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March 1, 2004

Larry Shaw  
Director General  
Telecommunications Policy Branch  
Industry Canada  
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Dear Mr. Shaw:

**Subject: Canada Gazette, Part I, October 2003, Consultation on the Spectrum for  
Advanced Wireless Services and Review of the Mobile Spectrum Cap Policy,  
Notice No. DGTP-007-03**

TELUS Mobility (TELUS) is pleased to submit these comments on DGTP-007-03 Consultation on Spectrum for Advanced Wireless Services and Review of the Mobile Spectrum Cap Policy (Consultation).

TELUS participated in the preparation of the comments of the Radio Advisory Board of Canada (RABC) and those of the Canadian Wireless Telecommunications Association (CWTA). TELUS supports both of those sets of comments to the Consultation and accordingly, our comments below are generally aligned.

We also note however that our comments provide our more specific views on two of the most important related issues. Firstly with respect to the mobile spectrum cap policy, TELUS believes that the cap has now outlived its usefulness and should be eliminated in its entirety. Secondly we believe that the Department's current outlook for the release of the new AWS spectrum in 2005/2006 timeframe may be somewhat premature.

### **1.0 Proposed Changes to the Canadian Table of Frequency Allocations**

#### **A. Bands 1710-1755 MHz and 2110-2155 MHz**

TELUS supports the Department's proposed allocation changes that will enable AWS deployment in this band. Further we support the Department's intent to pair these two bands for use as Advanced Wireless Services (AWS) spectrum. Specifically we support:

- Raising the mobile service to a primary status in the 1710-1755 MHz band and to remove the application of footnote C5 that limits mobile use to the Government of Canada.
- Adding a new Canadian footnote CXYZ to facilitate the introduction of AWS.
- Adopting the new and modified international footnotes 5.384A and 5.385 agreed to at the WRC 2000.
- Removing the application of Canadian footnote C33 from the band 1710-1755 MHz since it does not apply in this new sub-band.

As outlined in both the RABC and CWTA's comments concerning proposed footnote CXYZ, TELUS too considers the April 1, 2007 date appropriate but joins these parties in recommending that change in priority status occur one year after the competitive licensing process commences but not later than April 1, 2007.

#### **B. Bands 1850 – 1990 MHz,**

TELUS supports the Department's proposal to adopt the new and modified international footnotes in the band 1850 – 1990 MHz pertaining to IMT-2000.

With respect to draft Canadian footnote CZZZ addressing potential designation changes to the LE PCS spectrum in the band 1910-1920 MHz to licensed PCS service TELUS joins the RABC and the CWTA in suggesting that this might be somewhat premature at this time. TELUS agrees with the Department's reasoning in this band but given the over-riding requirement for continental harmonization suggests confirming that the FCC actually does designate this band for licensed PCS. Perhaps this is what the Department had in mind in the consultation paper wherein it stated that such action would be "subject to a spectrum utilization policy."

#### **C. 1990 – 2025 MHz and 2160 – 2200 MHz**

TELUS supports the Department's proposal to suppress the mobile-satellite service allocation in the bands 1990-2000 MHz, 2020-2025 MHz and 2155-2180 MHz bands and designate these bands for the mobile and fixed services, subject to spectrum utilization policies. Further TELUS supports the Department's intention to modify Canadian footnote C36 to reflect the proposed new bands for the mobile-satellite service and to add international footnote 5.351 dealing with MSS allocations.

#### **D. 2155 – 2160 MHz**

TELUS concurs with the Department regarding re-assigning of the band 2150 – 2160 MHz from subscriber return spectrum for MCS services to a portion of the base transmit component for AWS.

## **2.0 Proposals for Spectrum Utilization Policies**

### **A. 1710 – 1755 MHz and 2110 – 2155 MHz**

In concert with the RABC and CWTA, TELUS endorses the Department's proposal to designate the band 1710 – 1755 MHz to support mobile terminal transmit, with the pairing of the band 2110 – 2155 MHz for base station transmit for the provision of AWS. TELUS also supports the Department's goal of creating an environment for flexible and innovative use for the spectrum to enable the deployment of AWS. TELUS also supports a minimum block size of 5 + 5 MHz, with duplex pairing of 400 MHz.

The Department has stated that it currently envisages that this spectrum will be released through a competitive licensing process in the 2005/2006 time frame. While no one can say with certainty at this point exactly what the optimal timing should be, nevertheless TELUS believes that this particular timeframe is premature. We outline below a number of reasons we believe this may be the case and TELUS trusts that the Department will take these factors into consideration and adjust its timing so as to ensure that the spectrum is not released prematurely but rather in a timely manner as the market requires.

TELUS agrees with the transition policy outlined in section 6.5 of its Consultation paper and the April 1, 2007 date wherein the mobile service would be designated a priority over the fixed service as outlined in draft Canadian footnote CXYZ.

### **B. 1910 – 1920 MHz and 1990 – 2000 MHz**

TELUS supports the Department's intentions and rationale with respect to this band. Given the current uncertainties with this band, TELUS recommends that the Department defer any change of designation until continental harmonization is assured.

### **C. 2020 – 2025 MHz and 2155 – 2180 MHz**

TELUS agrees that these bands should be the subject of a future spectrum utilization policy for the introduction of AWS.

