

The Honourable Tony Clement  
Industry Canada  
Ottawa ON

12 July, 2010

Dear Minister Clement:

**Re: Options for Reforming Foreign Ownership Regulations in Canada's Telecommunications Sector**

As a consumer and as someone who is interested in the Canadian telecommunications industry, I am providing my comments on the options for reforming foreign ownership regulations. I recommend Option 2 (Telecommunications Policy Review Panel approach) or Option 3 (complete removal of restrictions) because of the following reasons:

1. The new wireless entrants, Wind Mobile, Public Mobile and Mobilicity, have introduced new business models and consumer offerings in Canada, such as simpler unlimited plans with no contracts. Therefore, we should provide these new entrants with a regulatory environment in which they can continue to provide more choice to Canadians in a sustainable manner.
2. It seems, from the CRTC decisions on their ownership, that all three of the new entrants are pushing the current limits on foreign investment. However, Option 1 in your consultation paper (raising the foreign ownership limit to 49 percent) does not seem to help these capital-starved companies. The effective foreign ownership limit is currently around 47 percent. I do not see how raising it by a meager 2 percent will make any material difference for these new entrants. Moreover, Option 1 does not do anything about the highly subjective “control-in-fact” test which is the most ambiguous aspect of the current regulations.
3. These new start-ups have just invested hundreds of millions of dollars in launching their businesses, and they are not expected to have a positive cash flow for the next few years. Under these circumstances, I do not see how they can meaningfully participate in the upcoming 700 MHz spectrum auction under the current foreign investment restrictions. In the absence of the new entrants being able to access more capital, this valuable piece of spectrum will get further concentrated in the hands of incumbents.
4. The decision to set aside spectrum for new entrants during the AWS spectrum auction resulted in short-term competition in the Canadian wireless market. But it does not guarantee long-term competitiveness of the market. Canada had innovative new entrants in the past too, namely Clearnet and Microcell. However, neither of them could survive under the current regulatory regime. Therefore, it is a real possibility that the market will go through another wave of mergers and acquisitions, and it will become complacent and oligopolistic again. What will we do then? Create another set-aside? This scenario can be prevented by lifting foreign ownership restrictions. In the absence of these restrictions, any Canadian or foreign company can easily enter the market to fill the void left by complacent incumbents.

Thank you for letting me present my views on this important topic.

Sincerely,

Vishal Malik  
Thunder Bay ON