



September 7, 2005

Mr. Larry Shaw  
Director General  
Telecommunications Policy Branch  
Industry Canada  
1604A, 300 Slater Street  
Ottawa, Ontario  
K1A 0C8

Dear Mr. Shaw:

**Re: Canada Gazette, Part I, Consultation on a Renewed Spectrum Policy Framework for Canada and Continued Advancements in Spectrum Management, Notice No. DGTP-001-05 (“Spectrum Policy Framework Consultation”)**

Please find enclosed the Comments of the Ontario Telecommunications Association (“OTA”) prepared in response to the Department’s Spectrum Policy Framework Consultation process and discussion paper (the “consultation paper”).

The OTA applauds the Minister’s initiative to modernize Canada’s telecommunication and radiocommunication policy and regulatory regimes, and welcomes the invitation extended in the consultation paper to provide the Department with the views and comments of our member Companies on those issues that are of relevance to the provision of mobile telephony services to our subscribers in rural and remote areas across Ontario. In particular, the OTA’s comments address selective issues raised in both Part A of the consultation paper entitled “Revision to the Spectrum Policy Framework for Canada” and Part B, “Consultation on Advancing the Canadian Spectrum Management Program”.

In accordance with Notice No. DGTP-001-05, the OTA is also providing these Comments in electronic format to [wireless@ic.gc.ca](mailto:wireless@ic.gc.ca). The Comments have been prepared using Microsoft Word, version 2000.

Sincerely,

Michael J. Andrews  
Chair, OTA Wireless Committee

Encls.

cc. Debbie Girard, General Manager, OTA  
Tim De Weerd, President, OTA  
Lorne Abugov, Partner, Osler, Hoskin & Harcourt LLP

**Consultation on a Renewed Spectrum Policy  
Framework for Canada and Continued Advancements  
in Spectrum Management**

**Industry Canada**

**Notice No: DGTP-001-05**

**COMMENTS OF THE**  
**ONTARIO TELECOMMUNICATIONS**  
**ASSOCIATION**

**September 7, 2005**

# **SPECTRUM POLICY FRAMEWORK CONSULTATION**

## **COMMENTS OF THE** **ONTARIO TELECOMMUNICATIONS ASSOCIATION**

### **INTRODUCTION**

1. On behalf of the nineteen member Companies identified in the Appendix, and through its Wireless Committee, the Ontario Telecommunications Association (“OTA”) is pleased to provide these Comments to Industry Canada in response to the invitation extended in the Department’s Spectrum Policy Framework Consultation paper issued on May 2, 2005 under Notice No. DGTP-001-05 (the “consultation paper”).
2. The OTA is a non-profit organization with its head office in Ottawa, Ontario, representing the majority of the Small Incumbent Local Exchange Carriers (SILECs) in the Province of Ontario. Currently, the OTA represents nineteen SILECs (also referred to herein as “independent telephone companies”), who collectively provide approximately 95,000 access lines to subscribers located across rural Ontario. The OTA’s mission is to provide leadership and guidance to our member Companies in the area of technology, settlement, negotiations, industry trends and the transition from regulation to competition in order to ensure the advancement and success of the member Companies and to promote the interests and help satisfy the needs of rural subscribers served by the member Companies. Our member Companies are firmly committed to the rural communities and subscribers they serve and, in particular, to strengthening the social fabric of these communities through the provision of affordable basic and advanced services. This commitment to rural Ontario and to its citizens is the cornerstone of a legacy of quality, affordable and trustworthy service that our member Companies have built up, in many cases, over more than a century of business operations in their respective serving territories.