## **3.0 Review of the Mobile Spectrum Cap Policy**

TELUS agrees with the Department that it is timely to review the current mobile spectrum cap policy in conjunction with the designation of new spectrum to accommodate AWS.

TELUS submits that the spectrum cap has served its purpose, is no longer required and should be removed in its entirety as soon as possible. Indeed, we note that the US reached a similar conclusion and entirely removed their mobile spectrum cap as of January 1, 2003.

Certainly, the spectrum cap was a very important tool required to tightly balance spectrum holdings by wireless carriers in the early days of cellular and PCS. This was necessary in order to assure the healthy development of new entrants and competitive equity in the marketplace. Now, almost 10 years after the introduction of PCS and 20 years since the introduction of cellular, there is no longer any need for such balancing. Indeed, today's reality is that the spectrum position of one carrier relative to the next has only minimal impact on the competitiveness of that carrier in today's Canadian wireless marketplace.

We note that the spectrum cap currently serves as a regulatory barrier to consolidation in the Canadian wireless industry. TELUS believes that industry consolidation from four to three players is a distinct possibility and that it is not in the public interest to prevent such an occurrence. Therefore, TELUS believes that the spectrum cap should also be removed so as to permit such an event to occur.

With the complete removal of the spectrum cap, TELUS would be amenable to the concept of establishing a limit, prior to each competitive licensing contest, for the maximum amount of mobile spectrum that any participant may acquire in that particular contest.

Should the Department decide not to remove the cap in its entirety as TELUS strongly recommends, TELUS believes the Department should increase the maximum amount of spectrum that licensees are permitted to hold under the cap by a significant amount, preferably by an additional 45 MHz and at least 30 MHz. If an aggregate cap still exists, then TELUS believes there is no need to limit the amount of spectrum each entity can acquire within a particular competitive licensing contest.

Please note that TELUS' comments in respect of the mobile spectrum cap above are predicated on no changes being made to the current foreign ownership and control provisions with respect to licences issued pursuant to the *Radiocommunication Act* either prior to or coincident with the issuance of the new AWS spectrum. Should these ownership and control provisions be altered, TELUS believes the mobile spectrum cap policy should be reviewed anew to ensure that the public interest is served and that the Canadian firms that have built the Canadian wireless industry and have been subject to and affected by the present and previous spectrum cap are not inappropriately disadvantaged.

#### **4.0 Timing for the Release of AWS Spectrum**

In its Consultation paper, the Department has stated that its current expectation is for the new AWS spectrum to be competitively licensed in the 2005/2006 timeframe. While no one can say with certainty that this will not be the case, nevertheless TELUS believes that such timing will prove to be premature, and that the industry may not require the spectrum until a few years further out.

TELUS has always believed that the public interest is best served by the Department striving to ensure a stable and adequate supply of spectrum to support industry requirements, and on the most economically efficient basis. While it is important that the Department not be a bottleneck regarding the supply of adequate spectrum to further growth in the industry, it is similarly important that the Department does not prematurely burden the Canadian wireless industry with excess spectrum. By this we mean licensing spectrum before the industry truly requires it and has identified a genuine business need for it. Force-feeding spectrum on the industry can have a much more severe financial impact today than previously given the Department's recent propensity to auction spectrum of this nature and recent changes to a band-licensing fee structure for non-auctioned cellular and PCS spectrum.

Therefore, TELUS supports the Department fully in having things in a state of readiness to the extent possible, so as to be in a position to expeditiously supply additional spectrum when the need materializes. However, TELUS opposes any urge to deliver excess spectrum to the industry earlier than actually required, particularly given the existence of fee/licensing mechanisms today which are more vulnerable to political influences that potentially may seek to enrich the public purse at the expense of Canadian wireless users.

TELUS' view that a 2005/2006 timeframe may be premature is based on a number of considerations as outlined below:

- Our estimates of the current status of spectrum usage and future consumption by the various carriers.
- Additional spectrum obtained in 2001 PCS auction.
- Market penetration is already well advanced (now in excess of 42%). Heaviest users are already users of wireless. While it is true that average MOU (minutes of use) per user is growing overall, incremental new users tend to use less airtime.
- Industry consolidation to three players seems likely.
- CDMA spectral efficiency is significant and continuing improvements continue to enhance efficiency. Evolution to WCDMA should significantly improve spectral efficiency of GSM players as well.
- Data demand has not materialized to as high a level as originally envisaged. This could change quickly, but much of this traffic may also be displaced and served via RLANs and the enormous amounts of unlicensed spectrum that have now been made available.

### **5.0 Proposed Transition Policy for Dealing with Incumbents**

As outlined above, TELUS agrees with the transition policy outlined in section 6.5 of its Consultation paper and the April 1, 2007 date wherein the mobile service would be designated a priority over the fixed service as outlined in draft Canadian footnote CXYZ.

### **6.0 Measures to Promote Advanced Mobile Telephony Services in Rural Canada**

TELUS understands that the Department's intention is to apply these proposals to existing cellular/PCS licences in order to address specific needs that may exist in rural remote areas. TELUS has no objection to the proposal as long as the conditions outlined in the Consultation paper always continue to apply (i.e. – a. do not compete in the same serving territories having network facilities, and b. operate solely in an unserved or underserved area). TELUS recommends that the most effective way to implement this proposal is under mutually commercially acceptable arrangements between the parties. These arrangements should not be subject to approval by the Department.

Sincerely,  
(electronic copy)  
Ed Prior