

**CONSULTATION ON TRANSITION TO BROADBAND
RADIO SERVICE (BRS) IN THE BAND 2500-2690 MHz**

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Reply Comments of

***Mobil@exchange
spectrum inc.***

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1.0 INTRODUCTION

1. Pursuant to *Gazette Notice No. DGRB-005-09, Consultation on Transition to Broadband Radio Service (BRS) in the Band 2500-2690 MHz* and to *Gazette Notice DGRB-010-09, Extension to the Comment and Reply Comment Periods: Consultation on Transition to Broadband Radio Service (BRS) in the Band 2500-2690 MHz*, Mobilexchange Spectrum Inc. (MSI) hereby submits its comments on the issues addressed by the Department and the participant respondents in this consultation.

2. MSI welcomes the opportunity to address the issues regarding the transition of the 2.5 to 2.690 GHz spectrum to Broadband Radio Service (BRS) to provide all Canadian telecommunications carriers with additional access to frequencies to deploy mobile broadband services across the country.

2.0 REPLY TO MTS ALLSTREAM INC. COMMENTS

3. Access to high quality spectrum for all service providers is a key issue in achieving the objectives of government policy. MSI is addressing in its reply comments herein the “mobile spectrum” concentration issue highlighted by MTS Allstream Inc. (MTS Allstream).

4. As shown in MTS Allstream’s submission (Paragraph 18 on pages 4 & 5), the incumbents mobile carriers, Rogers, Bell and Telus, hold the majority of all mobile spectrum awarded in Canada. MSI believes that following the proposed BRS and 700 MHz auctions, the concentration of this vital resource, namely, the “mobile spectrum” will increase to an even greater concentration in the hands of these three largest mobile carriers, absent intervention by Industry Canada.

5. The amount of “mobile spectrum” already awarded and pending in the proposed BRS and 700 MHz auctions in Canada is approximately equal to the allocations made in the U.S. but the ratio of “mobile spectrum”/population there is at least 10 times smaller.

6. The increased concentration of the “mobile spectrum” in the hands of three radiocommunication carriers is contrary to the public interest, particularly if it can be shown that their utilization of “mobile spectrum” is inefficient in comparison to other radiocommunication carriers and that the three dominant carriers may not deploy most of their unused spectrum for a long time.

7. In comparison to the US population size and spectrum utilization for mobile applications, the higher concentration of spectrum in the hands of three carriers creates a “hoarding” opportunity for them and prevents usage of excess “mobile spectrum” held by them by other service providers. This situation undermines the government policy objectives of maximizing access to high quality spectrum for increased penetration of wireless mobile broadband services across the country.

8. In the case of the transition to BRS in the 2500 – 2690 MHz band, it is worthwhile to note that the spectrum for MCS and MDS was issued without an auction, in March of 2000. The opportunity to convert this band for mobile use by 2011 will further increase the concentration of “mobile spectrum” in the hands of Bell and Rogers due to the high amount of such spectrum under their control.

9. MSI respectfully recommends that the Department consider a methodology that will provide a fair (not anti-competitive) means for “unused licensed mobile spectrum” to be sub-licensed to eligible carriers on a mandated basis on commercially reasonable terms and conditions.

10. It has been demonstrated previously on numerous occasions that a “laissez faire” approach that relies on market forces does not provide any remedies for market

dominance or any means for access to the “mobile spectrum” concentrated in the hands of the three largest carriers. Absent Industry Canada intervention, unused “mobile spectrum” in the hands of the largest three carriers will continue to remain unused and/or perhaps inefficiently used for many years, rather than being sub-licensed or leased voluntarily (at cost plus) by them to competitors, for use for the benefit of Canadians.

11. The dominant wireless carriers in this proceeding are arguing that data and video traffic will double every year, and that they need more mobile spectrum. The increased traffic of wireless data and video is not unique to Canada and is increasing at similar rates in the U.S. Nevertheless, the major wireless carriers in the U.S. have to meet the needs of at least 10 times the traffic demand as Canada with the same, if not less, spectrum in comparison to the three Canadian dominant wireless carriers.

12. The efficient use of the spectrum by U.S., European and Asian carriers also allows them to meet far larger traffic volumes.

13. MSI respectfully submits that efficient use of “mobile spectrum” should not be measured by geographic coverage alone but by capacity throughput per sq/km, particularly for large concentrations of population in the major markets, where frequency re-use is easier to employ. The largest three wireless carriers should be required to account for the efficiency with which they use their licensed “mobile spectrum”. If they are not using it as efficiently as their peers in other jurisdictions, they should be required to increase their efficiency to corresponding levels and make any excess spectrum available to other carriers.

14. The Canadian public has seen very little differentiation in mobile services and pricing between the three dominant carriers, yet other service providers are denied access to unused “mobile spectrum”, and thus are unable to introduce new and different mobile services, that the dominant carriers are not providing, yet are available in other countries.

15. The position taken by the dominant wireless carriers to the effect “that they have paid in an open auction the highest bid costs for the mobile spectrum and therefore they will use it as they wish” is not a satisfactory response for two reasons. First, a lot of that spectrum was licensed to them without an auction, and second, “mobile spectrum” is a scarce national resource and should be deployed in the most efficient manner technically and economically possible for the benefit of all Canadians, not just a few.

16. If the dominant carriers wish to keep excess spectrum for future use, and/or maintain a less than fully efficient use, then the excess should be made available (at cost plus) to other eligible mobile carriers who plan to use the mobile spectrum in the technically most efficient possible way.

17. Once additional sites, (capacity) would be deployed for mobile traffic by multiple (more than 2 or 3) carriers in a particular market, “in market” roaming would ensure that traffic would be handed-off between carriers when particular sites are blocked (too congested).

18. This approach to “most efficient use” of mobile spectrum will also go a long way to remedy the traffic shaping and lower quality of service through “network management”, an issue currently in front of the CRTC.

19. Rather than block, delay, or slow down the traffic on a particular part of the network, the dominant carriers would be able to hand-off unimpeded traffic to other carriers operating in the same mobile spectrum in the particular areas where their sites are temporarily congested.

3.0 CONCLUSION

20. MSI is urging the Department to undertake a review of the efficiency of use of “mobile spectrum” licensed to the three dominant carriers and to develop a procedure whereby Canadians will see a much improved usage of this national asset.

21. Any unused licensed “mobile spectrum” in a market should become available under reasonable commercial terms to other carriers under sub-licensing or leases, who are willing and able to build capacity and remedy service congestion.

22. MSI is supporting the concerns raised by MTS Allstream in its submission concerning “mobile spectrum” concentration, and trusts that its comments herein are helpful.