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March 6, 2009

Director, Spectrum Management Operations
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Sent via email: spectrum.operations@ic.gc.ca

Re: Comments on Consultation Letter – Issues Related to the Preliminary Phase of Antenna and Site-Sharing Process, dated February 17, 2009

Rogers Communications Inc. (Rogers) hereby submits our comments on the above-noted consultation.

The documents are being sent in Adobe PDF Version 8.0. Operating System: Microsoft Windows XP.

Regards,

A handwritten signature in black ink, appearing to be "Dawn Hunt", written over a white background.

Dawn Hunt
DH/csh

Attach.

**Comments of Rogers Communications Inc.
(Rogers)**

Consultation Letter – Issues Related to the Preliminary Phase of the
Antenna Tower and Site-Sharing Process
dated February 17, 2009

March 6, 2009

1. On February 18, 2008, the Department issued a consultation letter titled **Issues Related to the Preliminary Phase of the Antenna Tower and Site Sharing Process** (“the Consultation Letter”). In the Consultation Letter, the Department has proposed changes to the processes involved in the preliminary site investigation phase, reservation of future use and requirements for confidentiality as they relate to non-disclosure agreements. The Department has invited interested parties to submit comments regarding these proposals.
2. Rogers Communications Inc. (“Rogers”) hereby files the following comments in response to the Consultation Letter.

Consideration of Workloads

3. At the outset, the Consultation Letter notes that the Department has considered the impact of multiple requests being submitted and the proposed clarifications take this into consideration. The Consultation Letter further notes that the new processes and timelines will apply “irrespective of workload”. Rogers submits that the Department’s stance is not practical.
4. The sheer volume of requests for preliminary information received by Rogers since the end of the AWS auction in mid 2008 has increased exponentially. Whereas Rogers previously received a steady flow of requests in manageable numbers, Rogers has received hundreds of requests from several carriers. Responding to these requests ties up resources that are normally being put to use in servicing Rogers’ customers and Roger’s day-to-day engineering and real estate activities. The reality is that there are finite appropriately skilled resources available to handle sharing requests and the high volume of requests result in response delays. The Department’s proposed position on meeting their timelines irrespective of workload will not

expedite new entrant tower sharing requests. In fact, the establishment of guidelines that would apply irrespective of workload will only result in licensees being unable to meet these guidelines and result in additional disputes thereby tying up even more resources for all parties.

5. Adding additional resources is simply not practical. Analyzing wireless towers is a specialized field requiring real estate experts and engineers with a specific background in electrical and structural engineering. These valuable experts play an essential role in Rogers' regular activities which cannot be interfered with given the intensive competitive environment and the need to continue to extend wireless networks into new geographic areas as well as to implement new and advanced technologies. Hiring and training new staff simply to meet the temporary demand of new entrants is not practical as the requests for new towers will decline once the initial rush for tower sharing has ended.
6. The tower sharing policy has already placed a great burden on Rogers' Engineering group which has made every effort to respond to requests in a timely fashion. Failing to recognize these efforts by placing an arbitrary deadline that is openly dismissive of the workloads the policy has already created is unreasonable.
7. In addition, we would note that we have devoted considerable engineering and real estate resources to offering towers in response to new entrant requests and very few of our offers have been accepted. It may be that the new entrants have requested towers from a variety of sources and they are taking other offers. This would be a rational strategy for the new entrants to adopt since they can request towers from multiple sources at no cost to themselves. Under these circumstances, requiring Rogers to devote more resources to offering towers in response to these requests would be bad

policy. It would raise Rogers' costs, slow down processing and would not lead to more towers being shared.

