

June 30, 2009

Michael D. Connolly
Director General
Radiocommunications and Broadcasting Regulatory Branch
Industry Canada
300 Slater Street
Ottawa, Ontario K1A 0C8

Dear Mr. Connolly:

RE: CWTA Reply Comments Canada Gazette Notice DGRB-002-09 - Consultation on the Renewal of Cellular and Personal Communications Services (PCS) Spectrum Licences

The Canadian Wireless Telecommunications Association (CWTA) is in receipt of comments, filed by various parties, in response to the above noted consultation (the Consultation). CWTA is pleased to provide the following reply comments.

Licence Renewals

On the core question of the Consultation, namely the renewal of the cellular and PCS licences, there is broad industry support for the Department's proposal to renew the licences. Moreover, there is widespread support for applying a term longer than the 10 year term proposed by the Department. The general consensus among parties is that longer terms would allow operators greater certainty and more flexibility in long term planning for technology evolution and continued network expansion, and it would be consistent with actions by other jurisdictions.

The Consultation included the Department's intention to impose a fee that reflects a fair return to the Canadian public. No party proposed or supported a fee regime that would increase the level of fees for renewed licences. In fact, a number of parties supported CWTA's position that the Department should apply a cost-recovery fee for licence renewals.

If licence fees will be imposed for renewed licences, they should be set at a nominal level to only recover the Department's administrative costs, as is the case in the US. To do otherwise would place Canadian wireless carriers at a significant disadvantage relative to their peers in other jurisdictions.¹

¹ Comments of Rogers Communications Inc. in response to DGRB-002-09, paragraph 77

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.²

CWTA continues to believe that a cost-recovery model is a legitimate option for the Department and would provide an appropriate return to the Canadian public. In any event, CWTA looks forward to providing comments on the planned formal study of the value of the spectrum licences and the separate consultation on the fee that will ultimately be proposed.

Service to Rural and Remote Areas

Two parties submitted comments recommending the Department modify the licensing regime to encourage or support the provision of mobile service to rural and remote communities. CWTA recognizes that there are areas of the country that remain unserved by mobile wireless services, and that promoting service to those areas is an important policy objective. However, CWTA submits that the changes as discussed are the antithesis of reliance on market forces, and the deliberate shift the Department has taken away from a command and control, bureaucratic spectrum management regime. This type of action would be a step in the wrong direction for Canadian spectrum management.

Canada's wireless networks cover a geographic area of approximately 1,300,000 km². This area is larger than the combined areas of France, Germany and the United Kingdom. To put this in perspective, those three countries have a combined addressable market six and a half times larger than Canada. Moreover, as the Consultation notes, licensees continue to expand their coverage areas. This observation was confirmed by licensees.

SaskTel continues to provide CDMA network coverage in Saskatchewan, and is expanding this coverage in rural areas, offering cellular service to smaller and more isolated communities. This is due to SaskTel's focus on not only serving the highly competitive urban markets, but also providing high speed Internet and wireless services in rural areas. An example of this commitment is our recent announcement of SaskTel's plans to invest \$220M in our Saskatchewan network, of which a large portion is dedicated to providing wireless and high speed Internet to rural customers.³

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's past and future investment in the network is a natural fit for TBayTel in providing wireless services to those unserved subscribers.⁴

TELUS also confirms that geographic expansion continues on a regular and ongoing basis as part of our capital build program.⁵

² Comments of Bell Mobility in response to DGRB-002-09, paragraph 125

³ Comments of SaskTel in response to DGRB-002-09, page 3

⁴ Comments of TBayTel in response to DGRB-002-09, paragraph 16

⁵ Comments of TELUS in response to DGRB-002-09, page 3

The consultation also notes that there are mechanisms in place for others who are interested in obtaining spectrum in unserved and underserved areas. CWTA submits that the current processes have worked. If the Department were to follow up on the recommendations of the report *Study of Market-based Exclusive Spectrum Rights*⁶ results would likely improve. There are subordinate licensing agreements in place, and licensees continue to consider other arrangements:

Rogers has participated in good faith discussions with various parties from time to time, and we have entered into mutually beneficial arrangements that have resulted in the provision of wireless services using Rogers' licensed spectrum in communities that could not otherwise have been economically served.⁷

CWTA notes that in addition to the subordinate licensing process, there remain unclaimed PCS spectrum licences. According to the Department's list of *Licences by Service Area*⁸, there are licences available to any service provider interested in providing service in northern or eastern Quebec, N.W.T., Nunavut, or the Yukon. This spectrum has been available since 2001.

The fact remains that rural and remote areas are extremely difficult to serve in a manner that is economically viable. Rather than reverting to more command and control spectrum management regime, the Department should focus on its other policy tools to promote service expansion to rural and remote areas. Targeted funding, such as the \$225 million broadband fund in the last budget is a way to harness market forces, achieve rural and remote deployment, and treat service providers equitably. Going forward, the Government could use the proceeds from future spectrum auctions to offset the costs deploying wireless services in rural or remote areas, rather than applying all the funds to general revenue.

Conclusion

In conclusion, CWTA reiterates its support for the Department's intent to renew the cellular and PCS licences. This renewal will ensure that licensees will continue to be able to deliver the services Canada's 21.6 million wireless subscribers demand. CWTA appreciates the opportunity to provide these reply comments, and looks forward to the consultation on the fee structure, and the study of the value of the spectrum licences.

Sincerely,

Filed electronically

J. David Farnes
Vice President,
Industry and Regulatory Affairs

⁶ *Study of Market-based Exclusive Spectrum Rights*, McLean Foster & Co., in collaboration with Prof. Martin Cave, Robert W. Jones and Dr. William Lehr for Industry Canada, 2007

⁷ Comments of Rogers Communications Inc. in response to DGRB-002-09, paragraph 20

⁸ *Current Licences by Service Area*, <http://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf05550.html>, last accessed June 30, 2009