Dear Mr. St. Aubin:

We are writing regarding the policy directive to the CRTC published in the Canada Gazette subsequent to the Telecom Review Panel.

We applaud the directive to rely on market forces. However, the Telecommunications Review Panel has also recommended a forced access regime in respect of private buildings (Recommendation 5a). It is completely contradictory for the Panel to state a reliance on market forces, then suggest the creation a new, extremely invasive, regulatory regime in respect of building access. Building access for telecommunications companies should also be left to market forces, as they are now. This system is working well.

We understand the importance of telecommunications service providers and distribution undertakings (i.e. cable companies) having access the infrastructure elements they need to build and maintain their networks. However, we submit that the market will provide for access to buildings for telecom providers in the case where a tenant requests it. Building owners have a strong financial incentive to attract and retain tenants. If they do not, their competitors will. There is no need to force access in cases where a tenant has not requested the services of a particular telecom. There is no need to force access if the telephone room is already full of other competitors.

Ironically, rather than allowing market forces to decide whether or not access should be provided to a building (i.e. the tenant requesting a particular service), the Telecommunications Panel is suggesting CRTC should be able to force building access for telecoms without any demonstrated market need or request from a tenant, or room in the building, or rules governing occupancy.

An additional concern is that the Panel did not have any evidence before it and seems to be basing its recommendation to force building access in the absence of demand on old news of dubious validity.
The power to control access to privately owned multi-tenant buildings, without compensation and without a justifiable demand from any tenant, is an affront to private property rights in the Canadian Bill of Rights and puts us completely out of step in North America, if not the world.

Please don’t hesitate to contact us if you would like to discuss our concerns.

Regards,

Michael Brooks
Executive Director

Cc: The Honourable Maxime Bernier, PC, MP
    Minister of Industry

About RealPac

RealPac, the Real Property Association of Canada is Canada’s senior national real property association whose mission is to collectively influence public policy, educate government and the public, and ensure stable and beneficial real estate capital and property markets in Canada. Our Members currently own in excess of CDN $150 Billion in real estate assets located in the major centres across Canada and include real estate investment trusts (REITs), publicly traded and large private companies, banks, brokerages, crown corporations, investment dealers, life companies, and pension funds. Visit RealPac at www.realpac.ca.