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**Re: Government of Ontario Comments
related to
Canada Gazette, Part 1, DGRB-010-07**

The Government Mobile Communications Office, on behalf of Public Safety radio communications users within the Government of Ontario, is pleased to respond to the “Consultation on Proposed Conditions of Licence to Mandate Roaming and Antenna Tower and Site Sharing, and to Prohibit Exclusive Site Arrangements” – DGRB-010-07 Notice. We represent the various Ontario Government users of public safety radio network in Ontario, which provides service to organizations such as the Ontario Provincial Police, Ministry of Health and Long-Term Care (Ambulance), Ministry of Transportation Highway Operations and Carrier Enforcement, Ministry of Natural Resources, Ministry of Community Safety and Correctional Services, Office of the Fire Marshal, etc., and are pleased to provide the following comments.

To-date, the Government of Ontario has agreements with a limited number of other policing agencies for the sharing of our tower / site infrastructure, however we have not provided tower access to commercial entities, in part for the reasons listed below. While we understand the proposed approach, we have concerns regarding the mandatory tower and site sharing proposed by Industry Canada, particularly as they apply to our public-safety environment. Our concerns regarding the Government of Ontario’s tower / site infrastructure include the following:

- Ensuring that persons / entities that have access have successfully undergone a thorough police security clearance, with the ability to deny specific persons / entities from accessing the infrastructure or supporting equipment.
- The ability to maintain physical security at the Government of Ontario's tower sites, particularly from accidental or intentional damage.
- The potential impact and limit on existing operations or to future growth.
- That this proposal does not acknowledge the uniqueness of not-for-profit Government Public Safety network / infrastructure providers, who do not have the mechanism or authority to recoup capital expenditures for such networks as do private or commercial entities. As such, capital for network infrastructure costs in traditional "low profit" market areas may have to be absorbed by Government.
- The additional people and resources that would be required by Government to deviate from our core business of providing public safety communications, to that of tower / site contract management, maintenance coordination, etc.

In order to address or mitigate these concerns, we offer the following proposed additional licensing conditions, for consideration by Industry Canada:

- 1) That public safety agencies will require an extensive security / background check(s) for 3rd parties that have, or may have access to the tower / site equipment, records, etc. Where such check(s) indicate a security risk / threat, access to the tower / site may be denied.
- 2) That once a sharing agreement is established, the tower owner shall continue to have authority in the management of their tower infrastructure, as it relates to scheduling of site management, physical access, maintenance activities, etc.
- 3) That public safety agencies may limit certain parameters of proposed 3rd-party access, such as antenna height, shelter / building location, power consumption, etc. in order to ensure that future interests of the tower owner are addressed.

We propose that these new licence conditions be added to the four licence conditions currently being proposed by Industry Canada.

With regards to the four conditions of licensing currently being proposed by Industry Canada related to mandatory antenna tower and site sharing, as outlined in DGRB-010-07, we offer the following comments:

- A) With regards to the proposed licence condition 1, specifically: *"Licensees must facilitate sharing of antenna sites, including rooftops, and supporting structures ("Site(s)) and not cause or contribute to the exclusion of other radiocommunication antenna operators ("Operator(s)) from gaining access to Sites. Without limiting the generality of the foregoing, where a Licensee is party to an agreement that includes a provision excluding other Operators from the use*

of a Site, then, in order to facilitate the sharing of Sites, the Licensee must consent to waiving that portion of the agreement to facilitate a request to share. Further, Licensees must not enter into or renew agreements that exclude other Operators from using a Site.”, we offer no amendments to this proposed condition.

- B) With regards to the proposed licence condition 2, we propose a change as underlined: *“Licensees must share where technically feasible except where national, **provincial, or regional** security concerns exist or the Site is used solely for personal enjoyment.*
- C) In reference to the proposed licence condition 3, we propose changes as underlined: *“In order to fulfill the condition of sharing in accordance with this licence, the Licensee must respond to a request to share by any other Operator within **60** days as follows:*
- a. *In the event that the request to share is technically feasible, the Licensee must provide the requesting Operator with a response and an offer to enter into a sharing agreement. The department expects that Site-sharing arrangements would be offered at commercial rates that are reasonably comparable to rates currently charged to others for similar access.*
 - b. *In the event that the request to share is not technically feasible, the Licensee must provide the requesting Operator with a response detailing the reasons why it is not feasible (accompanied by any applicable technical information) in accordance with CPC-2-0-03.*

It is anticipated that additional time is required, and that the proposed 30 days does not afford adequate time to fully review a request.

- D) *“Site-sharing arrangements will be negotiated expeditiously and in good faith. If after **120** days from the initial request, the Licensee and the Operator requesting a Site-sharing arrangement cannot agree to the terms of the arrangement, the Licensee must agree to submit the matter to an arbitrator as agreed upon by the parties in accordance with the provisions of the applicable provincial arbitration legislation. The Licensee agrees that the arbitrator shall have all necessary powers to determine all of the questions in dispute (including those relating to determining the appropriate terms of the Site-sharing arrangement and those relating to procedural matters under the arbitration) and that any arbitration under this section shall be legally binding. The Licensee must participate fully in such an arbitration and follow all directions of the arbitrator in accordance with any arbitration agreement or with the applicable legislation. At any time, the Licensee and the Operator requesting antenna tower and site sharing may agree to specific terms with regard to submitting their dispute to an arbitrator and may withdraw their arbitration, on agreed terms, so long as they agree to a Site-sharing arrangement. The rationale for the additional time is that it will afford for mediation / resolution time, prior to submitting the issue to arbitration.*

The Government of Ontario also wishes, at this time, to re-enforce with Industry Canada that the impact of proposed policy changes affect public safety agencies much differently than they impact commercial entities. The requirements and infrastructure needed for Public Safety radiocommunications differs from those of commercial undertakings. We are unique, and believe that there should be exceptions to the proposed tower / site sharing conditions provided to larger provincial / regional public safety networks.

To emphasize this point, Ontario requests a separate meeting with Industry Canada officials to further discuss the spirit of this proposal and to further identify other unique requirements, such as robustness, and performance, faced by a not-for-profit public safety networks.

Should you have any questions regarding this response, please feel free to contact me at 416-327-0368.

Regards,

(original signed by)

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