

WINSTAR

COMMUNICATIONS, INC.

BY FACSIMILE AND E-MAIL

January 29, 1999

Consultation on 24 GHz and 38 GHz
c/o Mr. Jan Skora
Director General
Radiocommunications and Broadcasting
Regulatory Branch
Industry Canada
Room 1559D - Jean Edmonds Tower North
300 Slater Street
Ottawa, ON K1A 0C8
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Dear Mr. Skora:

Re: Canada Gazette Notice No. DGRB-003-98 - Consultation on the 24 and 38 GHz Frequency Bands: Proposed Policy and Licensing Procedures, August 1998: Reply Comments of WinStar Communications, Inc.

WinStar Communications, Inc. ("WinStar") is pleased to submit the attached reply comments in response to the issues raised in the above-captioned consultation paper and the December 4, 1998 comments of interested parties to this proceeding.

WinStar is a pioneer in providing customers with broadband communications services, including local and long distance phone service, as well as high-speed data, Internet access and information services. WinStar provides these Wireless FiberSM services over its own end-to-end broadband network in 30 U.S. markets, using its licences in the 28, 31 and 38 GHz spectrum.¹

WinStar plans to double the U.S. reach of its broadband network to 60 major markets over the next two years and to serve an additional 50 major international markets within five years. During 1999, WinStar will expand to 45 U.S. and six international markets. In pursuing this accelerated build-out, WinStar will take advantage of the resources and expertise of Lucent Technologies under their \$2 billion strategic alliance announced in October 1998. Also during the past year, WinStar initiated commercial deployment of its state-of-the-art multipoint technology in Washington, D.C. The

¹ WinStar is the largest licensee of spectrum in the 38.6 - 40.0 GHz band and was the third highest bidder at the recent LMDS auction, winning 15 LMDS licenses. WinStar also holds a number of licenses for spectrum in other bands. WinStar averages more than 750 MHz in the top 50 U.S. markets. The company's licenses cover more than 170 major market areas in total, encompassing approximately 200 million people.

company intends to expand its multipoint capability nationwide in 1999, which will significantly lower the cost of its network build-out and enable WinStar to serve far more customers in each of its markets.

As one of the world's first and foremost users of the 38 GHz band to provide commercial wireless telecommunications services, and as a telecommunications industry player with recent experience in a major FCC spectrum auction, WinStar considers itself ideally placed to participate in this important Canadian spectrum consultation proceeding initiated by Industry Canada. Through its Canadian subsidiary, WinStar Communications of Canada, Inc., WinStar continues to assess entry opportunities in the Canadian wireless telecommunications market and is actively monitoring spectrum policy and licensing developments in the 24 and 38 GHz bands in Canada, including issues associated with Canada's first-ever spectrum auction, which Industry Canada has proposed for the 24 and 38 GHz bands.

In its attached reply comments, WinStar focusses primarily upon Industry Canada's spectrum policy issues raised in section 3 of the Department's consultation paper, notably, the 38 GHz band plan in section 3.1.2 and the allocation issues in section 3.2. WinStar notes that the majority of interested parties that submitted comments in this proceeding share WinStar's views that Canada's 38 GHz band plan should be harmonized with the use of the band in the United States, and that potential bidders in the proposed spectrum auction should have a guarantee of certainty from the Department that 38 GHz spectrum in Canada will be assigned on a primary, exclusive basis to terrestrial high-density wireless fixed services. To this end, WinStar urges Industry Canada to adopt in clear and express language in the 38 GHz band plan a separate designation, or band segmentation, for terrestrial fixed wireless services as the only priority services that may be licensed in the band.

As a corollary, WinStar agrees with interested parties that have suggested that Industry Canada clarify its proposal to give "priority" to fixed services over other service allocations in the 38 GHz band, and suggests the approach adopted in December 1998 by the Federal Communications Commission ("FCC") of explicitly rejecting sharing of the 38 GHz band with the fixed-satellite services ("FSS"). Having actively participated in the recent FCC docket, WinStar is pleased to share the FCC's findings on the 38 GHz band with the Department and interested parties to this proceeding through its reply comments. A copy of the FCC's December 1998 Order is provided as Attachment A to the facsimile transmission of these reply comments.

