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March 22, 2000

Mr. Jan Skora
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Mr. Michael Helm
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Dear Messrs Skora and Helm:

Subject: Reply Comments – Canada Gazette notice DGRB-018-99

Rogers Wireless Inc. ("RWI") is pleased to submit the attached reply comments regarding the above noted Gazette notice regarding the "Consultation on the Proposed Policy and Licensing Procedures for the Auction of Additional PCS Spectrum in the 2 GHz Frequency Range".

If there are any questions, please do not hesitate to contact me.

Regards,

Original Signed by:

Dawn Hunt
DH/csh



INDUSTRY CANADA
NOTICE NO. DGRB-018-99

CONSULTATION ON THE PROPOSED POLICY
AND LICENSING PROCEDURES FOR THE

AUCTION OF
ADDITIONAL PCS
SPECTRUM
IN THE 2 GHz
FREQUENCY
RANGE

REPLY COMMENTS OF
ROGERS WIRELESS INC.

March 22, 2000



I. INTRODUCTION

1. These reply comments are submitted by Rogers Wireless Inc. (RWI) in accordance with the procedures set forth in Notice No. DGRB-108-99 – Consultation on the Proposed Policy and Licensing Procedures for the Auction of Additional PCS Spectrum in the 2 GHz Frequency Range.
2. RWI has reviewed comments filed by the following parties:

Bell Wireless Alliance
Joe Church
Clearnet Communications Inc.
Canadian Wireless Telecommunications Association
3664341 Canada Inc.
Ian C. Johnson
Microcell Telecommunications Inc.
Motorola Canada Limited
Radio Advisory Board of Canada
BCT.Telus Communications Inc.
Neil M. Walker
3. RWI does not propose to respond to all of the points of view expressed by these parties. Rather, RWI has focussed on the principal issues in dispute and has addressed these matters in detail.
4. RWI's position on all of the issues raised by Industry Canada in its Notice is set forth in RWI's comments of March 1, 2000. Failure by RWI to respond to any argument raised by a party that is in disagreement with RWI's initial round of comments does not signify RWI's acceptance of that opposing point of view.

II. ELIGIBILITY TO ACQUIRE SPECTRUM

5. RWI recognized in its initial submission on March 1, 2000 that the issue of eligibility to participate in the auction would be the single biggest issue facing the Department in developing its policy.
6. RWI also acknowledged that this is a difficult issue for the Department to address since it involves competing policy objectives – both of which have merit. If PCS spectrum were not a scarce resource, it would be relatively simple to administer and it might be possible to satisfy the demands of all interests for additional spectrum. However, this is clearly not the case. With very limited PCS spectrum available to be auctioned, the Department must make policy decisions that will inevitably shape the Canadian wireless industry over the next ten years. At the heart of these decisions is the question of whether the introduction of a fifth national competitor in the Canadian market will provide more benefits to Canadians than equipping the existing competitors with the means to satisfy growing demand for their services and to introduce 3-G



services in competition with each other.

7. Perhaps not surprisingly, all of the existing wireless carriers have argued in favour of their own eligibility to participate in the auction and against the introduction of new entrants in the auction process.
8. Like RWI, these wireless carriers have stressed their need for additional spectrum to meet rapidly expanding demand for their services and to meet the challenge of introducing new 3-G services. All of these carriers expect their existing spectrum to come under extreme pressure in the next few years as the subscriber base is projected to quadruple by the year 2004. None of these carriers can afford to stand still in this environment of rapid change. Their networks are constantly being re-engineered to meet new challenges and cell-splitting will soon reach maximum efficiency levels in all of the major metropolitan markets.
9. It is therefore not surprising that the incumbents have argued in favour of their own eligibility to participate in the auction and against participation by new entrants.
10. What is surprising, however, is the lack of any large-scale interest on the part of potential new entrants, the public at large, or consumer groups, in arguing for increased competition in the PCS market. Indeed, the record of this public process reveals that only two other parties, that may or may not be potential new entrants, have seen fit to file submissions and only two members of the public have offered comments.
11. The Department's public process reveals no widespread interest on the part of potential new competitors and no broad-based public concern regarding the policies that have thus far successfully guided the development of the wireless industry in Canada.
12. While this might appear surprising at first blush, it is in RWI's view, a ringing endorsement of the fact that the existing competitive structure is well-suited to the Canadian market. This structure has seen prices fall by approximately 80% over the past few years while demand for service has more than doubled. Prices for wireless service are acknowledged to be among the lowest in the world – evidencing an extremely competitive market. In light of these facts, the apparent lack of interest among potential competitors in entering this market is more easily understood, as is the lack of comments by consumer groups or the public at large.
13. The current industry structure is working well and the incumbents are on the verge of exhausting their existing spectrum. Additional spectrum is clearly needed to meet expanding demand and the additional bandwidth requirements of 3-G services. It is therefore important that the existing competitors be equipped with sufficient spectrum to meet this demand, without upsetting the market structure that has proven to be so



