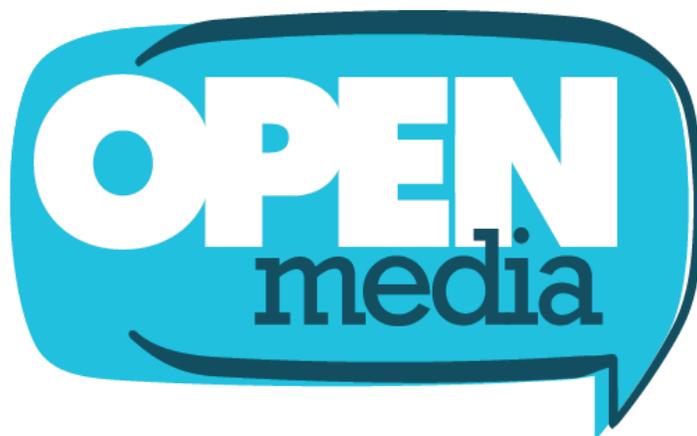


**Submission Re: Order Issuing a Direction to the CRTC on a  
Renewed Approach to Telecommunications Policy**

*OpenMedia is a community-based organization that safeguards  
the possibilities of the open Internet.*

July 19, 2022





## EXECUTIVE SUMMARY

The Canadian Radio-television and Telecommunications Commission (CRTC) is being asked to take on a growing number of essential roles for Canada's Internet, including ensuring broad access to affordable wired and wireless services, protecting consumers and Internet users from abusive practices, and a rapidly expanding set of responsibilities relating to news, media, tech, and telecom. It's our view that the CRTC has recently proved ineffective in furthering some of these goals — and at worst, actively obstructive to them. While portions of the new 2022 CRTC policy direction suggest a commitment from our government to remedy these problems, more specific concrete commitments must be made if the government wishes to see its plans for Canada's digital future succeed and our Internet flourish.

***A nonspecific and unenforceable CRTC policy direction is no direction at all.*** As of July 19, close to 5,000 members of the OpenMedia community have personally submitted their comments to this consultation urging key changes to give the new policy direction teeth. Instead of including concrete standards that will be used to hold the CRTC accountable, Cabinet's proposed 2022 policy direction only indicates that the Commission must do more to make competition and affordability a priority. In the past, without clear and binding instructions to promote affordability, choice, and competition, the CRTC has made decisions that plainly prioritized the input of incumbents over the needs of ordinary people in Canada. Everyday Canadians do not have the resources and time to directly contest telecom representatives in hundreds of meetings and hearings each year. The only way to see their interests acted on is for the new policy direction to include detailed, specific instructions and targets.

***CRTC leadership that champions the public interest first.*** The track record of the current CRTC makes it clear: when a chairperson holds past business and personal ties to the incumbents they are meant to regulate, they will tend to make decisions that benefit these companies and see things from an incumbent perspective. As such, for any new policy direction issued to the CRTC to be effective, it is absolutely essential that Cabinet appoint a public interest champion to replace Chair Ian Scott at the end of his leadership term. Over 14,000 petition signers in Canada are demanding our government appoint someone with lived experience of our telecom affordability and service gap, with a clear history of public advocacy to guarantee this requirement is met.

### ***Key Recommendations***

1. **Back the new CRTC policy direction up with concrete affordability targets** — pinned to improving Canada's performance compared to our international peers, not our own poor history of sky-high prices;

2. **Lower cell phone prices by explicitly directing the CRTC to adopt a full MVNO model.** Open our cell phone market to let low-cost alternative providers in — without the debilitating restrictions set in 2021;
3. **Prioritize undoing the 2021 Internet price hikes still felt by Canadians.** Cabinet should explicitly guide the CRTC to promptly re-calculate fair, lower wholesale rates;
4. **Make sure the CRTC protects the one telecom affordability measure that partly works: aggregated wholesale.** That means maintaining the new direction's instructions that the aggregated wholesale wired Internet system should not be phased out;
5. **Appoint a new CRTC chair to oversee the new policy direction who understands the job.** The next chair must be someone with a documented history of standing up for the interests of ordinary people, not telecom giants;
6. **Block Rogers from buying Shaw.** Upholding the government's pro-consumer instructions must start with blocking further telecom market concentration. Minister Champagne can stop the Rogers-Shaw deal immediately by indicating that wireless spectrum owned by Shaw must stay with Shaw, and may not be divested to any other party;
7. **Release a "What We Heard" report summarizing the comments received from this public consultation,** along with the government's next steps for implementing the feedback.

