



Daniel S. Goldberg
President & Chief Executive Officer

July 15, 2009

Mr. Peter Hill
Director
Spectrum Management Operations
Radiocommunications and Broadcasting Regulatory Branch
Industry Canada
300 Slater St.
Ottawa, ON K1A 0C8

Re: Gazette Notice DGRB-001-09 – Consultation on Revisions to the Framework for Spectrum Auctions in Canada

Dear Mr Hill:

Telesat is pleased to submit its reply comments concerning the above-referenced consultation. We also look forward to the long-anticipated consultation on satellite licence fees, which will enable the communications satellite industry to treat in greater depth some of the issues touched upon in response to this consultation.

Should the Department require further information concerning Telesat's response to this consultation, please contact:

Mr. John Forsey
Director, ITU and Regulatory
Telesat Canada

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Respectfully submitted,

A handwritten signature in blue ink, appearing to read "D. Goldberg", with a large, stylized flourish extending from the bottom right of the signature.

Daniel S. Goldberg

enclosure



Telesat Canada Reply Comments

submitted to

Industry Canada
Spectrum Management and Telecommunications

on

**Consultation on Revisions to the Framework for Spectrum Auctions
in Canada (DGRB-001-09, issued April 2009)**

July 15, 2009

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Introduction

Telesat Canada (“Telesat”) welcomes the opportunity to provide these reply comments on the issues raised by other parties concerning Industry Canada’s *Consultation on Revisions to the Framework for Spectrum Auctions in Canada*, DGTP-001-09, issued April 2, 2009 (the “Consultation”).

Telesat’s reply comments address three issues: auctions of satellite spectrum; the research and development condition of licence; and satellite licence fees.

Award of Satellite Spectrum through Auctions

Telesat notes the unanimous opposition to satellite spectrum auctions from those representing the satellite industry. In addition to Telesat and the CSSIF (whose comments were endorsed by Telesat), the SIA and Ciel also expressed strong opposition to satellite spectrum auctions.

All commenting parties involved in the satellite industry cited the following reasons why auctions of satellite spectrum would be inappropriate:

- Auctions are inconsistent with the international nature of satellite communications and international practice¹
- Auctioning of satellite spectrum by Industry Canada could disadvantage Canadian operators and have a deleterious impact on the Canadian economy²
- Auctioning of satellite spectrum would not promote spectrum efficiency³

Ciel has also pointed out that auctioning of satellite spectrum would be inconsistent with the Department’s own *Framework for Spectrum Auctions* and that the paucity of potential bidders and the amount of satellite spectrum available are inconsistent with the economic arguments normally advanced to support spectrum auctions⁴. Both SIA and Ciel noted that diverting resources to auction fees would reduce those available for capital investment in the satellite networks themselves, ultimately reducing the benefits of satellite connectivity to the population as a whole.⁵

In short, the industry has emphasized that satellite spectrum is very different from terrestrial wireless spectrum, and that auctioning satellite spectrum would provide few benefits; yet has several notable disadvantages relative to other methods of assigning authorizations for satellite spectrum.

The majority of parties that are not associated with the satellite industry wisely refrained from comment on the issue. Only CWTA⁶, SaskTel⁷, and TELUS⁸ offered comments.

¹ CSSIF p.3, SIA p.2, Ciel p.3

² CSSIF p.5, SIA p.3, Ciel p.3

³ CSSIF p.6, SIA p.4, Ciel pp.4-6

⁴ Ciel p.2

⁵ SIA at p.4, Ciel at p.7

⁶ CWTA at p.2

⁷ SaskTel at pp. 6,7

CWTA supports auctions consistent with the maximum reliance on market forces, even though, as pointed out by commenters associated with the satellite industry, the unique characteristics of satellite spectrum are such that the economic model of domestic market forces does not apply. Interestingly, the CWTA also cites the report *Study of Market-based Exclusive Spectrum Rights* and its overview of the application of economic principles that have occurred internationally. Yet, as noted in the comments of Telesat and others, no other major space faring nation auctions satellite spectrum.

