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17 July 2009

by Email

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

Dear Mr. Hill:

Subject: Reply Comments - Consultation on Transition to Broadband Radio Service (BRS) in the Band 2500-2690 MHz, Canada Gazette, Part I, 14 March 2009 - DGRB-005-09

1. MTS Allstream Inc. (MTS Allstream) has reviewed the comments filed by ABC Communications, Bell Canada (Bell), Inukshuk Wireless Partnership (Inukshuk) and Rogers Communications Inc. (Rogers), Bragg Communications Inc., Cablevision TRP-SDM Inc., Craig Wireless Systems Ltd., Ericsson Canada, Intel Corp., Look Communications Inc. (Look), Martin Catudal, Manitoba School Divisions, Prairie Spirit School Division, Radio Advisory Board of Canada (RABC), Saskatchewan Telecommunications (SaskTel), SSI Micro Ltd., TELUS Communications Company (TELUS), Wireless Communications Association International (WCAI) and the WiMAX Forum in response to Gazette Notice DGRB-010-09 – *Extension to the Comment Period: Consultation on Transition to Broadband Radio Service (BRS) in the Band 2500-2690 MHz* and to Gazette Notice DGRB-005-09 – *Consultation on Transition to Broadband Radio Service (BRS) in the Band 2500-2690 MHz* (DGRB-005-09). MTS Allstream hereby submits its reply comments.
2. In the comments MTS Allstream submitted on 15 June 2009 (15 June Comments), MTS Allstream indicated that:

The transition to BRS should be discussed in the context of the current landscape in Canada, as well as the expected future award of new spectrum in the 700 MHz frequency band; and

The availability of high quality spectrum for all industry stakeholders should be a key objective of government policy. Countries around the world are beginning to recognize this as an important objective and are putting in place measures to ensure that mobile carriers who have entered the market at different times can all acquire spectrum below and above 1 GHz.

3. In this respect, there is currently a great deal of uncertainty in Canada concerning the availability and future auctioning of high quality spectrum. As noted in MTS Allstream's recent reply comments in relation to the Department's framework for spectrum auctions in Canada¹, given the integrated nature of the market and the increasing globalization of the industry, it is important for Canada to keep pace with the rest of the world in the auction and deployment of spectrum.
4. Despite this, Canada has fallen behind in the auction of BRS spectrum, as well as in the auction of the 700 MHz spectrum that should become available through the transition of over-the-air television broadcasts from analog to digital. In the latter case, the recent decisions of the Canadian Radio-television and Telecommunication Commission (CRTC) that only require larger market stations to transition to digital broadcasts by August 2011, have created a great deal of uncertainty, including the potential for delays in awarding spectrum, the availability of only a patchwork of spectrum licences or an uneven amount of spectrum depending on location.
5. MTS Allstream recommends that the Department provide clarification regarding the planning for future spectrum awards in Canada and submits that there is urgency to do so in light of the substantial economic benefits to be derived from mobile broadband applications.

BRS transition date as of 31 March 2011

6. MTS Allstream reiterates its support for a transition date as of 31 March 2011, which was also the date supported by a majority of the interveners who commented on this question in their comments of 15 June 2009.

7. Like many other parties, MTS Allstream recommends that BRS spectrum be auctioned to participants that currently do not hold any of the multipoint communications systems (MCS) and multipoint distribution system (MDS) spectrum to be transitioned to BRS. The current spectrum holders should transition to BRS and, as contemplated, retain two thirds of the spectrum of their current licences.
8. MTS Allstream also reiterates its concerns that the Department should take into account the fact that Canadian mobile carriers (other than Bell and Rogers) will be able to access less than 50% of the total spectrum being awarded in the 2.5 to 2.69 GHz frequency band, when compared with carriers in European countries, to help fulfill the promises and consumer benefits of mobile broadband across Canada.

The BRS Transition for MDS licensees

9. MTS Allstream is confused by the comments submitted by Look indicating that it has deployed MDS spectrum to about 65% of the population within its serving area and has previously made a request to convert to BRS. On this basis Look appears to be requesting immediate approval to convert its spectrum to BRS at the same time as it is in the process of selling its assets to Inukshuk.
10. While voluntary conversion is consistent with the policy established in DGTP-002-06, *Policy Provisions for the Band 2500-2690 MHz to Facilitate Future Mobile Service*, March 2006², on 5 May 2009, more than one month prior to its submission regarding the BRS transition, Look entered into an agreement with Bell and Rogers to sell its spectrum and broadcast licences. Furthermore, Look has indicated that "Look will commence the orderly wind down of its present operations over the course of the next 90 days."³ If this is the case then Look would no longer be an MDS licensee and therefore would no longer be eligible for conversion from MDS to BRS.

