



Teresa Griffin-Muir

Vice President, Regulatory Affairs
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MTS Allstream

3 May 2013

by Email

Mr. Luc Fournier
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Dear Mr. Fournier:

Subject: Gazette Notice DGSO 002-13, Consultation on Considerations Relating to Transfers, Divisions and Subordinate Licensing of Spectrum Licenses, 16 March 2013 – MTS Allstream reply comments

1. Pursuant to the procedure set out in Gazette Notice DGSO 002-13, *Consultation on Considerations Relating to Transfers, Divisions and Subordinate Licensing of Spectrum Licenses* (Notice DGSO-002-13), issued on 16 March 2013, MTS Inc. and Allstream Inc. (hereinafter MTS Allstream) provide the following reply comments.
2. In Notice DGSO-002-13, Industry Canada (IC) proposed to retain the current process for those spectrum licence transfers that occur as part of internal reorganizations, are intended to fill gaps in network coverage or that involve small amounts of spectrum. However, where there is a significant transfer of spectrum, IC is proposing that these transfers be subject to a detailed review.
3. By and large the industry is supportive of this proposal and as indicated by Bragg Communications (Eastlink), Globalive, the Public Interest Advocacy Centre (PIAC), Public Mobile, Saskatchewan Telecommunications (SaskTel), TELUS Communications Company (TELUS) and Xplornet Communications Inc. (Xplornet), IC's spectrum transfer proposal balances the need for secondary transfer markets with the need to ensure there is not an over-concentration of spectrum in Canada's wireless market.

4. Spectrum transfers, divisions and subordinate licensing arrangements are needed to ensure efficient markets and the efficient provisioning of telecommunications services. Under IC's proposed approach providers wishing to fill spectrum gaps, innovate and find more efficient uses for spectrum will continue have the ability to acquire and/or transfer spectrum. As well there is no reason, at this juncture, to assume that a detailed review will automatically impede or diminish the secondary market for more significant transactions.
5. The focus of government policy must always be on the efficient and fair use of spectrum for all participants and for the benefit of the public interest. As stated in Notice DGSO-002-13, regulators throughout the world have employed a wide range of measures to ensure spectrum is not concentrated in the hands of only a small number of operators, as access to spectrum is a precondition to competitive entry in mobile wireless services.
6. The question is how to best determine the threshold for review that strikes the right balance. As TELUS noted many transactions do not have material impacts on competition or the federal government's public policy objectives and such transactions should be made exempt from detailed reviews.
7. In setting the threshold, MTS Allstream supports a percentage based measure of mobile wireless spectrum. IC should avoid any absolute MHz, MHz-population or purchase value test. Such tests are static and are not reflective of the evolving availability of mobile spectrum and the state of competition for spectrum in a given region.
8. There is some support for MTS Allstream's proposal that IC establish a two pronged test with two distinct concentration thresholds, either of which will trigger a detailed review: 1) a threshold of mobile spectrum holding for any single carrier in a given region, and 2) a threshold of the combined mobile spectrum holdings of the three national incumbents: Bell Canada (Bell), TELUS and Rogers Communications Partnership (Rogers), who collectively hold 85% of mobile spectrum in Canada.
9. The first prong provides as non-intrusive a threshold as practical. Setting a single carrier spectrum threshold of 50% percent of the mobile spectrum available in a given region

gives service providers the flexibility to acquire and/or transfer spectrum while giving IC the ability to examine those transactions that could trigger too much concentration of spectrum.

10. The second test, set at an 80% threshold of mobile spectrum in a given region held by the three national incumbents combined, provides IC with the ability to review transfers that may impede its goal of having a fourth carrier as an alternative in every market across Canada.
11. All parties save Bell agree that agreements transferring spectrum rights and responsibilities, in all but name, are effectively full license transfers. The effects on the marketplace, with respect to competition and choice, will be the same whether a license is transferred officially or deemed to be transferred. Therefore, a deemed transfer, meeting the threshold for review, must also be subject to a proper public policy assessment.
12. Finally, with respect to the transparency of any proposed detailed review, MTS Allstream continues to support broader participation. In this regard, Shaw's proposal to adopt the third party consultation model used by the Competition Bureau to review mergers and acquisitions is a good solution. This model includes stakeholder consultations while protecting the commercial sensitivities inherent in business transactions.
13. IC must balance various public policy goals: incenting investment in wireless networks, promoting competition and choice, ensuring service in rural Canada, security and others. In cases triggering a detailed review, given the potential impacts on the public, it is reasonable that other parties be given an opportunity to input.

Yours truly,



for Teresa Griffin-Muir
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Mr. Luc Fournier
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