

\* Source: Bank of America Merrill Lynch

160. Moreover, in a February 2011 study, Jeffrey Church also examined Average Revenue Per Minute (ARPM) as a proportion of GDP and found that Canada has one of the most affordable usage costs for wireless subscribers. Specifically, he found that the Canadian “ARPM as a proportion of GDP per capita is the third lowest in the sample we looked at.”<sup>85</sup> So, despite statements to the contrary, it is clear that voice services are reasonably priced in Canada. Canadian consumers are paying less than other consumers in many European countries.

161. Another factor that is often not taken into consideration when making comparisons between Canada and other countries is Calling Party Pays (CPP). Canadian customers have traditionally benefited from unlimited outbound local calls from their landline phone, while Europeans are being charged for each local call. They pay higher rates for each call to a mobile number. Among the twenty-one countries that are analyzed by Merrill Lynch, only Canada, U.S. and Singapore do not have CPP. This means that wireless customers in these three countries have to pay for all incoming minutes as well as outgoing minutes. Whereas under

<sup>85</sup> Jeffrey Church, “Spectrum Policy as Competition Policy”, para 106

CPP, subscribers only pay for outgoing minutes. This increases the ARPU in those countries that operate without CPP.

162. CPP also impacts interconnection costs. Wireless operators who have access to CPP around the world are compensated for terminating traffic on their respective network. The Merrill Lynch report notes that “*In countries where the calling party pays (CPP) applies, interconnection can represent about 20% of total revenues.*”<sup>86</sup> In Canada, wireless services providers have to pay to send and receive traffic from local exchange carriers. This leads to higher interconnection costs in Canada and a higher cost structure relative to other countries.

163. Based on this, the regulatory model of CPP tends to understate the true cost of wireless services in places like Europe. Under the CPP scheme, wireless subscribers only have to pay for outgoing calls while incoming calls are free. As a result, it excludes from the equation the cost of calls made from wireline to wireless phones, which the caller pays by way of local measured service charges to their local wireline telephone company. The impact of CPP must be considered when comparing the industry’s competitiveness in Canada to other countries that employ CPP.

164. Canadian ARPU includes, among other things, fixed monthly service charges, usage fees, roaming, long distance, valued added services and subscriptions to mobile data services. In order to compare apples to apples, one must remove from the portion of the revenues that is associated with incoming minutes (local and roaming) from the ARPU calculation. Merrill Lynch estimated that a 20% adjustment would be necessary for countries that do not have CPP, noting that:

*MOU figures are potentially somewhat overstated in countries that do not employ the calling party pays system (Canada, Singapore, US) relative to other countries who do as a result of the double counting of on-net mobile-to-mobile minutes. The double counting occurs because the same minute is billed to both the caller and the receiver. For some markets in Europe,*

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<sup>86</sup> Merrill Lynch, “*Wireless Matrix 4Q10*” p 210.

*for example, we estimate that on-net mobile-to-mobile traffic can constitute approximately one-third of MOU, thereby suggesting that MOUs in non-CPP countries may be overstated by about that amount. We think the 20% adjustment for non-CPP markets is conservative (i.e. on the high side).<sup>87</sup>*

165. Recent data on the Canadian wireless market supports the view that competition continues to intensify especially with regards to pricing for zone-based unlimited plans. In a recent analyst report, Merrill Lynch has noted that Canadian pricing is now at U.S. levels as a result of the expansion of new entrant coverage areas, distribution, available handsets and price promotions. According to a recent Merrill Lynch report,

*Q4 seasonal promotions have been carried over into January, and new promotional price points are now at or below prices from US discounters Leap and MetroPCS. Both Mobilicity and Wind are now offering \$45 unlimited plans that include data (as well as messaging and voice). This compares to similar plans priced at \$40 from MetroPCS and \$45 from Leap. In addition, Wind offers handset subsidies of up to \$150 via its “Tab” program, reducing effective pricing for high-end smartphones to \$250. Mobilicity offers 33% discounts to customers who prepay for a year, reducing the effective price to \$30/month – significantly below US price points<sup>88</sup> (Emphasis added)*

166. RBC Dominion Securities noted a similar trend in Canadian wireless prices in a recent investor update based on fourth quarter information:

*A Fierce Quarter For Wireless Competition Among New Entrants. Our wireless checks in the quarter revealed very aggressive pricing from the new wireless entrants at the low-end of the market – to levels well below U.S. pricing – and likely unsustainable. The new entrants are poised to add 210k subs this quarter (34% of total share). Meanwhile, our checks suggest a more rational dynamic among the big three carriers at the high-end of the market – nothing really unusual for the heavy Christmas season. This bodes well for Bell and TELUS. Rogers, however, is likely to face continued pressures.<sup>89</sup> (Emphasis added)*

167. Of note, in the RBC report, is the fact that aggressive pricing from new AWS licensees are in the market at levels below those found in the U.S. market and that

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<sup>87</sup> Merrill Lynch, “Global Wireless Matrix Q410”, p 210.

