

October 25, 2017

FILED BY EMAIL

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

Re: Ice Wireless reply comments for Canada Gazette, Part I, 19 August 2017, SLPB-005-17, Consultation on a Technical, Policy and Licensing Framework for Spectrum in the 600 MHz Band

Dear Sir or Madam,

1. Ice Wireless Inc. ("Ice Wireless") on behalf of itself and of its affiliate Iristel Inc., has reviewed the comments made by various parties to ISED's *Consultation on a Technical, Policy and Licensing Framework for Spectrum in the 600 MHz Band*, ("the Consultation")¹ and appreciates the opportunity to provide these reply comments.
2. Ice Wireless has stated its position on various issues raised by ISED and respondents to the Consultation and notes that its failure to address any specific position made by any other respondent should not be construed as agreement with that position.

The set-aside should not be eliminated in the North

3. In its response, Bell Mobility Inc, ("Bell") recommends the removal of the set-aside in the North, stating that there is low demand in this area.² This comment is not factually correct and Ice Wireless maintains that there is strong demand for spectrum in the North. As evidence, Bell points to the fact that the 700 MHz spectrum in the North has not been licenced. Ice Wireless submits that the real issue is one of affordability as opposed to lack of demand. Ice

¹ Canada Gazette, Part I, 19 August 2017, Notice No. SLPB-005-17, *Consultation on a Technical, Policy and Licensing Framework for spectrum in the 600 MHz Band*.

² Bell comments para. 31.

- Wireless³ and the SSi Group of Companies⁴, both of which compete with Bell in the three Territories, have previously voiced concerns about the unrealistically high opening bid price imposed by ISED during the two 700 MHz auctions. This opening bid price does not consider the economic reality of the North where carriers must shoulder the burden of very high operating costs combined with low population density.
4. Ice Wireless strongly disagrees with Bell's proposal to eliminate the set-aside in the North.

Proposal to increase the set-aside amount from 30 MHz to 40 MHz

5. Ice Wireless notes that some respondents recommended that the set-aside be increased from 30 MHz to 40 MHz⁵. In its original comments Ice Wireless stated that it agreed with ISED's proposal to set-aside 30 MHz, however, after considering the various comments made in favour of increasing the set-aside to 40 MHz, and in the context of other comments regarding eligibility made by certain respondents, upon which we elaborate below, Ice Wireless agrees with the recommendation to increase the set-aside to 40 MHz. However, contrary to Shaw's proposal that set-aside be divided into two 10+10 MHz blocks, Ice Wireless believes that four blocks of 5+5 MHz would be more appropriate as it would allow a greater number of carriers the opportunity to acquire spectrum licences.

Proposal for a 20 MHz aggregation limit

6. The national wireless incumbents Bell and Telus Communications Inc. ("Telus") proposed that ISED should impose a 20 MHz aggregation limit instead of a set-aside⁶. Ice Wireless supports setting a 20 MHz aggregation limit, however should ISED adopt the proposal to limit

³ *In the Matter of Canada Gazette Notice No. SLPB-003-17 Consultation on a Licensing Framework for Residual Spectrum Licences in the 700 MHz, 2500 MHz, 2300 MHz, PCS and 1670-1675 MHz Bands Ice Wireless, Inc. Response, Ice Wireless, 14 August 2017.*

⁴ *Re: Canada Gazette Part I, Notice No. SLPB-002-15, May 1, 2015, "Consultation on a Licensing Framework for Residual Spectrum Licences in the 700 MHz and AWS93 Bands" – Reply Comments of the SSi Group of Companies, SSi Group of Companies, 10 June 2015.*

⁵ Eastlink comments para. 20, Québecor comments para. 43, Shaw comments para. 53.

⁶ Bell comments para. 32, Telus comments para. 51-52.

carriers to no more than 20 MHz of spectrum in the 600 MHz band, this should not replace ISED's proposal for a set-aside. Ice Wireless recommends that there should be a set-aside for non-incumbents regardless of whether an aggregation limit is applied or not.

