



**Canadian Network Operators Consortium Inc.  
Consortium des Opérateurs de Réseaux Canadiens Inc.**

March 21, 2019

FILED VIA EMAIL ([ic.spectrumoperations-operationsduspectre.ic@canada.ca](mailto:ic.spectrumoperations-operationsduspectre.ic@canada.ca))

Innovation, Science and Economic Development Canada  
c/o Senior Director, Spectrum Operations  
235 Queen Street, 6th floor  
Ottawa, Ontario K1A 0H5

Dear Senior Director,

**Subject: *Canada Gazette, Part I, Notice DGSO-002-18, November 27, 2018 — Consultation on a New Set of Service Areas for Spectrum Licensing (“Consultation”) – Comments of Canadian Network Operators Consortium Inc.***

1. Canadian Network Operators Consortium Inc. (“Cnoc”) is hereby submitting its reply comments in the above-cited Consultation regarding a new set of service areas for spectrum licensing.
2. Having reviewed the record of the Consultation, Cnoc wishes to express its support for the approach to establishing Tier 5 service areas that is proposed the joint submission of the BC Broadband Association (“BCBA”), the Canadian Association of Wireless ISPs (“Canwisp”), the Canadian Communication Systems Alliance (“CCSA”), the Independent Telecommunications Providers Association (“ITPA”), Cogeco Communications Inc. (“Cogeco”), ECOTEL Inc. (“ECOTEL”), Sogetel Mobilité inc. (“Sogetel”) and SSI Micro Ltd. (“SSI”) (hereinafter referred to as the “Joint Submission”).<sup>1</sup> Specifically, Cnoc endorses the following approach:<sup>2</sup>
  - a. remote Tier 5 service areas are based on unorganised CSDs<sup>3</sup> with population densities of 0.1 persons per square kilometre or less;

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<sup>1</sup> Joint submission of BCBA, CanWisp, CCSA, ITPA, Cogeco Communications, ECOTEL, Sogetel and SSI Micro dated 19 February 2019, at para ES6 and paras 86 to 119.

<sup>2</sup> *Ibid.*

<sup>3</sup> Census subdivisions.

- b. urban Tier 5 service areas are based on Statistics Canada’s population centres larger than 5,000 persons (or as further discussed below, 10,000 persons, in the alternative) with the largest population centres subdivided along CD<sup>4</sup> boundaries; and
- c. rural Tier 5 service areas would be based on CSDs, CCSs<sup>5</sup> or ADAs<sup>6</sup> to create a reasonable number of service areas across the country.

3. CNOC agrees with the Joint Submission that this approach “...establishes a set of well-differentiated urban and non-urban Tier 5 service areas that are of a reasonable size in terms of population and area, that are practical in terms of both administration by Innovation Science and Economic Development (“ISED”) and coordination among operators, and that make sense for the communities located within them.”<sup>7</sup>

4. ISED should reject alternative proposals that result in indiscriminate treatment of urban and non-urban service areas. For instance, Bell Mobility Inc.<sup>8</sup> (“Bell Mobility”), Shaw Communications Inc. (“Shaw”) and Québecor Media Inc.<sup>9</sup> (“Québecor”) oppose the introduction of a new service area tier and instead recommend a continuation of the current service area framework. Such proposals from large vertically and horizontally integrated incumbent carriers are not surprising. The current service area framework is undermined by significant barriers preventing smaller providers from obtaining access to spectrum. So long as smaller providers are prevented from accessing spectrum, large vertically and horizontally integrated incumbent carriers will continue to enjoy unduly preferential access to spectrum due to their size, scale and capitalization advantages compared to smaller providers. This outcome is contrary to one the core policy objectives of this Consultation, which is to improve access to spectrum, furthering more efficient usage across Canada.<sup>10</sup>

5. Thus, in order to maximize efficient use of spectrum by a diversity of providers, CNOC supports a principled approach to delineating between remote, rural and urban Tier 5 serving areas. CNOC wishes to emphasize that the threshold that differentiates rural from urban serving areas is

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<sup>4</sup> Census divisions.

<sup>5</sup> Census Consolidated Subdivisions.

<sup>6</sup> Census Aggregated Dissemination Areas.

<sup>7</sup> Joint Submission, at para 176.

<sup>8</sup> Bell Mobility submission dated 19 February 2019, at paras 2-3.

<sup>9</sup> Québecor Media submission dated 19 February 2019, at para 2.