successful in delivering positive results to consumers.

14. As indicated above, only two parties that may be potential new entrants have disputed these conclusions – Mr. Joe Church and 3664341 Canada Inc. Their submissions are addressed in turn below.

Mr. Church's Submission

15. In his submission, Mr. Church has tried to characterize the Department's wireless policy as a failure in comparison with other G-7 countries. He has sought to do this by looking at rising wireless stock prices, by comparing Canadian penetration rates with other G-7 countries and by down-playing the degree of competition experienced in the Canadian market. In RWI's view, Mr. Church's analysis does not hold up to scrutiny and does not lead to the conclusions that he argues for.

16. To begin with, Mr. Church's review of the revenues and stock prices of three of the Canadian wireless carriers is meaningless. No comparisons are made with carriers in other countries and share prices are only examined over the past two years – ignoring the many years of deflated prices for companies like RWI when it was struggling to build out a national network. No mention is made by Mr. Church of the share prices of other telecommunications carriers or the fact that the telecom and wireless sectors as a whole are exhibiting high stock prices at this point in time. In particular, Mr. Church has focussed on relatively meaningless revenue figures without any attempt to examine expenses or profitability. No mention is made of the fact that most of the Canadian wireless carriers have yet to recover operating losses accumulated over years of difficult, capital-intensive network builds. The statistics presented by Mr. Church are not at all helpful in analyzing the competitiveness of the Canadian wireless industry or the health of the industry.

17. Mr. Church's second point relates to the penetration rate achieved by Canadian wireless carriers in comparison to carriers in six other countries. He alleges that lack of competition in Canada is the reason why Canadian penetration rates are below the European and Japanese penetration rates that he cites.

18. Again, the facts do not support Mr. Church's conclusions. There are other reasons why Canadian penetration levels are lower than the countries he has selected for purposes of comparison. These reasons have to do with the exceptional quality of wireline telephone service and the relatively low price of local exchange service in Canada (which to some extent are still subsidized), compared with European and Japanese rates. Low-priced, high quality, local telephone service in Canada, with unlimited local calling at flat rates, presents a very different market entry scenario for wireless carriers than the high-priced, local measured service that is common in Europe. In addition, early growth in wireless service in Europe and Japan was spurred by the long delays and expense associated with subscribing to wireline telephone service. Because of



these fundamental differences in the communications landscape, North Americans have been much less willing to abandon their wireline service in favour of wireless service. This is borne out by the fact that the United States shares Canada's position with lower wireless penetration levels than Japan and the other G-7 countries cited by Mr. Church.

19. Mr. Church's claim that the Canadian wireless carriers possess market power is also flawed. On page 8 of his submission, Mr. Church acknowledges that "Canada has among the world's lowest prices for cellular/PCS" – clearly a leading indicator of a highly competitive market. However, just two pages later, he claims that "The four incumbents together possess market power in the supply of cellular/PCS services in every region..." These statements are entirely inconsistent. Since market power is defined as the ability to raise prices above cost without regard to the actions of one's competitors, it is extremely unlikely that competitors with market power would offer their customers the lowest service prices in the world to the point where they have accumulated large losses over the years. Moreover, Mr. Church alleges that "the four incumbents together possess market power." This statement makes no sense – absent a conspiracy among the four to drive prices down to the lowest level in the world.