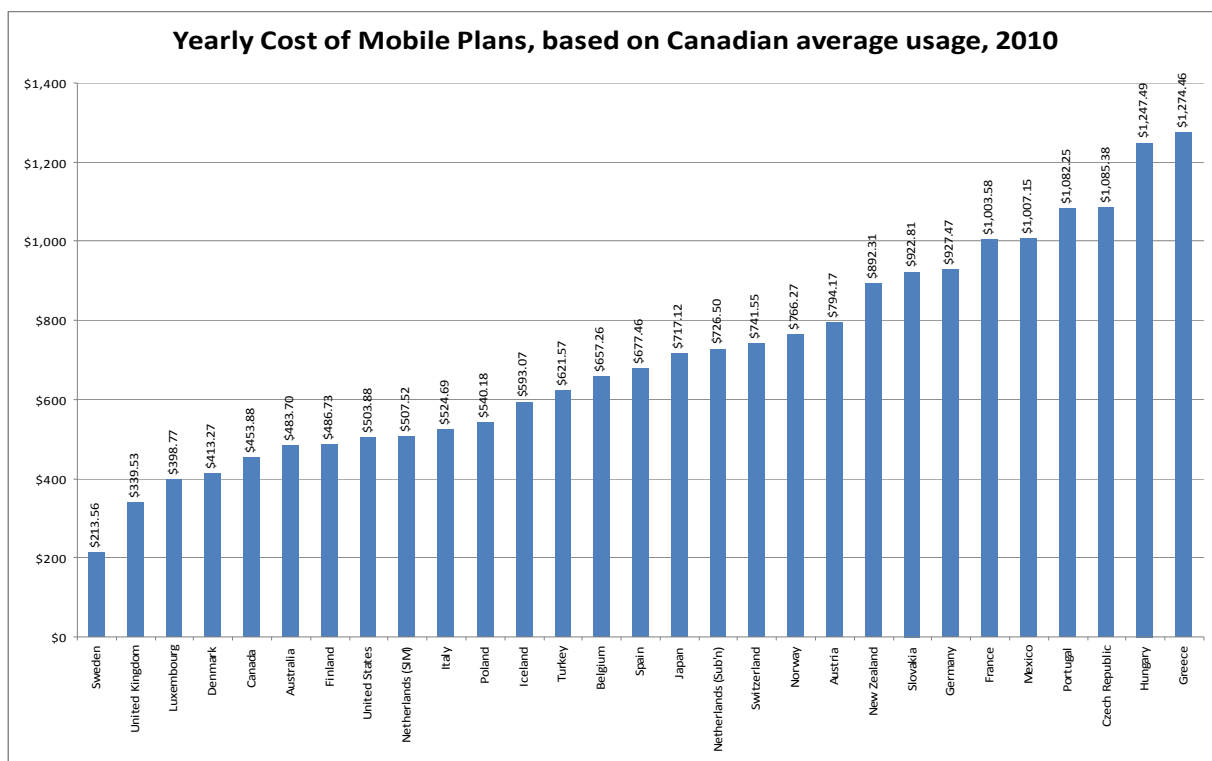
<sup>88</sup> Merrill Lynch, “Wireless Update: Prices Now at US levels”, (January 25, 2011), page 2.

<sup>89</sup> RBC Capital Markets, “Fiercely Competitive Wireless Quarter”, p 1.



they are likely unsustainable. Overall, new AWS licensee promotions in the wireless market are at or below similar plans in the U.S. market, a market that has well over 10 times the number of subscribers and therefore greater economies of scale.