<sup>10</sup> See para 26 of Consultation on a New Set of Service Areas for Spectrum Licensing, DGSO-002-18, November 2018 (“Notice of Consultation”).

particularly important. As aforementioned, CNOc supports the Joint Submission's definition of urban Tier 5 service areas based on Statistics Canada's population centres larger than 5,000 persons with the largest population centres subdivided along CD boundaries. However, TekSavvy Solutions Inc. ("TekSavvy") also submits compelling rationale for increasing this threshold to 10,000 persons. As explained by TekSavvy, this higher population threshold "...is required by rural facilities-based service providers to ensure the necessary economies of scale required to roll out innovative, service offerings to their subscribers, build and maintain standards-based, upgradable network facilities, provide sustainable competition and choice for consumers and ultimately the long-term viability of rural service providers as a category of competitors."<sup>11</sup> Accordingly, if ISED rejects the 5,000 person threshold proposed in the Joint Submission, the 10,000 threshold proposed by TekSavvy should be adopted instead.

6. CNOc also agrees with the Joint Submission<sup>12</sup> and TekSavvy<sup>13</sup> that although new Tier 5 service areas are a positive first step in ensuring the efficient use of spectrum, additional measures are necessary to achieve this objective. ISED should ensure that Tier 5 service areas are accompanied by strong spectrum policy and licensing administration when it comes to spectrum set-asides, subordination policy, alternative assignment methods, auction formats and effective spectrum use obligations. Overall, ISED should strive to streamline its policies and processes to ensure that spectrum is accessible to service providers of varying sizes and levels of sophistication.

7. While it may be true that new wireless technologies and the introduction of Tier 5 service areas may lead to a greater potential for interference, this increased risk should not deter ISED from adopting policies that will facilitate innovation and more efficient spectrum use. In fact, this very proceeding presents an opportunity to mitigate potential causes of interference. For example, the proposal included in the Joint Submission and summarized above is expressly intended to minimize the potential for interference via proper service area design.<sup>14</sup> Furthermore, ISED has proven to be extremely adept at managing interference disputes and future public consultations could explore new or improved mechanisms to further prevent and minimize interference.

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<sup>11</sup> TekSavvy submission dated 19 February 2019, at para 73.

<sup>12</sup> Joint Submission, at ES8.

<sup>13</sup> TekSavvy Submission, at para 7.

<sup>14</sup> Joint Submission, at paras 35-36.

8. On a final note, CNOC wishes to address Rogers Communications Canada Inc.'s ("RCCI") argument<sup>15</sup> that Tier 5 service areas would provide "unscrupulous actors with a newfound opportunity to engage in unauthorized resale"<sup>16</sup> and a "a backdoor, mandated Mobile Virtual Network Operator (MVNO) regime despite the fact that both the CRTC and ISED explicitly have decided not to mandate MVNOs in order preserve innovation and encourage network investment and ISED's mandatory roaming policy expressly precludes the use of roaming for resale."<sup>17</sup>

9. A mere nine days after RCCI made this statement, the Canadian Radio-television and Telecommunications Commission issued Telecom Notice of Consultation CRTC 2019-57<sup>18</sup>, in which it declared its preliminary view that it would be appropriate to mandate that the national wireless carriers provide wholesale MVNO access.<sup>19</sup> In addition, the Governor in Council recently proposed a new policy direction that would replace the emphasis on investment in facilities in the current policy direction<sup>20</sup> with the promotion of competition, affordability, consumer interests and innovation.<sup>21</sup>

10. These recent and major developments provide clear guidance to ISED that is contrary to RCCI's anti-MVNO position. MVNOs will lead to much more efficient spectrum use as well as spectrum access from small and diverse innovative service providers. Such benefits are consistent with the objectives that ISED has set for the policies resulting from this Consultation.<sup>22</sup> Thus, ISED should ensure that the new Tier 5 serving areas facilitate rather than prevent efficient MVNO deployments. CNOC is confident that this can be achieved by implementing the approach to Tier 5 service areas that is recommended in this submission.

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<sup>15</sup> To be clear, RCCI proposes an alternative approach to Tier 5 serving areas and raises the MVNO argument as a general point of caution.

<sup>16</sup> RCCI Submission dated 19 February 2019, at para 22.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Review of mobile wireless services*, Telecom Notice of Consultation CRTC 2019-57, 28 February 2019.

<sup>19</sup> *Id.*,

<sup>20</sup> Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives, SOR/2006-355.

<sup>21</sup> Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation published in *Canada Gazette*, Part I, Vol. 153, No. 10, March 9, 2019

<sup>22</sup> Notice of Consultation, at para 26.

Yours very truly,

Jill Schatz  
Executive Director

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