

Canada Gazette Notice No. DGRB-008-09

***Consultation on a New Spectrum Licensing Approach and
Fee for Narrowband Multipoint Communication Systems
(N-MCS)***

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**Comments
of**

Bell Mobility Inc.

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EXECUTIVE SUMMARY

E1. Bell Mobility Inc. (Bell Mobility) is pleased to submit the following brief comments in response to the Department's *Consultation on a New Spectrum Licensing Approach and Fee for Narrowband Multipoint Communication Systems (N-MCS)*.

E2. Bell Mobility's primary interest is with respect to the Department's economic rent-seeking approach used to arrive at the proposed licensing fees. Bell Mobility also has serious concerns with certain policy statements, used to justify this approach, which the Consultation paper attributes to the June 2007 *Spectrum Policy Framework for Canada (SPFC)*.

E3. The Consultation paper states that the SPFC directs or requires it to capture economic rents where they exist and to set spectrum fees that reflect the market value of the radio frequency being addressed.

E4. Bell Mobility notes that a careful review of the SPFC, on its part, has failed to identify any portion of the SPFC which refers, directly or by inference, either to capturing economic rents or to the setting of fees that reflect the market value of spectrum.

E5. The Consultation paper relies on the SPFC as its primary rationale for establishing fees that capture economic rents or that reflect the market value of the spectrum in question. Bell Mobility does not believe, and demonstrates in these comments, that such rationale does not exist within the SPFC.

E6. For the reasons outlined in these comments, Bell Mobility recommends that the Department employ a cost-recovery approach to the setting of fees thus restricting the resulting fees to a level sufficient to recover the cost of managing the associated spectrum. Bell Mobility submits, for the reasons outlined in these comments, that such an approach to setting fees would be more effective in achieving the stated policy objective of the SPFC.

1.0 **INTRODUCTION**

1. Bell Mobility Inc. (Bell Mobility) is pleased to submit the following brief comments in response to the Department's *Consultation on a New Spectrum Licensing Approach and Fee for Narrowband Multipoint Communication Systems (N-MCS)*, Notice No. DGRB-008-09, as published in the *Canada Gazette*, Part 1, dated 11 April 2009 (the Consultation).

2. The intent of the Consultation is to seek public comments on all aspects of Industry Canada's proposed spectrum licensing approach and associated licensing fee for all future N-MCS.

3. Bell Mobility's primary interest, in this Consultation, is with respect to the Department's economic rent-seeking approach used to arrive at the proposed licensing fees. In addition, and on a related matter, Bell Mobility has serious concerns with certain policy statements, used to justify a rent-seeking approach to the development of fees, which the Consultation paper attributes to the June 2007 *Spectrum Policy Framework for Canada (SPFC)*.

4. Bell Mobility will address each of these concerns separately, in the following comments, beginning with our concerns regarding the references attributed to the SPFC followed by our recommendations regarding the appropriate approach to develop licensing fees.

2.0 **THE SPFC AND THE ESTABLISHMENT OF LICENCE FEES**

5. Bell Mobility's concern, regarding this matter, relates to certain statements which the Consultation paper attributes to the SPFC which, if accepted, would have a significant bearing on the level of licensing fees established for the spectrum in question in the Consultation or, for that matter, any other spectrum for which the Department is setting or revising fees. In this regard, the Consultation states at page 2 that:

As outlined in *A Spectrum Policy Framework for Canada (SPFC)*, the Department manages spectrum in a manner that supports fair competition, captures economic rents where they exist and recovers spectrum management costs where such rents do not exist. (Emphasis added)

6. Similarly at page 5 of the Consultation, under the heading of Proposed Fee, Industry Canada states that:

As noted in the *Spectrum Policy Framework*, two of Industry Canada's primary goals are to set fees that reflect the fair market value of the radio frequency spectrum being used and to promote the efficient use of this limited public resource. (Emphasis added)

7. Bell Mobility notes that a careful review of the SPFC, on its part, has failed to identify any portion of the SPFC which refers, directly or by inference, either to capturing economic rents or to the setting of fees that reflect the market value of spectrum. Simply put, neither of these statements, nor a statement from which one could reasonably infer such a policy direction, is to be found in the SPFC.

8. The SPFC's Policy Objective, as outlined at page 8 of that document, is:

To maximize the economic and social benefits that Canadians derive from the use of the radio frequency spectrum resource.

9. In its comments, dated 29 May 2009, filed in response to Industry Canada's concurrent *Consultation on the Renewal of Cellular and Personal Communications Services (PCS) Spectrum Licences*, Notice No. DGRB-002-09, (the Renewal Consultation), Bell Mobility addressed what appears to be the same policy misinterpretation, surfacing in the Renewal Consultation paper, when it noted, at paragraph 119, that:

Bell Mobility also disagrees with the Document's comments concerning the SPF and the interpretation that the policy objective, i.e. to maximize the economic and social benefits that Canadians derive from the use of the radio frequency spectrum resource, primarily or even remotely justifies establishing fees for spectrum. To the contrary, Bell Mobility believes that the intent of that statement is directed more toward the objective of fully exploiting and maximizing the economic and social benefits Canadians obtain from the spectrum through the full and efficient exploitation of that public resource in deriving positive economic and social externalities for the Canadian public. . . . In any event, Bell Mobility does not believe that Industry Canada is correct in pointing toward the SPF as a rationale for suggesting that spectrum licence fees must be increased to a cost plus or rent-seeking level. (Emphasis added)

10. Bell Mobility does not, therefore, believe that the SPFC contains the statements outlined above nor do we believe, as stated in our comments in response to the Department's Renewal Consultation, that the SPFC provides any support whatsoever for the setting of licensing fees on either an economic rent-seeking or market value of spectrum basis.

3.0 PROPOSED FEE

11. The Consultation paper relies on the SPFC as its primary rationale for establishing fees that capture economic rents or reflect the market value of the spectrum in question. Bell Mobility has demonstrated above that such rationale simply does not exist anywhere within the SPFC document. It is noteworthy, however, that in conducting the International Fee Comparison, i.e. as required by the *User Fees Act*, the Consultation acknowledges, at page 6, in discussing the corresponding fees in the United States that:

It should be noted that licence fees in the United States are typically determined on an administrative cost-recovery basis only.

12. In this regard, in its comments filed in response to the Department's Renewal Consultation noted above Bell Mobility stated, at paragraph 125, that:

. . . Bell Mobility recommends that Industry Canada adopt a cost-recovery regime for the purposes of setting licence fees going forward. Such a move would put Canadian licensees on an equal footing with their U.S. counterparts. . . .

13. Clearly the same reasoning and rationale would apply to the establishment of N-MCS fees on a going-forward basis. Bell Mobility therefore recommends that the Department employ a cost-recovery approach to the setting of fees in general, as does our closest and largest trading neighbour, and restrict any such fees to a level sufficient to recover the cost of managing the associated spectrum. Bell Mobility submits that such an approach to setting fees would go further toward achieving the policy objective of the SPFC, i.e. maximizing the economic and social benefits Canadians obtain from the spectrum, by facilitating the full and efficient exploitation of that resource thus deriving positive economic and social externalities for all Canadians.

4.0 CONCLUSION

14. Bell Mobility appreciates the opportunity to provides it comments, in response to the Consultation, and sincerely hopes that the Department will give them due consideration.

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