



July 12, 2018

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Senior Director
Spectrum Licensing and Auction Operations
Innovation, Science, and Economic Development Canada
235 Queen Street
Ottawa, Ontario K1A 0H5

Dear Sir/Madam:

Re: *Canada Gazette, Part I, June 30, 2018, Notice No. SLPB-004-18 – Consultation on revisions to the 3500 MHz band to accommodate flexible use, and primary consultation on changes to the 3800 MHz band – Eastlink’s comments*

Please find attached the comments of Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), in response to Canada Gazette Notice SLPB-004-18 – *Consultation on changes to the 3500 MHz band to accommodate flexible use, and primary consultation on changes to the 3800 MHz band* (Part I, June 30, 2018).

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Denise Heckbert", is written over a light blue circular stamp.

Denise Heckbert
Director, Wireless Regulatory, Eastlink

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6080 Young Street Halifax NS B3K 2A4

**INNOVATION, SCIENCE, AND ECONOMIC DEVELOPMENT CANADA
CONSULTATION ON REVISIONS TO THE 3500 MHz BAND
TO ACCOMMODATE FLEXIBLE USE,
AND PRIMARY CONSULTATION ON CHANGES TO THE 3800 MHz BAND
CANADA GAZETTE, PART I, JUNE 30, 2018 (SLPB-004-18)**

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



12 JULY 2018

1. Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), appreciates the opportunity to provide comments on the issues raised under SLPB-004-18 – *Consultation on revisions to the 3500 MHz band to accommodate flexible use, and primary consultation on changes to the 3800 MHz band* (the “Consultation”).
2. Under the Consultation, Innovation, Science and Economic Development Canada (the “Department”) seeks comments on revisions to the 3500 MHz band and proposed approach regarding incumbents, as well as on technical aspects of the 3800 MHz band. Eastlink herein provides our comments.

Supporting competition in 5G

3. Eastlink supports and shares the Department’s clear objectives for the 3500 MHz band. Specifically, that the band would be used to:
 - (i) “foster innovation, investment and the evolution of wireless networks by enabling the development and adoption of 5G technologies;”
 - (ii) “support sustained competition, so that consumers and business benefit from greater choice;” and
 - (iii) “facilitate the deployment and timely availability of services across the country, including rural areas.”¹
4. We particularly agree that ongoing support for sustained facilities-based competition is critical in the 5G spectrum bands. Eastlink has made significant wireless investments in Atlantic Canada and northern Ontario, and we are continuing to expand our network, bringing advanced wireless services, and competition to new areas, including rural areas that may have had only one network operator prior to our service launch. It is critical that facilities-based competitors continue to have reasonable access to spectrum in the 5G bands – such as 3500 MHz – if Canadians are to continue enjoying the benefits of the competition that has been supported over the past 10 years via the Department’s spectrum policies, such benefits including lower prices, expanded coverage, and more consumer-friendly and innovative service plan options available with regional wireless providers.

¹ Consultation, Par 10

5. We further agree with the Department that “it can be difficult to make a business case for the deployment of new innovative services in some rural and remote parts of the country. Consequently, some rural areas may continue to rely on fixed wireless access in the 3500 MHz band over a longer period of time than urban areas.”² There are some remote areas of the country where fixed wireless will continue to be the only economic means of bringing broadband service to the community.
6. At the same time, Eastlink notes that the Department’s use of the phrase “some rural areas” above is key, as areas that may be classified as rural should not be unnecessarily delayed or prevented from seeing mobile wireless 5G investment where facilities-based service providers are willing to make those investments. For example, fewer than half the Tier 4 areas in Eastlink’s mobile wireless serving area have a population centre of more than 30,000 people, but almost all Tier 4 areas in our serving area have at least two, or even three competing 4G networks, with four mobile operator competitors, indicating they are likely to see some 5G investment. We submit that it is critical to ensure that such smaller communities are able to participate in the 5G economy on a timely basis where network operators can make the business case to invest, while ensuring that more remote communities continue to have access to fixed wireless service where necessary.
7. We generally support the Department’s proposed approach for the 3500 MHz band and we have provided responses below only to the Department’s questions where we have specific comments to submit at this time, though we may provide comments on the other questions in the reply phase.