168. A study commissioned by the CEP Union of Canada shows that Canadian pricing compares well to other countries. According to data collect by the the CEP Union of Canada, when using a basket that reflects the Canadian average usage (based on various assumptions taken from CRTC Monitoring reports, Merrill Lynch, Harris/Decima and the CWTA), Canadian prices for wireless services are extremely low in comparison to other countries.<sup>90</sup>



\* Source: CEP Union, Fact Sheet No. 2, published 10/19/2010

169. As the CEP Union report notes, Canada ranks 5<sup>th</sup> (at \$453 per year) among the 29 countries that they have analyzed. This is 11% less expensive than the U.S. pricing (at \$503 per year), and well below the average of \$710 for these 29 countries.

<sup>90</sup> <http://www.cep.ca/action/campaigns/foreign-ownership>.

170. In summary of Section 7-1, Rogers submits that the Canadian wireless market has been highly competitive in the past and that competition has become hyper-competitive. Much of this heightened level of competition is not on account of new entrant activity but is a result of increased competition among incumbent providers due to Bell and TELUS' move to launch a competing HSPA+ network. The current level of zone-based unlimited pricing in the market is likely not sustainable and consolidation (as noted by some new entrants) will likely result. Now that AWS licensees have entered the market, there is no need for any further artificial measures to increase or sustain competition. The next auction must be open for all bidders given the limited amount of 700 MHz spectrum that will be available in the auction.

### **Impacts of Government Measures Adopted in the AWS Auction**

**7-2: Provide views, and any supporting evidence, on the impacts of government measures adopted in the AWS auctions, including the impacts on consumers and on the state of competition. In particular, what has been the impact, if any, of such measures on industry concentration, barriers to entry or expansion of services, and the availability of new or improved service offerings and pricing plans?**

171. In its Consultation Paper, the Department has sought comments on the impacts of government measures adopted in the AWS auctions and the resultant impact on consumers and the state of competition.

172. The Canadian market was highly competitive before the AWS auction as the metrics in the previous section show. Rogers submits that competition has only increased since the auction. However, as noted above, while this is partially due to the AWS entrants, much of this is due to intense competition between the incumbent operators.

173. As noted in Section 7-1, Bell and TELUS have become more competitive with the launch of their joint HSPA+ network. Bell and TELUS can now offer the newest and most popular handsets (such as the iPhone) which were previously unavailable to them due to their reliance on CDMA technology. With the upgrade to HSPA+, customers can keep their existing unlocked HSPA phones when they port between the three incumbent carriers. Several analyst reports confirm the impact that Bell and TELUS have had on competition in the wireless sector. In an investor update provided after the release of Rogers Q4 2010 financial results Canaccord Genuity noted that:

*Postpaid market share loss may be inevitable, but Rogers only accounted for 16% share of national postpaid net additions in Q4/10 – Given that Rogers Wireless enjoyed commanding postpaid market share from 2004-2009 due to its GSM/HSPA exclusivity, it is not surprising that its share has been in decline since Bell and TELUS launched HSPA in late 2009. In addition, Bell Mobility was particularly aggressive with its subscriber acquisition promotions in Q4/10. Rogers also argues that it only had limited supplies of iconic smart phones in the quarter and these were generally directed at retention of existing customers, rather than acquisition of new customers. However, despite record retention expense, which equated to a whopping 16.3% of network revenue in the quarter, postpaid churn rose sharply to 1.35% in Q4/10 from only 1.08% in Q4/09. In our view, Rogers has become less competitive on the postpaid front due to enhanced networks, device selection and distribution at Bell and TELUS. This is not a one quarter phenomenon.<sup>91</sup> (Emphasis added)*

174. GMP Securities also found that there was a shift in postpaid customer additions from Rogers to Bell and TELUS:

*The competitive intensity in Rogers' main markets of Ontario and Quebec appear to have impacted the operating results and factored into materially higher churn and weaker net loading in the quarter. The financial results were in line with our expectations All 3 major wireless incumbents have reported, and it seems that the shift in value from Rogers to Telus and Bell that was present in Q3 has continued into Q4.<sup>92</sup> (Emphasis added).*

175. Neither GMP or Canaccord Genuity are surprised to see that the shift in postpaid customer additions trend continue from Rogers to Bell and TELUS. Canaccord

<sup>91</sup> Canaccord Genuity, "Daily Letter: Weakening Fundamentals", (February 17, 2011), p 2.

<sup>92</sup> GMP Securities, "Q4 Results in Line; Guidance Disappoints; Dividend +11%, \$1.5B NCIB Reviewed", (February 16, 2011), p 1.