20. Mr. Church has also highlighted five European countries that are proposing to increase the number of incumbents above the existing level of either 3 or 4. What Mr. Church fails to mention is the fact that each of the countries cited has a population that is double or more the size of Canada's population. In addition, none of these countries are characterized by the vast distances between cities that characterizes the Canadian landscape and demographics. None of these incumbents have had to build the type of national network that RWI has had to build in a country many times larger than the European countries cited – and with only a fraction of the population. Furthermore, Mr. Church has failed to mention that other countries, such as Spain, have decided against leaving it up to an auction process to determine whether new entry should be permitted, and will rely on a comparative licensing process.

21. For all of these reasons, it is illogical to apply to Canada the same policies that apply in European countries. A national policy should be adapted to national circumstances – not borrowed from dissimilar countries with dissimilar circumstances.

3664341 Canada Inc.'s Submission

22. 3664341 has a somewhat different perspective on the pending auction than Mr. Church.

23. According to 3664341:



The market for wireless voice telephone service in Canada is competitive and healthy. Four strong companies provide good quality voice services at affordable rates, are activating new users at a fast rate and will probably continue to do so for years to come. These players are experts at marketing and selling wireless telephone services and know the business well.

(3664341 Submission, p. 4)

24. Nor does 3664341 seek to exclude the incumbents from participating in the auction. Instead, it argues in favour of new entry and the setting aside of 20 MHz of spectrum for new entrants alone, without any apparent prohibitions on trading of the spectrum after the auction.
25. It is 3664341's position that new entrants are unfettered by legacy systems and networks, and are in a better position than incumbent carriers to quickly deploy 3-G services. According to 3664341, new entrants alone have the capability, agility and resolve to quickly deploy the most advanced technologies and services, which will enable Canada to become a leader in 3-G know-how and experience.
26. According to 3664341, existing wireless carriers in Canada will be slow to respond to the challenge of introducing 3-G services due to their need to protect investment in first and second generation wireless systems and their consequent desire to phase third generation capabilities into these networks over time. 3664341 states that this evolution will be accomplished through the deployment of overlay networks using 2.5 GHz technologies such as "Edge" and GPRS. While 3664341 acknowledges that this strategy appears reasonable, it asserts that these 2.5 GHz technologies are not up to the challenge.
27. In contrast, 3664341 asserts that new entrants have the ability to 'leapfrog' directly to 3-G.
28. RWI strongly disagrees with the analysis presented by 3664341.
29. While 3664341 gives wireless carriers credit for investing \$8.8 billion in wireless infrastructure and for being "experts at marketing and selling wireless telephone services and know(ing) the business well", the company appears to believe that these vigorous competitors will somehow be incapable of financing, and will otherwise somehow shrink from the challenge of introducing, 3-G services.
30. The argument advanced by 3664341 ignores the fact that deployment of 3-G services requires much of the same infrastructure as digital cellular and PCS services. Contrary to the suggestion of 3664341, the world of 3-G still requires the same basic infrastructure as existing wireless services. This consists of real estate, building sites, towers, antennae systems, power plants, HVAC, backbone facilities, routers etc. Much of the cost of deploying a wireless network – be it for 1-G, 2-G or 3-G services - is embodied in these basic



network building blocks which the incumbents already have in place across Canada. These elements are common for all wireless technologies and are essential to the delivery of wireless services to the public.

31. The incumbent carriers have these structures in place and can add capacity to provide 3-G service elements for a relatively small incremental investment in comparison to a new entrant that starts from scratch.
32. This advantage that the incumbents have is illustrated by RWI's deployment of digital PCS onto its existing analog cellular network as an initial first step to move from analog to digital. RWI's cost per subscriber was considerably below that of its new competitors and RWI's deployment was faster in bringing digital services to Canadians as well as simultaneously deploying 1.9 GHz.
33. Contrary to the "nimble", "leapfrog" image that 3664341 has sought to create for itself, the truth is that new entrants will start from zero and will have to devote considerable capital to developing the basic network building blocks that the incumbents already have in place. This task is considerably more time-consuming and considerably more expensive, than the task facing an incumbent like RWI in introducing 3-G services.
34. 3-G capability is derived from radio access devices and a backbone IP network. RWI already has a backbone IP network and already has experience delivering 3-G type services in the wired environment. Moreover, RWI has already established strong relationships with major wireless infrastructure vendors and has 3-G business arrangements in place. As announced by RWI on September 29, 1999, the company has entered into a three year exclusive agreement with Ericsson Canada, valued at more than \$500 million to build Canada's first 3-G network.
35. Therefore, contrary to the sluggish image of the incumbents that 3664341 has sought to create, RWI fully expects to lead the way in developing and deploying 3-G services in Canada, in the same way as it led the deployment of analog cellular, digital cellular and PCS services across Canada. RWI's energies will be channeled into deploying 3-G services while a new entrant like 3664341 is still trying to put the basic network building blocks in place.
36. Contrary to 3664341's suggestion, in fact, it will be the experienced, well-financed incumbent with the potential to build on its existing infrastructure that will win the race in providing state of the art 3-G services in Canada and bringing these services to Canadians
37. 3664341 has also greatly understated the capabilities of EDGE technology. According to 3664341:



...without substantial changes to the software and hardware of base stations, base station controllers and home location registers, neither GPRS nor EDGE can deliver data rates greater than 28.8 kbps or, possibly, 43.2 kbps. Compare this with speeds of up to 472 kbps under full mobility conditions that is expected to be possible with the first deployment of 3G technologies. Other challenges may stem from RF interference, high bit error rates and/or inadequate interoperability between base stations and terminals. If high bandwidth, non-voice applications become common, as is expected, 2.5G may be unable to handle the highly variable information rate inherent in the real time transmission of multi-media and full motion video. Operators may discover that their investments in 2.5G will not deliver the 3G-like capabilities that are essential to meet the end-user demand that is expected to materialize.

(3664341 Submission, p. 5)

38. This is an inaccurate description of EDGE.
39. 3-G is a set of services defined by the ITU. RWI currently meets all of these requirements on its 2-G network with the exception of high speed data, which is defined as data rates up to 2MB/s for stationary devices.
40. RWI's implementation of EDGE is specified through standards bodies to deliver the "3-G" data rates. RWI recently demonstrated this in Montreal in February of this year when it tested "transmission of multi-media and full motion video" on EDGE infrastructure. There are no "shortcomings" in the EDGE technology or strategy. The addition of high speed data capabilities to RWI's existing network requires the addition of a broadband radio access channels and servers and routers for the data. This involves a relatively simple overlay onto our existing infrastructure and not a re-working of existing voice channels. Therefore the "rate of change in the flow of bits" is handled by the new radio access channel and not the existing voice and low speed data channels.
41. RWI is well advanced in the development of 3-G service capability. Its ability to overlay this technology on existing infrastructure will serve its customers well since it will enable RWI to offer these new services at lower cost and much more quickly than would otherwise be possible.
42. 3664341 has greatly exaggerated the commitment of existing wireless carriers to legacy systems and has ignored their proven track record of not only adapting to change – but leading the industry in embracing new technology.
43. 3664341's simplistic view of the "brave new world" of 3-G, also ignores the fact that 3-G services are unlikely to be required by all customers and that existing systems will remain more cost-effective for delivering basic communications services. RWI envisages a mix of technologies being used to offer



customers a wide range of services designed to meet their individual requirements in a cost-effective manner. 3-G is unlikely to be the panacea envisaged by 3664341 and will likely evolve over time, in much the way that the Internet itself has evolved.

44. Furthermore, 3664341 ignores the fact that use of 3-G services for certain types of applications may not utilize spectrum in the most efficient manner possible – thereby wasting valuable spectrum that is needed to service a rapidly expanding customer base.

45. For its part, RWI has exhibited the ability to evolve its network on a continuous basis to adapt to increased demand, new service development and new technology. The evolution to 3-G services and beyond is simply part of this continuous evolution process that characterizes the wireless industry. Strong, well-financed companies, with a proven ability to adapt to change, and to lead change, are essential if the Canadian wireless industry is to continue to serve the public with low-priced, high quality wireless services. No competitor in this industry can afford to remain static. Any policy that is geared to introducing new entrants to provide new services every time a new protocol or technology is developed, is doomed to failure. Today's new entrant will simply become tomorrow's incumbent. Without ongoing access to sufficient spectrum to meet demand and to evolve their networks, incumbents will be weakened to the detriment of the Canadian public and the wireless industry as a whole. 3664341's policy proposal is based on this hypothesis and is ill-suited to the Canadian wireless industry or the Canadian market.