Responding to Requests for Preliminary Information

One-Week Timeline

8. In its document **Conditions of Licence for Mandatory Roaming and Antenna Tower Site Sharing and to Prohibit Exclusive Site Arrangements – DGRB-002-08**, released February 28, 2008, Industry Canada established a new licence condition requiring a licensee to respond to requests for preliminary information in “a timely manner”. This was confirmed in **Conditions of Licence for Mandatory Roaming and Antenna Tower Site Sharing and to Prohibit Exclusive Site Arrangements - CPC-2-0-17** (*the Conditions of Licence*), released in November 2008. Since the release of DGRB-002-08 Rogers has worked to align its internal tower sharing processes with the new *Conditions of Licence*.
9. What is considered “in a timely manner” should be based upon the amount of work involved and industry practices not arbitrary timeframes. Based on its tower sharing experience garnered over the past 20 years, Rogers aims to respond to requests for a preliminary information package (“PIP”) within 30 days. If the response is ready before 30 days Rogers provides it as soon as it is available. In fact, Rogers is currently averaging 21 days to provide a PIP in response to a request. This timeline is reasonable and has not resulted in a single complaint to Rogers since the end of the AWS auction.
10. The one week timeline proposed by Industry Canada in the Consultation Letter is unworkable and fails to consider all the inputs into preparing a

response. Responding to preliminary information requests requires the expert input from both our Real Estate and Engineering departments. However, the primary purpose of these groups is not to respond to co-location requests. These teams fulfill critical functions within the Rogers companies. Rogers recognizes Industry Canada's objective to facilitate the entrance of new wireless carriers, but submits that this objective cannot come about at the expense of Rogers' ongoing operations in delivering service to over 8 million existing wireless customers.

11. Advancing the calendar for responding to preliminary information requests will not advance the entire tower sharing process. The same engineers responding to the requests for information are also responding to the Offers to Share (the next stage after preliminary information is exchanged) that we receive from the new entrants. With the finite amount of time available to them, forcing them to spend more time at the request stage will only result in delays at the Offer to Share stage. Either way, Rogers will be unable to meet the deadline established by Industry Canada.

12. In addition, the number and stream of requests make a one week timetable impossible. While Rogers could reply to several requests for preliminary information within the one week period proposed by Industry Canada, it certainly could not respond to a large number of requests within that same timeline. Rogers has in excess of 4,500 sites and to a large extent, each one is unique. Each is subject to a specific lease and has its own unique loading profile. To provide all of the information specified, to summarize the lease arrangements, to check on Rogers' plans for future use of the tower in question, to verify site access information, to check on third party contractual rights and restrictions for a single tower is time consuming. To do it for a large number of towers at the same time, with the possibility of requests coming from other requesting parties at the same time, all within the same one week period, would be impossible.

13. It is not unreasonable to assume that wireless carriers and other requesting parties will request sharing arrangements for multiple towers at the same time. The fact is that since the conclusion of the AWS spectrum auction, Rogers has received over 650 requests for tower sharing and preliminary information. This total is understated as it does not reflect the backlog of requests previously received. While many of these requests have resulted in formal requests, very few offers have been accepted as the new entrants appear to be shopping around. These requests are often issued in bulk by the requesting operator on an ad hoc basis, giving Rogers no time to marshal the type of resources that would be required to handle all of them in a single week. For example, Rogers has received as many as 40 requests for preliminary information in a single day.
14. Rogers does not have unlimited resources to devote to this process and it is totally unreasonable to expect it to meet the same one week deadline regardless of workload. The requesting operator is the party that has control of the timing of the requests and it is unreasonable to expect Rogers to be in a position to respond within the same one week period regardless of how many requests its competitors decide to file at the same time.
15. Another factor that often delays responding to requests for preliminary information is the completeness of the request itself. Each preliminary information request received by Rogers must first be reviewed to ensure that it contains sufficient information for Rogers to identify the site in question. If a request is incomplete it must be returned to the Requestor for further input, resulting in delay of the Rogers response.
16. In Rogers' view, the Department's proposal to interpret the words "in a timely manner" to be a week, regardless of the workload, and regardless of the number of preliminary information requests received at one time, would constitute a derogation from the meaning of the words used in the *Conditions of Licence* and hence an amendment of those conditions. Since Industry

Canada was very clear in the AWS auction policy and related contractual documents that *Conditions of Licence* would only be amended in exceptional circumstances, this proposal would be contrary to both the substantive provisions in the *Conditions of Licence* and the statutory procedures for amending those conditions.