## INTRODUCTION

On May 26, Cabinet announced a new policy direction “*Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*” instructing the CRTC to align its decisions with telecom competition, affordability, and consumer protections.<sup>1</sup>

**Canada cannot afford for this new policy direction to fail.** As a country, we have never been so desperate for relief from our sky-high Internet and cell phone prices. Competition and choice are severely lacking in our telecom market, and monthly connectivity bills continue to climb.<sup>23</sup> Coming out of the pandemic, many people and businesses are much more dependent on online services to function, making the eye-watering cost of Canada’s Internet and cell phone services — which continue to be some of the most expensive in the world<sup>45</sup> — an increasing drag on our economy. All this, while the costs of groceries, gas, and other basic necessities are rising sharply due to inflation.<sup>67</sup>

Our lack of affordable Internet and cell phone services exists primarily because our telecommunications market is concentrated to a severe degree. According to the Canadian Media Concentration Research project’s *Media and Internet Concentration in Canada, 1984–2019* report, incumbent telecommunications companies made up 86% of the retail home Internet market based on revenue in 2019.<sup>8</sup> The situation is even worse when it comes to wireless concentration, where Bell, Rogers, and Telus make up 91% of the market.<sup>9</sup>

Apart from driving Canada’s urgent affordability problem, the damage and scale of the July 8 nationwide Rogers outage has demonstrated the considerable risks we assume as a country by allowing unchecked monopolized management of our critical infrastructure. The situation left over ten million people without essential connectivity, halted our emergency services, and had our entire banking system scrambling.<sup>10111213</sup> Rogers’ dominant market position magnified the crisis, as many customers lost both wired and wireless service simultaneously, and were surrounded by individuals and businesses also affected. Many Canadians were rudely awakened to the degree to which we have built our national network to save costs for its owners, not to be resilient in the face of issues — and with few public levers for transparency

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<sup>1</sup> Proposed policy direction to the CRTC for competition, affordability, consumer rights and universal access - [Innovation, Science and Economic Development Canada](#)

<sup>2</sup> Price Comparisons of Wireline, Wireless and Internet Services in Canada and with Foreign Jurisdictions: 2021 Edition - [Innovation, Science and Economic Development Canada](#)

<sup>3</sup> Is Canada the most expensive wireless market in the world? - [Rewheel](#)

<sup>4</sup> The state of 4G and 5G pricing, 2H2021 – country rankings - [Rewheel](#)

<sup>5</sup> Canada among top five highest costs for 100Mbps internet speed - [MobileSyrup](#)

<sup>6</sup> Inflation could go ‘a little over’ 8% as early as next week: Bank of Canada chief - [GlobalNews](#)

<sup>7</sup> Consumer Price Index, May 2022 - [Statistics Canada](#)

<sup>8</sup> Media and Internet Concentration in Canada, 1984–2019 - [Canadian Media Concentration Research Project](#)

<sup>9</sup> Media and Internet Concentration in Canada, 1984–2019 - [Canadian Media Concentration Research Project](#)

<sup>10</sup> Rogers network resuming after major outage hits millions of Canadians - [Reuters](#)

<sup>11</sup> Hamilton man was unable to call 911 during Rogers outage as sister was dying - [CBC News](#)

<sup>12</sup> Rogers outage raises concern about 911 access - [CBC News](#)

<sup>13</sup> Rogers outage shuts down Canadian banks’ ATMs, POS and internet banking - [Finextra](#)

and accountability when things go wrong. **The deeply entrenched oligopoly enjoyed by the incumbents cannot be allowed to continue unchecked when their domination is an increasingly clear threat to the safety of Canadians.**

In our current system, the CRTC plays the essential role of watching over and curbing the anti-competitive, anti-consumer activities by telecom and media companies; proposed legislation may see that role expand to many more tech companies, domestic and foreign. Carrying out this job effectively makes a huge difference to our country. If the Commission were to fulfill its policy directive by reining in these giants and effectively fostering robust, services-based competition in Canada, it would contribute significantly to the welfare of millions of people, including limiting future outages, price gouging, predatory sales, data abuses, and more.

