



**Canadian
Association of
Broadcasters**

**L'Association
canadienne des
radiodiffuseurs**

May 25, 2007

Sent by email: AWS@ic.gc.ca

Mr. Len St-Aubin
Director General
Telecommunications Policy Branch
Industry Canada
1612A, 300 Slater Street
Ottawa ON K1A 0C8.

Dear Mr. St-Aubin,

Re: Advanced Wireless Services Spectrum Auction – consultation paper

The Canadian Association of Broadcasters(CAB) –the national voice of Canada’s private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks and specialty, pay and pay-per-view services –is pleased to submit these comments in response to the consultation paper concerning the upcoming advanced wireless services spectrum auction.

The CAB notes that the Minister of Industry’s role in broadcasting extends to spectrum management and the technical aspects of broadcasting, including determining frequency allotments and issuing technical certificates to broadcasting licensees. In this sense, while Industry Canada’s February 16th 2007 consultation paper is focused on spectrum allocation for advanced wireless services, several issues raised in this proceeding could also have an impact on the operations of broadcasters.

At a policy level, this proceeding raises important issues about how to ensure the most efficient use of spectrum in the Canadian marketplace, in a manner that supports the objectives of the *Broadcasting Act*, the *Telecommunications Act*, and the *Radiocommunications Act*. Individual companies will make direct representations to Industry Canada with respect to their views on how to best achieve maximum efficiency in spectrum allocation. For its part, the CAB wishes to comment on a number of issues that directly impact private broadcasters.

Advanced wireless services and the current CRTC framework for mobile TV

Many of the advanced wireless services contemplated in this proceeding include a broadcasting component, and/or offer access to the types of content traditionally associated with broadcasting services.

The CRTC currently exempts ‘mobile television broadcasting services’ from licensing requirements and associated regulations. Specifically, Broadcasting Public Notice CRTC 2007-13 *Exemption Order for Mobile Television Broadcasting Undertakings* (February 7, 2007) sets out the criteria that mobile television services must meet to be exempted from the requirement to hold a broadcasting licence.

One of those criteria is that “the undertaking uses point-to-point technology to deliver the service; that is, the undertaking transmits a separate stream of broadcast video and audio to each end-user.” These criteria were designed, by and large, to address the current generation of wireless service offerings.

The current generation of services is largely an offshoot of digital telephony, in that they transmit a separate video and audio stream for each receiver (the ‘point-to-point’ model). Next generation wireless services are likely to share a greater number of characteristics with traditional broadcasting, in that many of their signals will be able to be received by an unlimited number of receivers in the coverage area (the ‘point-to-multipoint’ model).

In this sense, depending on whether their transmission model is point-to-point or point-to-multipoint, some of the advanced wireless services contemplated in this proceeding may not automatically fall under the CRTC’s current exemption order for mobile television services.

While it remains to be seen whether these advanced services will fall under the current future exemption order or a more detailed regulatory framework yet to be determined, the next generation of advanced wireless services promises to have a greater impact on broadcaster operations than previous generations.

Foreign Investment Restrictions

Section 2.5.1. of the consultation paper notes that current Canadian ownership and control requirements impose certain restrictions on foreign investment in facilities-based telecommunications carriers in Canada, including wireless carriers. It goes on to offer the opinion that such restrictions can have a negative impact on competitiveness within the Canadian communications sector.

The CAB submits that liberalizing foreign investment rules in the telecom sphere could have a clear and direct impact on private broadcasters –separating carriage and content at an ownership level would be a hugely complex exercise when they are so closely linked at a regulatory level, and at an operational level within most companies offering both broadcasting distribution and telecommunications services.

Accordingly, the CAB strongly urges Industry Canada to undertake formal consultations with private broadcasters, and with the department responsible for Canada's broadcasting policy, before moving ahead with any proposal to relax or eliminate foreign investment requirements for facilities-based telecommunications carriers.

Other issues

Given that this process launched by Industry Canada relates to the next generation of wireless services providers, the CAB respectfully submits that the policy outcome, whatever it may be, should not impact directly on other spectrum allocation issues.

More specifically, the CAB notes that L-band spectrum is reserved for use by broadcasters. Broadcasting Public Notice CRTC 2006-160 announced the CRTC's new policy relating to digital radio, including a call for revised digital radio strategies. The CAB is an active participant in that proceeding, and is currently developing strategies that require continued access to L-band spectrum. Any attempts to reallocate L-band spectrum would frustrate broadcasters' current business plans and could compromise the CRTC's Digital Radio Policy.

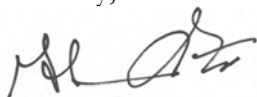
Conclusion

The CAB recognizes that the main purpose of this consultation paper is to seek comments on the more technical points of how this advanced wireless services spectrum auction should function. At the same time, the CAB notes that the consultation paper and many of the surrounding public discourse raise significant issues for Canada's private broadcasters.

In today's integrated communications environment, any changes to ownership or operating rules for either wireless service providers, BDUs or broadcasters will have a direct impact on all other players in the system. Accordingly, it is in the interest of all stakeholders that the Government of Canada take as holistic a view as possible, taking into account the consequences of policy changes in one segment of the communications marketplace on all other segments.

The CAB appreciates the opportunity to offer these comments.

Sincerely,



Glenn O'Farrell
President and CEO

C.c. CAB Joint Board of Directors
Hon. Maxime Bernier, Minister of Industry
Hon. Bev Oda, Minister of Canadian Heritage and Status of Women
Konrad von Finkenstein, Chairman of the CRTC