

BEFORE INNOVATION, SCIENCE, AND ECONOMIC DEVELOPMENT CANADA

IN THE MATTER OF

**CANADA GAZETTE NOTICE NO. SLPB-002-19—CONSULTATION ON A POLICY
AND LICENSING FRAMEWORK FOR SPECTRUM IN THE 3500 MHZ BAND**

IRISTEL, INC. REPLY COMMENTS

SEPTEMBER 20, 2019

INTRODUCTION

1. Iris Technologies, Inc. (“Iristel”) is pleased to submit these reply comments, on behalf of itself and its affiliate Ice Wireless Inc., in response to Innovation, Science, and Economic Development Canada’s (“ISED”) Consultation on a Policy and Licensing Framework for Spectrum in the 3500 MHz Band¹ (the “Consultation Notice”).
2. Iristel has reviewed the comments submitted to ISED by government, industry, individuals and organisations. Iristel provides its position on some of the key points raised by other participants, but in the interest of brevity does not make exhaustive comments on every question. Any failure of Iristel to address any specific position put forward by other participants should not be construed as agreement with that position where this position runs counter to Iristel’s interest.

Set-Aside and Spectrum Cap

3. In its comments, Iristel stated that it supports both a set-aside and spectrum cap, but that at minimum, a set-aside is required to ensure that the three National Mobile Service Providers (“NMSPs”) do not foreclose on the entirety of 3500 MHz spectrum band. Iristel notes that the NMSPs were opposed to a set-aside, but other industry participants are almost unanimously in favour of a set-aside. Iristel also notes that two NMSPs, Rogers Communications Canada Inc. (“Rogers”) and Telus Communications Inc. (“Telus”) were in favour of spectrum caps as an appropriate competitive measure.
4. Iristel maintains that at least half the available spectrum in each competitive service area should be set-aside. Iristel also maintains that a spectrum cap of 40Mhz be applied to prevent a single set-aside eligible entity from acquiring the entirety of set-aside eligible spectrum, thereby restricting competition.

Set-Aside Eligibility

¹ Canada Gazette, Part I, 5 June 2019, Notice No. SLPB-002-19, *Consultation on a Policy and Licensing Framework for spectrum in the 600 MHz Band. (The Consultation)*

5. Iristel notes that some industry participants suggested set-aside eligibility criteria that would greatly favour their own business by shutting out a significant number of their competitors. Specifically, ISED should reject Bragg Communications Inc.'s ("Eastlink") proposal² to restrict set-aside eligibility to only facilities-based providers actively providing commercial **mobile or fixed wireless** telecommunication services to the general public in the relevant Tier 2 service area. This would prevent telecommunications service providers who are otherwise in a position to launch wireless services from entering the market.
6. Iristel does not agree with Ecotel's proposal that the words "in the relevant Tier 2 service area of interest"³ should be removed from the definition of set-aside eligibility. Iristel is sympathetic to Ecotel's stated motive of allowing smaller providers to expand their service footprint. However, doing so would remove much of the benefits of restricting set-aside eligibility and open the door to speculation by large regional providers who have the financial means to acquire spectrum for the sole purpose of reselling it later for profit in competitive service area where they do not currently, nor intend to, provide telecommunications services. This behaviour, which has occurred in past auctions such as the 700 MHz auction, causes prejudice to those service providers who do currently offer telecommunication services and have the intent and necessary infrastructure in place to expand wireless services in in these Tier 2 areas.
7. While Iristel is of the opinion that, notwithstanding the removal of one-way broadcasting services from the set-aside eligibility criteria suggested by Iristel in its comments and supported by Québecor Média Inc. ("Québecor") in its comments⁴, the set-aside eligibility criteria as proposed by ISED is adequate. Should ISED feel that it is necessary to further restrict set-aside eligibility, Iristel proposes that ISED adopt a combination of Iristel's and Shaw's proposal⁵ which would exclude one-way broadcast media from the definition of "telecommunications service" for the purpose of determining set-aside eligibility, and would further restrict set-aside eligibility to only those entities that are "Licensees of commercial mobile terrestrial spectrum that are actively providing commercial wireless

² *Comments of Bragg Communications Inc.*, 2 August 2019, paragraphs 18-20.

³ *Comments of Ecotel Inc.*, 2 August 2019, paragraphs 20-25.

⁴ *Observations de Québecor Média Inc. déposées en son nom et en celui de Vidéotron Itée*, 2 August 2019, para 28-35.

⁵ *Comments of Shaw Communications Inc.*, 2 August 2019, paragraphs 87-95.

services to the public somewhere in Canada using radio access network facilities that are owned and operated by the entity in question”.⁶

Deployment Condition of Licence

8. There was unanimous consent from industry participants who already offer LTE services that the deployment condition of licence with regards deployment of 3500MHz to 90% of LTE coverage in five years is unachievable. Many participants share the same concerns as Iristel, especially with regard to providing near-equivalent coverage of a mid-band spectrum 5G network to a low-band spectrum LTE network. ISED’s proposal is simply not economically viable.
9. Iristel maintains that ISED should modify the deployment conditions such that remote communities are excluded from the requirements listed in paragraph 171 of The Consultation, or in the alternative that ISED modify the conditions listed in paragraph 171 for remote communities to 25% for five-year deployment conditions, and 50% for seven-year deployment conditions.

Opening Bids

10. Iristel notes numerous comments from participants regarding the abnormally high price of spectrum in Canada compared to international markets. High opening bids contribute to high prices of spectrum, which in turns contributes to high mobile costs for consumers. Further, high opening bid prices also create a barrier to auction participation for smaller service providers who may face cash flow difficulties when providing a large deposit to acquire eligibility points. Iristel reiterates that opening bid prices should be reduced by at least half in order to allow greater participation in the auction by smaller mobile providers and WISPs.
11. Iristel appreciates the opportunity to provide reply comments in this consultation.

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⁶ Idem, para. 95.