## Unviable Entry

189. With the addition of several new entrants already, it would be difficult, if not impossible, for the market to bear an additional carrier. According to the Convergence Consulting Group, the current group of new entrants are already struggling with negative cash flows.<sup>100</sup>

**Estimated Cumulative OFCF in 2014**  
 (\$ millions)

	<u>Cum OFCF</u> <u>E2014</u>	<u>AWS</u> <u>Licence</u>	<u>Total</u>
Globalive Wireless	\$ (575)	\$ (442)	\$ (1,017)
Public Mobile	\$ (443)	\$ (52)	\$ (495)
Mobilicity Wireless	\$ (480)	\$ (243)	\$ (723)
	<u>\$ (1,498)</u>	<u>\$ (738)</u>	<u>\$ (2,236)</u>

\* Source: Convergence Consulting Group and Industry Canada website

190. As the table above illustrates, In order to fully recover their estimated excess of cash outlays of \$2.2 billion at the end of 2014, it is not surprising to see that these three pure-play wireless providers would need over 3.7M customers together, which is 25% higher than what Convergence Consulting Group estimated for 2014. New entrants would need to generate positive cash flow of \$20 per month per customer (i.e. net of any operating expenses) during 30 full months (ARPU of \$50 and EBITDA margin of 40% equal to \$20 per month), which is about the life-time of a customer assuming an average churn rate of 3.3% per month. Given that AWS licensees would normally have to continue to invest in their networks (e.g. coverage), it would appear that some AWS licensees might never be able to break even in the medium or even short term. Setting aside 700 MHz spectrum for these operators will not solve this problem.

## Number of Market Competitors in Comparison to Other Countries

<sup>100</sup> Convergence Consulting, "Canadian Wireless 2008-2014" p 102, 104, 106.



191. In terms of making comparisons between Canada and other countries, Rogers submits that the Canadian wireless market is doing extremely well. In a February 2011 report, Jeffrey Church clearly shows that the Canadian wireless market was not concentrated. According to Church, “*Canada’s wireless industry is less concentrated than the wireless industries of several other countries.*”<sup>101</sup> Church added that:

*Regardless of market size, most wireless markets seem only to be able to sustain three or four major competitors, and in most markets two operators have over 2/3rds and in many cases 3/4ths of the total subscriber base [...]*<sup>102</sup>

*The global data suggest that the scope for entry is exhausted relatively quickly. Indeed, few markets have more than four nationwide competitors, and even in ones that do, two or three competitors have overwhelming market shares, suggesting that the fourth competitor is truly marginal [...]*<sup>103</sup>

*the empirical evidence from around the world suggests that it would be surprising to expect more than four national competitors. In the Canadian case, there may be important regional variations, but it still seems that in each regional or provincial market, it would be difficult to anticipate more than four competitors. It is possible that in Toronto, one might see five firms seeking to provide service, but the fourth and fifth firms might be relatively marginal.*<sup>104</sup> (Emphasis added)

192. In a filing to Industry Canada in July of 2010, the Berkeley Research Group similarly ranked Canada fifth overall behind the UK, US, Germany and Italy in terms of market concentration. They noted that:

*Canada’s market is unexceptional in terms of concentration, and likely to become exceptional only because of the number of competitors that are forthcoming.*<sup>105</sup> (Emphasis added)

193. This fact is further supported by Merrill Lynch. Canada places 5th in comparison to the twenty-one other developed countries analyzed by Merrill Lynch as of Third

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<sup>101</sup> Jeffrey Church, “Spectrum Policy as Competition Policy”, Table 1.

<sup>102</sup> Jeffrey Church, “Spectrum Policy as Competition Policy”, para 158.

<sup>103</sup> Jeffrey Church, “Spectrum Policy as Competition Policy”, para 89.

<sup>104</sup> Jeffrey Church, “Spectrum Policy as Competition Policy”, para 183.

<sup>105</sup> Berkeley Research “Foreign Ownership Restrictions”, para 80.

Quarter 2010.<sup>106</sup> Overall, the wireless markets of many European countries are much more concentrated than in Canada. This Merrill Lynch conclusion is based on a common and well respected measure of market concentration called the Herfindahl Hirschman Index (HHI).

