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December 4, 1998

Mr. Jan Skora
Director General
Radiocommunications and Broadcasting Regulatory Branch
Consultation on 24 GHz and 38 GHz
Industry Canada
Room 1559D, Jean Edmonds Tower North
300 Slater Street
Ottawa, Ontario
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Subject: Gazette Notice No. DGRB-003-98
**Consultation on the 24 and 38 GHz Frequency Bands:
Proposed Policy and Licensing Procedures**
Published in the *Canada Gazette, Part I* dated September 5, 1998

Dear Mr. Skora:

1. Mobility Canada is pleased to offer the following comments on behalf of its member companies in response to certain of the issues raised in Gazette Notice No. DGRB-003-98 – *Consultation on the 24 and 38 GHz Frequency Bands: Proposed Policy and Licensing Procedures*.
2. Mobility Canada's comments are offered on behalf of the following member companies BCE Mobile Communications Inc., BC TEL Mobility, The Corporation of the City of Thunder Bay Telephone, Island Telecom Inc., Manitoba Telecom Services Inc., MT&T Mobility Inc., NBTel Inc., NewTel Mobility Limited, Québecel Mobilité, SaskTel Mobility, TELUS Mobility Inc., Nortel Mobility Inc., Northwestel Mobility Inc., Prince Rupert City Telephones and Télébec Mobilité (collectively, "the members").

3. Mobility Canada welcomes Industry Canada's initiative in making spectrum available for the deployment of broadband wireless applications in the 24 and 38 GHz frequency bands. In this regard, Mobility Canada supports the Department's view that providing timely and efficient access to spectrum is one way to enable Canadian service providers to compete and succeed in the global information economy, while at the same time advancing Canada's connectedness agenda.
4. In this submission Mobility Canada offers its comments on three aspects raised for consideration in the Department's consultation paper. These are: (1) the proposed policy on eligibility requirements; (2) the proposal for a three year moratorium on the transferability / divisibility of licenses; and finally (3) service roll-out requirements.

Comments are sought on the eligibility requirements proposed.

5. Mobility Canada supports Industry Canada's position, given the anticipated highly competitive nature of the marketplace that will be served by 24 GHz and 38 GHz licensees and in light of general principle 1, that restrictions on bidder eligibility are not necessary. Nor, in the view of Mobility Canada's members, would such restrictions be appropriate given both current and anticipated circumstances existing in the market.
6. Mobility Canada notes, for instance, that service providers with wireless broadband capability, e.g. Local Multipoint Communications Systems (LMCS), have already been licensed by the Department and are present in the marketplace. Moreover, and although licensing has been temporarily deferred, the Department has allocated even further wireless broadband spectrum, in the 25 - 28 GHz bands, for future use thereby substantially increasing the wireless broadband spectrum available in the market. Mobility Canada submits that it is clear, therefore, that licensees in the 24 and 38 GHz frequency bands will indeed be operating in a competitive marketplace.
7. Mobility Canada submits that spectrum caps are an artificial constraint that need not be applied, since the existence of market based auctions and the number of players in the local services market will prevent the ability of any player to limit competition or exercise market power. In light of the above, Mobility Canada submits that the Department's decision not to impose

restrictions on bidder eligibility is the appropriate policy to apply in the circumstances. Mobility Canada also contends that spectrum holdings of affiliated companies should not be aggregated for the purposes of spectrum caps. Affiliated entities could deploy spectrum in the 24 and 38 GHz bands for a variety of unrelated service applications that are not directly or indirectly competitive with other licensees deployment of the spectrum.

Comments are sought on a moratorium of up to three years on the transferability / divisibility of licenses following this licensing process.

8. Concerning the transferability and divisibility of licenses, the Department's consultation paper seeks comments on whether the transferability / divisibility of licenses should be delayed for a specific time period, for example, three years following the licensing period.
9. Mobility Canada strongly disagrees with any proposed moratorium on the transferability / divisibility of licenses. In this regard, Mobility Canada notes that on the same day that the Department released this discussion paper it also released its **Framework for Spectrum Auctions in Canada**, Notice No. DGRB-002-98, dated August 28, 1998 (the "Auctions Framework"). In Mobility Canada's view, the proposal for a moratorium on transferability / divisibility directly conflicts with the Department's acknowledgment, in the Auctions Framework, that allowing firms to transfer and sub-divide licenses facilitates spectrum finding its way into the hands which most highly value it. Moreover, as noted by the Department in the Auctions Framework, this is not only of benefit to the firms actually engaged in the transfer but is also beneficial to consumers.
10. Inherent in the Auctions Framework is an implicit trust in the marketplace to ensure that available spectrum, through secondary trading, will find its way into its most useful applications as determined by the market. Mobility Canada supports the spirit of the Auctions Framework, in this regard, and is concerned that the consultation paper is at this early stage already signaling potential change in this policy. Mobility Canada submits that such ambiguity only serves to create a significant degree of uncertainty in the market and that such a situation is beneficial to neither service providers nor consumers.

Comments are sought as to whether there should be a condition of license that requires licensees to implement their service within a specific time period that is less than the proposed license renewal period. Further, views are sought on the possible mechanisms that could be employed to verify the implementation of service within the stated time period.

11. Mobility Canada notes that in the Auctions Framework Industry Canada concluded that, with a well-functioning secondary market, roll-out conditions will likely not be required to address competition issues. Mobility Canada fully supports this view. In addition, as further noted in the Auctions Framework, investors would be very reluctant to finance a winning bid where there would not be any return on their investment. Mobility Canada submits therefore that because they have committed their capital up-front, investors and service providers have a built-in incentive to deploy the auctioned spectrum in the most efficient and timely manner possible.
12. Again, Mobility Canada recommends that the Department stays the course with respect to its recently announced Auctions Framework and leave it to new entrants that have incurred the upfront costs of spectrum to rollout service in a financially responsible manner.

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