However, the current CRTC has repeatedly demonstrated that it is not up to its current task. As the policy direction itself notes, decision after decision has moved at an unacceptably glacial pace. It raises questions about the CRTC's capacity to continue fulfilling its current mandate, let alone take on greatly expanded duties in the near future. While making telecom decisions, the CRTC has shown a clear tolerance for the current distribution of power, profits, and costs our telecom system imposes; it favours corporate giants over Canadians, and actively issues rulings that reinforce that balance<sup>14</sup> That is especially troubling in an era when incumbents are seizing greater control by attempting to absorb competitors.<sup>15161718</sup>

Fixing the CRTC so that it works for everyday Canadians, not Big Telecom or Big Tech, will require a multifaceted approach. It will require clearly expressed expectations and accountability mechanisms within the new policy direction, and selecting a CRTC chair who cares to act on them, if the federal government wishes to see its plans for Canada's digital future succeed.

## **STRENGTHENING THE PROPOSED CRTC POLICY DIRECTION**

### ***Policy Direction Will Fail if it Remains Nonspecific and Unenforceable***

The proposed direction to the CRTC to defend consumer interests and deliver increased competition and affordability is long overdue. Such aims are welcomed by thousands of people in Canada alongside public interest advocates.

In particular, the proposed direction's focus on consumer rights and market competition stands out. "Strengthening the position of consumers in their relationships with service providers, including by taking additional measures to protect consumers from unacceptable sales practices" and "Taking measures to promote clarity and transparency of pricing information and service plan characteristics in service providers' marketing materials", for example, are just two

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<sup>14</sup> FAQ: Why it's crucial Canada's next CRTC Chair be a champion for the people's Internet - [OpenMedia](#)

<sup>15</sup> Bell acquires Longueuil-based Internet provider EBOX - [Newswire](#)

<sup>16</sup> BCE completes acquisition of Manitoba Telecom Services - [BCE](#)

<sup>17</sup> Proposed Acquisition of Shaw Communications by Rogers Communications: Better Together? Report of the Standing Committee on Industry and Technology - [House of Commons](#)

<sup>18</sup> Canada orders probe into Rogers outage as doubts creep over C\$20 bln Shaw deal - [Reuters](#)

aims of the policy direction that would strongly benefit consumers.<sup>19</sup> Likewise, the government's proposed stance that the CRTC should maintain the aggregated wholesale high-speed access service regime is critical to ensuring the proposed policy direction supports robust services-based market competition — so long as it is backed up by meaningful enforcement.<sup>20</sup>

Lack of clear prioritization of these goals in recent years, and confusingly contradictory past policy directions, have enabled the CRTC to make little progress towards these aims at a time Canada can ill-afford it.

Now, close to 5,000 members of the OpenMedia community have told Innovation, Science, and Economic Development Canada (ISED) in their individual submissions to this consultation that there must be no room for the new directive to fail or be misunderstood.<sup>21</sup> Unfortunately, as proposed, the direction is vague and lacks any mechanism to evaluate how the CRTC follows through. Instead of establishing concrete methods to hold the CRTC accountable from the outset, the proposed direction contents itself with indicating that the Commission must do more to make competition and affordability a priority.<sup>22</sup>

History demonstrates why this sets up the policy direction for failure; in the past, without clear and binding instructions to promote affordability, choice, and competition, the CRTC has repeatedly made decisions that hurt people in Canada and benefitted incumbents:

- In 2018, the CRTC had to be directly ordered by Cabinet to look at the incumbents' misleading and shady sales tactics. When the Commission finally did examine the issue in 2019, it acknowledged the harmful practices but took no action to stop them.<sup>23,24,25</sup>
- In 2021, the CRTC rejected fully introducing mobile virtual network operators (MVNOs) — low-cost alternative cell phone providers — to Canada outside of the narrowest possible circumstances. Instead, the CRTC committed to a facilities-based model that has directly produced our dysfunctional cell phone market and sky-high prices.<sup>26,27,28</sup>
- For years now, the CRTC's handling of the Internet wholesale rates issue has unfairly favoured the incumbents over consumers. Their 2021 wholesale rates decision led to

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<sup>19</sup> Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy: Approach to Consumer Matters - [Innovation, Science and Economic Development Canada](#)

