



29 May 2009

Director  
Spectrum Management Operations  
Industry Canada  
300 Slater Street  
Ottawa, Ontario  
K1A 0C8

Dear Sir;

**Reference: Canada Gazette, Part I, March 28, 2009, Consultation on the Renewal of Cellular and Personal Communications Services (PCS) Spectrum Licences, Gazette Notice No. DGRB-002-09; TBayTel Comments**

## **Introduction**

1. TBayTel is pleased to file these comments in accordance with the process established by Industry Canada (“Industry Canada” or “The Department”) in its document, Gazette Notice No. DGRB-002-09, published in the Canada Gazette Part I, dated 28 March 2009, titled *Consultation on the Renewal of Cellular and Personal Communications Services (PCS) Spectrum Licences*.
2. TBayTel is a municipal service board with its assets owned by the Corporation of the City of Thunder Bay, providing telecommunication services in Northern Ontario.
3. In addition to having the region’s largest digital cellular coverage network, TBayTel is the largest independently owned telecommunications company in Canada. As Northern



Ontario's Telecommunications Service Provider ("TSP"), TBayTel serves enterprise and consumer markets with broadband, wireless, wire line, Direct IT and security solutions.

4. As a member of the Canadian Wireless Telecommunications Association (CWTA), TBayTel participated in the development of the response filed by the CWTA on the above noted reference subject and supports its conclusions. TBayTel would, however, like to highlight a key issue particular to itself as a regional carrier providing telecommunication services to Northern Ontario, as described below.
5. Failure by TBayTel to address any issue or matter raised during this proceeding in these Comments should not be construed as agreement to the extent that such agreement would be inconsistent with the interests of TBayTel.

## **Background**

6. For over 100 years, TBayTel has a history of providing telecommunications services to the people of Northern Ontario. Keeping those subscribers in mind, it was at least five years ago that TBayTel started advocating, on behalf of Northern Ontario residents, the use of its 2% Research and Development ("R&D") money to provide telecommunications services to unserved or underserved inhabitants of the North.
7. On 20 December 2004, TBayTel as a member of Canadian Alliance of Publicly-Owned Telecommunications Systems ("CAPTS") wrote Industry Canada's Regional Office in Sault Ste Marie requesting an exemption on the 2% R & D condition of Cellular and PCS



licences based on low revenues and the low value of local revenue each of the CAPTS members receives for their R & D dollars.

8. Specifically, TBayTel noted, among other things that its 2% R & D requirement be directed to provide additional cellular coverage to customers in unserved or underserved areas in Northern Ontario.
  
9. On 29 June 2005, CAPTS received a letter from Industry Canada's office in Sault Ste Marie indicating the Department had recently released a consultation paper which invited comments on the development of a renewed spectrum policy framework for Canada and that comments were also invited on areas such as R & D. The document entitled "*Consultation on a Renewed Spectrum Policy framework for Canada and Continued Advancement in Spectrum Management*", Canada Gazette , Part 1, Gazette Notice No. DGTP-001-05, dated 14 May 2005, noted that comments were to be submitted no later than 07 September 2005.
  
10. On 07 September 2005 CAPTS commented on the 14 May 2005 Industry Canada document, stating again that CAPTS should be exempt from the 2% R & D condition of licence based on low revenues and the low value of the local return each of the CAPTS companies receives from R & D. Further, CAPTS stated that TBayTel's 2 % R & D amount should be used to provide additional cellular coverage to customers in unserved or underserved areas in Northwestern Ontario. As a corollary to the forgoing, TBayTel's R & D should be spent on modernizing its equipment (analog to digital) in currently underserved areas or providing new digital service in unserved areas.



11. At about the same time as the 2005 Industry Canada consultation, the Minister of Industry appointed a panel to review Canada's telecommunications policy framework and recommend on how to modernize it to ensure that Canada has a strong, internationally competitive telecommunications industry that delivers world-class services for the economic and social benefit of all Canadians. On 15 August 2005, CAPTS submitted its comments to the Telecommunications Policy Review Panel ("TPRP") in which CAPTS indicated in its answer to the section on Regulatory Institutions, sub-section Policy Making, that companies like CAPTS' companies, should be encourage to independently devote funds on policy research and development to locally recognized educational institutions having the appropriate course as part of their curricula.

## **Comments**

12. TBayTel believes that the 2% R & D as a condition of licence time has past. Accordingly, as a small carrier, in a sparsely populated area of Ontario, not to mention the Country, TBayTel believes this condition of licence was originally an ill defined requirement which provided no firm statement of how dollars were to be spent. Early interpretations of the R & D by large carriers made it unclear whether or not small carriers were liable to the same extent. This weak position caused many small carriers in the early years of their licence to decide whether or not their spending on expanded regional coverage would be considered as a qualifying expenditure under R & D.