3. The OTA member companies currently provide a range of wireline local voice services, such as basic local residential and business telephone service, call management, data, Internet access, video programming services and long distance voice services in serving territories which Industry Canada has recently identified as local telephone service provider areas in Appendix B to *Spectrum Licensing Policy for Cellular and Incumbent Personal Communications Services (PCS)*, issued in December 2003. In addition to wireline services, the OTA member companies provide a range of wireless services, including point to multipoint broadband as well as mobile wireless services to subscribers within our serving territories and to wireless users transiting through these territories.
4. The OTA Wireless Committee is mandated to explore and develop appropriate opportunities to expand the breadth of wireless products and services for the benefit of the Membership and their rural customers with the ultimate goal of providing such services on a facilities based approach. In recent years, the work of the Wireless Committee has grown enormously, both in terms of the relative quantity and the importance of its work on behalf of the member Companies. As the Department knows, the OTA member Companies have over the past few years taken on an increased interest and a greater presence in the provisioning of wireless services to their rural Ontario subscribers. Whereas in the past the OTA member companies had largely confined their efforts regarding wireless services to the provision of analogue cellular services usually under service arrangements entered into with Bell Mobility but sometimes on their own behalf, this is no longer the case today. Increasingly, over the next few years, member Companies of the OTA will become full-fledged, facilities-based wireless carriers, at both 800 MHz and 1.9 GHz bands. Our member Companies are well advanced in the final authorization stages to obtain spectrum licences for the provision of PCS services in the PCS D Block, to complement the licences they currently hold to furnish 800 MHz cellular services within their respective territories. The member Companies currently hold interim authority from Industry Canada to provide 1.9 GHz PCS services. As recently as August 12, 2005, the OTA Wireless Committee wrote to Bell Mobility requesting copies of the latter's standard PCS interconnection, roaming and resale agreements in order to facilitate our member Companies' implementation of licensed 1.9 GHz services.

5. In this regard, the OTA notes and wishes to commend Industry Canada on its recent publication of Notice No. DGTP-006-05- *Policy to Promote Digital Roaming for Rural Subscribers*. In the Notice, the Department enunciated a clear statement of government policy that will facilitate the integration of rural wireless networks and service with national and regional wireless telecommunications networks. In so doing, the Department moved closer to attaining several of the intended outcomes for its own role in the Canadian Spectrum/Telecom Program which it defined in the April 2004 departmental document *Strategic Directions – Spectrum/Telecom Program* (the “Strategic Directions”). In particular, the Department’s new digital roaming and resale policy statements help to ensure that:

- Canadian citizens (both urban and rural-based) enjoy world-class information and telecommunications networks and services; and
- opportunities are created to enable Canadian companies (such as the OTA member Companies) to excel in researching, developing, manufacturing and marketing telecommunications equipment and services both in Canada and abroad.

6. In arriving at its decision to formulate a digital roaming and resale policy for rural Canadians, Industry Canada reached several important conclusions that are relevant to the present proceeding to develop a revised spectrum policy framework for Canada, namely:

- subscribers to non-competing rural cellular and PCS networks should have the same roaming privileges already afforded to the subscribers of foreign carriers when they travel to any part of Canada;
- non-competing rural wireless carriers warrant special consideration in reaching commercial digital roaming arrangements to assist the integration of rural services with national or regional telecommunications networks; and
- the public interest, convenience and necessity would be served if national and regional cellular/PCS carriers provided special consideration, such as the provision of digital roaming arrangements, to non-competing rural wireless carriers to integrate their services so that rural subscribers could benefit from

extended service coverage across Canada and from advanced communication services.

7. Importantly, Industry Canada's determination that commercial digital roaming and resale arrangements between national and regional wireless carriers and non-competing rural wireless carriers serve the public interest was reached having regard to concerns voiced by small rural wireless carriers. The OTA and its Wireless Committee were pleased to have assisted Industry Canada in formulating a commercial digital roaming and resale policy for rural Canadians through the submission of comments to the Department on measures that could promote advanced mobile telephony services in rural Canada in response to the paper, *Consultation on the Spectrum for Advanced Wireless Services and Review of the Mobile Spectrum Cap*, announced in Notice No. DGTP-007-03. The OTA's filing of views and concerns in the Advanced Wireless Services proceeding, and in this current proceeding, reflect the increasing interest in and involvement of our member Companies in provisioning of wireless services to rural Canadians. Through submissions to Industry Canada such as these, the OTA is committed to working with the Department in developing policies that afford access to spectrum and to commercial arrangements, such as digital roaming and resale arrangements, that will address the unique socio-economic needs of rural Ontario's wireless subscribers. The OTA is both pleased and encouraged that Industry Canada took careful account of our comments in the Advanced Wireless Services proceeding and agreed with our member Companies that preferential commercial roaming arrangements for small rural wireless carriers were warranted in order to ensure that essential wireless services were available to rural subscribers by virtue of fully integrated rural and regional/national PCS and cellular networks.

