



October 2, 2014

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Senior Director,  
Spectrum Licensing and  
Auction Operations  
Industry Canada  
235 Queen Street  
Ottawa, Ontario K1A 0H5

Dear Sir/Madam:

**Re: *Canada Gazette, Part I, August 2, 2014, Notice No. SLPB-004-14 – Consultation on Technical, Policy and Licensing Framework for Advanced Wireless Services in the Bands 1755-1780 MHz and 2155-2180 MHz (AWS-3) – Eastlink’s reply comments***

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Please find attached the reply comments of Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), in response to Canada Gazette Notice SLPB-004-14 – *Consultation on Technical, Policy and Licensing Framework for Advanced Wireless Services in the Bands 1755-1780 MHz and 2155-2180 MHz (AWS-3)* (Part I, August 2, 2014).

We appreciate the opportunity to provide our views to the Department.

Sincerely,

Denise Heckbert  
Manager, Wireless Regulatory, Eastlink

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**INDUSTRY CANADA**  
**CONSULTATION ON TECHNICAL, POLICY AND LICENSING FRAMEWORK**  
**FOR ADVANCED WIRELESS SERVICES**  
**IN THE BANDS 1755-1780 MHz AND 2155-2180 MHz (AWS-3)**  
**CANADA GAZETTE, PART I, AUGUST 2, 2014 (SLPB-004-14)**

**REPLY COMMENTS OF**  
**BRAGG COMMUNICATIONS INC., OPERATING AS EASTLINK**



**2 OCTOBER 2014**

1. Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), appreciates the opportunity to provide reply comments on the issues raised under SLPB-004-14 – *Consultation on Technical, Policy and Licensing Framework for Advanced Wireless Services in the Bands 1755-1780 MHz and 2155-2180 MHz (AWS-3)* (the “Consultation”).
2. Under the Consultation, Industry Canada (the “Department”) seeks comments on its proposed technical, policy and licensing framework for the AWS-3 spectrum band. We have reviewed the comments submitted by other parties under this Consultation and maintain that the Department’s proposed approach is reasonable and in the interest of Canadian consumers, in that it will help ensure sustainable access to competitive wireless service offerings. Eastlink herein provides our reply comments.

### **Sustaining and building on retail developments**

3. Eastlink reiterates that the Department’s decision, in 2008, to set aside spectrum for wireless new entrants has had a significant impact on the retail wireless markets. Retail prices have declined by 22% since 2008, as the Department noted in the Consultation, and will continue to fall as competition increases. At the same time, network investment has seen marked improvements in areas with new entrant competition. For example, Eastlink has built the largest LTE network in Atlantic Canada – that we continue to expand – and the incumbents are building quickly to compete. In fact, while Atlantic Canada had not received much incumbent attention in terms of LTE development prior to February 2013, the launch of our LTE network seems to have quickly encouraged incumbents to start building, as they subsequently deployed LTE in small rural Nova Scotia towns before building LTE coverage in towns of similar size in Ontario, where they did not face LTE competition from a new entrants.
4. The Government’s wholesale roaming rate caps, implemented in Bill C-31 earlier this year, further assisted new entrants’ efforts to bring advanced wireless services to new areas. In certain areas of our licensed regions, there is only one possible roaming provider and we had been unable to complete an agreement with that provider, which had delayed our service launches in those areas. The interim wholesale rate caps provided significant relief such that we were able to complete an agreement in advance of the result of the Canadian

Radio-Television and Telecommunications Commission's (the "CRTC") wholesale mobile wireless services review, currently underway. This new agreement allowed us to launch competitive wireless services in one new region this summer and has further allowed us to begin construction in other parts of the country.