46. Furthermore, 3664341's hypothesis has not been borne out in the Canadian market. This is demonstrated by the fact that it was the incumbent cellular carrier, RWI, and not the two new PCS entrants that was the first to offer PCS service in all five regions of Canada. There was no "leapfrogging" by the new entrant. It was the experienced incumbent that led this field.

47. This point was made by a number of the participants in this public process and is succinctly stated by Telus in its submission:

Substantial spectral resources are required to support the expansion of the current market as well as the evolution into advanced wireless applications such as Internet access and higher speed data. The spectrum to be made available in this round cannot serve to support both the entry of new licensees as well as the innovations the market demands. If parties other than the existing licensees acquire spectrum, the growth and innovation required of current licensees to support new service development and rising penetration rates will be frustrated. Therefore, TELUS submits that the Department should focus its attention on allowing for the stabilization of the market during the transition to a market with five proven national facilities-based carriers.

(Telus Submission, pp. 8-9)



48. For these reasons, RWI respectfully submits that the public interest would be best served by permitting only the existing wireless carriers to participate in the pending auction. Consequently, no spectrum should be set aside for new entrants and new entrants should not be permitted to enter the auction.

III. Eligibility of Regional Carriers to expand Nationally

49. In its comments of March 1, 2000, RWI strongly opposed the ability of the Telus Mobility and Bell Mobility consortiums to use this auction process to extend their facility-based networks beyond their existing licensed territories.

50. As RWI noted in those comments, these companies did not enter either the cellular or PCS licensing process as national carriers and ought not be permitted to unilaterally expand their licenses by bidding on additional spectrum outside their respective operating territories now. These carriers never qualified as national carriers in their own right and are not subject to the expensive national rollout commitments applicable to RWI, Clearnet and Microcell. To permit these companies to now expand their territories using auctioned spectrum, could seriously undermine the financial viability and cost structure of the duly licensed national carriers.

51. Predictably, both the Bell Wireless Alliance and Telus have taken a different view, arguing that expansion beyond their original licensed boundaries should be permitted. They argue that the breakup of the Stentor and Mobility Canada Alliance and their respective need to serve customers nationally, gives rise to a right to acquire additional spectrum across Canada. According to the Bell Wireless Alliance:

With the dissolution of Mobility Canada, the former members of Mobility Canada have now established two groups namely, the Bell Wireless Alliance and TELUS. The stated intention of each group is to offer wireless services on a national basis. Through inter-carrier sale and roaming agreements the former Mobility Canada members are now beginning to compete beyond their present serving areas. While these agreements respond to the need to roll out service beyond traditional service territories quickly, these entities require spectrum in order to engage in facilities-based competition and to develop their own new competitive services.

(BWA Submission, p. 14)

52. Telus has taken a similar position – going so far as to suggest that 25% of the available spectrum should be set aside for each of itself and the Bell Alliance to operate outside their existing territories.

53. In RWI's view, this proposal is outrageous. It is based on a false assumption of special status for the former Stentor Companies and is inconsistent with the arguments they have both advanced as to why no further



new entry is required in the Canadian wireless market.

54. Neither the Department nor the industry forced the members of the former Mobility Canada alliance to operate as a consortium or cartel. In 1995, when Industry Canada held a competitive licensing process for PCS spectrum, it was open to Telus, Bell Canada or the other Mobility companies to apply for licenses in their own right in each others' territories. They chose not to do so because of their desire not to compete with each other. In making this choice, they cast their fate with the Mobility consortium. They cannot now use the breakup of their consortium as the basis for a "spectrum grab" or as a reason for altering the structure of the Canadian wireless industry to the detriment of other PCS carriers who made their market entry decisions based on a defined set of parameters. These companies are the authors of their own misfortune and have no special status in the wireless industry.

55. Moreover, RWI fails to see any additional benefits that would be derived from permitting the former Mobility companies to expand beyond their existing licensed territories. As pointed out by both carriers, the existing market structure is already highly competitive – to a degree where new entry could actually be counterproductive:

...In TELUS' view, while entry of new players in the market would likely increase competitive pressures, there is no concern that the current market for end-user services is not competitive now. Indeed, with the recent resale arrangement between the Bell Alliance and TELUS, there will be five national providers of wireless services in Canada in the retail or end user market. Canadians already enjoy a choice of suppliers and services, as well as prices that are among the lowest in the world. The Department's concerns for the effects of new entry on the current licence holders should be given significant weight.