WinStar thanks Industry Canada for the opportunity to participate in this timely and important consultation.

Yours very truly,

Joseph M. Sandri, Jr.
Vice President and Regulatory Counsel

WinStar Communications, Inc.

**REPLY COMMENTS TO INTERESTED PARTIES
PARTICIPATING IN THE CONSULTATION ON THE 24
AND 38 GHZ FREQUENCY BANDS - PROPOSED
POLICY AND LICENSING PROCEDURES: CANADA
GAZETTE NOTICE NO. DGRB-003-98**

January 29, 1999

WinStar Communications, Inc.

REPLY COMMENTS TO INTERESTED PARTIES

A. INTRODUCTION

1. WinStar Communications, Inc. (“WinStar”) is pleased to submit its comments in reply to Industry Canada’s “Consultation on the 24 and 38 GHz Frequency Bands: Proposed Policy and Licensing Procedures”, August 1999, Canada Gazette Notice No. DGRB-003-98 (the “Consultation Paper”) and to the December 4, 1998 comments of interested parties to this important proceeding.
2. As discussed below, WinStar commends Industry Canada for the timely release of the Consultation Paper and the broad consultation process it has launched in Gazette Notice DGRB-003-98 (the “Gazette Notice”). In this regard, WinStar notes that Industry Canada’s spectrum counterpart in the United States, the Federal Communications Commission (“FCC”) has released on December 23, 1998 its Report and Order relating to the allocation and designation of spectrum in the U.S. for non-Government operations in the 36.0 - 51.4 GHz spectrum range, including the 38.6 - 40.0 GHz (“38 GHz”) band that comprises part of Industry Canada’s consultation.² As an active participant in the FCC proceeding, WinStar is pleased in these reply comments to share with the Department and interested parties to this proceeding the FCC’s findings in relation to the allocation and designation of the 38 GHz band in the U.S. The FCC Order is particularly relevant to the present consultation since, as Industry Canada has pointed out, 38 GHz spectrum in Canada is aligned with that in the United States:

“Point-to-multipoint technology in particular is in the early stages of development in Canada and the United States. Taking these factors into account, the Department is of the view that the frequency band structure should align as closely as possible with other administrations to ensure the greatest availability of equipment, minimize costly customization requirements and ensure a larger equipment market for our manufacturers.”³

² See In the Matter of Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5-38.5 GHz, 40.5-41.5 GHz, and 48.2-50.2 GHz Frequency Bands; Allocation of Spectrum to Upgrade Fixed and Mobile Allocations in the 40.5-42.5 GHz Frequency Band, Allocation of Spectrum in the 46.9-47.0 GHz Frequency Band for Wireless Services; and Allocation of Spectrum in the 37.0-38.0 GHz and 40.0-40.5 GHz for Government Operations, IB Docket No. 97-95, Adopted December 17, 1998 (hereinafter the “FCC Order”).

³ Consultation Paper, section 3.1, at page 3.