5. Nevertheless, new entrants face considerable challenges related to our much smaller wireless spectrum compared to the incumbents. Eastlink submits that, as wireless data use continues to increase exponentially in coming years and as new entrants offer advanced data services growing numbers of consumers, new entrants' ability to access high capacity spectrum, such as the AWS-3 band, will be critical to our ability to compete in the retail market. Eastlink submits that the Department's proposed approach under the Consultation will help protect consumers' access to competitive options and advanced wireless services over the long-term.
6. Eastlink generally agrees with the proposals outlined in the Consultation and we submit this auction is an important step to ensuring that new entrants will be able to compete sustainably. Specifically, the Department's proposal to set aside 30 MHz of AWS-3 spectrum for new entrants is a necessary and timely measure that will help ensure that the policy objectives are met in the long-term, including roll-out of advanced competitive wireless services on a timely basis in rural areas.
7. We further support the Department's inclusion of Tier 3 deployment targets in the Conditions of License for this AWS-3 spectrum. Wireless spectrum is a Canadian resource and Eastlink generally supports policies that ensure all Canadians will be able to enjoy the related service benefits regardless of whether they live in rural or urban areas. We agree with the Department (Paragraph 68) that Tier 3 deployment requirements will ensure that additional communities are offered advanced wireless technologies. Eastlink submits that the Department has found the right balance between ensuring Canadians have timely access to advanced wireless services spectrum and ensuring that wireless new entrants that are rapidly expanding our networks to catch up on the incumbents' 30-year head start are not burdened with unrealistic roll-out obligations. We submit that the Department's proposed rollout requirements should remain as proposed.

## **Maintain Department proposals**

8. Eastlink notes that several parties submitted amendments to the Department's proposals. We will not address all the amendments but note that our failure to comment on any single suggestion does not indicate agreement therewith where such agreement would be contrary to our business interests and our position under our initial comments and these reply comments.
  
9. Bell and Telus submitted that the Department should revise its band plan with respect to the set aside so that new entrants would have access to Block J, and the open bidding would occur on Blocks G, H and I. Eastlink submits this request should be rejected and the Department should maintain its original proposal. Blocks G, H, and I are immediately usable spectrum. Building these blocks will require new infrastructure investment but it will allow new entrants to quickly improve wireless data speeds in areas that are increasingly getting congested as our customer bases grow. The Block J spectrum is not immediately usable but it will be in the future, such that incumbents with access to vast stores of spectrum, currently lying fallow and inaccessible to Canadians, can continue to build with their existing spectrum. Eastlink supports the Department's proposed band plan and set aside blocks.
  
10. Similarly, incumbent proposals that would increase the price of set aside spectrum should be disregarded. After years of submissions to the Department that spectrum license fees are too high and that such fees can make it difficult to reinvest in network development, Bell and Telus submitted that new entrants alone should be required to pay the present value of spectrum license fees over the entire license term. Eastlink notes that this would require us to pay far more than we have paid for comparable spectrum under previous auctions. We further note that, according to Bell's formula (and using the 8.5% NPV rate in Telus' calculation on page 13 of its September 4, 2014 comments), Bell would have been required to pay more than \$3 billion dollars for the 700 MHz spectrum Bell acquired in February 2014 instead of the \$566 million Bell actually paid. Eastlink supports the Department's proposed opening bids and second pricing rule as it enables small new entrants to acquire much needed spectrum while we focus on rapidly expanding our networks. We submit that the Department's proposals should not be altered.

11. Finally, WIND Mobile submitted that the Department should impose specific subscriber base and retail store requirements on new entrants in order to bid on set aside spectrum. Eastlink submits that WIND's proposals discriminate strongly against primarily rural providers and should be disregarded. For example, WIND requires that new entrants have at least 10 retail outlets in any area where we apply to bid. This requirement would preclude Eastlink from bidding in areas where we are currently in the process of launching services, despite significant investments made to serve customers over the long-term in those regions. This is clearly inappropriate.
12. We note that none of Canada's 10 largest metropolitan areas are located within Eastlink's licensed areas, which are primarily rural. Building networks and launching services in our serving area is a time and capital intensive activity. WIND's request for minimum population requirements as a criterion for bidding on set aside spectrum could prevent Eastlink from bidding in areas where we have only recently or are currently in the process of launching services. As noted above, the Government's interim wholesale roaming rate caps have helped encourage Eastlink to expand our network in new territories but we have not had sufficient time to meet the population requirements WIND proposes. We note however, that the LTE network we are building in these areas will allow us to provide leading wireless data speeds over the long-term, such that our access to the Department's proposed set aside AWS-3 spectrum at this time is critical to our ability to compete sustainably.
13. As noted in our earlier submission, and again below, Eastlink submits that the Department should allow itself flexibility to review each new entrant's application on its merits and to make decisions that are in the immediate and long-term interests of the Canadians living in each licensed area. As a result, the Department should preserve its proposed criteria for assessing eligibility to bid on set aside spectrum, with the one minor modification Eastlink proposed in our original comments, which is aimed at providing the Department additional discretion in its application review.

