

**Gazette Notice DGRB-012-07**

**12 December 2007**

**Department of Industry**

**Radiocommunication Act**

**Notice No. DGRB-012-07**

**Notice No. DGRB-012-07 - Update on Clarification Questions for  
the AWS Policy Framework and Deadline Extension for the  
Consultation on Proposed Conditions of Licence (DGRB-010-07)**

---

**Clarification and Questions  
of  
Shaw Communications Inc.**

---

**22 January 2008**

As provided for in Gazette Notice DGRB-012-07 - Update on Clarification Questions for the AWS Policy Framework and Deadline Extension for the Consultation on Proposed Conditions of Licence (DGRB-010-07), please find below Shaw Communications' questions and clarification on Industry Canada's licensing framework for AWS.

**Clarification:**

Based on the discussion below, please clarify that, for the purpose of the forthcoming AWS auction, incumbent regional carriers are not eligible to bid on the set-aside spectrum within their operating territory.

In his November 28, 2007 press release concerning the Policy Framework for the Auction for Spectrum Licenses for Advanced Wireless Services and other Spectrum in the 2 GHz Range, Minister Prentice stated that "We are looking for greater competition in the market and further innovation in the industry. At the end of the day, our goals are lower prices, better service and more choice for consumers and business. That is why we are setting aside a portion of the radio spectrum exclusively for new entrants into the wireless market". In response to this objective the eligibility criteria to bid for the set aside spectrum was defined in the policy framework document as "An entity, including affiliates and associated entities, which holds less than 10 percent of the national wireless market based on revenues".

Shaw is concerned that the eligibility criteria for bidding on set-aside spectrum contained in the policy framework document is too broad and, if left intact, could jeopardize the achievement of the Minister's policy objective of stimulating and encouraging more competition in the wireless market.

Specifically Shaw notes that although certain regional wireless incumbents meet the eligibility criteria for bidding on set-aside spectrum, these same regional incumbents control a dominant percentage of the wireless market within their operating territory. For example, SaskTel's wireless market share within Saskatchewan is as much as 80% and MTS' market share is close to 60% (see CRTC Telecom Monitoring Report 2006). Both these incumbent wireless carriers have benefited from all of the same advantages that the big three wireless carriers have enjoyed in the past. These two regional carriers enjoy formidable advantages in bidding for new spectrum based on their ubiquitous provincial network, customer base and head start. As stated at page 3 of Industry Canada's Policy Framework, "These characteristics unavoidably provide incumbent carriers with both the incentives and opportunities to prevent market entry or constrain competition, even in markets with multiple providers. With respect to spectrum auction, submissions received in the AWS consultation have shown how incumbents have the incentive to pay a premium for spectrum to prevent market entry".

Certainly those same incentives are just as real and compelling for regional incumbent wireless carriers. As stated by MTS/Allstream in its May 25, 2007 submission on the AWS consultation "As the custodian of Canada's spectrum resources, the government must design the auction and the spectrum licence conditions so as to optimize the potential for new entry by awarding licences in a manner that will remove barriers to entry and deliver on the government's vision of a truly competitive marketplace and will, to the greatest extent possible, fuel economic growth." (MTS/Allstream submission Consultation on AWS Framework May 25, 2007 p. 6) For these reasons Shaw believes that it is paramount that regional incumbent wireless carriers be prohibited from bidding for the set-aside spectrum within their territory. Regional incumbent wireless carriers can however, bid for any non set-aside spectrum.

### **Questions:**

#### Question 1:

Page 23 of the Department's December 22, 2007 Framework document states: "... department will impose an additional penalty on a bidder if that bidder withdraws standing high bids in more than five rounds of the auction. For the sixth and every additional withdrawn standing high bid, this penalty will be equal to..."

Please clarify whether this statement refers to five rounds in which bid withdrawals are made, or five standing high bids that are withdrawn.

#### Question 2:

Page 25 states: "... this auction process will continue in a second phase which will commence within one year following cessation of bidding in the first phase." Example on page 26 states: "... a subsequent licensing process will not take place for at least a year."

Can Industry Canada clarify whether a second phase process will commence before or after one year following the end of the first phase of bidding?

#### Question 3:

Please identify what are the file formats and structures for the end of round results? When will the files be made available?