



September 20, 2019

Via Email: ic.spectrumengineering-genieduspectre.ic@canada.ca

Director General, Engineering Planning and Standards Branch
Innovation, Science and Economic Development Canada
300 Slater Street
Ottawa, Ontario
K1A 0L8

Re: Notice of Application (the "Globalstar Application") received from Globalstar Canada Satellite Co. ("Globalstar Canada") for Ancillary Terrestrial Component (ATC) Authority in the 2.4 GFz Band (2483.5-2500 MHz)

1. Shaw Communications Inc. ("Shaw") is in receipt of the above-referenced Notice dated August 8, 2019 (the "Notice") concerning Globalstar Canada's application for authority to provide Ancillary Terrestrial Component ("ATC") mobile services over 16.5 MHz of its licensed Mobile Satellite Services ("MSS") spectrum in the 2.4 GHz band (the "Application"). In the Application, Globalstar Canada requests that Innovation, Science and Economic Development Canada (the "Department" or "ISED") adopt similar operational requirements and technical rules as identified by the U.S. Federal Communication Commission ("FCC"), which would allow Globalstar, Inc. ("Globalstar"), Globalstar Canada's parent company to provide low-power ancillary terrestrial mobile services over its licensed MSS spectrum (the "requested spectrum" or "requested frequencies").
2. The Application requests a unilateral modification to an existing MSS licence for the 2.4 GHz, Big LEO band (2483.5-2500 MHz), in order to effectively create a new commercial mobile spectrum band to be singularly used by Globalstar Canada.
3. In this context, Shaw submits that Globalstar Canada's Application should not be approved. Shaw discusses the following overarching concerns regarding the Application below:
 - (a) First, if the Department wishes to make new ATC spectrum available, such a policy development should be made with a proper public consultation. To make a change in the manner proposed by Globalstar Canada is equivalent to providing Globalstar Canada with special treatment and contradicts established practices of the Department;

(b) Second, it is critical that the Department follow its normal practices and procedures for the licensing of commercial mobile spectrum. The modification requested by Globalstar Canada would allow them to provide such terrestrial wireless services as their primary offering. Spectrum that becomes available as commercial mobile spectrum should be re-licensed on a competitive basis rather than being summarily granted to Globalstar Canada on the basis of the Application.¹ This is critical not only to ensure fairness, but to avoid an inequitable windfall of spectrum that could exacerbate concerns regarding spectrum concentration and to maximize the social benefit derived from critical spectrum resources.

A. Public Consultation and Procedural Considerations in Further Developing Policy

4. When the Department made the 2014 revisions to the 2004 Radio System Policy, RP-023 *Spectrum and Licensing Policy to Permit Ancillary Terrestrial Mobil Services as Part of Mobile-Satellite Service Offerings*, and developed LPB-008-14, *Decision on a Policy, Technical and Licensing Framework for Mobile Satellite Service and Advanced Wireless Service (AWS-4) in the Bands 2000-2020 MHz and 2180-2200 MHz (2 GHz Decision)* the Department specifically did not update the ATC policy for the Big LEO band.
5. Globalstar Canada's Application is a request to develop new policy. As such, the Department ought to adhere to its commitment to consider the need to provide spectrum access to services and technologies, such as mobile broadband, alongside the impact of such a framework on all stakeholders.
6. The Department is charged with determining policy that support the government's policy objective of "maximizing the economic and social benefits that Canadians derive from the use of the radio frequency spectrum resource, including the efficiency and competitiveness of the Canadian telecommunications industry, and the availability and quality of services to consumers." In order to fulfill this mandate, the Department, guided by statutes including the *Telecommunications Act* and *Radiocommunication Act and Radiocommunication Regulations*, the

¹ For example, see Innovation, Science and Economic Development Canada, *Decision on TerreStar's Application for a Tier 1 Spectrum Licence in the 1695-1710 MHz Frequency Band and in the PCS Block H (1915-1920 MHz / 1995-2000 MHz)* (15 February 2018) paragraph 23.

Department has created a patchwork of policy documents to guide further development and instruct market participants.

7. The Department has also created “Outlook” documents with the intention of outlining its overall approach and planning activities related to the release of spectrum for commercial mobile services, licence-exempt applications, satellite services and wireless backhaul services. Of particular interest for the Notice at hand, the Department stated in its “Spectrum Outlook 2018-2022” that it would “initiate a review of RP-023 in late 2019, with a view to enabling further use of these bands where possible, while recognizing the ongoing importance of providing MSS services.”²
8. To disregard this stated plan of action because of Globalstar Canada’s Application would create inconsistency and disharmony within the policies and practices of the Department. Further, this would also put the Department in conflict with one of the stated goals of its process, which is to “clearly articulate the policy and licensing considerations and decisions so that potential bidders have the fullest possible knowledge...”³
9. The Department has established procedures for public consultation on a broad range of issues prior to allocating or releasing spectrum in Canada. According to those established procedures, the Department’s usual practice is to issue a document for public consultation setting out all relevant considerations in relation to the policy, technical and licensing considerations that apply to a given spectrum band or sub-band, including the policy objectives sought to be achieved through the proposed framework, band plan considerations in light of domestic, continental and global developments, spectrum policy considerations in light of other allocations in the affected frequency bands, licensing approach, licence service areas, conditions of licence, licence term, licence transferability, deployment requirements, licence fees and technical rules.
10. In addition to the above, Shaw notes with concern that the Department has only provided a short period of time for public comment.⁴ As a result, Shaw has not had a meaningful opportunity to

² Industry Canada, *Spectrum Outlook 2018 to 2022* (Ottawa: Industry Canada, 6 June 2018), paragraph 152.

