

January 29, 1998

Consultation on 24 GHz and 38 GHz  
Radiocommunications and Broadcasting Regulatory Branch  
Industry Canada  
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To Whom It May Concern:

Subjects:        Gazette Notice No. DGRB-003-98 – **Consultation on the 24 and 38 GHz Frequency Bands: Proposed Policy and Licensing Procedures**, published in the *Canada Gazette*, Part I on September 5, 1998  
                     Gazette Notice No. DGRB-001-99 - **Consultation on the 24 and 38 GHz Frequency Bands: Proposed Policy and Licensing Procedures**, published in the *Canada Gazette*, Part I on January 2, 1999

The Canadian Wireless Telecommunications Association (CWTA) is pleased to submit the attached reply comments on behalf of its members. The CWTA's reply comments address issues raised in the comments submitted in response to the above noted discussion paper.

Sincerely,

J. David Farnes  
Vice President, Regulatory Affairs

Attachment

## **Reply Comments in response to the consultation on 24 GHz and 38 GHz**

### **Introduction**

The Canadian Wireless Telecommunications Association (CWTA) offers the following reply comments on behalf of its members. The CWTA's reply comments address issues raised in comments submitted in response to Gazette Notice No. DGRB-003-98 – *Consultation on the 24 and 38 GHz Frequency Bands: Proposed Policy and Licensing Procedures*.

The CWTA is the voice of the wireless telecommunications industry in Canada. Its members include cellular, personal communications services (PCS), enhanced specialized mobile radio (ESMR), paging, local multipoint communications systems (LMCS), mobile satellite services (MSS) and mobile radio licensees, together with trade organizations that provide equipment and services to the industry. The wireless industry has made, and continues to make, a significant positive impact on the Canadian economy.

The CWTA would like to express its appreciation to Industry Canada for extending the deadline for receipt of reply comments to January 29, 1999 from January 15, 1999. The additional comment period will give interested parties some more time to respond to comments in a thoughtful and meaningful manner.

The CWTA emphasizes that the scope of this paper is restricted to the 24 and 38 GHz auctioning process. The Association's response is based on minimal experience with auctions, and both Industry Canada and the industry can expect to learn a lot through hands-on auction experience. Accordingly, the CWTA reserves the right to modify its opinions after further experience with the auctioning process.

The failure of the Association to address the positions taken by other parties in their initial comments should not be construed as agreement with those positions.

### **Reply Comments**

The comments upon which the CWTA submits reply comments are highlighted as follows.

In its comments in response to the consultation on 24 and 38 GHz, the Canadian Broadcasting Corporation (CBC) states:

***The CBC opposes the proposed amendment of the Canadian Table of Frequency Allocations to include a primary allocation for the Fixed Service in the 25.05 – 25.25 GHz band, as well as the proposed amendment to Footnote C44, for the following reasons:***

- *This sub-band is part of the WARC-92 (24.75 – 25.25 GHz) allocation to provide 500 MHz of spectrum for Feeder-Links to the BSS stations operating in the 17.3 – 17.8 GHz band;*
- *The proposal would remove 200 MHz of protected spectrum for these feeder-links, which would add significant constraints and seriously jeopardize the use of this band. For obvious reasons, the whole 500 MHz is required for the feeder-links;*
- *Because of Footnote C44 (existing or MOD), the 24.75 – 25.25 GHz band is the only band available in Canada for Feeder-Links to the BSS stations operating in 17.3 – 17.8 GHz band;*
- *Since WARC-92, BSS developments have increased internationally, in North America as well as in Canada. The use of the 17.3 – 17.8 GHz is closer than it has ever been.*
- *Although specific sharing analyses have not been done, it is likely that it will be very difficult to share within the same geographical area these feeder-link earth stations and fixed service systems.*

*Although the CBC understands the reasons for this proposal, i.e. the requirement for spectrum for wireless broadband services and the harmonization with the U.S., the CBC is of the opinion that it would not be in the overall interest of the Canadian public to proceed with this proposal. The full 24.75 – 25.25 GHz band will eventually be required in Canada for Feeder-Links to the BSS stations operating in the 17.3 – 17.8 GHz band. This possibility should be fully protected. Considerable studies, discussions and representations were done prior and during WARC-92 to arrive at this allocation, including within CPC-WARC 92.*

*The CBC urges the Department to carry out sharing studies and explore other options before proceeding with these amendments.*

The CWTA reiterates its support of the proposed amendment to the Canadian Table of Frequency Allocations, noting that it is in the best interest of the Canadian public to proceed with the Department's proposal. The CWTA emphasizes the importance of harmonizing the frequency block arrangement with the United States (US), as this will ensure that Canadians benefit to the maximum extent possible from economies of scale, including a broader **choice of manufacturers, equipment and designs, the potential for volume cost reductions** and the provision of innovative and cost-effective services. In addition, harmonization will facilitate the financing of business ventures as well as cross-border co-ordination.

The CBC states, "The use of the 17.3 – 17.8 GHz is closer than it has ever been." The CWTA notes that ITU-R Footnote S5.517 indicates that the allocation to Broadcast-

Satellite-Service in Region 2 for the band 17.3 – 17.8 GHz only comes into effect on April 1, 2007.

