



25 July 2012

Via Email; spectrum.auctions@ic.gc.ca

Manager
Spectrum Auctions
Industry Canada
300 Slater Street
Ottawa, Ontario K1A 0C8

Dear Sir;

Reference: Gazette Notice No. DGSO-002-12, 05 May 2012, Consultation on the Licensing Framework for Mobile Broadband Services (“MBS”) – 700 MHz Band – TBayTel Reply Comments

Introduction

1. In accordance with the procedures set out in Canada Gazette Part 1, 05 May 2012, *Consultation on a Licensing Framework for Mobile Broadband Services (“MBS”) – 700 MHz Band*, Notice No. DGSO-002-12, TBayTel (“Tbaytel”) is pleased to provide the following Reply Comments based on its review of the comments posted on Industry Canada’s website.
2. Tbaytel notes that it filed its comments (“Tbaytel Comments” or “Comments”) on 25 June 2012, on Industry Canada’s website, along with twenty-two other parties.
3. As a regional wireless carrier, Tbaytel looks forward to providing its subscribers with the most advanced wireless services available. The 700 MHz auction will enhance those efforts and provide Tbaytel with the opportunity to keep pace with the latest wireless technology.
4. However, Tbaytel believes that the 700 MHz auction poses many challenges for a small regional carrier like TBayTel with respect to some of Industry Canada’s proposals on the



700 MHz licensing framework related to the licensing process, auction format and conditions of licence (“COL”).

Tbaytel Reply Comments on the Licensing Process, Auction Format and Conditions of Licence

5. Tbaytel stated in its comments on Industry Canada’s (“IC”) proposal to use the Combinatorial Clock Auction (“CCA”) that generally it is a disadvantage to small regional carriers like Tbaytel. In its comments both MTS Inc. and Allstream Inc. (“MTS Allstream”) and Saskatchewan Telecommunication (“SaskTel”) both regional carriers agree with Tbaytel.
6. Specifically, MTS Allstream states that the proposed auction format and rules favour large national bidders over small regional bidders. Also, a national bidder may end up with a particular regional licence by simply tweaking its supplemental round by including a package that contains the regional bidder’s licence.
7. Also, SaskTel states in its comments that the CCA format which does not give companies serving rural customers at least an equal chance to acquire spectrum is not good public policy and discriminatory against regional players.
8. Further, Eastlink (“Eastlink”) questions how it as a regional carrier is to obtain access to spectrum it requires when the CCA format encourages, at the same time, both urban and rural competition. As a result, Eastlink states it therefore cannot endorse the CCA format and its associated rules.
9. Tbaytel stated in its comments on the proposed changes to the definition and rules related to associated entities that Tbaytel should be able to bid in the auction as a single entity regardless of Tbaytel’s agreement with Rogers Communications Partnership (“Rogers”).



10. Rogers's states in its 25 June 2012 comments that complete details of any arrangements should be disclosed to the other bidders as quickly as possible so that other potential bidders can be provided the opportunity to review and comment on the carrier documentation. Tbaytel believes this would make for more transparent process for IC to make its decision.
11. Further, Rogers in its comments state that the definition proposes that associated entities be allowed to participate separately if they disclose the nature of their agreements to IC in advance and if IC determines the arrangements do not undermine the auction. Tbaytel agrees with this statement.
12. Also, Tbaytel agrees with Roger's that the proposed associated entity rule would make it difficult to isolate the relationship between Bell Mobility Inc. ("Bell Mobility") and Telus Communications Company ("TELUS"). Under the proposed rules Bell and TELUS would be able to bid separately to the disadvantage of other bidders with respect to spectrum caps and bidding abilities.
13. Further, even though Tbaytel has a commercial relationship with Rogers, Tbaytel believes and so does Rogers that IC must clarify how it will distinguish and allow treatment of arrangements that impact all regions for which a wireless provider is seeking eligibility to bid in the auction as a result of a national bidder associated with a regional bidder and the differences in their bidding packages.
14. With respect to the COL related to transferability and divisibility, Tbaytel stated that these processes should be allowed to happen immediately after the licences are approved. IC's proposed wording indicates that besides the normal spectrum transfer process detailed in Client Procedures Circular CPC-2-1-23, *Licensing Procedure for Spectrum Licences for Terrestrial Services*, Issue 2, September 2007 in the 700 MHz Auction, transfers would not be permitted where they would result in a licence exceeding the spectrum aggregation limit. As a regional carrier, Tbaytel would be in immediate need of spectrum if it is unable to gain auction spectrum.



15. On the proposed wording of the COL related to lawful intercept requirements, most carriers agreed with the Canadian Wireless Telecommunications Association (“CWTA”) and which TBayTel agrees with also, that the since there is a legislative process currently under way in respect to the Government of Canada proposed changes to the lawful intercepts requirements, that the existing COL be retained until the legislative work of Parliament is completed.
16. The majority of comments on the proposed COL related to research and development agree with Tbaytel in that this COL has past its time with several carriers indicating that this COL be immediately discontinued or eliminated outright.
17. Tbaytel believes that the proposed wording of the COL related to rural deployment requirements hinders those carriers like Tbaytel which have networks in place already that are providing services to those customers in rural and remote areas. Tbaytel believes those comments are further detailed in MTS Allstream’s submission when it states that the CCA and licensing framework makes an already difficult economic case for rural deployment more difficult by 1) limiting the Incumbent Local Exchange Carrier’s (“ILECs”) to one block of prime spectrum, and 2) precluding a reasonable return on the ILECs rural coverage by mandating immediate and indefinite in-territory roaming.
18. On the general deployment COL where IC proposed that in Tier 2, 2-09, Service Area, Northern Ontario that the Minimum Population Coverage within 10 years be 50%, Tbaytel believes that this number should be 30%. Tbaytel still believes and is stated more in detail in its Comments that the 30% number is just and reasonable and that the proposed 50% is unfair compared to other similar territories.

Conclusions

19. Taking into account Tbaytel’s regional perspective on IC’s consultation on the Licensing Framework for Mobile Broadband Services (“MBS”) – 700 MHz Band,



Tbaytel believes there is merit in its Comments and that they are further supported by other carriers as noted above.

20. Again, Tbaytel as a regional carrier believes it is disadvantaged in the 700 MHz licensing framework related to the licensing process, auction format and conditions of licence. Tbaytel also agrees with Eastlink when it states in Paragraph 66 of its 25 June 2012 comments, **“Regional players are critical to ensuring that rural deployment is not just an obligation to be satisfied and abandoned, but a meaningful undertaking with real intention to provide quality services and competitive options to rural customers”**.
21. Further, Tbaytel believes that regional players like itself will be participating in the auction at a considerable disadvantage to the large players and that those regional players have fewer resources to draw on. This would be detrimental to the past efforts that regional players have made in already addressing the rural markets.
22. All the above is respectfully submitted this 25th day of July 2012.

Yours truly

A handwritten signature in black ink that reads 'D.A. Wilkie'. The signature is written in a cursive style and is underlined with a horizontal line that ends in a small arrow pointing to the right.

David A Wilkie
Regulatory Analyst

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