to about 95 small town and rural Ontario communities, and serve about 100,000 Ontario video customers. While we do not have exact number of their Internet customers, we do know that the number is substantially higher.
6. Simple arithmetic tells you that CCSA’s Ontario member companies tend to be very small. They average about 2,700 television customers each. The largest has about 16,000 customers.

CCSA’s Ontario Members are Building Broadband to Reach and Serve New Communities

7. In many cases, CCSA’s member companies, with their established local networks and know-how, are the best “on the ground” choice for extending broadband networks to the rural and remote areas that surround them. Those are very often areas that, because of their low population density, do not attract network investment from the big telecom companies, even with subsidized capital project funding.
8. CCSA’s members are very interested in improving their existing broadband networks and extending those networks to reach customers in the areas that surround them. Many have

applied for federal project funding under programs managed by ISED and the CRTC. We know that a number of our Ontario members are also undertaking projects funded, in part, by Ontario.

9. In that respect, CCSA's Ontario members are especially pleased to note the Province's March 2021 budget announcement of \$2.8 billion in new funding for broadband infrastructure, aimed at ensuring that every region in the province has access to reliable broadband services by 2025.
10. As examples of our Ontario members' engagement in broadband building projects, we note, that in 2019, Nexicom secured \$2.9 million of federal funding to support of the installation of three new high-speed fibre networks in its Northumberland County, Otonabee – South Monaghan and Douro-Dummer Township regions (all near Peterborough). As part of that partnership agreement, Nexicom contributed \$3 million towards the completion of the project.
11. More recently, in early March of 2021, SWIFT announced new network projects for Perth and Middlesex counties totalling about \$9 million. That figure represents a combination of funds secured by SWIFT and direct investment by CCSA members, including Mornington Communications, Tuckersmith Communications, Wightman Telecom and Execulink Telecom.
12. These are but a couple examples of broadband building projects to which CCSA's Ontario members are contributing their resources and expertise. Those projects involve the

construction of both fibre transport links to connect communities and extension of local access network facilities.

The Special Challenges of Rural and Remote Markets

13. Most of the regions CCSA members serve are rural and remote communities which are characterized by thin populations and long distances between customers. That is true even for the many small-town and rural areas that are, in fact, very close to the major urban centres. From the point of view of telecommunications economics, the environment 30 minutes outside of Toronto is a completely different universe from the urban market.

14. As the former C.E.O. of CCSA member Execulink Telecom, based in Woodstock, Ontario said, “If somebody lives 10 kilometres outside of Tilbury, for example, they might as well be in the northwest Territories”.¹

15. Unlike the big companies that serve densely populated urban markets, which speak in terms of “customers per pole”, CCSA members generally have to think about how many “poles per customer” are needed. Instead of “Fibre to the Home” they often think in terms of “Fibre to the Barn”.

¹ Keith Stevens, as quoted in CARTT.ca article “THE INDEPENDENTS: Execulink serves customers any way it can”, March 14, 2017.

16. In that respect, extension of broadband service to a new customer in such markets – especially outside the existing network footprint – may well involve kilometres of fibre strung across numerous poles or trenched along public rights-of-way.
17. The costs of such fibre extensions can run between \$10,000 - \$20,000 per kilometre. Perhaps more importantly, members tell us that it can take many months – sometimes up to two years – to secure the necessary permits for attachments to the poles and access to the conduits they need to build these networks.
18. In short, the challenge of accessing support structures represents a huge economic barrier for a small company that seeks to extend its network to reach the communities and customers which surround its existing plant. That barrier comprises elements of both cost and time. In many cases, those cost and time considerations, by themselves, are enough to discourage smaller communications from undertaking worthy new network building projects.

The Importance of Service Objectives for Smaller Providers

19. Generally, the staff and executives of the smaller communications companies that CCSA represents live and work in the communities they serve. They are closely tied to those communities and are driven as much by a desire to provide needed communications services in their communities as by a profit motive.

20. Quadro Communications, a 3,100-member telecom co-op headquartered in Kirkton, Ont., “deployed fibre to the home to every farmhouse, barn and business in its four exchanges which sit in in parts of Perth, Huron, Middlesex and Oxford counties in southwestern Ontario farm country about 45 kms north of London, Ontario.”²

21. Such investments are fundamentally uneconomic. So why do these companies do it? As John Alderman of Quadro put it, “There are areas and there are roads that make no economic sense to run the cable except there was a promise to all of our members to do it.”³

22. Another small Ontario company, Cable Cable, Inc. based in Fenelon Falls, made similar investment decisions. Cable Cable built a fibre optic broadband network to a community of about 300 homes which was situated just under nine kilometres from its existing wired plant, notwithstanding the fact that payback on investment would take about 12 years.