B. BACKGROUND

3. WinStar is a pioneer in providing customers with broadband communications services, including local and long distance phone service, as well as high-speed data, Internet access and information services. WinStar provides these Wireless FiberSM services over its own end-to-end broadband network in 30 U.S. markets, using its licenses in the 28, 31 and 38 GHz spectrum.⁴ WinStar's Wireless FiberSM networks are so-named because of their ability to duplicate the technical characteristics of fibre optic cable with wireless millimeter-wave, microwave transmissions. These high-speed communications links have broadband characteristics, allowing for digital voice, data and video transmissions, and are engineered to have a reliability of 99.999 percent.
4. WinStar plans to double the U.S. reach of its broadband network to 60 major markets over the next two years and to serve an additional 50 major international markets within five years. During 1999, WinStar will expand to 45 U.S. and six international markets. In pursuing this accelerated build-out, WinStar will take advantage of the resources and expertise of Lucent Technologies under a \$2 billion strategic alliance the companies announced in October 1998. Also during the past year, WinStar initiated commercial deployment of its state-of-the-art multipoint technology in Washington, D.C. The company intends to expand its multipoint capability nationwide in 1999, which will significantly lower the cost of its network build-out and enable WinStar to serve far more customers in each of its markets. Indeed, WinStar already has initiated service in 30 of the top 60 U.S. markets in which it intends to provide service by the end of 2000.
5. As both a pioneer in the commercial deployment of wireless telecommunications services in the 38 GHz band and a successful participant in the FCC's recent LMDS spectrum auction, WinStar believes itself to be ideally placed to meaningfully comment in this 24 and 38 GHz policy and licensing consultation initiated by Industry Canada.
6. In the following paragraphs, WinStar addresses several key 38 GHz policy and licensing issues raised in the Department's Consultation Paper, in the FCC's Order and in the December 4, 1998 comments of interested parties to this proceeding. WinStar's reply comments set forth three principal recommendations that, if accepted by the Department, will impart needed certainty into the 38 GHz band plan for Canada, thereby removing a potential impediment to the success of Canada's first-

⁴ WinStar is the largest licensee of spectrum in the 38.6 - 40.0 GHz band and was the third highest bidder at the recent LMDS auction, winning 15 LMDS licences. WinStar also holds a number of licences for spectrum in other bands. WinStar averages more than 750 MHz in the top 50 U.S. markets. The company's licences cover more than 170 major market areas in total, encompassing approximately 200 million people.

ever spectrum auction.⁵ The recommendations WinStar urges Industry Canada to consider are as follows:

Recommendation 1: Canada's 38 GHz band plan should be harmonized with the use of the 38.6 - 40.0 GHz band in the United States, as reflected in the December 1998 FCC Order.⁶

Recommendation 2: Potential bidders in the 38 GHz spectrum auction should be given a guarantee of certainty, by means of clear and express language in the 38 GHz band plan, that the band will be assigned in Canada on a primary designation exclusive basis to terrestrial high-density wireless fixed services, as the FCC has now done.⁷

⁵ Several parties to the proceeding noted that potential bidders for 38 GHz spectrum must have the certainty of knowing in advance of an auction that they will obtain primary, exclusive use of the spectrum with no post-auction "backsliding". CLEARNET Communications Inc., for instance, noted that:

"(...) the allocation by the International Telecommunications Union (ITU) for this band includes service allocations for fixed and other services. CLEARNET notes in paragraph 3.1.2.5 that Industry Canada proposes to give "priority" to the fixed service over other service allocations in this band.

Given that the Department intends to use the auctioning process to award these licences, potential bidders must be made aware of the implications of giving priority to the fixed service and the Department's definition of priority must be provided in clear terms prior to the auction. In this regard, CLEARNET notes that the term "priority" is not defined by the ITU. As such, CLEARNET requests that the Department define "priority" and specify the extent to which fixed services will be prioritized and how this priority will be established.

While CLEARNET notes that some parties have urged the Department to find suitable spectrum in this frequency range for exclusive fixed satellite service use, it is essential for bidders to have the certainty available from the Department that the spectrum they bid for will be guaranteed theirs to use for the agreed licence period with no post-auction "backsliding".

CLEARNET recommends that the Department guarantee the spectrum will be retained on a primary, exclusive basis for the sole use and/or disposition of by the winning bidder during the licence term."

See also the comments of the Canadian Wireless Telecommunications Association, section 2, paragraph 4, at page 2.

⁶ A Copy of the FCC Order is attached as Appendix A.

⁷ Footnote 3 of the FCC Order, at page 2, provides that:

"A designation provides an allocated service or services use of a specific frequency band for which other services may also be allocated. *See supra* note 1. Designations are generally only needed where bands are allocated to more than one service and sharing between these services may be difficult."