## **Department proposals**

### *A4. Proposed eligibility criteria to bid on set-aside spectrum licenses*

14. Eastlink generally supports the Department's proposal to limit new entrants' ability to bid on set aside spectrum solely to "operating new entrants" to avoid speculative bids, and to

ensure that the AWS-3 spectrum will be used to improve wireless services for Canadian consumers. Eastlink further generally supports the Department's proposal to base its qualification of "operating new entrants" on the minimum covered population and the new entrant's retail presence in the market.

15. Eastlink reiterates that the Department should consider a single minor modification to its proposed assessment criteria for retail presence. Specifically, Eastlink submits that the Department should strike from the criteria "the subscribership in the service area" to ensure that potentially small subscriber bases in certain license areas do not unintentionally exclude new entrants with major investments and commitments to a license area from bidding on set-aside spectrum.
16. As Eastlink noted above, the Government's interim wholesale roaming rate caps allowed Eastlink to begin building networks in new areas in hopes of quickly launching competitive services in new areas. We had been delayed in our plans to launch services in these areas because of the unreasonably high wholesale roaming charges applied by the incumbents, which required us to focus our network investments on completely building mainland Nova Scotia and PEI, rather than temporarily relying on roaming while we began network builds in more rural areas. The Government's wholesale rate caps have allowed us to start focusing on underserved areas in our licensed regions but, the caps are recent and we are working through two immediate remaining challenges; tower siting and colocation delays, and device ecosystem limitations.
17. Tower siting in Eastlink's primarily rural licensed areas can be a time intensive process, including lease negotiations and tower siting consultations. At the same time, tower sharing processes are entirely within the incumbents' control and we are experiencing considerable delays in some cases of our most recent colocation requests.
18. At the same time, for Eastlink, given our limited spectrum holdings and large rural serving areas, efficient and forward-looking network deployment means relying on combinations of spectrum that are not commonly used by incumbent wireless providers, including the upper band of the 700 MHz spectrum band. As a result, there may not yet be a device ecosystem suitable for meaningful competition in all license areas, such that the ability to win subscribers in certain license areas may be limited in the very near-term.

19. These limitations are temporary and are not in themselves indicative of a lack of earnest intentions within a license area. For example, Eastlink has already made significant investments in fibre, and tower and antenna sites in these areas to support advanced wireless services over the long-term, and we have substantial cable and Internet customer bases eager to bundle our wireless service with their existing Eastlink services. We submit that the policy objectives are best served by allowing us to bid on set-aside spectrum in these license areas. Otherwise, the incumbent service providers could be in a position to purchase the spectrum under a subsequent licensing process, limiting our ability to sustainably provide competitive wireless data services.
20. As a result, Eastlink submits that a new entrants' subscribership should not be considered a relevant factor in determining where new entrants can bid on set-aside spectrum.

21. Eastlink proposed edit is below:

*54. Assessing the active provision of commercial wireless services:* Industry Canada would determine whether commercial wireless services are actively being provided to the general public in the coverage area. Potential bidders would demonstrate this by providing relevant documentation to Industry Canada. Such documentation would include, but not be limited to, details outlining:

- the services being offered in the license area;
- the retail/distribution network;
- the devices that are offered to customers to provide the service; and
- how subscribers access services ~~and the subscribership in the service area~~

## **Conclusion**

22. Eastlink generally supports the Department's proposals as outlined in the Consultation and we reiterate that the Department's proposed set aside for new entrant service providers is an important measure in ensuring the policy objectives of sustained competition, deployment of advanced technologies, and rapid deployment of those technologies to rural areas are met for the long-term. We request only that near-term, temporary limitations do not prevent new entrants with significant existing investments and long-term commitments to license areas from bidding on set-aside spectrum in those areas.

**\*\*END OF DOCUMENT\*\***