#### **THE SPECTRUM POLICY FRAMEWORK CONSULTATION**

8. In the view of the OTA, Industry Canada's launch of a comprehensive consultation process to review and revise Canada's Spectrum Policy Framework could not have been more timely. The Department's consultation paper and proceeding was announced in May 2005, and coincided with other major telecommunications policy proceedings undertaken by other federal government bodies and review panels. Taken collectively, these comprehensive policy reviews and proceedings can be expected to provide a

renewed and revitalized framework for wireline and wireless telecommunications in Canada over the next decade and beyond.

9. With this initiative, Industry Canada has announced its clear intention to ensure that its Spectrum Policy Framework will remain the best possible base for the continued modernization of the Department's Spectrum Management Program. The spectrum policy review will examine policy issues and potential outcomes that will assist the Department in developing a modern spectrum management framework to deal with new and rapidly changing technology and market demand, globalization, and increasing concerns about security and privacy. Although the current spectrum policy framework was last revised in 2002, the impact of the factors noted above – which the Department refers to in the consultation paper as “external drivers” – suggests that a full and comprehensive review and revision is both timely and warranted, and particularly since all other aspects of telecommunications regulation are also currently undergoing review by the government-appointed Telecom Policy Review Panel.
  
10. Industry Canada states in the consultation paper that the guiding principles underlying the current process to revise the Spectrum Policy Framework take the form of five intended outcomes (“Outcomes”) that were initially defined in the 2004 Strategic Directions. In summary form, the Outcomes promote the following:
  - sufficient and timely access to essential spectrum for Canadians;
  - world-class networks and services for all Canadian citizens;
  - a sustainable competitive marketplace for communications;
  - Canadian telecommunications infrastructure conforming to international standards and secure from cyber-attacks; and
  - opportunities for Canadian business to excel in Canada and abroad in research, development, manufacturing and marketing of telecom networks and services.

11. Mindful of these Outcomes, the Department's management of the spectrum resources is informed by core policy objectives ("objectives") and policy guidelines ("guidelines"). In Part A of the consultation paper, Industry Canada proposes certain revisions to both the objectives and the guidelines, some of which the OTA comments upon in the next section of this submission. In essence, the objectives and guidelines which Industry Canada seeks to review and modernize in this consultative process form the policy principles which underlie the Department's management of the spectrum resource in Canada. The key spectrum management tenets of Industry Canada are neatly summarized at page 4 of the consultation paper:

"Among other principles included in the Framework, **radiofrequency spectrum is allocated** to a large number of radio services that are adapted, within international constraints, to meet changing Canadian requirements. Radiofrequency spectrum is to be made available to **support priority services** such as national security, national defence, and public safety. **The efficient use of the radiofrequency spectrum** is to be promoted to accommodate a wide range of radiocommunication services throughout Canada. Most importantly, the Department will **facilitate access to spectrum** based on sound economic and technical principles.

(emphasis as quoted)

12. The Department also states at page 5 of the consultation paper, that its goal in conducting the current Spectrum Policy Framework review process is "to create a policy framework that will have the greatest likelihood of accommodating future requirements". Importantly, at page 4 of its paper, Industry Canada states that, in furtherance of the government's practice of "smart regulation", it will "strive to give the greatest degree of certainty and transparency to the user in the application of these regulations", and will regulate "only where necessary". Finally, the Department notes at page 5 of the paper that a revised spectrum policy framework can have a good prospect of success for an extended period of time if it is "crafted with broad objectives and guidelines, avoiding prescriptive direction ...". The OTA applauds Industry Canada for both the clarity and the direction of the foregoing approaches and goals. In this submission, in the comments which follow, the OTA will itself strive to follow similar approaches and reach similar objectives to assist the Department in successfully revising and modernizing its Spectrum Policy Framework for Canada.

