



August 14, 2017

ic.spectrumauctions-encheresduspectre.ic@canada.ca

Senior Director
Spectrum Licensing and Auction Operations
Innovation, Science, and Economic Development Canada
235 Queen Street, 6th Floor
Ottawa, Ontario K1A 0H5

Dear Sir/Madam:

Re: *Canada Gazette, Part I, June 24, 2017, Notice No. SLPB-002-17 – Consultation on a Licence Renewal Process for Advanced Wireless Services and Other Spectrum – Eastlink’s reply comments*

Please find attached the reply comments of Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), in response to Canada Gazette Notice SLPB-002-17 – *Consultation on a Licence Renewal Process for Advanced Wireless Services and Other Spectrum* (Part I, June 24, 2017).

We appreciate the opportunity to provide our views to the Department.

Sincerely,

A handwritten signature in blue ink, appearing to read "D Heckbert", is written over a light blue circular stamp.

Denise Heckbert
Director, Wireless Regulatory, Eastlink

Email: regulatory.matters@corp.eastlink.ca
6080 Young Street Halifax NS B3K 2A4

**INNOVATION, SCIENCE, AND ECONOMIC DEVELOPMENT CANADA
CONSULTATION ON A LICENCE RENEWAL PROCESS FOR
ADVANCED WIRELESS SERVICES AND OTHER SPECTRUM
CANADA GAZETTE, PART I, JUNE 24, 2017 (SLPB-002-17)**

**REPLY COMMENTS OF
BRAGG COMMUNICATIONS INC., OPERATING AS EASTLINK**



14 AUGUST 2017

1. Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), appreciates the opportunity to provide reply comments on the issues raised under SLPB-002-17 – *Consultation on a Licence Renewal Process for Advanced Wireless Services and Other Spectrum* (the “Consultation”). Under the Consultation, Innovation, Science and Economic Development Canada (the “Department”) seeks comments on its proposed terms and conditions for renewing AWS-1 and other spectrum licences auctioned in 2008.
2. We have reviewed the comments submitted by other parties to the Consultation and herein provide our reply comments; our failure to comment on any particular position or proposal should not be construed as agreement where such agreement would be contrary to our comments filed 25 July 2017 or our business interests.
3. Eastlink’s positions on the eight questions posed by the Department in the Consultation are set out in our comments, as filed 25 July 2017, and we will not reiterate them herein. Instead, we focus on two key proposals by other parties to this Consultation:
 - Deployment requirements (Questions E-G)
 - Mandatory roaming (raised in responses to Question H)

Deployment requirements

4. The Department has proposed that licensees be required to deploy AWS-1 spectrum to certain thresholds within Tier 4 areas in the eight years following licence renewal. Eastlink, Quebecor, Shaw and Rogers all supported the Department’s Tier 3 deployment requirement but noted that the Tier 4 deployment was either simply unnecessary¹ or would present such significant challenges as to harm investment in other rural areas.² In addition, Eastlink, SaskTel and Shaw all agreed that Tier 4 deployment requirements for AWS-1 spectrum on such a tight timeline as eight years from licence renewal could result in inefficient spectrum deployment, as the resource may not be required in very rural areas for some time given the relatively few users and, therefore, lighter traffic, in those areas.³

¹ Rogers’ 25 July 2017 comments, Par. 30-33

² Quebecor 25 July 2017 comments, Par. 32-34, Shaw comments Par. 56 & 57

³ SaskTel comments, Par. 35-40, Shaw comments Par. 55

5. As Eastlink noted in our comments, we share the Department's objective of having the spectrum made available to Canadians living in rural areas. However, given the significant challenges we have faced and continue to face – especially with respect to wholesale roaming and tower sharing rates, and infrastructure access delays – it is impractical for the Department to require deployment of AWS-1 spectrum to Tier 4 areas in such a short period as eight years. We note that Shaw highlighted many of the same challenges Eastlink had outlined in its comments, indicating that these are issues all non-incumbent service providers are currently working to overcome.⁴

6. Eastlink must execute our network deployment plan with careful consideration for the impact of high wholesale costs and other factors. The Department's proposed Tier 4 deployment targets would require Eastlink to build isolated markets, in some cases hundreds of kilometers apart, in a very short timeframe given the uncontrollable delays described herein. This massive build would inefficiently redirect resources from the rural communities where we are currently working to expand our network. In fact, given the economics of building isolated, non-contiguous markets, satisfying the Department's proposed Tier 4 requirements could be so economically burdensome that it would redirect resources from planned deployments in multiple rural communities for each required Tier 4 build. The net result of the Tier 4 deployment requirement would, therefore, be more unserved or underserved areas continuing to lack access to competitive advanced wireless services than if the Department decided to allow market forces to determine rural deployment approaches. Therefore, the Tier 4 deployment requirements would not serve the Department's policy objective of promoting rural deployment.