Eligibility criteria

7. Bell and Rogers Communications Canada Inc. ("Rogers"), as well as the large regional wireless operators (which, are referred to herein as "the regional wireless incumbents"), namely Bragg Communications Inc. ("Eastlink"), Québecor Média Inc. ("Québecor"), Saskatchewan Telecommunications ("SaskTel") and Shaw Communications Inc. ("Shaw") all recommended that the eligibility criterion proposed by ISED should be narrowed to restrict the right to bid in the 600Mhz auction to facilities-based wireless providers⁷.
8. Further, with the notable exception of Shaw, the wireless incumbents all specified that to be eligible to bid on set-aside spectrum, the bidder should have to currently provide wireless service in each service area where they wish to bid. Contrary to other wireless incumbents, Shaw suggested that a carrier that currently provides wireless service anywhere in Canada should be allowed to bid on licences in any service areas.
9. Ice Wireless submits that each of these proposals is intended to restrict bidding in the auction to the incumbent national and regional wireless providers and are clearly not in the public interest.
10. Consider the potential consequences if ISED, were to accept these proposals.
 - a. Since the regional incumbents would be the only eligible bidders in their service areas, accepting the proposals would inevitably allow the incumbent regional providers to acquire all of the set-aside spectrum at opening bid prices.

⁷ Bell comments para. 36, Rogers comments para. 91-94, Eastlink comments para. 21, Québecor comments para. 46-48, SaskTel comments para. 29, Shaw comments para. 65-68.

- b. It would prevent existing facilities-based carriers who do not currently offer wireless services from diversifying their service offerings.
 - c. It would prevent existing wireless service providers from expanding beyond their current service areas.
- 11. Ice Wireless submits these proposals are not in the public interest, and recommends that ISED should reject all proposals that would restrict bidding in the auction to the national and regional wireless incumbents.
- 12. If for some reason ISED elects to adopt the proposed bidding restrictions, Ice Wireless recommends that the set-aside be increased to 40 MHz, 10 MHz of which should be reserved at half the opening bid price proposed in the Consultation exclusively for entities who are neither national nor regional wireless incumbents, but who are currently registered facilities-based carriers offering telecommunication services in the license area of interest.
- 13. Ice Wireless notes that a number of respondents including British Columbia Broadband Association (“BCBA”), Cogeco Communications Inc. (“Cogeco”), Ecotel Inc. (“Ecotel”), MRC de Temiscouata, Sogetel Mobilité (“Sogetel”), expressed strong frustration that past and proposed spectrum licence frameworks are strongly biased in favour of larger players that concentrate their services in urban areas to the exclusion of rural and remote areas. These smaller regional players are generally forced to scrape together whatever spectrum is available from sub-ordinate licenses or residual auctions.
- 14. Some respondents have stated that their requests for subordinate licences for unused spectrum have been denied by incumbent carriers for no reason⁸.

⁸ Ecotel comments para. 33-34

15. In some cases, such as the residual auction for the 700 MHz band in the Territories, residual auctions are not even a suitable option as the opening bid price has priced the spectrum out of reach for small operators.⁹
16. ISED has a unique opportunity to address this inequity and to promote small regional players and new regional entrants by accepting Ice's proposal to reserve 10 MHz of the 600 MHz band for small regional players to bid on it at reasonable prices.
17. Ice Wireless notes that in TRP 2016-496, the CRTC revised their basic service policy objective to include "the latest mobile wireless technology available not only to all homes and businesses, but also along major Canadian roads¹⁰." In addition, Order in Council P.C. 2017-0557 states that "...Canadians continue to pay high rates for mobile wireless telecommunications services; ...Canada has among the lowest adoption rates for mobile wireless telecommunications services among industrialized countries; [and]...Canadians with low household income in particular face challenges related to the affordability of telecommunications services"¹¹.
18. The reality of the current Canadian wireless experience does not live up to the government's stated policy objectives. Ice Wireless submits that continuing to pursue the methods of yesterday will inevitably deliver the results of yesterday. If the government of Canada is truly serious about making wireless services available and affordable to *all* Canadians, ISED must adapt its spectrum license framework and allow different models of wireless providers the opportunity to access spectrum.