SaskTel's argument is similar, claiming that "the use of spectrum auctions to award satellite authorizations is the most effective way to utilize market forces." SaskTel does concede that satellite spectrum is unique due to its inherent international aspect, yet inexplicably concludes that this issue could somehow be overcome by the Department imposing appropriate licence conditions prior to the auction. SaskTel does not explain how market forces can be brought to bear when the successful bidder might never even be able to exploit the spectrum secured at auction, or how imposition of licence conditions can overcome this fundamental reality.

TELUS provides no justification for its support of auctioning of satellite spectrum. TELUS merely acknowledges the likely limited number of satellite auction participants and suggests that a Vickery auction format might be appropriate.

The comments of these three representatives of the wireless industry indicate their lack of familiarity with the satellite industry, the international regulatory environment associated with satellite spectrum, and the practices of other leading space faring nations in the allocation of satellite spectrum.

Research and Development Condition of Licence

Telesat notes the overwhelming consensus amongst not only the satellite industry, but also from a broad spectrum of the Canadian radiocommunication industry, that Research and Development (R&D) obligations are inappropriate to incorporate as conditions of licence. In fact, no comments were made in support of such an obligation. Bell Mobility, Bragg, CWTA, Joint Task Force, MTS Allstream, Rogers, SaskTel, SkyTerra and TELUS⁹ all suggest that an R&D condition of licence is no longer appropriate. CSSIF and SIA do not comment on the issue, and Ciel suggests¹⁰ that it would be appropriate to deal with R&D obligations as part of an anticipated consultation on satellite licence fees.

Many of the comments are consistent with those of Telesat on the following points:

- R&D is essential and will be driven by market forces, with no need for regulatory compulsion¹¹

⁸ TELUS at p. 12

⁹ Bell Mobility at ¶95, Bragg at ¶25, CWTA at p.5, Joint Task Force at ¶6, MTS Allstream at ¶71, Rogers at ¶71, SaskTel at §6.1, SkyTerra at p.2, TELUS at p.18

¹⁰ Ciel at p.2

¹¹ Bragg at ¶23, CWTA at p.6, Rogers at ¶73, SaskTel at §6.1, SkyTerra at p.2, TELUS at p.18

- R&D (and public benefit) obligations are a form of licence fee and need to be addressed in that context¹²
- R&D obligations included as a condition of licence impose an additional regulatory burden¹³.

Telesat also supports the position of SkyTerra and Rogers (citing the OECD)¹⁴ that regulation and industrial development strategy should not be mixed.

Satellite Licence Fees

The Consultation specifically addresses renewal fees for licences originally obtained at auction. While Telesat looks forward to an opportunity to address the issue of satellite licence fees in the anticipated upcoming consultation, we did make brief comments on the matter in our response to the Consultation.¹⁵

Telesat notes that the Canadian wireless industry has raised concerns similar to those of Telesat in the context of their industry: specifically that Canadian fees are disproportionately high compared with those in other relevant jurisdictions¹⁶. A number of comments also suggest that fees should be based on cost recovery, rather than on economic rents, since the latter would serve only to discourage investment and increase costs for the end-user.¹⁷

Conclusion

All parties associated with the satellite industry commented in opposition to the auctioning of satellite spectrum. Only three parties associated with the wireless industry commented in favour, and the only justification offered was that auctions enable award based on “market forces”. These comments did not take into account the international nature of satellite spectrum and the fact that the Canadian market is fully open to satellite operators licensed by other administrations.

Opinion was unanimous from all sectors of the radiocommunications industry that R&D obligations are inappropriate as a condition of licence.

While satellite licence fees were not specifically addressed in this consultation, Telesat notes that many of the issues raised by the wireless industry, in particular the proportionality with other jurisdictions, apply even more strongly to the satellite industry than to the wireless industry.

¹² Bell Mobility at ¶95,

¹³ Bragg at ¶24, CWTA at p.6, SaskTel at §6.1, SkyTerra at p.2, TELUS at p. 18

¹⁴ SkyTerra at p. 2, Rogers at ¶72

¹⁵ Telesat at p. 5

¹⁶ Bell Mobility at ¶14 and 81, Rogers at ¶70

¹⁷ Bell Mobility at ¶92, Bragg at ¶14-21, CWTA at p. 4, MTS Allstream at ¶69, Rogers at ¶70, SaskTel at §5.3, TELUS at p. 16