13. Prior to turning to a review and discussion of certain of the Department's proposed changes to the current Framework, the OTA wishes to recommend one addition to the overall approach and goal of the review discussed at pages 4 and 5 of the consultation paper. All parties can readily agree that spectrum user certainty is a laudable goal for the Department to set in developing a new and revised Framework, as is the objective of transparency in the interpretation and application of the elements of the Framework. The great difficulty in achieving these objectives lies in crafting the objectives and guidelines in a manner that itself imports the greatest degree of interpretive certainty possible. The Department notes correctly that the use of broadly-worded objectives and guidelines is to be preferred to the use of prescriptive direction. Several other drafting principles should also be considered by the Department if certainty of interpretation and application is to be embodied in the revised Framework to the extent possible. The OTA recommends that the following principles should also be adopted in formulating the revised Framework:

- broad objectives and guidelines are indeed appropriate, and to be preferred over specific or prescriptive language, however, overly broad drafting can itself contribute to interpretive uncertainty;
- internally-inconsistent or contradictory objectives and guidelines, as well as overlapping or duplicative language, should be avoided in formulating the new Framework;
- where possible, the revised objectives and guidelines should distinguish between policy "means" and policy "ends", with the means clearly directed to policy implementation through the use of methodologies, tools and techniques, and the ends focussed upon the policy goals, objectives and outcomes sought to be achieved; and
- not all policy goals are necessarily of equal importance, weight or stature, and certainty of interpretation and application can in fact be enhanced if objectives and guidelines reflect the Department's priorities, if priorities among the objectives and guidelines do in fact exist. For instance, the Department may wish to promote certainty by noting that where inconsistencies or contradictions arise, the promotion of objectives

benefiting domestic users of the spectrum shall prevail over benefits to Canada's spectrum interests internationally.

14. The OTA believes that each of the four drafting principles can prove useful in formulating objectives and guidelines that can be interpreted and applied with maximum user certainty while not constraining the Department's flexibility in managing the spectrum resource.

#### **PART A – REVISION TO THE SPECTRUM POLICY FRAMEWORK FOR CANADA**

15. In Part A of its consultation paper, Industry Canada proposes a revised set of objectives and guidelines which together form the policy basis for the spectrum management program in Canada. The existing policy objectives are set out in Appendix A of the consultation paper, while the proposed revised objectives are enumerated in section 6.1.2 of the paper. The existing policy guidelines are set out in Appendix B of the consultation paper, while the proposed revised guidelines are enumerated and discussed in section 6.2 of the paper, and respond to four specific themes that the Department has identified for the future direction of Canadian spectrum management, as follows:

- facilitating access to spectrum;
- making spectrum available to meet priority requirements and societal needs;
- improving the utilization of the spectrum resource; and
- delivery of the Spectrum Management Program.

16. In this section of its Comments, the OTA proposes to discuss only those suggested revisions which are of relevance to the operations of the member Companies of the OTA and to their customers located throughout rural and remote communities and regions of Ontario. Rather than replicate all of the existing and proposed objectives and guidelines, we propose instead to refer only to those which our experience in rural and remote communications qualifies us to comment upon.

#### **(a) Objectives**

17. The OTA is generally satisfied with Industry Canada's proposed revision of the core policy objectives as listed in section 6.1.2 of the consultation paper. In contrast with the existing objectives, the Department's proposed new objectives are more concise, to the point and, hence, more measurable and attainable. The attempt to minimize overlap in the objectives by transferring some content to the more detailed policy guidelines and statements is commendable. Comments on specific proposed objectives follow.

**Objective (1):** Similar to the text of objective (5), the reference to "Canadians" should instead read "all Canadians"; the phrase "throughout Canada" could usefully be added after the phrase "of radiocommunication systems and services".