17. For all of the reasons noted above, Rogers submits that a one-week timeline is unrealistic. In response Rogers proposes a 21 day time be implemented as it is more in line with current processing timelines.

Site Access

18. With respect to site access, the Department has indicated in its letter that it proposes that “The Licensee is to coordinate and grant access to the site on request. Generally speaking, this access should be granted within one week of the request. Extenuating circumstances, such as access to a remote location, could justify a short delay.”

19. Rogers submits that site visits are not required during the preliminary information stage. Under the process that Rogers has been using for many years, site visits are not performed during the preliminary information phase. The purpose of the preliminary information phase is to determine if physical space on the tower and at the site exists and whether this meets the Requestor’s requirements. In the majority of cases, Rogers can make this determination based on the information it has on file for a particular site. Site visits by the tower owner and the requestor are not required to collect this information. Site visits are normally arranged after conditional approval has been granted. This visit usually coincides with the detailed engineering analysis of the site and design by a third party engineer specified by the licensee. For this reason, and to minimize the expense and work for all

parties concerned, site visits are arranged after conditional approval has been granted.

20. Once site access is warranted (after the conditional approval stage) Rogers submits that a one week time frame is inadequate for providing access to a tower site. Access to the site must be scheduled and supervised by Rogers site technicians. In cases where the site is on a building or site that is not owned by Rogers, there is often a further requirement for the presence of a third party. In some cases, only authorized, pre-cleared personnel can access a site which means that further arrangements may be necessary in order to grant additional unaffiliated parties access. Rogers site technicians also cover large territories and they may not be scheduled to visit a site for weeks at a time. Site technicians are primarily responsible for the upkeep and maintenance of Rogers' sites and equipment and play an essential role in the ongoing operation and quality of the Rogers network. Scheduling of these key activities prevents Rogers from granting site access within a one week time frame.

21. Where a significant number of requests are received in the same week, it is unreasonable to expect them all to be acted upon in a single week. As indicated above, it is the other wireless operators that control the timing of the requests and their practice to date has often been to submit their requests in bulk. By trying to narrow the time period for Rogers to arrange for site visits down to a week, the Department has effectively changed the timeline set by the Minister in the *Conditions of Licence*. That was a flexible timeline that took account of the circumstances facing the tower owner, who might have to respond to multiple requests by multiple carriers in the same time period. The proposed change is not justified and would place tower owners in the intolerable position of having to justify any deviations from the one week period proposed. This would be an unfair burden given the unreasonable expectation that any number of site visits could be arranged in a single week.

22. Providing access to our sites can not interfere with our regular network operations. While the Department appears to make exceptions for extenuating circumstances, Rogers submits that a one week time frame is unreasonable and does not constitute a “timely manner”. Based on this, Rogers submits that site access be granted within 30 days after an offer to share has been issued.

Scope of Preliminary Information

23. The Consultation Letter also proposes to clarify the type of information that a Licensee is expected to produce in response to a request for preliminary information. According to the Consultation Letter, a Licensee is expected to produce at a minimum:

tower loading profile including imminent future use and contracted third-party lease arrangements, compound layout, tower foundations design, Transport Canada and/or NAV Canada form, site lease summary as well as site access information, such as contact, procedure and any specific restriction relating to a site visit.

24. Rogers already provides most of the materials listed in the Consultation Letter. The *Conditions of Licence* have always specified that a Licensee is to provide “its available technical data on a site in a timely manner” (emphasis added). To date, Rogers provides responses to preliminary information requests that include the available data that is relevant for requestors to prepare a Proposal to Share. As a part of a response to a preliminary information request, Rogers will provide the following information: tower loading profile which includes third-party loading, compound layout, Transport Canada and/or or NAV Canada form and a site lease summary of the relevant terms.