¹ *Consultation on Revisions to the Framework for Spectrum Auctions in Canada*, Canada Gazette Notice No. DGRB-001-09, 11 April 2009.

² DGTP-002-06, *Policy Provisions for the Band 2500-2690 MHz to Facilitate Future Mobile Service*, March 2006, Section C.3.2.

³ Look Press Release, *Look Agrees to sell its spectrum to Bell and Rogers*, 5 May 2009
http://www.look.ca/en/files/Look_transaction_05052009.pdf .

11. As stated in its 15 June Comments, MTS Allstream agrees with the Department's imposition of a moratorium, effective immediately, on new applications for broadcasting licences in this frequency band. MTS Allstream believes that the Department should also impose a moratorium on any other conversion to BRS pending final decisions regarding the BRS conversion framework and process.

Geographic Tier Licensing

12. Like MTS Allstream, a number of other interveners supported the use of Tier 2 licence areas for the BRS conversion of site-specific MCS licences and MDS authorizations, including Bell and Rogers via their Inukshuk Wireless Partnership, as well as Craig Wireless.
13. TELUS indicated that it does not support the use of Tier 4 licence areas for mobile spectrum, but supported the conversion of MDS site licences at "whatever tier (3 or 4) that the Department deems appropriate given the details surrounding each site".⁴ SaskTel favored the use of Tier 3 licence areas due to their practical size, ease of administration and consistency with the recent AWS auction. Intel also submitted comments in which they indicated their support for Tier 3 geographic licence areas, while ABC Communications supported the use of Tier 4 licence areas.
14. MTS Allstream recommends that Tier 2 licence areas should be used to allocate this spectrum band to maximize the benefits and the potential deployment of mobile broadband services to Canadian consumers. Tier 3 and Tier 4 licence areas could result in increased fragmentation, which would be detrimental to Canadian consumers because they would not be able to benefit from seamless mobile broadband services across the country.
15. If demand for smaller licenced areas emerges, spectrum licences can be transferred, sub-divided, or interested parties can enter into a subordinate licensing arrangement. Further, the existence of the *Policy for the Provision of Cellular Services by New Parties*⁵

⁴ TELUS 15 June 2009 comments to DGRB-005-09, page 2.

⁵ RP-019, *Policy for the Provision of Cellular Services by New Parties*, March 1998.

(RP-019), contributes to increased usage of spectrum in areas outside of key urban centers and has been used by a number of industry stakeholders to this effect.

16. MTS Allstream further discusses licensing of rural and urban areas and the possibility of developing different tiers specifically designed to address urban and rural areas in its comments in its 15 June 2009 submission in response to DGRB-001-09.

Licence Fees

17. MTS Allstream supports the Department's policy to consult on new licence fees applicable to all BRS licenses issued to incumbents following either a voluntary conversion to BRS or after the mandated transition date of March 31, 2011. TELUS adopted a similar position indicating that "TELUS reserves the right to comment on the structure of the fees in the next phase of this consultation process".
18. Future BRS licensees will pay for this spectrum through the auction process. Therefore, to ensure competitive equity between BRS licensees in Canada this fact needs to be considered when the fees for existing MCS and MDS licences that are eligible for conversion to BRS are determined. As a result, MTS Allstream disagrees with the joint comments of Bell, Rogers and the Inukshuk Wireless Partnership that fees for the BRS licences issued to incumbents should be "set at a nominal level to only recover the Department's administrative costs, as is the case in the US".⁶
19. MTS Allstream further notes that any new and would-be commercial users of BRS spectrum in the US (the "proponent") must pay for the replacement of the equipment of eligible Educational Broadband Service (EBS) users already present in this frequency band in a particular Major Economic Area (MEA), as stated below:

A proponent(s) must pay the cost of transitioning EBS licensees.

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The Transition Completion Phase

⁶ Bell, Rogers and Inukshuk comments to DGRB-005-09, paragraph 64.

Eighteen months after the Transition Planning Period ends, the transition must be completed. During this phase, the proponent(s) must replace downconverters and migrate video programming tracks for eligible EBS licensees.(see [Section 27.1233](#)). At the end of this phase, the proponent(s) and the BRS and EBS licensees must jointly file with a Post-Transition Notice that indicates that the MEA has been transitioned and the licensees are operating according to the new rules.⁷

20. This is not an obligation currently being imposed or considered for commercial BRS licensees in Canada. While Bell and Rogers do not compete with US licensees in these bands, they will indeed compete with future new BRS licensees in Canada and, thus, all future BRS carriers in Canada should pay similar fees for similar spectrum.

