



Mr. Peter Hill

May 29, 2009

Director

Spectrum Management Operations

Industry Canada

300 Slater Street

Ottawa, Ontario

K1A 0C8

Dear Mr. Hill,

The following are the comments of the Canadian Independent Telephone Company Joint Task Force (the Task Force) in reply to Canada Gazette Part I, Notice DGRB-002-09 – *Consultation on the Renewal of Cellular and Personal Communications Services (PCS) Spectrum Licenses* (the Notice) dated March 23, 2009. A list of the Task Force members is attached. The Task Force members include the membership of l'Association des Compagnies de Téléphone du Québec, the Canadian Alliance of Publicly-owned Telecommunications Systems and the Ontario Telecommunications Association.

All of the member companies of the Task Force currently hold cellular and/or PCS licenses as described in the Notice.



The Task Force commends the Department on the publication of a thoughtful Notice that effectively balances public policy and market considerations.

The Task Force's comments are set out in the order in which topics are raised and proposals made in the Notice.

i) Renewal of Cellular and PCS Licenses:

The Notice identifies the considerable success of the deployment of cellular and PCS services in Canada. That is also the experience of the Task Force members. Cellular and PCS services are being offered today in rural areas, where much of the Task Force members' operations are concentrated, based upon customer demand and the existence of viable and sustainable business cases. Those service areas continue to be expanded based upon these criteria.

This situation is, in our view, supportive and consistent with the objectives of both the *Telecommunications Act* and the *Radiocommunication Act*, specifically the orderly development of the Canadian telecommunications system, the provision of reliable and affordable telecommunications services and an increasing reliance on market forces.

Accordingly, the Task Force supports the stated intent of the Department not to propose “...a condition of licence for deployment of cellular and PCS licences...”
(p. 5)



ii) Licence Term and Renewal:

The Department is proposing a 10-year term for renewal of licences in compliance with all licence conditions.

As noted by the Department, this matter has also been raised in the *Consultation on Revisions to the Framework for Spectrum Auctions in Canada* (DGRB 001-09). The Task Force will be submitting its full comments on renewal terms in the course of that consultation but wishes to express its support at this time for the 10-year term proposal in the Notice.

iii) Research and Development:

The Task Force notes and supports the proposed \$5 million threshold in annual gross operating revenues as outlined in Appendix A of the Notice.

The Task Force considers this a reasonable balance given the costs and complexities of R&D programs for smaller licensees.

The Task Force would also suggest consideration of a “smoothing” approach for revenues over \$5 Million; for example, the percentage expenditure requirement could be applied only to revenues over \$5 million. The absence of a “smoothing” approach would mean that the first dollar of revenue above \$5 million would require a \$100, 000 R&D expenditure for the licensee.

In any event, the Task Force notes that DGRB 001-09 solicits comments on the continuing appropriateness of R&D as a condition of licence and will provide its further comments in that proceeding.



iv) Resale and Roaming:

The Task Force notes the proposal by the Department to remove the existing conditions of licence relating to resale and roaming in light of the recently established new conditions of licence for mandated roaming and antenna tower and site sharing that came into effect November 29, 2008 for all cellular, PCS and AWS licences.

Task Force members have, over the years, experienced varying levels of difficulty and success in concluding reasonable roaming and sharing arrangements with other licensees. In many cases, the difficulties have been associated with the inability of a smaller licensee to reach agreement with a large licensee on terms that could constitute the basis of an economic business case. The large differences in revenues, assets and customer bases between such licensees create a significant imbalance in negotiating power with resultant imbalances in the respective attractiveness of agreement terms.

Accordingly, while the Task Force is in general agreement with the proposal, given the recent introduction of the new roaming and sharing conditions and the resultant lack of experience with these new conditions, the Task Force suggests that the Department remain vigilant as to their application and success.

The Task Force further suggests that particular attention be paid to the issue of the economic viability of agreements with appropriate consideration of the *Telecommunications Act* policy objectives, specifically sub-section 7(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.



Task Force members will continue to share their ongoing experiences in this regard with the Department and, if necessary, propose remedial measures to the Department.

v) Implementation of Spectrum Usage:

The Department proposes, consistent with its approach on licence deployment and renewal (see i) above), to no longer require an implementation licence condition.

The Task Force, for the reasons set out above in i), supports this proposal.

vi) Licence Fees:

The Department has identified its intention to undertake “a formal study to assess the market value of cellular and PCS spectrum “ and to launch a separate consultation seeking comments on the proposed fee.

The Task Force will reserve its comments on the appropriateness of the proposed fee in the context of that future consultation.

However, at this time, the Task Force provides the following preliminary comments:



- i. at present, as identified in the Notice, one standard fee (\$0.03512361 per MHz per population) covers all the frequency bands;
- ii. the experience in recent auctions (a real life market valuation) has shown that prices vary widely depending on the perceived business cases and the willingness of prospective licensees to invest capital;
- iii. the willingness of customers to pay for wireless services varies widely from one region to the next and indeed, even within regions as between densely populated cities and less populated rural areas.

Accordingly, the Task Force suggests that the Department, in undertaking its formal study to “ assess the market value of cellular and PCS spectrum”, not limit the scope of the study to one standard fee but explore the establishment of different fee levels consistent with market values in different regions of the country.

The Task Force thanks the Department for its consideration of these comments.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Peter Barnes', is written over a light blue circular stamp.

Peter Barnes

on behalf of the Task Force

Encl.



Member Companies

Amtelecom Limited Partnership

Brooke Telecom

Bruce Telecom

City West Cable & Telephone

Cochrane Telecom Services

CoopTel, coop de Télécommunication

Dryden Municipal Telephone System

ExecuLink Telecom Inc.

Gosfield North Communications Co-operative

Hay Communications Co-operative

Huron Telecommunication Co-operative

La Compagnie de Téléphone de Courcelles

La Compagnie de Téléphone de Lambton

La Compagnie de Téléphone de St-Victor

La Compagnie de Téléphone de Upton



Landsdowne Rural Telephone Co. Ltd
Le Téléphone de St-Ephrem
Mornington Communications Co-operative
Nexicom Telecommunications Inc
Nexicom Telephones Inc.
North Frontenac Telephone Corp.
North Renfrew Telephone Company
Ontera
People's Tel Limited Partnership
Quadro Communications Co-operative
Roxborough Telephone Company
Sogetel
TBay Tel
Téléphone Guèvremont
Téléphone de Warwick
Tuckersmith Communications Co-operative
Wightman Telecom Ltd
WTC Communications