

Comments Filed by RipNET Limited in  
Reply to Comments filed in Response  
to:

Canada Gazette No. DGTP-002-07 –  
Consultation  
On a Framework to Auction Spectrum  
in the 2GHz Range including Advanced  
Wireless Services

June 25, 2007

## **Background**

1. Pursuant to Notice No. DGTP-002-07 (the "Notice"), RipNET Limited ("RipNET") files these comments on various submissions filed in response to the above-noted Consultation
2. RipNET is a privately-owned Internet Service Provider ("ISP") based in Brockville, Ontario. RipNET offers a range of Internet access services including dial-up, DSL and wireless broadband.
3. RipNET's service area for wireless broadband service is southeastern Ontario including the United Counties of Leeds Grenville, Lanark and Frontenac Counties. RipNET's wireless network uses licensed spectrum in the 3.5GHz band.
4. RipNET built its wireless network in 2003 and currently provides wireless broadband service to some 2,500 wireless customers.
5. RipNET's mission is to provide broadband service to rural residents and businesses that are beyond the reach of DSL and cable. Wireless technology is the only technology that can provide reliable and affordable service to rural customers.
6. RipNET uses licensed spectrum to maximize the robustness of its network, maximize upload and download speeds and minimize the inevitable interference issues experienced by wireless broadband networks that use unlicensed spectrum.
7. The majority of submissions in response to the Notice focus on the potential of spectrum in the 2GHz range for the establishment of new cellular telephone networks. According to those submissions, new cellular networks hold great business potential. However, those submissions ignore the potential that this spectrum holds for other uses - notably its potential to deliver wireless broadband services to rural Canada.
8. RipNET supports those submissions that suggest Industry Canada should consider the potential of spectrum in the 2GHz range to bridge the gap in broadband availability when comparing urban and rural Canada. RipNET suggests that Industry Canada should consider what is in the greater public interest - whether it is to use this spectrum to establish additional cellular networks or whether it is to use it to level the playing field of broadband availability for all Canadians, regardless of where they live. RipNET supports those submissions that recommend Industry Canada should reconsider the basic structure of the proposed auction process so that the process can be redesigned to address the needs of rural Canada.
9. RipNET's lack of specific comment on submissions - notably those of the incumbent wireless carriers - should not be interpreted as indicating its support of the positions taken in those submissions.

## Comments filed by Barrett Xplore Inc.

10. The submission filed by Barrett Xplore Inc. (Barrett), in RipNET's view, has correctly identified that the needs of rural and urban Canada are materially different and wireless broadband technology can play a much more vital role in rural Canada.

"The characteristics of rural and remote areas of Canada, notably lower population density, make wireless broadband technology and the availability of wireless spectrum, so much more important for rural areas, than for urban/suburban areas. In these latter areas, there are considerable "wired" alternatives such as DSL, fibre, and cable modem services available to serve residences and businesses."<sup>1</sup>

11. RipNET's experience in providing wireless broadband confirms that the economics of serving a low density rural area are materially different from the economics of serving a high density urban or suburban area.
12. RipNET believes Barrett is correct in taking the position that the auction process is flawed in that it does not address the needs or characteristics of rural and remote areas of Canada.

"We believe that the proposed award process fails the rural market in a number of significant way:

1) Auctions are clearly attractive to the Government of Canada in terms of the funds which can be generated. Auctions as currently constructed add considerably to an already challenged economic model for rural broadband. Perhaps, it can be argued that auctions are the only market-based approach to award spectrum: however, with greater cost pressure on the economic mode,, competitive entry is discouraged and greater are the calls for government or public subsidy."<sup>2</sup>

2) "Of equal concern are current market or licensed area definitions which include significant rural areas with larger urban markets. In an auction process, rural broadband providers are severely discouraged from, and disadvantaged in bidding for these licenses. It would be uneconomic to bid for the entire iicense and to carry the cost burden of the true urban market area, when it is simply the rural market area which the rural provider seeks."<sup>3</sup>

13. The market definitions are a major issue for a company like RipNET that wants to serve a rural area. For example, based on the current license area definitions outlined in the Notice, if RipNET wanted to bid for licenses that cover its current rural service area, RipNET would have to bid on licenses that serve the Ottawa GTA. The area covered by licenses assigned to Brockville barely reaches the rural areas that RipNET serves. The opening bid pricing for licenses is based on the population base. To buy the licenses it needs to reach the United Counties of Leeds Grenville and Lanark County, RIPNET would have to bid on spectrum priced on the population that would be

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<sup>1</sup> Barrett Xplore Inc., May 25, 2007, Page 7

<sup>2</sup> Ibid., Page 8

<sup>3</sup> Ibid., Page 9

reached by serving the Ottawa GTA. Clearly the revenue potential of the rural area would not justify the cost of the spectrum.

14. RipNET agrees with Barrett's suggestion that there should be distinct separate licenses covering rural areas.
15. RipNET supports Barrett's call for Industry Canada to reconsider the basic structure of the proposed auction process so that the process can be redesigned to address the needs of rural Canada.

"We ask that Industry Canada reflect on i) the differential characteristics of rural Canada; ii) the priority for closing the digital divide; and iii) the imperative for developing a competitive rural broadband and telecommunications market with real choice. Industry Canada should reorient the entire discussion of spectrum in a manner which gives new technology players a fighting chance to deliver service where the established players have chosen not to aggressively engage."<sup>4</sup>

16. Based on the current market definitions, and the complete disregard in the proposed auction structure for the unique economics associated with serving a scarcely populated rural area compared to a densely populated urban area, it would be virtually impossible for a company like RipNET to participate in the auction.
17. Further, based on experience to date across Canada with licensed spectrum, if a company like RipNET that is committed to serving a low density rural area does not participate in the auction, it is highly unlikely that rural Canada will benefit from the capabilities of the spectrum for the foreseeable future.

#### **Comments filed by the Commissioner of Competition**

18. RipNET supports the recommendation made by the Commissioner of Competition regarding an effective means to prevent anti-competitive behavior by incumbents.

"If the Department finds that an incumbent firm or group of firms possesses significant market power and may act anti-competitively to maintain or enhance that market power, rather than restrict incumbent participation completely the Department can issue bidding credits to potential entrants, effectively discounting their auction price for spectrum."<sup>5</sup>

#### **19. Comments filed by MIPPS Inc.**

20. RipNET agrees with MIPPS Inc. ("MIPPS") that tower sharing should be mandated and exclusive rooftop arrangements prohibited to enable the build-out of new entrant networks.

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<sup>4</sup> Ibid., Page 13

<sup>5</sup> Comments of the Commissioner of Competition, May 25, 2007, Page 37

21. In its submission, MIPPS refers to recommendations made by the Telecom Policy Review Panel ("TPRP") that the CRTC should be empowered to regulate tower access and exclusive roof rights.

Recommendation 5-5

The CRTC should be empowered to regulate and promote the sharing of antenna towers used for telecommunications purposes, resolve disputes regarding tower access, and enforce its regulations in an effective and timely manner."<sup>6</sup>

Recommendation 5-6

The CRTC should be empowered to prohibit wireless carriers from entering into exclusive arrangements for locating telecommunications antennas on rooftops and, in those cases where building owners and wireless service providers are unable to agree on terms and conditions of access, should be empowered to resolve the dispute on such terms as it considers appropriate, with its rulings binding on the parties."<sup>7</sup>

22. RipNET agrees that it would be useful for the CRTC to be empowered to deal with tower and rooftop related issues.

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<sup>6</sup> MIPPS Inc., May 25, 2007, Page 14

<sup>7</sup> Ibid., Page 15