**Discussion:** The changes suggested are proposed both to standardize drafting across several objectives and to convey the clear message that all of the objectives that refer to operations in Canada and impacts on Canadians are meant to extend equally to all Canadians regardless of their location, be it urban, rural or in remote parts of the country.

**Objectives (4) and (8):** These objectives, as proposed, pertain more to the means or methodologies by which Industry Canada will strive to attain the remaining policy objectives; it is recommended that they be deleted from the objectives list, and consolidated into a single statement of regulatory policy that is either added to the proposed preamble to the Framework or else embodied as a statement of regulatory policy in the guidelines. The consolidated statement could read as follows:

"The Department will strive to regulate wisely, in a timely manner, and only where required in order to maximize certainty and predictability for spectrum users, and will consult widely and on a regular basis on matters affecting the Program."

**Objective (6):** Add wording, as follows, to the end of the proposed objective: "... to promote the extension and interoperability of radiocommunication systems and services throughout Canada." In our opinion, Objective (6) as currently drafted is an example of overly-broad drafting that could be improved by adding some context and scope to the very general phrase "... facilitate the use of spectrum ...".

**Discussion:** The OTA is very pleased that Industry Canada has added a new objective that addresses the unique and distinct radiocommunication needs of Canadians residing in rural and remote areas of the country. As a result, in future, rural and remote users of wireless technologies and services, and the companies that serve them, can be assured that Industry Canada will consider their needs and issues, and afford them special consideration, as warranted, as a matter of fundamental spectrum policy. The proposed addition recommended by the OTA has a twofold purpose:

- (i) to impart greater certainty and meaning to this critically-important section of the objectives, and
- (ii) to reflect the reality of current needs and shortcomings of rural Canadian wireless communications – extension of network and service coverage and enhanced interconnection and interoperability between wireless networks in rural Canada and those operated by the larger regional and national network operators.

**(b) Guidelines**

***New Policy Guideline 3 – Radio Systems or Services Displacement***

18. To date, the OTA member Companies have not had extensive experience with displacement of spectrum systems or services. However, as the Companies become increasingly active in the provisioning of wireless networks and services, the risks of system or service displacement increase. Should a situation of displacement occur, added expense and user inconvenience are certain to arise at a cost to service providers that cannot be compensated by the government. While the reallocation of the spectrum in question may well be in the overall public interest or fulfil broad spectrum policy goals, nonetheless, holders and users of licensed spectrum in a particular band can be expected to face potentially serious economic and market penalties, in circumstances where they are without fault. In our view, circumstances of this sort suggest that Industry Canada, before undertaking a frequency reallocation that results in system or service displacement, should have a positive duty to mitigate economic and market harm to spectrum users who will face displacement. This would appear to be a situation where “(a) reasonable period of notice ... given to existing users” seems to be inadequate protection to businesses which, in some instances, will have substantial stranded

investment or major customer hardship or inconvenience to deal with as a direct result of a displacement decision by Industry Canada. Short of compensation or assumption of liability, the Department could state as a policy principle that it will provide reasonable assistance to users facing displacement and endeavour to afford existing users with access to spectrum of comparable capacity, technical quality and cost in fees in an effort to mitigate the harm of displacement. Owing to our inexperience with this situation, we cannot know what steps the Department routinely takes at present to assist its licensees in this type of case. Assistance of the kind discussed here may already be commonplace in practice. If so, it would be a straightforward step to embody the practice in the policy guidelines.

***New Policy Guideline 4 – Economic Principles of Spectrum Management***

19. The OTA generally supports the revisions to this important policy guideline. We note, however, the omission in the revised guideline of a statement that is currently contained in the “Application of Economic Principles” section of existing Guideline 1, namely:

“Spectrum managers will strive to apply the most appropriate economic principles, as well as policy, regulatory, technical and operational principles, to maximize the benefits to society through the use of the spectrum resource.”