194. Merrill Lynch also reports the total number of wireless players per country. Again, Canada ranks extremely well, as shown in the table below:

<b>Number of Wireless Competitors per Country</b>			
5 players	4 players	3 players	2 players
Canada	Austria	Australia	Norway
UK	Denmark	Belgium	
US	Germany	Finland	
	Italy	France	
	Japan	Greece	
	Spain	Netherland	
	Sweden	New Zealand	
		Portugal	
		Singapore	
		Switzerland	

*\*Source: Bank of America Merrill Lynch*

195. Based on all these facts, it is clear that there is no need to increase the number of players in Canada.

**No Measures Needed to Sustain Competition**

196. It is not clear to Rogers how set-asides, spectrum caps, or for that matter any other kind of measures would help “sustain” competition. The number of competitors in the market must be the product of competitive market forces, and not the product of subsidies from the Department.

<sup>106</sup> Merrill Lynch, “Global Wireless Matrix 4Q10”, p. 2.

197. Indeed, artificial measures to “sustain” competition will certainly have significant unintended costs. This is the view of Jeffrey Church, who states the following in this regard:

*There would be very serious consequences from using a set-aside or applying spectrum caps in an effort to “sustain” the entry that has already occurred. The reality is that incumbent incentives to foreclose such entrants from acquiring spectrum are limited, and equally spectrum is not going to be the crucial factor determining whether entry can be sustained. In fact, spectrum (or lack of it) is more likely to be a crucial factor in determining how fast and how far incumbent firms can go with rollouts of 4G technology. With only a limited amount of 700 MHz spectrum available, a set-aside or cap policy might keep a valuable and essential resource out of the hands of those who can best use it. In particular, given its uses in rural and low-density areas (areas where mobile broadband might be especially valuable because of the prohibitively high costs of deploying fixed broadband service), a policy that ensures that entrants get a “fair share” of 700 MHz spectrum might reduce meaningful competition and choice for Canadians living in such areas, particularly given that thus far the deployments by new entrants have concentrated on the markets (big cities) with the lowest deployment costs and most favourable economics.<sup>107</sup> (Emphasis added)*

198. Industry analysts have estimated that new entrants had less than 2% of market share at the end of 2010. Given the relatively low number of their customers that they have, new entrant networks are relatively underutilized. It is therefore not clear that they need more spectrum. In any event, Rogers believes that all wireless carriers in Canada will want 700 MHz spectrum, including those companies that currently serve the vast majority of the 24 million Canadian subscribers. The carriers’ respective business plans will dictate the extent to which they value 700 MHz spectrum. Market forces should therefore determine the outcome of the auction. Rogers strongly believes that the upcoming auction must be open so that those who value the spectrum the most will have access to it and can put it to its highest use. An open auction will be the most efficient measure the Department can implement in order to sustain competition in Canada and unlock the benefits associated with 700 MHz spectrum.

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<sup>107</sup> Jeffrey Church, “Spectrum Policy as Competition Policy”, p 58, para 232.

199. As discussed above, 700 MHz spectrum is very valuable for coverage outside large urban areas. The only new entrants that could likely use 700 MHz spectrum for rural coverage are Shaw, Eastlink and Videotron. Shaw and Eastlink have not yet built using their AWS spectrum, so they might deploy using 700 MHz spectrum instead. However, this would not be “sustaining” Shaw and Eastlink as it would merely substitute one new network build for another. Videotron will already have completed its Quebec AWS network by the time the 700 MHz auction takes place. Given their moderate level of wireless subscribers, and their 40 MHz of AWS spectrum, it is hard to see how 700 MHz spectrum would “sustain” them. In any event, and as noted in more detail below, all of these powerful, wealthy communications conglomerates require no artificial measures to sustain them.

200. Rogers submits that it is improper for the Department to continuously insulate for-profit companies through artificial subsidies. In fact, as we discussed above, several AWS licensees in Canada have vast financial resources at their disposal to assist with the purchase of spectrum at fair market prices through an open auction.

Shaw and Quebecor Financial and Subscriber Results for 2009		
	Shaw	Quebecor
As of 2009 Annual Report	Aug 31, 2010	Dec 31, 2009
Total Operating Revenues	\$3.8 billion	\$3.8 billion
Net Income	\$533 million	\$278 million
Market Capitalization	\$9.1 billion	\$2.4 billion
Beta (stock price volatility)	0.698	0.643
Subscriber data as of Latest Quarterly Report	As of Nov 30, 2010	As of Sept 30, 2010
Basic cable	2.3 million	1.8 million
Digital cable	1.6 million	1.6 million
Internet	1.8 million	1.2 million
Home Phone	1.0 million	1.1 million
DTH	905K	0