Recommendation 3: Similarly, Industry Canada should define the term “priority” in its proposal in the Consultation Paper⁸ to give priority to the fixed service over other service allocations in the 38 GHz band in order to ensure that the band plan (i) establishes separate designation, or band segmentation for terrestrial fixed wireless services as the only services licensable in the band, and (ii) rejects sharing by fixed-satellite (“FSS”) or other satellite services on a co-primary or underlay basis, also as the FCC has now done.

C. HARMONIZATION OF CANADA’S 38 GHZ BAND PLAN WITH THAT OF THE UNITED STATES, AS REFLECTED IN THE FCC’S ORDER

(i) The December 4, 1998 Comments of Interested Parties

7. Of the interested parties commenting on the Department’s 38 GHz band plan in their December 4, 1998 submissions, there was complete agreement with the notion that use of the band in Canada should to the extent possible be harmonized with the United States.
- **CWTA:**⁹ “The CWTA is in general agreement with the 38 GHz band plan, fully supporting the harmonization of this band with the U.S.”
 - **Nortel Networks:**¹⁰ “We note that 50 MHz channelling is harmonized with the U.S. and recommend further consistency would be achieved if Industry Canada were to adopt the same nomenclature as in the U.S.”
 - **Radio Advisory Board of Canada:**¹¹ “The RABC notes that, among other reasons, financing is facilitated when band plans are consistent with the United

⁸ At page 6 of the Consultation Paper, at paragraph 5, Industry Canada proposes giving fixed service systems priority over other services in the 38.6 - 40.0 GHz band, as follows:

5. With the development of high density broadband wireless systems in the band 38.6 - 40.0 GHz, the fixed service will be given priority over other service allocations. The authorization of frequency assignments to systems of other services would be conditional on the need to protect the operation and growth of fixed service systems.”

To the extent that this proposal could confer secondary service or “underlay” status on any service provider operating in other than the fixed service in the 38 GHz band, the proposal is inconsonant with the FCC Order which rejected any band sharing between fixed wireless systems and FSS and designated discrete sub-bands for each.

⁹ CWTA, December 4, 1998 Comments, at page 2.

¹⁰ Nortel Networks, December 4, 1998 Comments, at page 2.

¹¹ Radio Advisory Board of Canada, December 4, 1998 Comments, at page 2.

States and agrees with the band plan as suggested. Harmonization with the United States presents a greater opportunity for equipment manufacturers to serve a large customer base with consequential cost reductions.”

- **WIC Connexus:**¹² “WIC is in general agreement with the 38 GHz band plan, again supporting the harmonization of this band with the U.S.”
- **Wispra Inc.:**¹³ “Wispra supports that frequency bands in Canada align with the USA wherever possible (...) Furthermore, alignment ensures that Canadian licensees have greater access to a variety of radio systems faster and at lower prices than Canada-only bands permit. Canadian residential and business consumers benefit from more new services, sooner and at lower cost. It’s a win all around.”

*(ii) The FCC Order - A Separate
Sub-Band For Wireless Fixed
Services at 38.6 - 40.0 GHz*

8. In March of 1997, the FCC initiated a proceeding by way of Notice of Proposed Rule Making (the “NPRM”) in which it sought public comment on a proposed band plan to establish an allocation and designation framework for operations in the 36.0 - 51.4 GHz band.¹⁴ That proceeding culminated in December 1998 with the release of the FCC Order, the relevant conclusions of which are provided below.
9. The NPRM was issued, in part, by the FCC to resolve various competing proposals involving use of the frequencies in the 36.0 - 51.4 GHz band, including disputes between fixed wireless and FSS system operators relating to various sub-bands, the 38.6 - 40.0 GHz sub-band among them. In explaining the rationale for its NPRM, the FCC noted that:

“In the NPRM, the Commission proposed separate designations for FSS and wireless services because of the technical difficulties involved in sharing between ubiquitous wireless and satellite systems. The Commission noted that frequency sharing was an issue of some contention and concluded that a band plan, with discrete sub-bands

¹² WIC, December 4, 1998 Comments, at page 5.