The CWTA also points out, as the CBC notes, that no specific sharing analyses have been performed. As such, the Association questions on what basis the CBC has come to the conclusion that sharing between feeder-link stations and fixed service systems within the same geographical area will be very difficult. In fact, it is the opinion of the CWTA that co-ordination between the two systems will likely be possible.

The antenna performance at the satellite for the uplink is a significant factor in the equation. If this antenna has a Canada-wide footprint to enable multiple uplink sites then co-ordination would probably not be practical. The Association points out that the US has already allocated 24 GHz to the Terrestrial Fixed Service, and as such, the satellite would have to cope with these systems.

The Public Interest Advocacy Centre (PIAC) recommends in its submission that, "**... successful bidders should be required to provide a portion, not less than 10%, of their spectrum for public services, which will include health, education, libraries, community centres, etc.**" Further, the PIAC contends that, "**... licensees be required to fund research and development projects in line with the 'connectedness' and 'public services' requirements.**"

The CWTA has examined the PIAC's proposal to impose various conditions of licence on the 24 and 38 GHz auction winners and finds that they are both unnecessary and burdensome. Requiring auction winners to provide any of their spectrum for public services and imposing a research and development (R&D) licence condition would encumber spectrum purchased by entities. Such a requirement is entirely inconsistent with a market-based licensing approach, such as spectrum auctions. Accordingly, the PIAC proposal is unacceptable to the wireless industry.

Similarly, and as submitted in the CWTA's initial comments, a R&D condition of licence unfairly discriminates against and penalizes those entities that employ wireless technology versus landline technology, by introducing a cost that firms using other technologies are not required to incur. The rationale for the research and development proposed licence condition has likely disappeared as it was imposed on wireless firms before the advent of full competition across all telecommunications services.

Both licence conditions proposed by the PIAC would serve as disincentives for the use and development of broadband wireless technology. The CWTA recommends that the Department not implement these proposed conditions of licence.

In its initial comments, the CWTA states:

*The CWTA is of the view that the Department's proposed eligibility requirements might permit large private users to seek to acquire spectrum*

*through the 24 and 38 GHz licensing process. If it is the case that private users are eligible to acquire spectrum through the auctioning process, then the Association recommends that the Department's policy clearly indicate that all conditions of licences that the Department might impose are equally applicable to both carriers and private users.*

Further to these comments, the CWTA requests the Department eliminate any proposed conditions of licence that would cause a differential in costs between any auction participants. In order to hold a fair auction, the Department must ensure that bidders participating in the auction be treated equally with respect to the licence conditions that they will be subject to subsequent to the auction. As such, the CWTA supports the retention of non-discriminatory conditions of licence only.

## **Conclusions**

In summary, the CWTA reiterates the following.

The CWTA fully supports harmonization of band plans with those in the US.

The majority of the CWTA prefer Option 1, in which 700 MHz of spectrum would be assigned to broadband point-to-point or point-to-multipoint systems on an exclusive basis.

The majority of the CWTA believes that there is sufficient demand for point-to-point systems deployed on a shared, first-come, first-served basis to justify assigning two additional 50+50 MHz paired blocks for this purpose.

The CWTA recommends that the Department define "priority" and to specify the extent to which fixed services will be prioritized and how this priority will be established.

The CWTA requests Industry Canada obtain a fixed service allocation in the bands 24.25 - 24.45 GHz and 25.05 - 25.25 GHz on a primary basis for Region 2 at the next International Telecommunications Conference, no later than the year 2002.

The CWTA agrees that Tier 3 services areas should be used for the 24 and 38 GHz spectrum bands.

The CWTA recommends that an appropriate mix of large and small licences be auctioned. The Association suggests a single 400 MHz spectrum licence package at 24 GHz and one 300 MHz, one 200 MHz and two 100 MHz spectrum licence packages at 38 GHz.

While the majority of the CWTA does not support the auctioning of the bands 39.05 - 39.15 GHz and 39.75 - 39.85 GHz, if Industry Canada opts to licence these bands by

auction, the CWTA recommends this spectrum be packaged as two 100 MHz spectrum licences.

The CWTA strongly opposes a moratorium on transferability and divisibility of licences following the licensing process. The support of this position by some members of the CWTA is contingent upon the Department implementation of safeguards ensuring effective competition in the competitively licensed bands, such as an appropriate spectrum aggregation limit.

The CWTA recommends that all conditions of licence be equally applied to all licence winners and that the Department eliminate any proposed conditions of licence that would cause a differential in costs between any auction participants.

The CWTA recommends that the Department seriously rethink Licence Conditions 2 - Lawful Interception and Licence Condition 6 - R&D.

The CWTA considers Licence Condition 7 - Annual Compliance Reports to be burdensome and unnecessary, and alternatively proposes that licensees provide the Department with a copy of their corporate annual report.

The CWTA proposes that a two-month deadline be given from the date the policy is released for potential bidders to submit the requested submissions.

The CWTA recommends that the Department provide bidders with the format of the auction activity update at least four months before the auction to facilitate the creation of auction analysis software.

The CWTA recommends that any licences remaining unassigned after the auction should be assigned on an exclusive, first-come, first-served basis at the administrative price or reserve price, whichever is lower.

The CWTA finds the proposed absolute level of reserve prices to be excessively high and recommends that the reserve price be reduced to \$1175 per point.