The absence of this statement from the proposed new Guideline 4 removes two important requirements from spectrum managers, the absence of which could potentially affect smaller users of spectrum and those less able to meet the costs of spectrum rents than larger users of spectrum or national or regional service providers with greater financial resources. The OTA, on behalf of its member Companies – most of which are very small companies – takes comfort in the fact that, at present, spectrum managers are at liberty to select the most appropriate economic principles to apply to a given spectrum assignment to users. This discretion should continue to be embodied in any new Framework for spectrum management. Similarly, we view with importance the freedom of experts within the Department to identify specific licensing situations when factors other than economic rents and cost recovery should take precedence to ensure that societal benefits can be maximized through use of the spectrum resource. Nonetheless, the OTA is aware of the increasing importance and emphasis that Industry Canada, and government

generally, is placing on cost recovery and revenue generation. Accordingly, we recommend an approach which would allow spectrum managers to depart from economically efficient resource allocation only where it is adjudged to be an appropriate step to take, warranted by overriding policy, regulatory, societal, technical or operational principles. Language, such as the following, to give effect to this approach could be added as a final sentence to Guideline 4:

“Where the Department determines, in a given circumstance, that principles of economic efficiency are overridden by policy, regulatory, societal, technical or operational principles, spectrum managers will strive to apply the most appropriate principles to maximize the benefits to society through the use of the spectrum resource.”

***New Policy Guidelines 8 and 9 – Priority Communication Services and Availability of Advanced Communication Services for all Canadians***

20. Proposed Guideline 8 signals the Department’s intention to ensure that adequate spectrum and access is available to support radiocommunication systems for national security, national defence, law enforcement, public safety and emergency response. Of interest is the rationale which stresses “the importance of facilitating interoperability among public safety users.” The OTA, as already noted, believes that it is equally important to facilitate interoperability between the networks’ of small service providers such as the OTA member Companies operating in rural and remote communities and the larger operators of national and regional wireless networks. Accordingly, we would recommend that the following wording be added to Guideline 9:

“The Department will encourage network interconnection and service interoperability among communications systems as required.”

21. This type of language would clearly signal that rural and remote communications, and principles of interconnection, interoperability and service extension are as important in non-urban areas as in urban Canada and rank on equal terms with law enforcement and public safety uses of radiocommunication. The words also reflect and would embody existing government policies such as those recently enunciated in Notice No. DGTP-006-05 – *Policy to Promote Digital Roaming for Rural Subscribers*, in which the Department

expressly supported and encouraged roaming and resale arrangements involving, and consequent extended service coverage for, rural wireless carriers wishing to integrate their systems with national and regional cellular/PCS carriers.

22. The foregoing comments in no way diminish the OTA member Companies' strong support for the addition of proposed New Policy Guideline 9, which is expressly directed to facilitating communications in rural areas and bridging the urban/rural gap in services and connectivity. Guideline 9 is but one of several proposed policy pronouncements that reflect an increased policy priority and profile for addressing the radiocommunication needs and issues of Canadians living and working in rural and remote communities in Canada. The OTA wholeheartedly endorses this new emphasis on facilitating the delivery of world-class wireless networks and services to meet the needs of Canadians in regions of the country for whom the provision of such services is fraught with difficulties and expense. For its part, the OTA member companies remain fully committed to their customers in these regions, and expect in future to play an even greater role in satisfying their communications needs.

#### ***New Policy Guideline 12 – Increasing Spectrum Utilization***

23. Oftentimes, it will be incumbent upon new wireless service providers or carriers to obtain commercial arrangements with other existing service providers, including wireless carriers, before they can enter the market in a successful and sustainable manner. Obtaining these commercial arrangements in a timely manner, or at all, can be difficult, and particularly so where the existing provider or carrier lacks the incentive to enter into the arrangement. Situations such as these can seriously delay the best-intentioned implementation and deployment plans and schedules. The Department has recently observed that, in this regard, a voluntary approach to developing commercial arrangements between carriers with minimal governmental or regulatory intervention is the most desirable method of implementation. However, to encourage the development of these arrangements, it is important for the Department to publicly state in its Framework, as it did in the recent digital roaming and resale policy, that it supports and encourages special commercial arrangements concluded in a timely manner between wireless carriers that serve to facilitate service implementation and extension of coverage

in rural and remote regions. This policy guideline could be improved by adding the following sentence:

“Similarly, where the conclusion of satisfactory commercial arrangements between system operators is necessary to ensure timely implementation, the Department will encourage and monitor the progress of the parties and support the successful conclusion of satisfactory requirements.”