¹³ Wispra Inc., December 4, 1998 Comments, at page 7.

¹⁴ See In the Matter of Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5-38.5 GHz, 40.5-41.5 GHz, and 48.2-50.2 GHz Frequency Bands; Allocation of Spectrum to Upgrade Fixed and Mobile Allocations in the 40.5-42.5 GHz Frequency Band, Allocation of Spectrum in the 46.9-47.0 GHz Frequency Band for Wireless Services; and Allocation of Spectrum in the 37.0-38.0 GHz and 40.0-40.5 GHz for Government Operations, Notice of Proposed Rule Making, 12 FCC Rcd 10130 (1997).

designated for different types of high-density services, would provide the various proposed systems with the best opportunity to succeed. The Commission also concluded that there was sufficient spectrum in the band to accommodate current and proposed uses without the need for sharing.”¹⁵

12. The FCC’s proposed band plan in the NPRM designated the 38.6 - 40.0 GHz for terrestrial wireless fixed service uses on a primary basis.
13. WinStar was one of a majority of participants in the NPRM proceeding that supported separate designations for fixed wireless and FSS within the 36.0 - 51.4 GHz band plan, and argued that sharing within sub-bands between wireless and satellite systems was infeasible. WinStar strongly supported the FCC’s band segmentation plan in the NPRM agreeing with the FCC that:

“[g]iven the ubiquitous nature of some of the services proposed, it is not likely that satellite and terrestrial systems will be able to share the same spectrum without significant technical constraints on the operations of one or the other, or both, types of systems”.¹⁶
14. In its May 5, 1997 comments to the FCC, WinStar noted several of numerous regulatory pleadings and engineering analyses that have confirmed the serious technical and operational problems inherent in sharing sub-band spectrum between FSS and fixed wireless systems. In one such study, Hatfield Associates concluded that terrestrial fixed service operators would be “frozen out” of sizeable coverage areas around satellite earth stations because of interference problems.¹⁷ Other submissions from WinStar to the Ad Hoc Millimeter Wave group of the FCC’s 1997 World Radio Conference (WRC-97) Advisory Committee demonstrated that sharing between FSS and fixed wireless services was infeasible, since fixed services could not operate viably in the 38.6 - 40.0 GHz under severe operating constraints proposed by the satellite industry. These constraints included FS power density (EIRP) and automatic transmission power control (ATPC) restrictions on the operations of the fixed services. Like the NPRM itself, WinStar’s engineering studies concluded that band segmentation was the optimal situation for ensuring successful commercial deployment of both the satellite and fixed services.
15. Nor were concerns regarding sub-band sharing confined to representatives of the terrestrial fixed service sector. For example, the satellite company Teledesic Corporation stated in the NPRM proceeding that:

¹⁵ FCC Order, paragraph 16 at page 10.

¹⁶ NPRM, at page 12.

¹⁷ See Attachment to Opposition of WinStar Communications, RM No. 8811 (June 20, 1996).

“the ubiquitous deployment envisioned for both satellite and terrestrial services in the higher frequencies requires that separate bands be designated for the primary use of each of these services”.¹⁸

16. In its December 1998 Order, the FCC reached two key conclusions regarding the designation and allocation of spectrum throughout the 36.0 - 51.4 GHz band, including the 38.6 - 40.0 GHz sub-band, namely:

- 1) Retaining the designation for terrestrial wireless services use on a primary basis in the 38.6 - 40.0 GHz sub-band, thereby confirming that fixed-satellite services would not be offered within the sub-band;¹⁹
- 2) Refusal to allow “underlay” licences, i.e., the licensing of a second service in a band designated for another service, since underlay licensing “could increase the potential for interference between satellite and wireless services.”,²⁰ and

17. In addition, the FCC put to rest any past and future uncertainty regarding the designation of the 38.6 - 40.0 GHz sub-band, as well as any possible demands for sharing within the sub-band by operators of FSS systems, with the following statements at paragraphs 17 and 18 of its Order:

17. The majority of commentors supported separate designations for FSS and wireless services, with many arguing that band sharing would not be feasible.