\* Source: Company respective websites and Bloomberg website

201. For example, as the table above illustrates, former cable monopolies like Shaw and Quebecor run large and profitable Canadian communications companies with revenues approaching \$4 billion a year for each, and net income of \$533 million for Shaw and \$278 million for Quebecor. Quebecor demonstrated its strength during

the AWS auction, when it acquired 40MHz of spectrum, which represents 45% of all AWS spectrum that was available in Quebec. In some regions in Alberta and BC, Shaw bought up to 33% of all available AWS spectrum. These companies have large market capitalizations in the multi-billion dollar range and very low stock price volatility. Both Shaw and Quebecor also possess large numbers of subscribers spread across their respective cable television, Internet and home phone businesses.

202. For its part, Wind Mobile is already part of the Orascom empire and could become a part of the VimpelCom wireless empire. VimpelCom, Russia's second largest wireless provider and Orascom (owner of the Wind brand) are in the process of merging their telecommunications companies. Once the merger is completed, the consolidated entity will be the fifth largest wireless company in the world with combined revenues of \$21.5 billion (US) and 178 million wireless subscribers.<sup>108</sup>

203. Eastlink is not a publicly-traded company so publicly available information is scarce. However, on February 23, 2011, the Bragg Group, parent company of EastLink, announced its expansion into the global telecommunications market with the purchase of Cable and Wireless (Bermuda) Holdings Ltd., a 121-year old Bermuda telecommunications operation with both residential and business customers, owned by the UK-based international telecom firm Cable & Wireless Communications Plc. If Eastlink can expand outside of Canada, it certainly has the necessary resources to expand its wireless initiatives within Canada and does not require subsidies.

204. As can be seen, several AWS licenses are large and well-financed companies. These companies do not require any artificially imposed government measures to ensure that they can operate in a competitive market. Given their sheer size and

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<sup>108</sup> Jeroen Molenaar and Jacqueline Simmons, "*VimpelCom, Egypt's Sawiris to Combine Phone Operations*", (October 04, 2010). <http://www.businessweek.com/news/2010-10-04/vimpelcom-egypt-s-sawiris-to-combine-phone-operations.html>

vast revenues, these companies are more than able to hold their own in an open spectrum auction.

205. When reviewing the evidence from auctions in other jurisdictions, a set-aside is not necessary for new entrants to acquire spectrum. For example,

*The German auction in 2000 provides an example. The auction structure involved 12 licenses for offer, with bidders being required to purchase a minimum of two and a maximum of six licenses. There were four incumbent operators, so the auction rules certainly did not guarantee that there would be a new entrant. In reality, six firms won licenses. In fact, even absent any explicit set-aside provision, there were more acquirers of spectrum than there were eventual market participants, with the two “new” firms having to return their spectrum licenses.*

*Elsewhere in Europe, Hutchison benefitted from a set-aside in the U.K., but there was no set-aside in Italy, where it also entered, nor in Sweden, Denmark or Ireland. The U.K. policy might just have given a marginal boost to a player that was bent on entering the market anyway, but whose actual prospects were highly uncertain.<sup>109</sup>*

206. In the United States, the FCC also recognized that there was no need for a set-aside in the 700 MHz spectrum auction since there was no monopoly on broadband services and “*there would be no incentive for one bidder to unilaterally block new entrants from acquiring 700 MHz spectrum.*”<sup>110</sup>

207. Indeed, one of Canada’s new entrants (Public Mobile) entered by purchasing non-set-aside spectrum. As noted above, the new entrants argue that Rogers, Bell or TELUS could buy this spectrum (which they did not want) to keep Public Mobile out. This did not happen.

208. Lastly, we would note that 700 MHz spectrum in Canada will be made available several years after the U.S. Canada cannot afford to fall further behind. Access to advanced wireless networks is an economic imperative in a knowledge-based economy. Wireless networks increase innovation, accelerate productivity, enhance

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<sup>109</sup> Jeffrey Church, “*Spectrum Policy as Competition Policy*”, Para 176-177.

<sup>110</sup> Lemay-Yates, “*The Impact of 700 MHz Spectrum*”, p 77.

public safety, reduce costs of doing business, deliver environmental benefits and bolster consumer confidence. All wireless carriers in Canada will require more spectrum capacity for future growth. Using artificial measures to favour some competitors is unnecessary and potentially damaging. It will mean that spectrum that Rogers can use immediately will be in the hands of new entrants that are unlikely to use it for several years.

