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To: Director, Broadcast, Coordination and Planning
Spectrum Management Operations Branch
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Via email: ic.spectrumregulatory-reglementationduspectre.ic@canada.ca

Subject: **Canada Gazette Notice No. DGSO-001-19, Consultation on Periodic Adjustments for Radio and Spectrum Licence Fees and Fees Related to Equipment Certification Services - Reply Comments**

1. In accordance with the procedure set out by Innovation, Science and Economic Development Canada (the Department or ISED), in Notice No. DGSO-001-19, *Consultation on Periodic Adjustments for Radio and Spectrum Licence Fees and Fees Related to Equipment Certification Services*, dated 14 March 2019 (the Consultation), we are providing our Reply Comments on whether these fees should be increased annually by the Consumer Price Index (CPI) or by an alternative mechanism.

2. The *Service Fees Act* is designed to help ensure that cost-based fees are adjusted to remain current and reflect the costs of delivering Government services. As a result, an annual inflation adjustment is only appropriate when fees are cost-based, a view supported by Rogers¹ and Telus.² With respect to fees related to equipment certification services, this appears to be the case. As noted in our initial Comments, services provided by the Department's Certification and Engineering Bureau may reasonably be considered "service fees" and are presumably based on the Government's cost to provide the service. As a result, we do not object to the Department's proposal to adjust these fees using the annual April to April CPI for Canada for the previous fiscal year.³

3. In contrast, the Department has explained that radio and spectrum licence fees are not set to recover the costs associated with managing spectrum resources. Rather, they are designed to promote the efficient use of spectrum, and earn a fair return for the Canadian public with the objective of maximizing the economic and social benefits Canadians receive from the use of spectrum resources. Since radio and spectrum licence fees are not cost-based, an annual CPI adjustment should not apply.

¹ Rogers Comments, paragraph 2.

² Telus Comments, paragraph 23.

³ Consultation, paragraph 14.

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4. The Canadian wireless industry already delivers significant economic and social benefits to Canadians by creating jobs and providing crucial services that support business and drive innovation.⁴ This is in addition to the significant spectrum acquisition costs and radio and spectrum licence fees paid by licensees. As Rogers indicates:

Both spectrum annual fees and acquisition costs are very high in Canada, particularly for national carriers. In fact, since 2001, licensees have spent more than \$20B on spectrum at auction and in annual fees, with the bulk of auction costs occurring since 2008. The wireless industry currently pays more than \$180M for annual mobile spectrum fees and approximately \$42M more in annual fixed service fees. While spectrum is undeniably a valuable public resource, it must be recognized that high spectrum prices are bad for the Canadian economy, the wireless industry and for consumers and businesses, who ultimately pay for them.⁵ [Footnotes omitted.]

5. Numerous interveners warned of the negative impacts of escalating radio and spectrum licence fees annually by CPI. Specifically, Shaw⁶, Telesat⁷, Telus⁸, and Xplornet⁹ all noted that such increases would result in less capital for investments in wireless networks and would frustrate the Government's objectives related to rural broadband deployment, wireless prices and affordability.

6. In fact, given the significant contributions to the economy made by Canadian wireless providers, the significant amount already paid in radio and spectrum licence fees and the negative industry impacts of increasing these fees, Rogers¹⁰, Shaw¹¹, Telesat¹², Telus¹³, and Xplornet¹⁴ all recommended that the Department should not increase these fees through the application of annual CPI adjustments.

7. If ISED concludes that a fee adjustment process must be implemented, we continue to support our proposal that the fees increase annually only if they do not cover the costs associated with managing spectrum resources. This is consistent with our view that radio and spectrum licence fees should be set to only recover the costs associated with managing spectrum resources.¹⁵ In our initial Comments, we proposed the following process which could be used as an adjustment mechanism:¹⁶

- Annually, starting in April 2020, the Department should forecast the expected cost of managing spectrum resources in two years' time (i.e., the forecast conducted in April 2020 would estimate the expected costs in 2022). Two years will give wireless providers time to incorporate any fee increases into their financial planning.

⁴ Bell Mobility Comments, paragraphs 4 and 5; and Rogers Comments, paragraph 4.

⁵ Rogers Comments, paragraph 5.

⁶ Shaw Comments, paragraph 2.

⁷ Telesat Comments, paragraph 3.

⁸ Telus Comments, paragraph 22.

⁹ Xplornet Comments, paragraph 9.

¹⁰ Rogers Comments, paragraph 2.

¹¹ Shaw Comments, paragraph 3.

¹² Telesat Comments, paragraph 4.

¹³ Telus Comments, paragraph 23.

¹⁴ Xplornet Comments, paragraph 9.

¹⁵ Basing radio and spectrum licence fees on recovering the costs of spectrum management is also supported by Rogers (Rogers Comments, paragraph 6), and Xplornet (Xplornet Comments, paragraph 6).

¹⁶ Bell Comments, paragraph 10.

- If the expected amount of radio and spectrum licence fees is greater than the forecasted costs, then no change in radio and spectrum licence fees is applied.
- If the expected amount of radio and spectrum licence fees is less than the forecasted costs, then the Department would increase radio and spectrum licence fees by the CPI rate in the year prior to the fee increase (i.e., if expected fees are less than the expected costs in 2022, then the Department would increase radio and spectrum licence fees in 2022 by the level of CPI in 2021, the CPI for the previous fiscal year).¹⁷

8. As described in our initial Comments, our proposal has several advantages. First, it will ensure that the Department conducts an annual review of radio and spectrum licence fees so that they remain current, in accordance with the requirements of the *Service Fees Act*. Second, it establishes a clear nexus between spectrum licence fees and the costs of delivering the related services. Third, the process provides financial predictability and enhanced transparency as licensees will be provided two years advanced notice of any fee increase. Finally, unlike automatic fee increase mechanisms, this process will not unnecessarily exacerbate the problem of radio and spectrum licence fees that are already too high and thus, mitigates the negative impact on wireless investment and prices.

Yours truly,

[*Original signed by M. MacInnis*]

Michael MacInnis
Vice President - Regulatory Affairs

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¹⁷ The majority of the Department's costs are likely related to salaries and building rent. Both of these costs tend to increase with inflation and thus, CPI will likely closely track these cost increases.