(...)

18. Our review of the record leads us to concur with the majority of commentors that sharing the same spectrum between ubiquitous wireless and satellite systems is not currently feasible. (...) We conclude that designating separate spectrum for FSS and wireless

¹⁸ See Teledesic Comments, at page 2.

¹⁹ FCC Order, paragraph 2, page 3.

²⁰ FCC Order, paragraph 24, page 14.

services will provide the various proposed systems with the best opportunity to operate free of interference and will encourage commercial development of this band. Accordingly, we find that the public interest is best served by providing separate designations for FSS and wireless services, as proposed in the NPRM.

18. An allocation and designation chart for the band 36.0 - 51.4 GHz is provided at page 9 of the FCC Order. The revised U.S. Table of Frequency Allocations is provided at Appendix C of the FCC Order, beginning at page 31.
19. As for the issue of underlay licensing, the FCC reversed its proposal in the NPRM, agreeing “with commentors that underlay licensing would be confusing and could undermine the benefits to be derived from providing separate spectrum for satellite and wireless services, including freedom from technical constraints, avoidance of complicated interference problems and the flexibility for technical innovation. (...) Accordingly, we do not adopt underlay licensing in this Order”.²¹

(iii) Towards Greater Certainty in the 38 GHz Band Plan

20. The emergence of a strong consensus among commentors in this proceeding advocating harmonization between Canadian and U.S. band plans in the 24 and 38 GHz spectrum bands suggests to WinStar that Industry Canada should consider carefully the approach embodied in the FCC Order. In WinStar’s opinion, the FCC Order has much to commend itself to Canadian spectrum authorities, not the least of which is the degree of certainty that U.S. industry participants can now bank on in developing commercial services and exploiting spectrum without technical constraints arising from forced sharing of frequency bands on a co-primary basis.
21. Several Canadian commentors have expressed concerns in their December 4, 1999 submissions that the Consultation Paper does not adequately detail the Department’s proposal to accord priority status to fixed services in the 38.6 - 40.0 GHz band. these parties point out that in the case of the 38.6 - 40.0 GHz band, with a spectrum auction pending, there is a critical need to inform potential bidders of the degree of tenure and exclusivity they can expect to obtain from their investment of capital. As noted at footnote 3, supra, CLEARNET Communications Inc. urged Industry Canada to provide bidders with a sense of certainty “that the spectrum they bid for will be guaranteed theirs to use for the agreed licence period with no post-auction “backsliding”.

²¹ FCC Order, paragraph 24, at page 14.

22. In its comments, at page 2, the Canadian Wireless Telecommunications Association (CWTA) seeks clarification from the Department in its final approval of the 38 GHz band plan, as follows:

“The Department is also proposing to give “priority” to fixed service over other service allocations. The CWTA notes the allocation by the International Telecommunications Union (ITU) for this band includes service allocations other than fixed service. While the CWTA supports the Department’s proposal in principle, any prioritization of services by the Department should not detract from a licensee’s flexibility to use spectrum awarded in an auction. Moreover, given that the Department intends to use the auctioning process to award these licences, potential bidders must be made aware of the implications of giving priority to fixed service and the Department’s definition of priority must be provided in clear terms prior to the auction. In this regard, the CWTA notes that the term “priority” is not defined by the ITU. As such, the CWTA respectfully requests the Department to define “priority”, and to specify the extent to which fixed services will be prioritized and how this priority will be established.”