<sup>20</sup> Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy: Considerations for Fixed Internet Competition - [Innovation, Science and Economic Development Canada](#)

<sup>21</sup> Grab the mic NOW to shape the future of Internet prices in Canada! - [OpenMedia](#)

<sup>22</sup> Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy - [Innovation, Science and Economic Development Canada](#)

<sup>23</sup> Order in Council concerning high-pressure telecommunications sales practices - [Innovation, Science and Economic Development Canada](#)

<sup>24</sup> Report on Misleading or Aggressive Communications Retail Sales Practices - [Canadian Radio-television and Telecommunications Commission](#)

<sup>25</sup> CRTC acknowledges Big Telecom's sales practices are problematic, but without any commitment for next steps - [OpenMedia](#)

<sup>26</sup> Telecom Regulatory Policy CRTC 2021-130 - [Canadian Radio-television and Telecommunications Commission](#)

<sup>27</sup> Federal government won't intervene on CRTC's MVNO ruling - [MobileSyrup](#)

<sup>28</sup> Toothless CRTC decision guarantees more unaffordable cell phone prices for Canada - [OpenMedia](#)

Internet price hikes in Canada and hurt the ability of small providers to compete. By refusing to recalculate the rates and reverting to interim rates they knew to be unsustainable for small providers, the CRTC again demonstrated their tolerance for the current anti-consumer status quo.<sup>29</sup> According to recent CRTC data, urban home Internet prices have risen after the Commission failed to stand by its lower 2019 Internet wholesale rates and ultimately backtracked on them altogether.<sup>30</sup>

- Earlier this year, the CRTC set itself apart as the lone full-throated government endorser of the Rogers-Shaw buyout — a deal identified as harmful by the cross-partisan INDU Parliamentary committee, the Canadian Heritage committee, the Competition Bureau, and tens of thousands of people in Canada.<sup>31323334</sup> The CRTC's decision on the buyout described the potential loss of telecom competition and choice as “in the public interest”, a plain contradiction of nearly every other analysis of the deal outside of Rogers' own allies.<sup>3536</sup>

**The CRTC's tolerance of the status quo that verges on cheerleading for the incumbents will not be altered by a general request to do better.** This time, people in Canada need Cabinet's new policy direction to include actual details, targets, and enforcement.

### **Recommendations**

Fundamentally, the CRTC must work for the benefit of ordinary people in Canada — not the interests of telecom, tech, and media giants. To truly institutionalize the new policy direction at the CRTC, our government must:

1. Back the new policy direction up with reporting against concrete affordability targets — pinned to shrinking the gap between Canada's pricing performance and our international peers, not measured against our own poor history of sky-high prices;
2. Lower cell phone prices by explicitly directing the CRTC to move to a full MVNO model. Open our cell phone market to let low-cost alternative providers in — without the debilitating restrictions set in 2021;

<sup>29</sup> Submission on Petitions to the Governor in Council regarding Telecom Decision CRTC 2021-181, TIPB-002-2021 - [OpenMedia](#)

<sup>30</sup> Current trends - High-speed broadband: Lowest average reported prices of Internet packages in Canada - [Canadian Radio-television and Telecommunications Commission](#)

<sup>31</sup> Proposed Acquisition of Shaw Communications by Rogers Communications: Better Together? Report of the Standing Committee on Industry and Technology - [House of Commons](#)

<sup>32</sup> Competition Bureau seeks full block of Rogers' proposed acquisition of Shaw - [Competition Bureau Canada](#)

<sup>33</sup> Federal government hit with over 62,000 signatures of support to block Rogers-Shaw buyout - [OpenMedia](#)

<sup>34</sup> Your voice, DELIVERED: OpenMedia's latest petition to stop Rogers from buying Shaw is in! - [OpenMedia](#)

<sup>35</sup> Broadcasting Decision CRTC 2022-76 - [Canadian Radio-television and Telecommunications Commission](#)

<sup>36</sup> Disastrous Rogers-Shaw Buyout approved by CRTC - [OpenMedia](#)