³ Industry Canada, *Framework for Spectrum Auctions in Canada*, Spectrum Management and Telecommunications Issue 3 (Ottawa: Industry Canada, March 2011).

⁴ While Globalstar’s initial Application was made on January 19, 2017, Globalstar submitted an updated Application on April 8, 2019. A Notice was not issued by ISED until more than four months later, with a 45-day comment period.

study the technical, commercial, spectrum policy and licensing issues that arise from the Globalstar Application. In Shaw's view, interested parties should be provided with the opportunity to consider these issues in more detail and with evidence that goes beyond Globalstar Canada's unconfirmed statements and predictions.

B. The Department Should Follow Its Normal Practices for Licensing Mobile Spectrum

11. In the current, increasingly dynamic, market for mobile terrestrial services, it is inappropriate for the Department to provide the Globalstar Canada-requested authority to provide ATC mobile services to Globalstar Canada without due process. There was a specific policy rationale for licensing the 2.4 GHz spectrum to Globalstar Canada in the absence of a competitive process, namely the requirement that the licensee of this spectrum provide MSS as a condition of the terrestrial licence. As stated above, Shaw believes that there must be a consultation on this issue or if there is no consultation, the Department should open the licensing of the spectrum to a competitive process to encourage the development of facilities-based competition within the mobile wireless marketplace.
12. To date, Globalstar Canada has had primary access to the Big LEO Band for the purpose of providing mobile satellite services. The ATC systems provided by Globalstar Canada have been required to be offered as an integral part of the MSS within the assigned spectrum of the MSS network and have been geographically limited. If granted outright, Globalstar Canada's request will effectively allow Globalstar Canada to provide terrestrial mobile services separate from the MSS services provided, at a significant advantage over terrestrial wireless services providers. This would be inappropriate and inequitable, particularly without due process.
13. The Department must follow its normal practices for licensing mobile spectrum. This is critical to ensure fairness and to maximize the social benefit derived from this critical resource. As the Department has stated previously:⁵

ISED notes that the Framework for Spectrum Auctions in Canada states that where the demand for spectrum is expected to exceed supply, a competitive licensing process such as an auction is generally used.

⁵ *Supra*, note 1 at paras 23 and 24.

14. With respect to the requested spectrum, as was the case in the decision cited above, the demand for spectrum would be expected to exceed supply, and as such, a competitive licensing process should be used should the Department make the spectrum available for mobile use.
15. This is also critical to avoid an inequitable windfall of critical spectrum and to avoid the potential to further exacerbate concerns regarding spectrum concentration. Shaw has discussed the barriers to competition facing Shaw and other regional new competitors to the mobile wireless market in previous submissions to Department consultations.⁶ A key barrier is that we hold substantially less spectrum as compared to the Big 3 national incumbents. Should the Department approve Globalstar's application, they could subordinate the spectrum to one of the Big 3 national incumbents, as TerreStar did with its AWS-4 spectrum earlier this year.⁷ This is why it is critical to ensure that when new spectrum is made available for mobile use, the Department follows its normal practices.
16. Concurrent to this proceeding, the comments submitted in response to the Department's *Consultation on a Policy and Licensing Framework for Spectrum in the 3500 MHz Band*, Notice No. SLPB-002-19, highlight the demand for commercial mobile spectrum, particularly from Shaw and other new regional competitors that face a significant shortfall in their spectrum holdings relative to incumbents. Shaw submits that given this potentially delicate juncture, it is particularly important that the Department follow its established procedures in relation to modifying spectrum bands and ensure that should any new spectrum become available for commercial wireless use, it be licensed using a competitive process.
17. This is also important for realizing the full potential of 5G and the innovation economy, which is predicated on facilities-based investment in both fixed and wireless broadband networks and reliance on competitive market forces to promote digital adoption and the affordability of connectivity services.

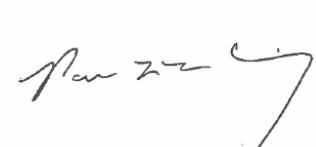
C. Conclusion

⁶ See *Consultation on a Policy and Licensing Framework for Spectrum in the 3500 MHz Band*, Notice No. SLPB-002-19, Comments of SHAW COMMUNICATIONS Inc. (2 August 2019).

⁷ See *Subordination of Spectrum Licences Held by TerreStar Solutions Inc. to Telus Communications Inc.*, 11 July 2019, available online at: <https://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf11533.html>

18. In the market today, there are new competitors, such as Shaw, that are operating, investing and innovating, but have an urgent need for more spectral resources, especially given the concentration of spectral resources in the hands of the Big 3 national wireless incumbents. Additionally, technological innovation has enabled, and will continue to enable, different uses of spectrum. The Department's consultation on a policy and licensing framework for spectrum in the 3500 MHz band, in contemplation of the 5G era is just one example of the evolution in the connectivity ecosystem.
19. Shaw appreciates the opportunity to provide its preliminary thoughts on the Notice concerning the Globalstar Application. Shaw submits that the Department should return the Application to Globalstar, hold a proper consultation process and only thereafter potentially open the spectrum to further licensing through a competitive process.

Yours truly,

A handwritten signature in black ink, appearing to read "Paul Cowling", written in a cursive style.

Paul Cowling
Senior Vice President, Legal and Regulatory Affairs

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