Licence term

21. Interveners to DGRB-005-00 were strongly in favor of licence terms longer than the 10-year term proposed by the Department for BRS licences. This group includes MTS Allstream, TELUS, SaskTel, as well as Bell and Rogers via their Inukshuk Partnership. MTS Allstream reiterates its view that BRS spectrum licences should be awarded with a minimum 15 year term.
22. This position is supported by the Department's decision to issue a BRS licence with a term longer than 10 years. The BRS licence awarded to Craig Wireless, with an effective date of 1 October 2008 and an expiry date of 31 March 2021,⁸ sets a precedent for BRS licences by establishing a term longer than 10 years and thereby supports MTS Allstream request that licence terms be set at a minimum 15 years

With respect to other BRS Conditions of Licence

23. MTS Allstream notes the agreement between various carriers regarding the elimination of the research and development (R&D) condition of licence and urges the Department not to include this condition of licence for future BRS licences.

⁷ http://wireless.fcc.gov/services/index.htm?job=licensing_2&id=ebs_brs.

⁸ <http://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf09166.html>.

24. Similar to TELUS, MTS Allstream recommends a phased-in approach with respect to any lawful interception requirements including a reasonable transition period and increased clarity in defining and mandating requirements. Further, MTS Allstream supports a legislated cost recovery compensation regime for upgrades, retrofits or deployment of new equipment necessary to fulfill the requirements of lawful interception.

Mandatory roaming as well as Mandated Antenna Tower and Site Sharing

25. As noted by the Department and by interveners in the BRS consultation, this spectrum band is the “only band identified by the ITU for next generation mobile services on a global basis.”⁹ Global next generation mobile services entail roaming between mobile network operators across countries as well as in domestic markets and, in fact, in the UK one of the criteria justifying the choice of the Conférence Européenne des Postes et Télécommunication (CEPT) frequency band plan for the 2.6 GHz band was to ensure roaming across EU countries:

The adoption to the 5 MHz width, with the 120 MHz duplex spacing for FDD systems, and the identification of FDD uplink and downlink bands, and the technical conditions that we have adopted from the CEPT (05) 05 report, are sufficient to allow operators to access the benefits of market-led harmonization in that they will support a Europe-wide marketplace for equipment and **facilitate roaming**” (emphasis added).¹⁰

26. Therefore, MTS Allstream reiterates its 15 June Comments that both roaming, as well as site sharing requirements that are detailed in the *Conditions of Licence for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements* (CPC-2-0-17), need to apply equally to BRS licensees in order to fulfill the objectives of the efficient deployment of this spectrum band for next generation mobile

⁹ DGRB-005-09, *Consultation on Transition to Broadband Radio Service (BRS) in the Band 2500-2690 MHz*, p. 2.

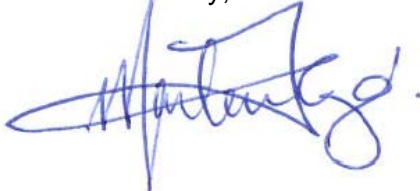
¹⁰ Ofcom Statement on the award of the 2.6GHz and 2010 MHz bands, April 4, 2008, p. 139. MTS Allstream notes that, as per its update of June 23, 2009 regarding the 2.6GHz award, Ofcom considers that “it is no longer appropriate to rely on its decision of 4 April 2008 to hold the award of the 2.6GHz band as soon as possible”. It has also been recommended by the UK’s independent spectrum broker that the award of 2.6 GHz spectrum should be held together with the award of the 800 MHz band spectrum.

services across Canada. The conditions of licence include the notion that roaming needs to be provided “where technically feasible”, as follows:

Roaming must enable a subscriber (a Roamer) already served by the Requesting Operator’s network (Home Network) to originate or terminate communications on the Licensee’s network when out of range of the Home Network, wherever technically feasible.¹¹

27. Therefore, the conditions of licence already addresses any situation where technologies that are potentially incompatible may be deployed by different carriers in this frequency band.

Yours truly,



for Teresa Griffin-Muir

c.c.: Marlene Floyd, MTS Allstream, 613-688-8770

* * * End of Document * * *

¹¹ CPC-2-0-17, *Conditions of Licence for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangement*, Paragraph 9.2.