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Mr. Leonard St-Aubin
Director General
Telecommunications Policy Branch
Industry Canada
1612A, 300 Slater St.,
Ottawa, Ontario
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BY EMAIL

Re: Comment to Canada Gazette, Part I, Gazette Notice DGTP-002-07 dated February 16, 2007 and entitled “Consultation on a Framework to Auction Spectrum in the 2 GHz Range including Advanced Wireless Services”

Dear Mr. St-Aubin,

Thank you for the opportunity to comment on this important Gazette Notice.

Please note that I am responding as an interested individual rather than on behalf of any corporation or association, having recently retired from a career in the Canadian wireless telecommunications industry.

Although I did not actively participate in the subcommittee which formulated the Radio Advisory Board of Canada's (RABC) comment to this Gazette, as chair of the parent Mobile and Personal Communications Committee (MPCC), I have reviewed the document and fully support it.

Please note also that I have not participated in the development of the Canadian Wireless Telecommunications Association (CWTA) response to this Gazette. I have, however, read a final draft of CWTA's comments and therefore am able to state that I fully support the CWTA view with only minor exceptions as noted below. Given that that is the case, I will only address certain specific areas in these comments, and wherever I am silent on any particular aspect of the Gazette, you may assume that my view aligns with that of the CWTA for that particular item.

Personal Background

I expect that my background and credentials will be well known to most readers of these Gazette responses, but for those who may not be familiar I will offer a brief history.

My formal training is as a radiocommunications (electrical) engineer. I was employed for a number of years for Lenbrook Industries, a major supplier/vendor of radiocommunications equipment in Canada.¹

In 1983, I founded Clearnet Communications, a radiocommunications service provider (or “carrier”), which grew to become a major Canadian wireless telecommunications carrier. I was President of Clearnet for most of the 1980s, and served both as Clearnet’s Chairman of the Board and as its Executive Vice-President of Regulatory/Technology for most of the 1990s.

In 1995, Clearnet applied for and received one of the two “new entrant” PCS licences, and Clearnet PCS service was launched in 1997.

In 2000, TELUS acquired Clearnet, and for the next 6 years I served as Executive Vice-President – Regulatory at TELUS Mobility.

Through these roles, I have been involved in virtually all major spectrum and regulatory proceedings in Canada over the last 25 years that have related to mobile and personal wireless communications, and have participated on many association and industry committees in connection with these activities.

As noted above, I continue to this day to chair the Mobile and Personal Communications Committee of the RABC.

At CWTA, I served as Chair of the Spectrum Policy Committee and on the board of directors for a number of years, including as Chair of the Board for 2005 and 2006.

Perhaps what may be most useful and relevant in this specific proceeding is my experience both as a new entrant service provider as well as an incumbent carrier.

Comments

1. Spectrum Allocation and Harmonization

I support the Department’s proposals regarding the release of the three spectrum bands, 1670-1675 MHz, 1710-1755/2110/2155 MHz and 1910-1915/2000-2005 MHz. I have been a long term supporter of the harmonization of Canadian spectrum allocations and bandplans with North America and with the US specifically. Therefore, it should come as no surprise that I support the

¹ I presently serve as Chair of the Board of Lenbrook.

Department's proposal to proceed in this direction again here. I also support the proposed changes to the spectrum allocation table.

2. Treatment of Incumbent Licensees

I support the Department's proposals regarding the treatment of incumbent licensees in the band.

3. Free Market Forces vs. Government Intervention

In my view, the Canadian wireless industry today is healthy, vibrant, and robustly competitive. It has served and continues to serve Canadians extremely well and has done so largely because government has allowed market forces to work.

While the government should continue to encourage competition, in my view there is absolutely no need nor reason for the government to artificially create an additional carrier or otherwise interfere in the wireless market at this time. Free market forces are working well and should be allowed to continue to perform in a natural manner.

I believe that the potential benefits for Canadians resulting from the introduction of a new wireless carrier will actually be very marginal at this point. This must be weighed against the harm that can be caused by subsidizing unviable entry. Indeed, until just a couple of years ago, we had an additional national carrier, Microcell, however that company effectively failed not just once but twice, at an enormous cost to investors, many of whom were Canadians. With penetration at an all-time high in Canada and prices lower than ever before, there can be no doubt that the difficulty, risk and investment required to viably enter the market today is far greater than it has ever been before.

Having said that however, if someone is willing to take that risk and make the necessary investments, they should not be prevented from doing so.

Therefore, I submit that the auction should be unfettered to the greatest degree possible and there should be no spectrum "set-aside" or artificial subsidization of a new entrant. If someone wishes to take the risk and make the investment to enter at this point, nothing prevents them from doing so using such an auction approach.

4. Spectrum Aggregation Limits

One area where I differ slightly from the CWTA position is regarding the matter of an auction spectrum aggregation limit, particularly in respect of the 90 MHz of spectrum at 1710-1755/2110-2155 MHz². Without any spectrum aggregation limit at all, it would technically be possible for one single entity to acquire all of

² I exclude the 1670-1675 MHz and 1910-1915/2000-2005 MHz portions of spectrum due to their small sizes of 5 and 10 MHz, respectively.

the spectrum in the auction. While the likelihood of such an outcome is extremely low from a practical perspective, in my view should it occur a significant imbalance in spectrum holdings would result that over the longer term could potentially become problematic for healthy competition.

Therefore, I would favour a “light-touch” spectrum aggregation limit to specifically thwart such an outcome. My preference would be to adopt a spectrum aggregation limit of 50 MHz specifically for this auction, but I would also have little difficulty with 40 MHz. Anything less becomes problematic as a 30 MHz limit would effectively eliminate bidding competition amongst the three large incumbent carriers, and 20 MHz would effectively be a “set-aside”.

5. Mandated Roaming

Clearly, most new licensees will need to be able to offer their clients the capability to roam beyond their own licence boundaries to be commercially successful. Ideally, agreements regarding roaming ought to be commercially negotiated between the carriers. The rates ought to be such that they do not give the new entrant a “free ride” for the use of the existing carriers investment and network and thus disincen nvestment by the new entrant, whilst they also ought to appropriately recognize the new entrant’s carrier status.

Therefore, I believe the government ought to encourage all parties to negotiate and enter into such arrangements. However, I submit that the government ought to refrain from mandating roaming, other than as a last resort should it become clear that it is required.

6. Block Sizes for 1.7/2.1 GHz Spectrum

I support the Department’s proposed block sizes, as they are harmonized with the US.

7. Tier Sizes

Another place that I differ to some degree from CWTA is that I prefer the use of Tier 2 service areas throughout. In my view, while national licensing was very beneficial in the early days of cellular and PCS and may be beneficial again in the future, at this point with national wireless systems having been built and the much higher level of frequency agility of today’s wireless technologies, it seems there is little need to restrict licence availability to national. On the other hand, in my opinion the use of Tier 3 or Tier 4 service areas will unduly fracture the spectrum and reduce spectrum efficiency, along with unnecessarily creating significantly higher levels of engineering and administrative complexity.

8. Clarification of the Licence Renewal Process

The Department has never clarified the licence renewal process for licences acquired by way of spectrum auction. It should do so as soon as possible to provide clarity and confidence not only to potential bidders, but also to existing licensees. For example, will the licence simply be renewed for another 10 or 15-year term for a small administration fee, will a licensee have to pay annual licence fees going forward, or will the licensee be expected to pay the auction price a second time for the next term?

I trust that you will find these comments to be of value,

Yours Very Truly

Robert C. Simmonds