7. We note that only two types of provider supported the Tier 4 requirements, and submit that the Department should disregard such support: national incumbents and one very small entity hoping the requirements would force spectrum subordination deals.

8. National incumbents: while Rogers took a more reasonable approach of supporting Tier 3 deployment requirements – in keeping with AWS-3 – and relying on marketing dynamics to encourage deployment beyond those thresholds,⁵ Bell and Telus supported the Tier 4 deployment targets and suggested that they could be met in as few as five years.⁶ Bell and

⁴ Shaw comments, Par. 18

⁵ Rogers comments, Par. 30-33

⁶ Bell comments, Par. 10, Telus comments, Par. 29

Telus have been building their shared network for decades. In addition, they each have millions of customers across Canada, which revenue they can use to reinvest in network expansions as necessary. Bell and Telus enjoy an especially beneficial arrangement as they do not invest in all the areas where they have customers, e.g., Telus has customers in Halifax, but does not have any Telus-owned infrastructure in Nova Scotia. Clearly, Bell and Telus have a unique arrangement that cannot be easily replicated. They would be able to meet the Tier 4 requirements, and therefore can support the Department's proposal knowing that only new entrants working to compete against them would be negatively impacted. Eastlink reiterates that the Department's Tier 4 licence area deployment requirement would inefficiently redirect investment away from rural areas that make more economic sense for new entrants to expand to (e.g., those that are contiguous with our existing network) and would, therefore, redirect investment away from areas where we could compete with the incumbents on more equal footing (though still severely disadvantaged). The Tier 4 deployment requirement would not support sustainable rural investment, it would only make it easier for the incumbents to compete against new entrants.

9. Smaller entities: Ecotel submitted that the Department's Tier 4 requirements would essentially force new entrants to subordinate or transfer spectrum to smaller entities looking to serve very specific rural areas for niche business purposes.⁷ Ecotel went so far as to state that the Department should consider policies that would expressly "force" such subordination.⁸ Eastlink submits that there are already policies in place that require spectrum be shared under appropriate circumstances, so there is no need for more aggressive policies.
10. In short, only the two very largest service providers with a national shared network, and a very small niche operator hoping to force new entrants into subordinating spectrum that new entrants are working diligently to deploy, support the Department's Tier 4 deployment requirement. All other facilities-based service providers – including primarily rural providers, Eastlink and Xplornet⁹ - expressed concerns that the Tier 4 threshold would be too challenging to meet due to high wholesale costs, propagation characteristics, and other factors. We reiterate that the Tier 4 requirement would force Eastlink to redirect planned rural investments to the specific towns the Department selected in an economically inefficient way, which would

⁷ Ecotel comments, Par. 13

⁸ Ecotel comments, Par. 17

⁹ Xplornet comments, Par. 7

make it more difficult for Eastlink to expand our network in rural areas and to compete against the much larger incumbents.

11. As a result, we reiterate that we support the Department's proposed Tier 3 deployment requirements – in eight years from renewal as with the AWS-3 – but do not support the proposed Tier 4 requirement.

12. We submit that, if the Department determines that it will implement the Tier 4 requirements, the Department should make two changes to its proposal:

(i) The Tier 4 deployment requirement should be met by the end of the 20-year licence term, and not within eight years of renewal. We reiterate that the Tier 4 requirement is unnecessary, but a 20-year deployment period would make at least make the target economically and logistically feasible.

