

CANADA GAZETTE NOTICE NO. DGRB – 005 – 09
CONSULTATION ON TRANSITION TO BROADBAND
RADIO SERVICE (BRS) IN THE BAND 2500-2690 MHZ

AND

CANADA GAZETTE NOTICE NO. DGRB – 010 – 09
EXTENSION TO THE COMMENT PERIOD:
CONSULTATION ON TRANSITION TO BROADBAND
RADIO SERVICE (BRS) IN THE BAND 2500-2690 MHZ

Reply Comments submitted by:

SSI MICRO LTD.

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1.0 INTRODUCTION

1. SSI Micro Ltd. (“SSI”) is pleased to provide these reply comments in response to comments of other parties received in the consultation initiated by Industry Canada (the “Department”) in *Canada Gazette*, Part I Notice Nos. DGRB-005-09¹ and DGRB-010-09² and the accompanying Public Consultation Paper³ (collectively, the “*Consultation Paper*”).
2. In this submission, SSI is providing its reply comments with respect to certain submissions made by other parties with respect to only those issues raised in the *Consultation Paper* that bear on SSI’s operations.
3. The failure by SSI to address any argument or issue raised by a party in its comments in this proceeding should not be construed as agreement or acquiescence where doing so is contrary to the interests of SSI.
4. Unless otherwise specifically noted, acronyms employed in these reply comments have the same meaning ascribed to them in the initial comments of SSI in this proceeding.

¹ *Consultation on Transition to Broadband Radio Service (BRS) in the Band 2500-2690 MHz*, March 6, 2009

² *Extension to the Comment Period: Consultation on Transition to Broadband Radio Service (BRS) in the Band 2500-2690 MHz*, April 20, 2009.

³ Industry Canada, Spectrum Management and Telecommunications, *Consultation on Transition to Broadband Radio Service (BRS) in the Band 2500-2690 MHz*, March, 2009.

2.0 CONSULTATION ON A FIRM TRANSITION DATE

5. With few exceptions,⁴ there is widespread agreement among many parties to this proceeding that there should be a firm transition date, and that the fixed date for the transition should be March 31, 2011. While such a policy may be appropriate in most cases, for the reasons set out in its comments, SSI remains of the view that it should not be required to convert to BRS before March 31, 2021.

6. In this respect, SSI notes that certain other parties have also demonstrated sensitivity for the need for flexibility in the transition to BRS. For example, in its comments, ABC Communications stated:

“ABC agrees with the principle of a firm transition date policy. In execution, such a policy should be implemented with some degree of flexibility, giving consideration to any company with significant investment into infrastructure (i.e. equipment) that would be affected by the transition policy.”⁵

7. Similarly, Look Communications Inc. (“Look”) advocated for “flexibility when migrating from MCS and MDS to BRS”.⁶

8. For its part, the Radio Advisory Board of Canada (“RABC”) stated:

“In remote or non-urban areas or in areas where limited BRS spectrum is utilized allow incumbents to maintain their existing systems as much as possible while still allowing the rollout of new BRS systems.”⁷

9. Finally, in its comments, Saskatchewan Telecommunications (“SaskTel”) pointed out that the business case involved in providing wireless broadband services in rural areas

⁴ E.g., Bragg Communications Inc. While MTS Allstream Inc. agrees with the need for a transition date, it also allows for the possibility that such a date might be later than March 31, 2009, depending on the timing of an auction for 700 MHz spectrum.

⁵ Comments of ABC Communications, at page 3.

⁶ Comments of Look, at page 6.

⁷ Comments of RABC, at page 3.

is marginal. Accordingly, in order to reduce financial harm to itself and other incumbent operators, SaskTel advocated against “unnecessary and/or premature displacement and transition”.⁸ For these reasons, SaskTel proposed: (1) flexibility in the implementation and transition schedule to BRS; (2) the possibility of different transition dates for different regions based on the transition requirements of the incumbents in each region; and (3) displacement of incumbent operations in the band only when necessary.

10. These concerns also apply to SSI, which operates its MCS network in high-cost serving areas that are sparsely populated, small, and remote. Accordingly, SSI renews its request for renewal of its MCS licences in the Northwest Territories and Nunavut for the ten year period ending March 31, 2021. Should market developments provide SSI with a solid business case to convert to BRS in one or more communities that it serves prior to that date, SSI will request a conversion to BRS for the corresponding portion(s) of its licence(s) at that time, while retaining its MCS licence(s) in the balance of its operating territory until their expiry in 2021.

3.0 QUALIFICATION REQUIREMENTS AND TREATMENT OF INCUMBENTS

11. SSI has nothing to add on this topic other than to clarify that its indifference to the geographic tier basis on which site-specific MCS licences and MDS licences are converted to BRS is based on the implicit understanding that MCS spectrum licences converted to BRS will encompass the same geographic territories both before and after conversion. In SSI’s case, the licences in questions relate to two Tier 4 areas, namely, Nunavut (4-171) and the Northwest Territories (4-172). Doing otherwise in the case of MCS spectrum licences would defeat SSI’s ability to convert its licences without expanding or contracting the area served, which is prohibitively costly and is not a subject to which the *Consultation Paper* applies.

⁸ Comments of SaskTel, at page 5.

4.0 LICENCE CONDITIONS

12. SSI notes that a number of other parties have also expressed concerns regarding having the costs of implementing lawful interception capabilities imposed on them. For example, Bell Canada, Rogers Communications Inc. and Inukshuk Wireless Partnership (“Inukshuk”) recommend that “the Department state in the conditions of licence or final policy that lawful access requirements will be limited to those that can be met using industry standards-based equipment, and will not apply to the current network technology and services of MCS and MDS licensees.”⁹

13. MTS Allstream Inc. (“MTS Allstream”) recommends a phased-in approach for any lawful interception requirements.¹⁰

14. Telus Communications Company (“Telus”) is advocating for the pursuit of four reasonable concerns regarding lawful access requirements. These concerns are:

1. Legislated cost recovery compensation for telecommunications carriers in the performance of these requirements;
2. A reasonable transition period for new requirements coming into force;
3. Availability of standards based solutions plus a safe harbour for equipment meeting standards but not law-enforcement requirements; and
4. Clarity in defining and mandating requirements.

15. SSI endorses all of these submissions on lawful access.

⁹ Comments of Inukshuk, at paragraph 58.

¹⁰ Comments of MTS Allstream, at footnote 7, page 10.

16. Finally, SSI notes that many parties object to a research and development licence condition. SSI did not raise objections to such a condition in its comments because it does not anticipate having any trouble complying with the condition, given SSI's propensity to engage in research and development activities. However, the objections raised by other parties to such a condition are grounded in sound economic and policy considerations. Accordingly, SSI is now also persuaded that a research and development condition of licence should not be imposed.

5.0 CONCLUSION

17. For all of these reasons, SSI urges the Department to adopt the proposals contained in the comments of SSI as clarified by these reply comments, at least in NWT and Nunavut.