⁹ Re: *Canada Gazette Part I, Notice No. SLPB-002-15, May 1, 2015, "Consultation on a Licensing Framework for Residual Spectrum Licences in the 700 MHz and AWS93 Bands" – Reply Comments of the SSI Group of Companies*, SSI Group of Companies, 10 June 2015, para. 7.

¹⁰ *Telecom Regulatory Policy CRTC 2017-496*, Canadian Radio-Television and Telecommunication Council, 21 December 2017.

¹¹ Order of the Governor in Council, PC 2017-05557, 1 June 2017.

The threat of speculation is not a valid reason to restrict eligibility

19. Many respondents stated that including non-wireless carriers would increase the risk of speculation¹². Ice Wireless would like to note that, as illustrated in Rogers' response, the worst offender with regards to speculation, has been Videotron (Québecor), itself a wireless carrier¹³. Ice Wireless submits that any facilities-based telecommunications carrier has a reasonable interest in launching or expanding wireless services to customers it already serves by non-wireless means. Every pure-play wireless service provider in Canada has failed, having either ceased or drastically reduced operations¹⁴, or been acquired by an incumbent.^{15,16,17} The national and regional incumbents proposing that eligibility be restricted exclusively to wireless carriers can all trace their origins to a non-wireless telecommunication carrier that was well established before launching wireless services.
20. Existing incumbent wireless carriers are more interested in restricting eligibility for the self-serving purpose of limiting the number of carriers with which they must compete. It is ironic that with the proposed restrictions on eligibility, the regional incumbent carriers in particular, would not have been able to acquire the spectrum they needed to compete with national incumbents when they were attempting to launch their own wireless services. Should ISSED impose these eligibility restrictions now without adopting a compensatory measure such as the 10 MHz set-aside carve-out proposed above, it would show unfair preference to regional incumbent wireless carriers. In any case, the threat of speculation is already adequately addressed in the Consultation.

Conclusion

21. To summarise our position:

¹² Bell comments para. 36, Eastlink comments para. 35-36, Sasktel comments para. 28, Xplornet Communications Inc. ("Xplornet") p. 4.

¹³ Rogers comments para 43-44.

¹⁴ *Lynx Mobility cancels cell service in 6 Northern communities*, CBC News, 2 November 2015.

¹⁵ *Court approves Mobilicity Sale to Rogers for \$465-million*, The Globe and Mail, 23 June 2015.

¹⁶ *Telus buys Public Mobile in surprise move*, The Canadian Press, 23 October 2013.

¹⁷ *Shaw enters wireless market with closing of Wind Mobile deal*, The Globe and Mail, 1 March 2016.

- a. Ice Wireless disagrees with the proposal to eliminate the set-aside in the North;
- b. Ice Wireless agrees with proposals to increase the set-aside to 40 MHz;
- c. Ice Wireless agrees with proposals to impose a 20 MHz cap;
- d. Ice Wireless opposes the various proposals put forward by the national and regional wireless incumbents to restrict the eligibility to bid on 600Mhz spectrum to only those carriers who currently offer wireless services in the license area of interest; and
- e. if, for some reason, ISED elects to adopt the transparently self-serving proposal to restrict eligibility put forward by the national and regional wireless incumbents, Ice Wireless recommends that ISED carve out 10 MHz of the set-aside at half the suggested opening bid price exclusively for entities that are neither national wireless incumbents *nor regional wireless incumbents*¹⁸ and meet ISED's eligibility criteria as proposed in the Consultation, namely that "that eligibility to bid on the set-aside spectrum be limited to those registered with the CRTC as **facilities-based-providers**,... that are actively **providing commercial telecommunication services** to the general public **in the licence area of interest**,..."¹⁹
[emphasis added]

22. Ice Wireless thanks ISED for the opportunity to provide our comments.

Sincerely,

[original signed]

Jean-François Dumoulin
VP Regulatory and Government Affairs

¹⁸ As defined in paragraph 7, above.

¹⁹ The Consultation, para. 29.

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