## **PART B – CONSULTATION ON ADVANCING THE CANADIAN SPECTRUM MANAGEMENT PROGRAM**

24. In Part B of its consultation paper, Industry Canada outlines its plans and ideas to further spectrum management in Canada over the next five to seven years. The topics and issues identified in Part B of the consultation paper are raised for public comment and to provide a fuller context for inputs by the public on Part A proposed revisions to the Spectrum Policy Framework.
25. In the following section of its Comments submission, the OTA offers its views on the topics and issues central to its own plans and expectations for wireless network and service deployment over the relevant time period of five to seven years. A good deal of the discussion in Part B of the consultation paper either relates to issues, topics and questions which are of only indirect or tangential relevance to the operations of small rural and regional wireless carriers, or which are matters that the OTA member companies have little or no direct experience with or knowledge of. Moreover, some of the matters raised for discussion in Part B have already been the subject of comments by the OTA in relation to Part A proposals. As such, this section of our submission will be confined to a few key points. For example, although the OTA member Companies are aware of the extensive work that the Department and its officials devote to safeguarding Canada’s rights and opportunities before international spectrum bodies, and strongly support this expert involvement on the international scene to harmonize the use of the RF spectrum, we are not well-placed to advise the Department on ways to enhance or improve its international regulatory and policy profile or performance.

26. The OTA member Companies have recently benefited from several of the advances that Industry Canada has implemented to the licensing processes, including conversion to spectrum licences from site-specific licences and to 10-year terms with transferability and divisibility privileges. Two other licensing topics discussed in Part B hold great promise for the member Companies, namely, licence-exempt spectrum discussed in section 11.2 and lease-type arrangements with third parties to enhance spectrum-usage privileges discussed in section 11.4. Both of these items promise more flexible and ready access to spectrum for commercial and residential services and applications, including those of particular utility to rural and remote users and customers. Lease-type arrangements are particularly well-suited to the OTA and its member Companies, since the model of third party contracting is one that many smaller member Companies have used to advantage for billing, data processing and service provision in the past. In other instances, several OTA member Companies have worked together to supply certain services and facilities to other member Companies, cooperatively and cost-efficiently. The member Companies have considerable experience, aided where necessary by the OTA, in conducting their business operations through contractual partnerships with other service providers. Since the circumstances of one member Company can be expected to diverge widely from another, spectrum usage arrangements that permit one company to deploy spectrum and another to third-party lease it, if warranted, will promote flexibility and more timely deployment of the spectrum resource.
27. The same can be said for the deployment of spectrum that the Department designates as licence-exempt. The OTA has taken considerable interest in the availability and commercial opportunities associated with licence-exempt spectrum, and encourages Industry Canada to continue to make licence-exempt spectrum bands or frequencies available to interested users on a timely basis. Similarly, we support the use of mechanisms to make unused spectrum available in areas that are unserved or underserved, as discussed in Section 11.6. Timely notice of spectrum availability and wireless licensing opportunities would be beneficial to all OTA member Companies seeking to become more actively engaged in wireless service provisioning within their serving territories and possibly beyond.