3. Prioritize undoing the 2021 Internet price hikes still felt by Canadians. Cabinet should explicitly guide the CRTC to promptly re-calculate fair, lower wholesale rates;
4. Don't let the CRTC throw out the one telecom affordability measure that partly works. That means maintaining the new direction's instructions that the aggregated wholesale wired Internet system should not be phased out;
5. Appoint a new CRTC chair to oversee the policy direction who understands the job, and his core stakeholders: ordinary Canadians. The next chair must be someone with a documented history of standing up for the interests of ordinary people, and personal experience of what it is like to be poorly connected;
6. Do not let our monopoly problem get worse. Rogers is presently seeking to expand its market power by purchasing Shaw. Minister Champagne must stop the Rogers-Shaw deal, whether by announcing that wireless spectrum owned by Shaw must stay with Shaw, and may not be divested to any other party, or through other means.
7. Report on the reception of, and feedback to, the policy direction. ISED must release a "What We Heard" report summarizing the comments received from this public consultation, along with the government's next steps for implementing the feedback.

## GETTING THE CRTC LEADERSHIP ON-SIDE WITH CANADIANS

### ***Public Interest-Focused Chair Essential to Success of New Policy Direction***

Giving the proposed policy direction metrics is one matter, but will only go so far without a Commission that is motivated and up to the task. Unfortunately, today's CRTC is demonstrably out of step with the government's proposed new objectives.

Under current chair and former Telus executive Ian Scott, the CRTC has shown little interest in supporting viable telecom competition to Bell, Telus, and Rogers. Instead, Mr. Scott's CRTC has denied Canadians many opportunities for lower bills and greater choice of providers, as outlined in the above section.

Even on its own terms, the CRTC's current strategy for encouraging competition appears incoherent. Despite insisting that facilities-based competition is the only appropriate solution to our telecom affordability problems, the CRTC has stood by Rogers' plan to buy out the largest facilities-based competitor, Shaw Communications, claiming in its approval decision that "Canadians as consumers will benefit from this transaction."<sup>37</sup>

Public confidence has not been helped by Mr. Scott's cavalier attitude toward professional ethics. As has been widely reported, Mr. Scott was photographed meeting alone with Bell's CEO

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<sup>37</sup> Broadcasting Decision CRTC 2022-76 - [Canadian Radio-television and Telecommunications Commission](#)



Mirko Bibic at an Ottawa pub<sup>38</sup> — just shortly after Bell filed its appeal of the CRTC's 2019 wholesale rates.<sup>39</sup> The CRTC ultimately issued a new ruling in favour of Bell and other incumbents on the matter.<sup>40</sup> Independent Internet service providers (ISPs) have pointed out that this kind of one-on-one meeting is especially unusual for CRTC commissioners, who are generally concerned with propriety and keeping distance from industry friends.<sup>41</sup> To this day, Scott maintains he did nothing wrong.<sup>42,43</sup>

Regardless of what occurred, appointing a future CRTC chair who will maintain a strong visible and material firewall between CRTC decisions and any appearance of impropriety or undue incumbent influence is absolutely necessary to restore public confidence in the CRTC's decisions.

The expiry of Mr. Scott's term as chair this fall provides the ideal opportunity for setting a new tone and personal approach that fits with the new policy direction. It is essential that the hiring process that is currently underway for our next chair make a substantial change to get the CRTC back on track — by selecting someone who will bring a new consumer-focused telecom policy approach to every decision under their leadership.

### **Recommendations**

**Over 14,000 members of the OpenMedia community** are demanding Cabinet ensure Canada's next CRTC chair meets the following criteria (please see Appendix A for petition text and signatures):

1. Have NO ties to, or past working relationships with, telecom giants like Bell, Rogers, Telus, Shaw, and Quebecor;
2. Have demonstrated a commitment to consumer protection and welfare in their career;
3. Possess lived experience of telecom affordability challenges and/or rural, remote, or Indigenous connectivity gaps in Canada;
4. Promise to revisit the CRTC's 2021 wholesale rates decision, and the 2021 low-cost alternative cell phone provider (aka MVNO) decision, to maximize market competition and public benefit in Canada.

If our government is serious about its new goals for healthy telecom competition, affordability and choice, Ministers Champagne and Rodriguez must work together to appoint a public interest champion in Mr. Scott's place this year with clear experience prioritizing these aims.