25. There are some documents proposed in the Consultation Letter that go beyond the scope of a preliminary information request. The purpose of the preliminary information stage is to determine if there is physical space available on the tower and/or site compound that meets the requestor's design criteria. Only once this has been determined, and there is conditional agreement between the parties, should the requestor conduct a detailed third party engineering analysis.
26. The requirement to provide tower foundation designs is therefore not appropriate during the preliminary information stage. Providing a tower foundation design requires an outside engineering consulting firm and can take a considerable amount of time, certainly more than a week. Since it is not required to determine if there is sufficient space on a tower, Rogers submits that this work and all other engineering design work should be left until after a Proposal to Share has been approved. The provision of foundation designs is not consistent with the preliminary information stage.
27. Finally, any clarification to the requirement to provide documents must reiterate that the obligation is only to provide what is available. The Condition of Licence clearly states that a Licencee must only provide information that "it has in its possession or control". If a licencee does not have available one of the documents listed in the Consultation Letter, it should not be obligated to include it in its preliminary information provided.

Reservations for Future Use

28. The wireless industry is one of the most capital intensive industries in the economy. Each technological advancement requires a new outlay of spending and the deployment cycles are multi-year. In fact, carriers can ill afford to wait for their current investment to pay off before committing to the next generation of wireless technology. It is normal that before a particular

technology is fully deployed, the next generation (or generations) of technology are already being investigated, tested and planned for in terms of integration into the network and co-existence with previous generations of technologies. For instance, during a recent period Rogers had analogue, TDMA, GSM, EDGE, GPRS, fixed wireless, and Mobitex technologies all simultaneously operating on our network infrastructure. While our UMTS/HSPA deployment is only 75% complete, it has taken three years to reach this stage, we are already planning for the deployment of next generation technologies on our infrastructure. These next generation technologies will soon be available and will almost certainly begin to be deployed years before the useful life of the existing technologies has expired. Inability to accommodate new technologies on Rogers' network infrastructure would be an extremely material and unfair competitive disadvantage for Rogers which would markedly impair the deployment of new technologies to Canadian consumers. Proper planning over multi-year time frames is not only normal in the wireless industry but essential to successfully design, build and evolve advanced wireless networks.

29. Industry Canada clearly contemplated the need to plan when it clarified its *Conditions of Licence*. The *Conditions of Licence* make reference to a licensee's future requirements noting that these requirements are to be included in the preliminary information sent to the Requesting Party. The Department then expanded on what was considered future needs in **Responses to Questions for Clarification on the AWS Policy and Licensing Frameworks** (*Responses to Questions for Clarification*), dated February 27, 2008. In response to questions seeking clarification on the sharing process, the Department noted at paragraph 3.4 that:

A Licensee's own future needs for tower and antenna space may be considered if they are well documented, reasonable and near term, but these needs are not considered a matter of technical feasibility. Longer

term future needs alone will not be considered a reason not to share.
(Emphasis added)

30. Based on this clarification, if future needs are documented, reasonable and near term they are permitted. Longer term future needs alone are not permitted. The clarification is silent on mid-term future needs. It is also silent on whether long term needs accompanied by other reasonable and documented circumstances will be considered. Rogers has been relying on the Department's clarification, as noted in paragraph 29 and notes that while long term needs alone will not be considered, that long term future uses are considered if they are supported by reasonable and documented circumstances.

31. Rogers submits that it is reasonable to reserve future capacity for existing spectrum holdings. Rogers notes that this interpretation is not a barrier to competition. Even when our future requirements are also taken into consideration, we have been able to offer an antenna location on our towers in each and every case when co-location has been requested. In short, the current system Rogers employs is working even where we take into consideration reasonable future needs. Thus, Rogers submits that that there is no need to further clarify that only imminent future uses should be considered.

32. The Consultation Letter now proposes to clarify that "only imminent future use should be considered in the context of the preliminary information package". The Consultation Letter further notes that "imminent use would include plans which are clearly and specifically identified in the Licensee's annual capital plan". This new language by Industry Canada appears to limit reserving space for no longer than one year.