23. WinStar supports the objectives of CLEARNET and the CWTA to secure at one and the same time a clearer sense of the Department’s proposal to designate fixed wireless service as priority users of the 38 GHz band, and a guarantee of certainty prior to the auction that Industry Canada will not subject successful bidders to interference from in-band use by secondary or underlay operators sharing the band. Similar concerns have motivated the Radio Advisory Board of Canada (RABC) to suggest, at page 4 of its comments, that Industry Canada should provide the following undertaking in respect of ITU allocations in the 24 GHz band:

Industry Canada will undertake to propose an addition of a fixed allocation for Region 2 at the next competent International Telecommunications Conference (not later than the year 2002) in the bands 24.25 - 24.45 GHz and 25.05 - 25.25 GHz on a primary basis. If it is not possible to obtain a Region 2 allocation, Industry Canada will guarantee that, at the very least, it will add a footnote in the international Region 2 Table of Frequency Allocations specifying that the bands 24.25 - 24.45 GHz and 25.05 - 25.25 GHz are allocated on a primary basis in Canada to the fixed service.

24. WinStar believes that an undertaking of the type proposed by the RABC, CWTA and Nortel Networks would equally have merit in relation to the 38 GHz band, and would afford potential bidders in the impending spectrum auction a requisite amount of certainty and security that their spectrum investment would be protected against in-band use by non-priority service operators.

D. OTHER MATTERS

25. In the concluding paragraphs of this submission, WinStar wishes to add its support to the views of interested parties in relation to several issues raised by Industry Canada in the Consultation Paper, namely, proposed restrictions on transfer and division of licences. For the reasons provided by interested parties in their December 4, 1998 comments, some of which are set forth below, WinStar opposes the proposed three-year moratorium for both transferability and divisibility of licences following the conclusion of the auction and the associated licensing process. It appears that in both cases, the Department's proposed moratorium is intended to disincent speculative bidders and, conversely, to ensure that serious bidders with a genuine interest in exploiting the spectrum in the markets they wish to acquire will participate in the auction. However, in WinStar's respectful opinion, this position does not reflect post-auction market realities.
26. The overwhelming majority of interested parties to this proceeding join with WinStar in opposing the proposed moratoria on licence transfer and division: Bell Canada;²² CWTA;²³ CityWave Communications Corp. ("CityWave");²⁴ CLEARNET;²⁵ Mobility Canada;²⁶ Nortel Networks;²⁷ RABC;²⁸ Rogers;²⁹ TELUS;³⁰ WIC Connexus.³¹
27. Among the reasons advanced in opposition to the proposed moratoria on licence transfer and division by these interested parties, WinStar agrees with the following points:

²² Bell Canada, December 4, 1998 Comments, at pages 4-5.

²³ CWTA, December 4, 1998 Comments, at pages 5-6.

²⁴ CityWave, December 3, 1998 Comments, at page 5.

²⁵ CLEARNET, December 4, 1998 Comments, at page 6.

²⁶ Mobility Canada, December 4, 1998 Comments, at page 3.

²⁷ Nortel Networks, December 4, 1998 Comments, at page 4.

²⁸ RABC, December 4, 1998 Comments, at page 6.

²⁹ Rogers, December 4, 1998 Comments, at page 7.

³⁰ TELUS, December 4, 1998 Comments, at pages 3-4.

³¹ WIC Connexus, December 4, 1998 Comments, at pages 9-10.

- successful spectrum bidders will encounter a need to both aggregate and optimize their holdings;
- delays in permitting licence transfers and divisions will impede the roll-out of local infrastructure and delay consumer benefits of choice and competition that would arise through the secondary market;
- speculative bidders are more easily and effectively dissuaded from auction participation by properly structured eligibility requirements and financial obligations, including immediate up-front payment;
- the secondary market ensures that the spectrum will remain in the possession of those parties who value it most; and
- the size of the Canadian marketplace and the financial risks associated with auctions argue against the moratoria.

28. Based upon WinStar's experience in the FCC's LMDS spectrum auction and on the active secondary market following the very successful broadband PCS (Blocks A&B) auction, the Company believes that artificial constraints on a licensee's ability to transfer or divide the spectrum it has acquired under auction are inappropriate and serve largely to delay consumer benefits associated with early roll-out of innovative technologies and services.

All of which is respectfully submitted this 29th day of January, 1999.