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May 23, 2007

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

Dear Mr. St-Aubin:

**Re: Canada Gazette, Part I, Vol. 141, No. 8 — February 24, 2007
Notice No. DGTP-002-07— Consultation on a framework to auction spectrum in
the 2 GHz range including Advanced Wireless Services**

The CME Perspective

Canadian Manufacturers & Exporters (CME) is Canada's largest trade and industry association. Its mandate is to promote the competitiveness of Canadian manufacturers and enable the success of Canadian businesses in world markets. CME's membership is drawn from all sectors of Canada's manufacturing and exporting community, and from all provinces and territories. Over 85% of CME's members are small- and medium-sized enterprises. The association also represents Canada's leading global enterprises. Together, CME's members account for an estimated 75% of total manufacturing production in Canada and 90% of Canadian exports.

The industry perspectives represented in this submission are those of both the manufacturers of telecommunications equipment and Canada's manufacturing sector as a whole. Manufacturing is Canada's single largest business sector with shipments exceeding \$600 billion this year. It accounts for over two-thirds of Canadian goods and services exports. The sector directly employs more than two million Canadians.

Business success in manufacturing depends on a telecommunications services sector that has the capacity and capabilities to provide globally networked systems to support the future of manufacturing. The wireless telecommunication sector is a critical player within the broader telecommunications industry and requires a policy framework that will allow it to respond to the evolving demands and competitive needs of Canada's manufacturers and businesses.

The auctioning of spectrum for advanced wireless services presents an important opportunity for government to revisit its existing policy framework for the wireless sector and ensure that the policies governing the upcoming auction of spectrum support the competitive and economic policy goals which the government has set for Canadian industry.

Basic Principles for Public Policy in the Wireless Industry

Wireless services provided in Canada have been largely unregulated for many years. Industry Canada and the CRTC have substantially relied on market forces to govern the wireless market. There is no regulation of the features, equipment, prices and delivery of these services. The wireless services market has achieved success, from the perspectives of suppliers and customers alike, that far exceeds what was envisioned when these services began over twenty years ago. In fact, the key characteristics of the Canadian wireless sector – namely, competition, decreasing prices, and service innovation – have flourished in large measure because of the market-forces approach of government and minimal regulation of the industry.

In CME's view, a policy framework based on market forces and minimal intervention will continue to ensure that competition will shape the development of the wireless sector. This approach will result in Canadians realizing optimal outcomes in terms of pricing, availability, and innovation in services. The auction to allocate valuable spectrum for the development of advanced wireless services is an important opportunity for government to confirm and continue its successful policy of relying on market forces in this sector.

Specific Questions in the Consultation Paper

I. "In consideration of the present circumstances, the Department seeks comments on whether there is a need for measures intended to enable market entry in the AWS spectrum auction."

In CME's view, Canada should maintain a market-oriented policy framework.

The optimal, most efficient outcomes in the wireless industry will be achieved by means of market forces – not by government restraining the auction to favour some companies over others. The government can best fulfill its role by making spectrum available, auctioning that spectrum in a process that is open to all interested parties on equal terms and conditions.

A market-forces framework provides clear incentives for investment. The wireless industry has invested over \$20 billion since its inception and needs to further invest to build the capacity and connectivity necessary to support the complex, high-speed, integrated, and globally distributed information systems and communications networks required within manufacturing companies and across global supply chains.

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New Entrant Spectrum Set-aside (Section 2.7.1)

"One method [of facilitating competitive entry] is to set aside a certain amount of spectrum for which only new entrants would be eligible to bid."

II. The Department seeks comments as to whether a certain amount of spectrum should be set aside for new entrants. Comments should include a precise description of those who should or should not be entitled to bid.

An unrestrained auction ensures the most efficient allocation of the resources and yields the highest returns for Canadian taxpayers. A set-aside of spectrum would mitigate both those outcomes to the detriment of Canadian taxpayers.

Denying certain players the opportunity to participate in the auction of certain blocks of spectrum will result in fewer bidders for those blocks and by extension, lower prices being paid. Those who are allowed to bid on the set-aside auction would in effect be subsidized as a result of the reduced bidding competition imposed through this policy. This would not lead to the most efficient or most productive allocation of resources through the auction process – nor, ultimately, to the most competitive provision of services to Canadians.

To intervene in an established market in this way, the government must have a strong public policy rationale based on clear evidence of a problem. Neither the government, nor any other party, has presented compelling evidence of any problem in the wireless market.

Spectrum Aggregation Limit on Auctioned Spectrum (Section 2.7.2)

“Another method of assisting market entry that has been used successfully is . . . spectrum caps.”

III. “The Department seeks comments as to whether an auction spectrum aggregation limit should be placed on the amount of spectrum that can be acquired by a single wireless service provider and its affiliates. Comments should include the amount of spectrum for the auction spectrum aggregation limit, to which bands it should apply and the duration.”

Spectrum aggregation limits are another form of market intervention by government that require a strong public policy rationale. Technological change is a key driver for spectrum acquisition by wireless providers. Without spectrum, one cannot offer the next generation of services. One cannot predict, however, the need for spectrum by any one player. For government to impose a limit on the amount of spectrum which a wireless provider can acquire, would suggest that government knows better than the actual operating firms just how much spectrum is required to operate a wireless business in the future. Forecasting a provider’s spectrum needs is a complex task best left to firms who are prepared to risk their own capital. The trade-off of risk and reward in the wireless industry is not a decision-making process where government intervention is warranted.

Mandated [Digital] Roaming (Section 3)

“The Department notes that digital telephony roaming service is commonly available to foreigners traveling in Canada or to Canadians traveling in many regions of the world. It is expected that Canadian subscribers of any carrier would benefit from similar roaming services. As mobile services have become an important service to many Canadians, it is important that all networks be fully integrated into the national telecommunications networks.”

IV. The Department invites comments on mandating incumbent mobile wireless operators to offer roaming services – to both competing and non-competing Canadian carriers – to foster the development of competitive wireless communication services.

V. Comments are invited on the extent to which the lack of mandated roaming could be a barrier to entry into the wireless market.

Mandated roaming would be a form of regulatory intervention that has not been necessary in the history of wireless in Canada. Roaming arrangements are currently commercially negotiated in Canada and internationally. There is no rationale presented in the consultation paper to indicate the need for government to mandate roaming arrangements between carriers and new entrants.

If wireless carriers are forced to make their investment in upgraded infrastructures available to competitors on terms regulated by the government, this will only dampen the incentive for carriers to make such investments in the first place.

Closing comments

In 2005, CME articulated a set of principles for Canada's policy approach to telecommunications. The Minister of Industry has taken important steps to implement many of those principles which affect the regulation of telecommunication services. In the current consultation, we believe the government has an opportunity to ensure that the wireless sector continues to be governed by market forces, not intrusive regulation, and that wireless telecom policy stays aligned with the government overall policy framework for telecommunications.

In the wireless sector, no less than elsewhere in telecom, the evolution of telecommunication services should be driven by market forces – not by government policy or regulation. The development and application of new wireless services, relying on new technologies, requires spectrum. Every player – existing or prospective – must have a chance to bid on all of the spectrum that will result in these new services. Canadians will realize the best outcomes from the spectrum auction ultimately if the government relies on market forces as its guiding policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Jayson Myers". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jayson Myers
Senior Vice President
& Chief Economist