33. The concept of "imminent future use" greatly diminishes the ordinary meaning of "future use" used in the Department's *Responses to Questions for*

Clarification. The word “imminent” is clearly a misnomer since it is generally understood to mean “threatening to occur immediately” or “at the point of happening”. The coupling of this word with the concept of future use therefore greatly diminishes the right of the tower owner to reserve some space on the tower for its own future requirements.

34. Limiting the term “imminent” to a single year is completely inconsistent with the capital planning process and deployment/ overlap cycles of the wireless network technologies used by Canadian wireless carriers. Rogers works on a multi-year investment plan that can include technologies to be provisioned in the network within the next four to five years. A one year plan is unfeasible in a nation the size of ours and given the amount of equipment that must be installed. Carriers start deploying network equipment years in advance of actual service being provided. For example, Rogers began its deployment process for HSPA in 2005. We do not expect to complete the roll-out until 2011. The HSPA deployment is clearly documented and reasonable since it is underway, on-going and for a defined period of time. Had Industry Canada implemented one year restrictions prior to our HSPA launch, the launch would have been jeopardized, suffering from significant delays.

35. Similarly, a one year planning limit threatens Rogers deployment of its 3G/4G network. The planning and rollout of 3G/4G technologies is currently underway. The deployment of civil infrastructure has become our biggest hurdle in rolling out next generation services. Negotiating with prospective landlords and municipalities takes months and often years. The tower consultation process with local authorities to establish new tower sites has further increased both the timelines and uncertainty associated with our deployment activities. Access to our current tower space is therefore essential to successfully deploying the latest advances in wireless technology,

to ensure that the level of service we provide is equal to or exceeds the level of service experienced in the rest of the world.

36. More importantly, denying our access to space on our own towers threatens Rogers' capability to meet the oncoming demand for network capacity. The explosion in data usage is already straining our network and data usage will only increase. Plans are already being designed to expand our capability and meet this challenge. The foundation of these plans are new antenna technologies such as Multiple-Input Multiple-Output (MIMO) and Adaptive Beam. These new antennas are far larger than conventional antennas and require significantly more space. Technology enhancements are moving equipment out of the shelter, and onto the tower, thereby requiring more space on the tower structure itself. While the planning process has begun, it is unlikely they will be deployed in the next 12 months. It is, however, crucial that the antennas be installed as soon possible. Denying us access to our own towers threatens the installation of the needed equipment and jeopardizes Rogers' ability to carry the volume of traffic expected in the near future.

37. Restricting future requirements to a single year would also fail to recognize the damaging financial impact on Rogers. Rogers recently spent close to \$1 Billion on AWS spectrum. Our valuations were based upon, among other things, the ability to use our own towers to deploy the new spectrum. Any change in the timeline after the auction would be unjust, unreasonable and would directly harm Rogers. The new language would materially affect the value of what Rogers purchased in good faith from the Canadian government under what it considered to be clear and firm parameters. The new language could dramatically alter the business case for this AWS spectrum and could have resulted in lower bids if the amendments had been made prior to the auction. Making such a significant change now will result in Rogers suffering potentially millions of dollars in additional, unplanned and extremely time consuming costs.

38. Rogers also objects to the new timeline as it fails to recognize the existing spectrum holdings of Rogers. In addition to the AWS spectrum, Rogers holds cellular, PCS, 2.3 GHz and 3.5 GHz spectrum. Rogers has spent hundreds of millions of dollars in auction payments and spectrum fees in order to use these valuable assets but the ability to deploy new services using the spectrum could be impaired and materially delayed by Industry Canada's proposed changes. Furthermore, preventing an incumbent spectrum holder from preserving tower space for itself could cause the licence holder to miss the roll out requirements established in these licences. The proposed conditions could prevent an incumbent from meeting its existing licence conditions. It is therefore contrary to sound public policy to obstruct Rogers from deploying network equipment on its own towers because its future needs are not considered "immiment" and thus cannot be taken into consideration when third parties request tower space on assets constructed and owned by Rogers fully in anticipation of its own needs.