## **Foreign Investment Considerations**

**7-4: The Government of Canada has undertaken a consultation on potential changes to the foreign investment restrictions that apply to the telecommunications sector. How would the adoption of any of these proposed changes impact your responses to the questions above?**

209. For the reasons provided above, Rogers is strongly opposed to the notion of artificial measures such as spectrum set-asides and spectrum caps. There would be no argument whatsoever for any such measures in the event that the Government of Canada relaxes or eliminates the foreign investment requirements that apply to the telecommunications sector.

210. It is hard to imagine how any of the huge foreign operators such as AT&T, Verizon, Orange, Orascom, Vodafone, or VimpelCom would require any special advantages in a Canadian spectrum auction when their respective market capitalization towers over all of the largest incumbent Canadian operators. The significant financial power and advantage enjoyed by several foreign operators relative to Canadian incumbent operators was noted by Mr. Jeffrey Church in a report prepared for Rogers in July 2010.<sup>111</sup> The disparity in financial power and scale between foreign operators and Canadian incumbent operators is summarized in the following analysis from Mr. Church's report:

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<sup>111</sup> Jeffrey Church with the assistance of Berkeley Research, "*Foreign Ownership Restrictions of Canadian Telecoms*", p 8.

**Revenue, Market Cap and Subscribers**

	<b>Revenue (U.S. \$ bn)</b>	<b>Market Cap (U.S. \$ bn)</b>	<b>Total Accesses (m)<sup>3</sup></b>
Vodafone	67	114	338
Telefonica	75	94	265
France Telecom/Orange	59	50	193
Deutsche Telekom	70	56	218
Verizon	108	75	135
AT&T	123	146	156
Qwest	12	9	15
Bell Canada	17	23	17
Telus	9	12	12
Rogers	11	20	12

Source: Jeffrey Church with the assistance of Berkeley Research Group Foreign Ownership Restrictions of Canadian Telecoms

211. Using their financial might, foreign operators could easily out-bid any of the Canadian operators. There would be no need, for example, to set-aside spectrum for these companies to ensure that they will have a better chance of acquiring spectrum and entering the Canadian market. Similarly, there would be no need to artificially restrain the incumbents from acquiring additional spectrum to the benefit of foreign firms. The large foreign firms will simply buy all of the spectrum they need. It is equally unclear why the relatively smaller incumbent Canadian operator's costs of acquiring spectrum should be artificially inflated through measures such as set-asides so that the larger foreign operators could enjoy a subsidy on the price of set-aside spectrum.

212. For these reasons, the Department should not impose a mobile spectrum cap or spectrum set-aside in the event that the foreign investment restrictions are relaxed or removed.

**Consequences of Mechanisms to Promote Competition**

**7-5: If the Department determines that there is a need for measures to promote**



**competition, which of the above mechanisms would be most appropriate and why should this mechanism be considered over the other? Comments should also indicate if further restrictions should apply so that policy objectives are met, for example, over a given time period?**

213. Rogers opposes the use of any measures that would prevent the 700 MHz spectrum being equally available to all parties. To do so would simply mean that the regulator is predetermining the outcome of the auction. Auctions should be fair and open to all in order to allocate spectrum impartially and establish a fair market price for the spectrum in question. This ensures a level playing field and that those carriers that need and value the spectrum the most will have access to the spectrum.

214. The mechanisms proposed by the department: set-asides; spectrum caps; and auction caps; distort auctions and handcuff carriers, costing the wireless industry billions of dollars. Set-asides, as witnessed during the 2008 AWS auction, create massive gaming opportunities that were repeatedly abused during the auction. Spectrum caps create arbitrary limits inconsistent with the capacity needs of wireless carriers. Even an auction cap, while less disruptive than a set-aside or spectrum cap, interferes with the efficient allocation of spectrum and creates waste. Industry Canada should not adopt any of these measures for the reasons detailed below

### **Set-asides**

215. As demonstrated in the AWS auction, a spectrum set-aside produces distortions in the auction process. The results of the auction demonstrate that the set-aside had a substantial negative impact on incumbents in the form of artificially high prices. There was a corresponding advantage to new entrants who “gamed” the auction process and were permitted to bid up the price of non-set-aside spectrum with impunity. In addition, the use of the set aside resulted in wide divergence in prices paid for similar licences.























