13. For a small regional TSP like TBayTel providing service, first to areas that are unserved where it is reasonably economically viable, then, secondly, to areas that are underserved,



was in TBayTel's opinion the best use of its 2% R & D funds and is in keeping with the true spirit of development. Providing service to unserved or underserved areas parallels with at least three of the objectives of Canadian Telecommunications Policy of the Telecommunications Act ("Act") which states:

(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;

(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; and

(h) to respond to economic and social requirements of users of telecommunications services.

14. In TBayTel's Northern Ontario wireless area which has a population of approximately 785,000, TBayTel's physical network covers a population of approximately 235,000. Of the Northern Ontario population, TBayTel has a very very small number of the subscribers and covers less than 30 % of the total inhabitants. Comparing TBayTel's regional wireless service to Rogers Wireless Partnership Inc. ("Rogers Wireless") a National Carrier, TBayTel fares very well. Rogers Wireless, the only national carrier in TBayTel's service area supposedly has approximately 25,000 subscribers. This small number of subscribers is situated only in the City of Thunder Bay while TBayTel's



subscribers are regional in nature. TBayTel believes that using the right business case, TBayTel has continued to provide service to those unserved by extending its existing network.

15. Further, TBayTel's Northern Ontario's PCS licence area covers approx 874,214 sq miles encompassing a population of 785,000. To put this in perspective, the closest country area wise like TBayTel is France which has an area of 549,183 sq km and a population of 59,000,000 (2000 statistics). As can be seen, TBayTel has a vast area to serve with little population.
16. With the mostly rural or remote setting of TBayTel's serving area, the ongoing expansion of its network over the past number of years has been very costly to TBayTel. TBayTel believes that this investment is very much in keeping with R & D in these unserved areas. TBayTel's past and future investment in the network is a natural fit for TBayTel in providing wireless services to those unserved subscribers.
17. As the true regional provider in Northern Ontario, TBayTel is in the right position to provide service to those unserved areas as TBayTel's network is in close proximity. TBayTel's experienced and skilled staff along with years of knowledge positions it appropriately to provide further telecommunications services in of Northern Ontario. Over the past number of years, TBayTel has by far made the single largest investment in the region for development of a wireless network.



18. Compared to the national carriers, TBayTel, being relatively small in size provides valuable coverage in more rural or remote areas of Northern Ontario. As a fast follower of telecommunications advancements rather than a leader, TBayTel believes that R & D spending with third party agencies would not provide any direct benefit to the region and amounts to wasteful spending. The lack of resources and economies of scale by small carriers compared to large carriers also does not provide the same benefits to its networks as the large carriers.

19. Further, TBayTel believes this is an inappropriate time to enforce the 2% R & D condition of licence on small carriers, for any interpretation other than our present one. With the current economic conditions, especially in the North where unemployment rates are higher than the national average, just maintaining the same quality of service and network architecture is burdensome.

## **Conclusions**

20. Since 2004, TBayTel has been formally requesting Industry Canada to exempt smaller carriers like TBayTel from applying the 2% R & D condition of licence due to the low value of local return from these R & D dollars. Being in a more rural and remote area of the province, TBayTel believes that it has spent development dollars in providing an up-to-date telecommunications product to the inhabitants of the North, particularly to those in under serviced areas.



21. As a small regional carrier TBayTel is a fast follower of telecommunications advances rather than a leader in the wireless industry and therefore the direct benefit to TBayTel from its current 2% R & D requirement other than that applied to advancing the position of unserved and under serviced areas is non-existent.
  
22. Further, TBayTel believes strongly that it has already spent the equivalent (and more) of the 2% R & D in expanded telecommunications services to unserved areas and to underserved areas. As a result, the past 2 % R & D requirement has been met for TBayTel as it has continued to expand its wireless network in Northern Ontario in absence of clearly defined criteria. Those in the North have a need to communicate and TBayTel has shown it can be the carrier of choice and the investment toward meeting this need has been at a dollar amount significantly higher than the 2%.
  
23. TBayTel again appreciates the opportunity to comment on the consultation document initiated by Industry Canada on the Renewal of Cellular and PCS Spectrum Licences and looks forward to working with the Department in the future.
  
24. All the above is respectfully submitted this 29th day of May 2009.

Yours truly,

*Original signed by David A Wilkie*

David A Wilkie  
Regulatory Analyst



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