23. As a trade article at the time said:

We had one executive from one of the big three carriers tell us, upon hearing about this exchange: “If someone came to a meeting of ours and proposed something like that, even anything further than five years for payback, they’d be laughed out of the room – or fired.”⁴

² CARTT.ca article, “THE INDEPENDENTS: Fibre to every last farmhouse, barn and business”, December 20, 2016.

³ *Ibid.*

⁴ CARTT.ca article, “THE INDEPENDENTS: Confounding commissioners (and others) for over 30 years”, June 1, 2017.

24. We cite these examples to make the point that the smaller, locally-based communications companies are bent on ways to extended needed services to their communities even when the economic challenges are overwhelming.

25. Those companies:

- facing the economic challenges that they do, are extremely adept at stretching their construction dollars to maximum effect;
- challenged as they are regarding access to capital, need funding support for their projects; and
- lacking power as against the large entities from whom they must secure access to support structures, are especially badly impacted by barriers to such access.

Comments on the Building Broadband Faster Act

26. For all of those reasons, CCSA's Ontario members regard Bill 257 as a hugely positive and important development. We congratulate the Government of Ontario for its initiative in recognizing the barriers that exist to rolling out new broadband networks and in taking concrete steps to tackle those barriers head-on.

27. CCSA has reviewed the draft legislation but has not been party to any discussion regarding the legislation's detailed provisions or the reasons for those provisions. Bearing that limitation in mind, CCSA offers the following comments based on its review of Bill 257 and, in particular, the proposed Building Broadband Faster Act.

28. First, we are uncertain as to the scope of projects covered by the Bill. That is, we do not know what constitutes a “broadband project of provincial significance” within the meaning of s. 1, “Purpose” of the Act. We would hope that such a definition does not, by itself, exclude smaller network building projects such as might be planned by our Ontario members.
29. We recommend that the scope of application should not be limited, by the phrase “broadband projects of provincial significance” so as to exclude the network projects of smaller proponents.
30. Second, we note that, per s. 3, the Act would apply to “designated broadband projects”. Again, we would be concerned if smaller broadband building projects were to be excluded, from the outset, by a designation process.
31. In that respect, we note that the process for designation of a broadband project, per s. 27(1), requires the making of a regulation by the Lieutenant Governor in Council. To us, that raises a concern with the flexibility to apply the benefits of the legislation to projects as they are developed and proposed over time.
32. That is, it appears that, to have its planned project “designated”, a proponent would have to seek an amendment to the regulations before it could become entitled to the benefits of the legislation. We would be concerned with both the length of time required for – and the administrative costs of – such a process to a project proponent of such a process.

33. CCSA respectfully recommends that, to the extent possible, the process for designation of broadband network building projects be driven down to an administrative level such that the system is capable of responding to the development and proposal of new projects over time.

34. Third, we have some concern with the timelines involved in the enforcement processes available to the Minister or, in the Minister's stead, the Executive Council. As we understand the Act, the process would involve the following steps:

- 1) per s. 4, the Minister may provide a notice to a distributor or transmitter where the Minister is of the opinion that work necessary for the deployment of a broadband network or work proscribed by legislation has not been done;
- 2) per s. 6, the period for compliance with the Minister's notice is a minimum of 60 days;
- 3) per s. 9, once the minimum 60-day period has elapsed, the Minister may order the distributor or transmitter to comply or, alternatively, authorize the proponent to carry out the necessary work; and
- 4) Per s. 24(2), the Minister may assess an Administrative Monetary Penalty once the Minister is satisfied that a person has contravened an order issued pursuant to s. 9.

35. CCSA respectfully submits that those timelines are simply too long to offer an effective, timely response to the real-time needs of proponents who are facing barriers as they try to build new broadband nets quickly and cost-effectively.
36. We note, as well, that, to the extent that timelines are made shorter and more certain, those factors greatly assist proponents with the definition of their project proposals for both federal and provincial funding support.
37. CCSA strongly recommends that, to the extent possible, the timelines for those procedural steps be shortened. Again, to the extent possible, the authority to react to compliance failures should be driven down to the lowest administrative level possible.
38. Generally, CCSA's comments on the Act, as currently drafted, concern the ability of the proposed processes to respond quickly and efficiently to a dynamic broadband network building environment. CCSA's recommendations are intended to promote timely and flexible responses to barriers as they arise in connection with the proposal and completion of worthy broadband construction projects as they take place "on the ground".
39. To conclude, CCSA is greatly encouraged by the introduction of Bill 257 and commends the Province for addressing the significant barriers that currently stand in the way of timely and effective broadband deployment.
40. We thank the Committee for the opportunity to offer these comments.