(ii) Eastlink agrees with SaskTel that the thresholds in certain areas are excessively high for primarily rural areas. For example, the Sydney Tier 4 licence area has a target of 70%. However, the Sydney Tier 4 licence area is all of Cape Breton, in which the population outside of Sydney (needed to meet the target) is extremely scattered over a large area with a treed and rocky/hilly terrain. It would be much more difficult to cover all of Cape Breton with AWS-1 spectrum than it would to cover all of Toronto, so it is inappropriate that the two licence areas have the same 70% target. The same is true of North Bay and Sault Ste. Marie, ON, and Saint John and Edmunston, NB. We submit that the Department should review these licence areas and revise the thresholds to more reasonable targets before mandating any Tier 4 requirement.

Mandatory Roaming

13. Bell and Telus each raised the issue of Mandatory Roaming in their comments. Bell suggested that, as the CRTC has regulated rates, the Department should remove Mandatory Roaming requirements from the Conditions of Licence altogether.¹⁰ Telus suggested, for the same reason, that the Department open a consultation on the Mandatory Roaming Conditions of

¹⁰ Bell comments, Par. 26

Licence.¹¹ Eastlink strongly opposes such proposals and submits that Bell and Telus' proposals should be disregarded.

14. Bell suggests that there may be some conflict between the Department's Conditions of Licence and the CRTC's rate regulation. However, this is simply not the case. The Department stated in its revised Mandatory Roaming framework, "The CRTC has the authority to set rates and conditions for the provision of telecommunications services within the jurisdiction of the *Telecommunications Act*."¹² The Department did not state anywhere in that decision that, in the event the CRTC exercised such a right that it would void the Condition of Licence or otherwise diminish the Department's oversight or authority. Clearly, the Department envisioned a regulatory environment where the Department could continue to mandate wholesale roaming be provided as a Condition of Licence, whether or not the CRTC decided to regulate wholesale rates.
15. Furthermore, the CRTC's framework does not require that the Department relinquish any oversight or authority on wholesale roaming. The CRTC's framework is established in keeping with the Department's Mandatory Roaming framework, in that it sets the rates and terms for a service mandated by the Department. The incumbents made arguments during the CRTC's wholesale roaming proceeding along the lines of Bell and Telus' comments under this Consultation, but the Commission did not find there was a conflict between the two regimes. Eastlink submits that Bell and Telus have not provided any evidence whatsoever in their comments to this Consultation that there is a conflict or any jurisdictional problem.
16. Finally, the CRTC's rate regulation applies only to the National Carriers. Only the Department's Mandatory Roaming framework applies to all spectrum licensees. And, the underlying justification for the framework has not changed; Mandatory Roaming Conditions of Licence continue to be necessary for any operator providing service to customers who will travel outside that operator's spectrum and network coverage area.
17. There is no conflict between the Department's Mandatory Roaming framework and the CRTC's rate regulation for those services. The Department expressly contemplated an arrangement where the CRTC's rate regulation could overlay the Mandatory Roaming framework, including noting the possibility in the Mandatory Roaming framework itself.

¹¹ Telus comments, Par. 47

¹² Revised Frameworks for Mandatory Roaming and Tower and Site Sharing, DGSO-001-13, Decision C-3

Nothing has changed that has altered the importance of wholesale roaming to sustainable competition, and no evidence has been provided of a conflict between the Department and the CRTC's policies. As a result, Eastlink submits the Bell and Telus proposals should be disregarded.

Conclusion

18. The Department's set aside in the 2008 auction allowed Eastlink and other new entrants to acquire the spectrum necessary to build advanced, competitive wireless networks, including in underserved and unserved areas, and to offer innovative and consumer-friendly service packages. Eastlink has used this spectrum to build the fastest and most reliable network in our operating areas, and to launch innovative plans and consumer services, including separating the cost of the device from the plan and our unique data fee management tools. Eastlink already serves many rural communities as an Internet and video service provider, and now as a wireless service provider. We have several new market launches, in primarily rural areas, planned for this year and next, with additional network expansions in planning for the next AWS-1 licence term.

19. We share the Department's intention of allowing rural Canadians to benefit from advanced wireless services. We submit that the Department should consider the economics of deploying infrastructure in rural areas, including high wholesale roaming and tower sharing rates, and the practical timelines of accessing existing infrastructure and/or deploying new sites, when establishing any new requirements for spectrum deployment. This consideration should be aimed at not inadvertently delaying network deployment to underserved or unserved areas, by inefficiently redirecting resources to satisfy licence conditions.

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