



June 27th, 2007

**By E-Mail: AWS@ic.gc.ca
and REGULAR MAIL**

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

**Re: Canada Gazette Notice DGTP-002-07, Consultation on a Framework to
Auction Spectrum in the 2GHz Range including Advanced Wireless
Services (Canada Gazette, Part I, Vol. 141, No. 8 — February 24, 2007)**

Dear Mr. St-Aubin,

Please find attached the reply comments of Bragg Communications Inc., carrying on business as EastLink ("EastLink"), in response to Canada Gazette Notice DGTP-002-07.

We appreciate the opportunity to provide our views to the Department.

Yours very truly,

Lee Bragg

Co-CEO
EastLink

Attachments

Reply Comments - Consultation on a Framework to Auction AWS Spectrum

1. Bragg Communications, carrying on business as EastLink ("EastLink"), hereby provides its reply comments in relation to Canada Gazette Notice DGTP-002-07, *Consultation on a Framework to Auction Spectrum in the 2GHz Range including Advanced Wireless Services* (the "Consultation Document").
2. EastLink is a prime example of the benefits that a competition-oriented framework has produced for both competitors and consumers in the wireline telephony market. EastLink believes that its presence as a competitor has not only increased choice for Maritime residents and businesses, but it has also played a significant role in increasing the quality of the services and products available to consumers. EastLink wants to see the same value and innovation brought to the wireless telephony market. To that end, EastLink reiterates herein the key proposals set out in its comments of May 25, 2007. EastLink believes that adoption of these proposals is necessary to abolish the significant barriers to entry that exist for potential new entrants to the wireless market, and to ensure that the spectrum auction contributes to the achievement of the Canadian telecommunications policy objectives by enhancing the competitiveness of Canadian telecommunications and rendering reliable and affordable telecommunications services of high quality accessible to all Canadians.
3. First and foremost, EastLink submits that setting aside spectrum for new entrants is the most efficient means of ensuring a competitive post-auction marketplace. The inability to acquire spectrum represents one of the most significant barriers to entry for new entrants to the wireless market and, in the absence of measures to ensure the availability of spectrum for new entrants in the upcoming auction, there exists a real potential for the incumbents to preclude market entry by either buying all available spectrum (or all spectrum licenses for strategic locations), or by ensuring potential new entrants pay a sufficiently high premium for spectrum to seriously compromise their ability to succeed. Accordingly, EastLink has proposed that 20+20 MHz of spectrum be set aside for "new entrants" (as that term is defined in EastLink's comments of May 25, 2007) to ensure that new entrants have sufficient spectrum to provide service to a viable market share and to deliver a full range of services and applications.
4. Additionally, in order to ensure the survival of new entrants, EastLink submits that measures aimed at providing spectrum for new entrants must be paired with measures that mandate access to roaming across the incumbents' networks, as well as access to the incumbents' antenna supporting structures.
5. The inability to provide roaming capability represents a significant barrier to entry. Because the incumbents control the majority of the network across Canada, they have the capacity to completely shut out new entrants by either refusing to enter into roaming agreements, or by refusing to enter into such agreements on reasonable terms and conditions. Accordingly, EastLink has proposed that Industry Canada ("the Department") mandate technology neutral roaming with the same conditions found in the United States (namely, that the service is already available from an incumbent in a given area, and, that the end user device is compatible with that service).

6. Similarly, EastLink submits that access to antenna supporting structures is a significant barrier to entry since a new entrant who has successfully obtained spectrum will be severely limited in its ability to establish service if it cannot access antenna support structures on reasonable terms and conditions, and within reasonable timeframes. Accordingly, EastLink has proposed that the Department require Canadian carriers to grant approval to share tower infrastructures within a reasonable timeframe when requested by a third party.
7. This is a crucial time for the wireless industry in Canada. As noted by the Department in the Consultation Document, spectrum is a finite resource that can only be accessed periodically. Accordingly, the upcoming spectrum auction is, in many respects, the last meaningful opportunity to introduce further competition to the wireless market. For that reason, EastLink submits that, on a balance of probabilities, the benefits of establishing measures to enhance opportunities for new entrants far outweigh any risks posed by such measures. TELUS President and CEO Darren Entwistle has, himself, recently acknowledged the appropriateness of using such measures to ensure that adequate competition exists in the wireless market. Last week, Mr. Entwistle was widely quoted in the media as having stated that, if the proposed merger of BCE and TELUS had taken place, TELUS would have supported setting aside spectrum for new entrants in the coming auction, and would have allowed a new entrant to use its towers and roam on its network on favourable conditions.¹
8. Once again, EastLink wishes to thank the Department for the opportunity to offer comments on the proposed framework. EastLink submits that its proposals as summarized herein (and as set out in greater detail in EastLink's May 25, 2007, comments) represent reasonable means by which the Department can ensure that new entrants not only have a viable opportunity to obtain sufficient spectrum with which to establish a competitive service, but also access to the additional structures necessary to implement the service. EastLink believes that both competitors and consumers alike will benefit from a regime that fosters increased competition, and the innovation and reduced pricing that typically follow new entry.

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¹ See, for example, "Entwistle's 'Belus' a national champion?", Globe and Mail, June 22, 2007.