39. Commercial arrangements, as suggested by Industry Canada, do not provide Rogers with adequate protection. The Consultation Letter notes that where there is a plan to install equipment in the longer term, the companies can address this during their commercial negotiations. Including a clause that a tenant must vacate a tower at some point in the future in order to permit Rogers' use of the space provides little comfort and may be unworkable and unrealistic from a practical perspective. If a tenant refuses to leave, costly, time consuming legal action may be required. In effect, Rogers can be held hostage by one or more of its own competitors, delaying network upgrades that would enhance our competitiveness. This is not a viable nor practical alternative.

40. Maintaining an incumbent's ability to preserve tower space for itself does not stop the deployment of the new entrants' wireless networks. As noted above

in paragraph 31, Rogers has to date, been able to offer new entrants an antenna location on 100% of the towers where co-location has been requested. As is the standard industry practice, new tenants that want an antenna location with higher elevation, can pay to have an existing tower strengthened to hold their equipment. Industry Canada's mandatory tower sharing policy was made to facilitate sharing, not shelter the new entrants from the standard costs every wireless carrier must bear when rolling out their networks. Where space is an issue the new entrants can still choose to co-locate on a site, but they must follow current industry practice and reinforce the tower at the outset.

41. Requiring incumbents to surrender their future spaces and then have them pay to reinforce their own towers in the future at their own cost is contrary to both Industry Canada's tower sharing policy and Canadian telecommunications policy in general. It replaces normal commercial rates with government-mandated rates. It greatly weakens facilities-based competition.
42. Given these realities, it is imperative that Rogers be permitted to reserve space on its towers for future use. To deny a tower owner this capability would amount to denial of the reasonable use of its own asset and place on the owner the cost of either upgrading its own tower to accommodate its own reasonable use, or building another tower. This is clearly not what the Minister intended in the *Conditions of Licence* and any change would constitute a material deviation. Adding the word "imminent" distorts the meaning of the Minister's words and effectively results in a very material amendment of the *Conditions of Licence* without the process required by the terms of the Licence and the *Radiocommunications Act*.
43. The approach proposed by the Department is also inconsistent with industry practice in the telecommunications sector. The CRTC has extensive experience in dealing with third party access to support structures owned by

Incumbent Local Exchange Carriers (ILECs). In considering the tariffs and agreements relating to poles, ducts and strands, the Commission has always respected the support structure owner's right to priority access to its own support structures, including its right to reserve capacity for its own future use. This is reflected in Item 901 of Bell Canada's National Services Tariff for support structure service which only requires an ILEC to make "Spare Capacity" available to third party cable TV undertakings or Canadian carriers:

Support Structure Service provides, where Spare Capacity is available, a cable television undertaking or a Canadian carrier access to use Company owned or controlled Support Structures for the placement of its Facilities. (emphasis added)

44. Spare Capacity is defined in the tariff as follows:

The difference between unused capacity of the Support Structure, where unused capacity is the difference between the capacity of the Support Structure based upon its design limitations and the capacity used by the Company to meet its current service requirements and any capacity previously allocated to a Licensee, and the capacity required by the Company to meet its anticipated future service requirements. (emphasis added)

A similar provision is contained in the tariffs of the other ILECs. The CRTC has never sought to limit the concept of "anticipated future service requirements" to one or two years – but has placed the onus on the ILECs to justify their present and future requirements when disputes arise (emphasis added).

45. The CRTC has determined that carriers should have priority access to their own support structures (Order CRTC 2000-13), and should be able to manage their networks and choose the technology best suited to their needs:

27. The Commission notes that telephone companies determine how to best manage their networks and choose the technology they consider best suited to their needs, subject to Commission review.

28. The Commission continues to be of the view that telephone companies should be able to take reasonable measures to manage their network and protect their and other licensees' facilities.