Consultation questions

Q5—ISED is seeking comments on the expected impacts of the following options with regards to the continuation of existing services, competition in the market place and availability of new 5G services for Canadians.

² Consultation, Par 8

8. Eastlink submits that, ideally, all spectrum would be returned to the Department (with the exception of spectrum being used to serve retail end-users in very remote areas for fixed wireless) in advance of this licensing process. The Department stated that, as of March 2012, 75% of the 3500 MHz licences were not deployed at all,³ and we expect this generally continues to be the case. For example, Inukshuk and Xplornet hold all 3500 MHz spectrum in Nova Scotia, but Nova Scotia is almost entirely served by fibre (and Eastlink operates fixed wireless service in remote areas of the province using alternative spectrum bands). There has been no reason for Inukshuk or Xplornet to invest in significant fixed wireless deployments in the province with their 3500 MHz spectrum.
9. As a result, it would be best that all issued licences are returned (excepting the very remote areas where fixed wireless is actually serving a material number of retail end-users) to ensure that participants in the next licensing process have equal opportunity to acquire the licences needed to compete in the 5G mobile wireless market.
10. In the event the Department determines to adopt one of the two mechanisms proposed in the Consultation, Eastlink would support Option 1, where all licensees would be issued flexible use licences for one-third of their current spectrum holdings rounded to the nearest 10 MHz, with a minimum of 20 MHz.
11. We submit that this Option 1 is fair in that all licensees would be treated equally, keeping one-third of their holdings, and would ensure that any fixed wireless provider actually serving customers would retain a sufficient amount to continue providing service. The Department's proposed Option 1 would also ensure there is a reasonable number of blocks available under the future licensing process to other facilities-based service providers who had not yet had an opportunity to enter the wireless market when the 3500 MHz spectrum was previously made available, i.e., regional new entrants.
12. We would not support Option 2 where any party with 50 MHz retains 50 MHz and all others get 20 MHz, as it would put too much spectrum in the hands of entities that may not make use of it, limiting the MHz available for all other service providers. For example, in Nova Scotia Inukshuk and Xplornet hold all 3500 MHz spectrum but neither Inukshuk nor Xplornet have invested as much in the province or serve as many customers as Eastlink (we have built

³ Consultation on renewal process for 2300 MHz and 3500 MHz licences, DGSO-006-12, Par 18

broadband and mobile wireless coverage throughout most of the province). In parts of Nova Scotia, Xplornet holds 50 MHz of 3500 MHz spectrum. Option 2 would see Inukshuk and Xplornet each retain 50 MHz in the band, leaving just 100 MHz available to Eastlink, Rogers, Bell and Telus, and potential other operators in the licensing process. It is more consistent with ensuring that the spectrum is actually used to serve Canadians that entities already making significant mobile wireless and broadband investments in a licence area have a reasonable opportunity to acquire the spectrum needed to continue investing.

13. As a result, if the Department determines to rely on one of the mechanisms set out in Option 1 and Option 2, Eastlink supports Option 1 where all licensees would be issued flexible use licences for one-third of their current spectrum holdings rounded to the nearest 10 MHz, with a minimum of 20 MHz.

Q7—ISED is seeking comments on a revised band plan using unpaired blocks of 10 MHz in the frequency range of 3450-3650 MHz.

14. Eastlink supports the Department's proposal to use 10 MHz blocks. We submit that service providers may attempt to acquire more than one block under a future licensing process to create larger contiguous blocks, but the use of 10 MHz blocks ensures that the Department will have the flexibility needed to provide all bidders – including smaller regional providers – reasonable access to 3500 MHz spectrum under the licensing process, including adoption of pro-competition measures.

Q9—ISED is seeking comments on the proposal to align the timing of the issuance of flexible use licences to incumbents with the issuance of licences to those who acquire 3500 MHz flexible use licences in a future licensing process.

15. Eastlink supports the Department's proposal. It will ensure that all licensees are treated equitably under the new licensing regime, which will support sustained competition in the mobile wireless markets. It is further reasonable that all new flexible use licences be issued at the same time, as the Department has indicated it plans to hold the licensing process for reclaimed spectrum as early as late-2020, minimizing the impact to incumbents while still ensuring a level playing field for all service providers.

Q10—ISED is seeking comments on the proposed protection and notification provisions for incumbent licensees as outlined below.