<sup>38</sup> CRTC chairman under fire over one-on-one meetings with big telecom lobbyists - [National Post](#)

<sup>39</sup> Telecom Decision CRTC 2021-181: Telecom Order 2019-288 - [Canadian Radio-television and Telecommunications Commission](#)

<sup>40</sup> Telecom Decision CRTC 2021-181 - [Canadian Radio-television and Telecommunications Commission](#)

<sup>41</sup> Andy Kaplan-Myrth on [Twitter](#)

<sup>42</sup> CRTC chairman Ian Scott defends meeting with Bell CEO at pub - [National Post](#)

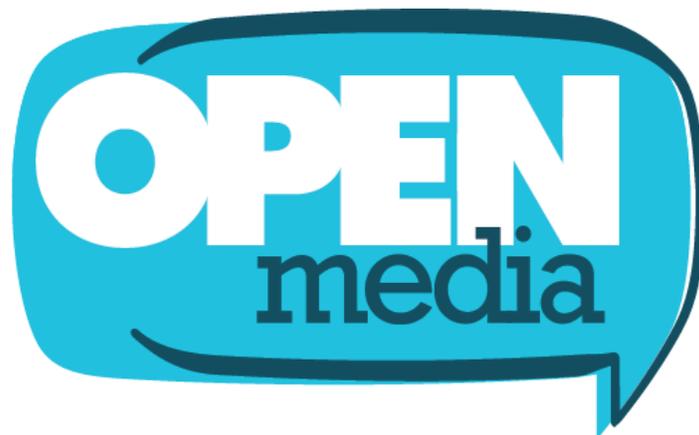
<sup>43</sup> 'No rule was ever broken:' CRTC chair Ian Scott says meeting with Bell executive was a drink with a friend - [The Star](#)

**Appendix A: Petition to Cabinet Ministers and Prime Minister Justin Trudeau**

**Our next CRTC Chair MUST be a champion for the people!**

*OpenMedia is a community-based organization that safeguards the possibilities of the open Internet.*

July 19, 2022



**(La version française suivra)**

**Appendix A: Original petition text at <https://openmedia.org/CRTCChelpwanted>**

To: Cabinet Ministers / À : *Ministres du Cabinet*

Cc: Prime Minister Justin Trudeau / Cc : *Premier ministre Justin Trudeau*

The track record of current CRTC Chair Ian Scott has made it clear: When the head of the CRTC has past business and personal ties with the corporate giants they are meant to regulate, they make decisions that benefit those giants — and hurt Canadians. / *La feuille de route du président actuel du CRTC Ian Scott est très claire : quand le président du CRTC a des intérêts et des liens personnels avec les corporations géantes qu'il doit réglementer, ses décisions favorisent ces dernières au détriment de la population canadienne.*

Our government must commit to appointing a champion for the people's Internet to replace Chair Ian Scott at the end of his term. Canada's next CRTC Chair must: / *Notre gouvernement doit s'engager à nommer un champion de l'internet abordable en remplacement du président Ian Scott à la fin de son mandat. Le prochain président du CRTC devra :*

1. Have NO ties to, or past working relationships with, telecom giants like Bell, Rogers, Telus, Shaw, and Quebecor; / *N'avoir aucun lien courant ou ancien avec les géants des télécommunications comme Bell, Rogers, Telus, Shaw et Quebecor;*
2. Have demonstrated a commitment to consumer protection and welfare in their career; / *Avoir fait preuve d'engagement envers la protection et le bien-être des consommateurs au cours de sa carrière;*
3. Possess lived experience of telecom affordability challenges and/or rural, remote, or Indigenous connectivity gaps in Canada; / *Posséder une expérience vécue des défis de l'Internet abordable ou des carences de connectivité dans les communautés rurales, éloignées ou Autochtones du Canada;*
4. Promise to revisit the CRTC's 2021 wholesale rates decision, and the 2021 low-cost alternative cell phone provider (aka MVNO) decision, to maximize market competition and public benefit in Canada. / *Promettre de réviser les décisions de 2021 sur les tarifs de gros du CRTC ainsi que sur les fournisseurs de téléphonie cellulaire à prix modique (comme MVNO) afin de maximiser la concurrence sur le marché et favoriser l'intérêt public au Canada.*

Sincerely, / *Cordialement,*

14,297 undersigned / *14,297 signataires*

*OpenMedia is a community-based organization that works to keep the Internet open, affordable, and surveillance free.*



***[Petition signatures submitted separately to protect the privacy of OpenMedia community members.]***