28. Of greatest interest to the OTA and our member Companies is the discussion at section 11.8 of Part B, entitled “Fostering Advanced Communications Services in Rural Canada”. As the consultation paper notes, this more detailed discussion is linked to the proposed policy Guideline 9 which is the subject of OTA Comments in Part A. As service providers and wireless licensees serving rural communities throughout Ontario, the OTA member Companies understand as well as anyone in Canada the unique challenges of extending telecommunications services to rural Canada. The OTA is especially gratified to see that the Department intends to devote new and added spectrum policy focus to the wireless needs of Canadians in rural and remote parts of our country, and to incorporate these new policies into the revised Framework for Canadian spectrum management.
29. More specifically, in section 11.8, Industry Canada has proposed to adapt existing and new licensing procedures and technical requirements to facilitate rural communications, including by:
- Developing a more appropriate and suitable definition of “rural” and “remote” to describe areas which are unserved or underserved;
  - Modifying or relaxing utilization policies and, where feasible, technical standards to promote greater use of spectrum, reduce wireless infrastructure costs and develop favourable provisions and preferential arrangements for the advent of new and advanced services in rural and remote areas; and
  - Facilitating the use of contiguous unused spectrum below 1 GHz for low-cost rural and remote broadband radio systems.
30. In the view of the OTA, each of these proposals warrants further examination to assess whether and, if so, to what extent each would effect a meaningfully positive benefit to Canadians living in small, rural or remote communities. For its part, the OTA and our member Companies would welcome the opportunity to discuss with the Department a wide range of issues, including those discussed above that are directed to improving wireless service for our customers. One idea that Industry Canada puts forward for consideration is the possibility of establishing different sets of spectrum policies that vary by geographic area and based on relative levels of spectrum congestion or demand. These differing policies could take account of the high costs of providing

communications services in rural and remote areas, and afford favourable or preferential policy or process treatment to operators who wish, notwithstanding the economic and other drawbacks of doing so, to establish new service or extend existing services to new locations. As with any service provider, the OTA member Companies are particularly interested in discussing with the Department steps that could be taken in future to ensure that access to spectrum necessary to support new and advanced services for Canadians in rural and remote regions remains affordable for small wireless carriers.

31. While the OTA has not yet formulated positions and responses to some of the specific questions posed by the Department at page 28 of the consultation paper, we are both grateful for and supportive in general of the plans and proposals presented in section 11.8. We would expect to participate in further consultative proceedings to examine in greater detail the issue of spectrum affordability for our member Companies, along with some of the other options discussed by Industry Canada in section 11.8 to foster enhanced wireless services for our customers.

**CONCLUSION**

32. Among the numerous revisions and additions to the current Spectrum Policy Framework proposed by the Department, there is a pronounced new emphasis on facilitating access to spectrum and implementing favourable new policies and procedures to satisfy socio-economic challenges associated with the deployment of basic and advanced wireless services for Canadians resident in rural and remote regions. Although enhanced communications for Canadians living and working beyond urban areas has occupied the Department's interest over the years, and led to the development of valuable policies to promote objectives of extension of service and interoperable networks, the new Framework policy proposals clearly elevate promotion of rural and remote communications to priority levels for the Department. For this reason alone, the OTA, on behalf of our member Companies, congratulates Industry Canada for a clear and far-sighted set of spectrum policies that, if implemented with further revisions from the public where warranted, should provide a workable blueprint over the next 5 to 7 years for the continued success and modernization of Canada's Spectrum Management Program.

All of which is respectfully submitted in Ottawa this 7<sup>th</sup> day of September, 2005.

## **APPENDIX**

- Amtelecom Inc.
- Brooke Telecom Co-operative Limited
- Cochrane Telecom Services
- Execulink Telecom Inc.
- Gosfield North Communications Co-operative Limited
- Hay Communications Co-operative Limited
- Huron Telecommunications Co-operative Limited
- The Lansdowne Rural Telephone Company Ltd.
- Mornington Communications Co-operative Limited
- Nexicom Telecommunications Inc.
- Nexicom Telephones Inc.
- North Frontenac Telephone Corporation Limited
- North Renfrew Telephone Company Ltd.
- People's Telephone Company of Forest Inc.
- Quadro Communications Co-operative Inc.
- Roxborough Telephone Company Limited
- Tuckersmith Communications Co-operative Limited
- Westport Telephone Company Limited
- Wightman Telecom Ltd.