Protection period:

For Tier 4 areas that include a population centre of over 30,000 or more:

- **a minimum protection period of 6 months for sites within large urban population centres and the 10km buffer zone surrounding those centres**
- **a minimum protection period of 2 years for all other sites**

For all Tier 4 areas that include a population centre of less than 30,000 people, a minimum protection period of three years.

Notification Period:

- **a minimum notification period of 6 months for sites within large urban population centres and the 10km buffer zone surrounding those centres**
- **a minimum notification period of 1 year in all other areas**

16. Eastlink supports the Department's proposed notification periods.

17. However, we submit that the minimum protection periods should be shortened in some cases. Specifically, as noted above, fewer than half of the Tier 4 areas in Eastlink's serving area have a population centre with more than 30,000 people. However, almost all of them have at least two competing mobile wireless 4G networks, and at least three service providers to choose from, indicating that some 5G investment is likely. At the same time, in most parts of the country the 3500 MHz band incumbents are Xplornet, Bell, Rogers, and Inukshuk. These established companies should be capable of transitioning off the spectrum in fewer than three years, particularly considering the minimal deployments to date.

18. Eastlink submits that our investments in areas like Bridgewater, Nova Scotia (as an example only), where we have fibre broadband and 4G mobile wireless service, should not see potential 5G investments delayed two or three years while Inukshuk and Xplornet enjoy protection. It would not be reasonable for a small regional service provider like Eastlink to be held back from using our 3500 MHz spectrum to compete against Bell, Telus and Rogers for three years after the auction, while Bell, Telus and Rogers are able to benefit from Inukshuk's newly issued flexible use licences during that time.

19. We understand and agree with the Department that there may be smaller service providers, particularly in Quebec, with a reasonable requirement for additional transition time. However, we submit the Department's broad proposal would effectively impose a two or three year moratorium on regional mobile wireless service providers in smaller communities, even in areas where there are no small fixed wireless providers. In fact, the three year protection period would largely negate, for rural areas, the competitive benefits of the Department's proposal to issue all flexible use licences at the same time⁴ (which proposal Eastlink supported above).

20. Instead of taking a broad approach as proposed, we submit that the Department should instead apply a shorter protection period while allowing for a longer period (up to three years) only in special cases. For instance, the Department could make clear that smaller incumbents – perhaps those with a certain revenue or subscriber base – would qualify for a protection period of up to three years where they could demonstrate to the Department they required the additional time to transition. This would ensure that the very small fixed wireless providers requiring additional time are protected.

21. Specifically, Eastlink proposes:

Protection period:

- *a minimum protection period of 6 months for sites within large urban population centres and the 10km buffer zone surrounding those centres*
- *a minimum protection period of 1 year for all other sites*

Very small service providers operating in Tier 4 areas without a population centre of at least 30,000 people qualify for a minimum protection period of up to 3 years where they can demonstrate to the Department that the additional time is required. ("Very small service providers" are those with fewer than 15,000 subscribers.)

22. The subscriber number above may need to be adjusted.

Q14—ISED is seeking preliminary comments on how to optimize the use of the 3650-3700 MHz, including the potential use of a database access model.

⁴ Consultation, Par 53-57

23. Eastlink submits that any potential adoption of a database access model should be subject to a thorough and detailed future consultation so we can understand specifically how the Department would envision such a model working and we can provide fulsome comments.

Conclusion

24. The Department's set aside in the 2008 auction allowed Eastlink and other new entrants to acquire the spectrum necessary to build advanced, competitive wireless networks, including in underserved and unserved areas, and to offer innovative and consumer-friendly service packages. Eastlink has used this spectrum to build a fast and reliable 4G LTE network in our operating areas, and to launch innovative plans and consumer services, including separating the cost of the device from the plan and our unique data fee management tools.

25. We share the Department's intention of ensuring that this spectrum is used to foster innovation, support competition, and ensure the availability of advanced networks, including in rural and remote areas. We generally support the Department's proposals set out in the Consultation, including Option 1 for reclaiming spectrum. We reiterate that a slightly more nuanced approach to protection periods – where truly small rural fixed wireless providers are given additional needed time to transition but larger entities are transitioned more quickly – will ensure that 5G investments in rural areas are not unnecessarily delayed.

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