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Via email: ic.spectrumauctions-encheresdsuspectre.ic@canada.ca

Senior Director
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Innovation, Science Economic Development Canada
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**Subject: Clarification Request Re: Canada Gazette Notice No. SLPB-005-17:
Consultation on a Technical, Policy and Licensing Framework for Spectrum in
the 600 MHz Band**

Dear Senior Director,

Rogers is seeking clarification on the phrasing of some of the pricing rules in Annex A of SLPB-005-17: *Consultation on a Technical, Policy and Licensing Framework for Spectrum in the 600 MHz Band* (the Consultation). Based on the submitted Comments, our concerns appear not to have been detected by any party. However, the level of pricing uncertainty and risk that these rules could inject into the auction process requires further clarification from the Department to ensure that it will not result in gaming of the prices. We would request this clarification be provided by the Department before the Reply Comments deadline in order for all of the parties to have the opportunity to properly comment on the issue.

Paragraphs 53 and 54 of the Consultation set out the availability of set-aside and non-set-aside spectrum. In particular paragraph 54 states that "... where one or more of the set-aside bidders collectively win more than 30 MHz in a given area, ISED is proposing that all of these blocks be considered set-aside blocks, and effectively be subject to the same conditions of licence set out in section 11.2".

It is Rogers' understanding that this statement means that if a set-aside bidder wins, for example, 4 blocks in a service area, all 4 of those blocks would be subject to the restrictions on transferability and subordination set out in paragraphs 124 and 125. However, after reviewing the Annex, there appears to be some language that suggests that considering all the licences a set-aside bidder bids upon as set-aside licences may have broader implications.

Annex A, paragraph 9 says that a “bid for a product cannot exceed the product’s maximum supply”. In this context, we assume that the “maximum supply” of the open product in a service area is 4. However, is the “maximum supply” of the set-aside product 3 or 7? There is significant ambiguity about this.

The following sentence in Annex A, paragraph 9 says that a “set-aside bidder’s bid for set-aside product could be for 0,1,2,3,4,5,6 or 7 licences”. Is this correct, or should it read “set-aside bidder’s bid could be for 0,1,2,3,4,5,6 or 7 licences”? In other words, if a set-aside bidder wanted, for example, 4 licences in total would it:

- a. make a bid for **4 blocks of set-aside product** (and its demand be counted in this way for application of the determination price increments and activity rules); **OR**
- b. make a bid of **1 (or more) block of open product and 3 (or fewer) blocks of set-aside product** (and again its demand be counted in this way for application of the determination price increments and activity rules).

We note that the set of feasible packages mentioned in the algorithm for the calculation of GARP-based discount in the ECCA (Annex C, paragraph 17) is not ever defined. For the purposes of defining this feasible set, is a set-aside bidder allowed to bid for 4 or more blocks of set-aside product in a service area?

The formulae for the supplementary bid limits (Annex C, paragraph 23), protection price (Annex C, paragraph 27) and base price (Annex C, paragraph 33) provide for fungibility of open and set-aside blocks in the sense that if set-aside bidders win more than 3 blocks, then the supply of open blocks is reduced accordingly for the purposes of applying these formulae. In particular, Annex C, paragraph 23 foresees the possibility that “the aggregate demand for the set-aside product in the final clock exceeds 3, in which case the excess supply of the set-aside produce is equal to 0 and the excess supply of the open product is equal to 7 minus the sum of the aggregate demands for the set-aside and open product in that service area”.

However, none of these statements resolve the question of classifying demand as open/set-aside and whether a set-aside-eligible bidder is able to bid for 4 or more blocks of set-aside product (notwithstanding that it is clearly able to bid for up to 7 blocks in total across both open and set-aside products).

If it were the case that a set-aside bidder could bid for strictly more than 3 blocks of set-aside, this would seem strongly inconsistent with the rules for clock price increments set out in Annex A, paragraph 11. In particular, suppose that (i) there is no current demand for open lots at all and (ii) there is just one set-aside-eligible bidder who bids for 4 set-aside blocks. Then rule paragraph 11a) would imply that the set-aside price would be increased (and if necessary the open price increased too to ensure that it does not fall below the set-aside price), despite there not being any overall excess demand. Moreover, the clock rounds would not then close.

Therefore, to make sense of the price increment rules it would seem that a set-aside bidder wanting 4 blocks would need to bid for $n=1,2,3,4$ open blocks and $4-n$ set-aside blocks.

Furthermore, for the purposes of the price increment rules, the supply of set-aside blocks is taken as 3, not any greater number.

With the importance that low band spectrum has for the continued deployment of advanced mobile wireless services to all Canadians, we believe that clarity on how set-aside blocks will be treated under ISED's proposed pricing rules will ensure all parties are able to provide the Department with informed analysis to help ISED develop its 600 MHz spectrum policy and licensing framework.

We would therefore appreciate if the Department would confirm that there are two separate products, a set-aside product consisting of 3 blocks and an open product consisting of 4 blocks. A set-aside-eligible bidder seeking 4 blocks **would** place a bid for 3 blocks in the set-aside product and one bid in the open product. They **would not** place a bid for 4 blocks in the set-aside product.

Further, we request that ISED confirm that if a set-aside-eligible bidder wins more than 30 MHz, that is, wins an open block, the treatment of that open block as a set-aside block is purely a statement about licence conditions, rather than any notion of reclassification of open blocks as set-aside blocks for the purposes of interpreting or applying any other aspects of the auction rules.

Rogers thanks the Department for its consideration of this request for clarification on this important matter. We would further request that the Department endeavour to provide a response prior to the Reply Comments deadline in order that Rogers would be able to provide the appropriate analysis in our submission.

Yours very truly,

A handwritten signature in black ink, appearing to read "Howard Slawner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Howard Slawner
Vice President – Regulatory Telecom
HS/pg