(Telus Submission, pp. 6-7)

Clearly, the Department has achieved its policy objectives of increased consumer choice at lower cost accompanied with vigorous service innovation. Inherent in the Department's 1995 policy was a fundamental belief that competitive market forces would be significant in achieving the desired policy objectives. By any measure, the Canadian wireless industry is competitive. Many telecommunications industry observers note that the North American wireless market, including the Canadian portion, is the most competitive segment of the telecommunications market. Likewise, the Yankee Group's June 1999 study noted that "The Canadian Wireless Market can only be described as being highly competitive."

(BWA Submission, p. 8)

It is appropriate that the Department acknowledges, in its consultation paper, that the introduction of new players could very well splinter and weaken the mobile wireless industry. The BWA notes for example that, in submissions to the CRTC in 1996, Rogers AT&T noted that it had yet to turn a profit in the Canadian wireless market after 11 years of operation. Similarly, the new PCS entrants are struggling under the burden of capital intensive network builds and Bell Mobility saw its net income decrease from \$70M to \$0.2M (1998/1997) attributable primarily to the dramatic increase in competition in the wireless market. In



addition, incumbent cellular providers, as well as being faced with dramatic price discounting, are also incurring large capital expenditures to digitize their 800 MHz networks. Circumstances in the Canadian wireless industry resulted in Canadian carriers posting, overall, a \$1 billion net loss in 1998 and the industry is likely to repeat this result in 1999.

(BWA Submission, p. 9)

56. Indeed, BWA goes so far as to suggest the introduction of another new entrant could seriously jeopardize the health of the industry.

Mobility Canada's dissolution has already increased the number of service providers from four to five. Given the relatively small size and geographically dispersed make-up of the Canadian wireless market, the BWA believes that the introduction of a new, sixth service provider would splinter the market and jeopardize the competitive health of the industry to the detriment of all Canadians.

As noted above, the industry fundamentals suggest that the market cannot sustain more service providers and remain healthy. Hence, there is no need for set-asides. Even if, however, the Department was to decide to allow further entrants, then there should not be any set-asides. In the BWA's view, set-asides create inappropriate imbalances in what is widely considered to be a highly competitive marketplace.

(BWA Submission, p. 10)

57. In RWI's view, these considerations apply equally to any attempt by the former Mobility Canada companies to expand their networks into new regions of Canada in which they do not currently hold licenses.

58. Since the Canadian wireless market is already highly competitive, given both Telus and BWA can offer national services through resale and roaming on each other's networks, and since there is a high risk of instability in the Canadian wireless market if they are permitted to build facilities outside their existing territories, there would appear to be few, if any benefits associated with the expansion of these companies' licensed territories. On the other hand, there is a big down-side risk associated with this type of change. In these circumstances, it is RWI's position that the public good must be considered and that the public interest will not be served by permitting Telus or the Bell Wireless Alliance to bid for spectrum outside their existing licensed territories.

59. In summary, the entire premise of the position of Telus and BWA rests on their perceived "right" to acquire spectrum because they have dissolved their previous cartel-like arrangements. Such commercial arrangements were entered into and terminated voluntarily and it should not now fall on the Department to tamper with the successful current industry structure in order to compensate Telus and BWA.

60. Finally, RWI notes Telus' assumption that it is eligible to acquire an additional 20 MHz of spectrum in its own operating territory. In paragraph 18 of their submission they state that they currently hold 35 MHz



of wireless spectrum that is subject to the spectrum cap. Telus appears to have forgotten the ESMR spectrum (offered under the name of Aurora or Tango) that it currently holds in arriving at a total of only 35 MHz. This is in contrast to the spectrum holdings detailed in Attachment 1 of Clearnet's comments, where it is correctly identified that Telus holds up to 5 MHz of ESMR spectrum. Therefore, the room under the current spectrum cap for Telus is actually in the range of 20-15 MHz.

61. RWI thanks the Department for the opportunity to present its views in this public process and refers the Department to RWI's initial comments of March 1, 2000 for its position on the remaining issues identified in the Notice.