(Telecom Decision CRTC 2004-29, *Access to Telus Communications Inc.'s support structures in the City of Kamloops*)

46. To this end, where insufficient Spare Capacity is available to meet the needs of a third party, the CRTC has determined that it is appropriate for the ILEC to estimate the costs of expanding the capacity to accommodate increased use of the structure by the applicant. These costs are quoted to the applicant who can then either accept or reject them:

(e) Where Spare Capacity is not available, the Company will identify on or with the Application form the reasons why. If the Company elects to create the necessary Spare Capacity, the Company will estimate the necessary make-ready charges and forward them to the Licensee for approval. The Company will determine, in the best interest of all parties, whether the Applications requiring make-ready should be grouped into one or many projects.

(National Services Tariff, Item 901)

47. Such work can involve strengthening the support structure or, in the case of ducts, sub-dividing the duct. In Telecom Decision CRTC 2004-29, referenced above, the Commission sanctioned the recovery of Telus' plan to sub-divide the duct in question given its future requirement for spare capacity. These costs were to be passed on to the applicant.

48. In summary, the CRTC recognizes the right of carriers to manage their own network facilities. While third party access to support structures is supported by the *Telecommunications Act* and mandated by the CRTC, it is not done at the expense of the ILEC that has constructed the facility. The CRTC recognizes that support structures are constructed for the carrier's present and future requirements and that if additional capital outlays are required to accommodate a third party carrier in light of those future requirements, such

costs should be payable by the third party that is seeking access to the structure and is displacing the spare capacity.

49. Taking all of the above into account, the ability of a carrier to reserve space for its future requirements must reflect the reality of the Canadian wireless industry. Major changes in wireless technologies are made far in advance of one year. Limiting Rogers' access to its own tower space for planned uses that will take over a year to implement threatens our ability to maintain and evolve our network and make the necessary upgrades to compete. Since Rogers does not operate on a one year capital plan, but rather a 4-5 year capital plan, we recommend that the Department consider long term future uses to be those that are reasonable and documented in Rogers 4-5 year planning cycle.

50. The Consultation Letter notes that space reserved by third-parties is to be identified in the preliminary information provided. It is further proposed that the requesting party approach the third party directly to discuss access to the space in consideration. As noted earlier, Rogers currently lists information on its tower profile concerning pre-approved and paid for third party equipment. Rogers does not object to discussions between the requesting party and third party lessees but as it is Rogers' tower under discussion, Rogers must be and remain directly informed of all developments with respect to its property. Rogers submits that it should be clarified that the requesting carrier can consider approaching the third party to discuss access to that space and that the Licensee must be kept apprised of these discussions.

Requirements for Confidentiality

51. Non-Disclosure Agreements (NDAs) are commonly used tools to protect commercially sensitive information. However, Rogers does not require that Requestor's sign an NDA in order to enter into tower sharing discussions.

Conclusion

52. Many of the suggestions made in the Consultation Letter are inconsistent with industry practice, are unworkable, and will damage the ability of carriers to roll-out and deploy the next generation of wireless services.
53. Site visits are not required during the preliminary information stage as a decision on whether space is available can be made based on the information on hand. To minimize the expense and work for all parties site visits are arranged after conditional approval has been granted.
54. The one week timelines, for responding to requests for preliminary information and providing access to sites, are unachievable and fail to recognize the workloads of the specialists who must perform these functions. A 21 day timeline for responding to preliminary information requests and a 30 day response time to site visits (after conditional approval is granted) are reasonable and reflect industry practices.
55. Finally, the concept of “imminent future use” and limiting this to any uses on an “annual plan” is inconsistent with the capital intensive nature of the wireless industry. Plans and deployment schedules are made years in advance and denying carriers access to their own tower space threatens the deployment of essential technologies needed to maintain and develop advanced networks. Legal clauses in a contract are no guarantee the space would be made available. The inability to use our own tower space could threaten Rogers’ network in the very near future.
56. The Department must retain the clarification of future use contained in the Department’s *Responses to Questions for Clarification*. Rogers does not operate under a one year capital plan but on a 4-5 year planning horizon. As

such, the Department must consider long term future uses to be those that are reasonable and documented in Rogers 4-5 year planning cycle. This interpretation is not a barrier to competition. Even when our future requirements are taken into consideration, Rogers has been able to offer an antenna location on our towers in each case when co-location has been requested.

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