



2017 06 28

To: Lynne Fancy
Acting Director General
Spectrum Information Technology and
Telecommunications Sector
235 Queen Street
Ottawa, Ontario
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Via email: ic.spectrumoperations-operationsdsuspectre.ic@canada.ca

Subject: **TerreStar Solutions Inc. (TerreStar) Application for a Tier 1 Spectrum Licence in the 1695–1710 MHz Frequency Band and in the PCS Block H (1910–1915 MHz/1995–2000 MHz) – Comments**

Dear Ms. Fancy,

1. Bell Mobility appreciates the opportunity to comment on the above noted application by TerreStar dated 8 February 2017 and posted for comment on Industry, Science and Economic Development Canada's (ISED's) site on 25 May 2017.
2. We agree in principle that it is in Canada's interests to align its band structure for this spectrum with that of the U.S. and, further, that TerreStar's proposed use of the spectrum is consistent with this goal. However, TerreStar's request for an expedited process is unwarranted since the spectrum assigned to Mobile-Satellite Service (MSS) in North America has remained unused for over 15 years. In fact, we believe it would be precipitous for ISED to grant the spectrum to TerreStar at this time, and especially at no cost, for the reasons outlined below.
3. TerreStar asserts that its proposal will align the Canadian band structure for this spectrum with the recently approved Band 70 in the U.S., and in so doing, will allow the Canadian telecom ecosystem to benefit from the development and deployment initiatives of DISH Networks (DISH), the licensee of the corresponding spectrum in the U.S. However, it is not certain that the Band 70 deployment proposed by DISH will unfold as TerreStar predicts.
4. According to Bloomberg¹, DISH is the fifth-largest holder of spectrum in the U.S., having acquired \$34.7B U.S. of spectrum over the past decade. As far back as August 2011, in its application to the Federal Communications Commission (FCC) for transfer of spectrum from TerreStar Networks Inc.², DISH suggested it would launch "a hybrid satellite and terrestrial mobile and fixed broadband network ("Mobile-Satellite Service/Ancillary Terrestrial Component"

¹ "Charlie Ergen gets Chance to Play Kingmaker as Deal Derby Begins", Scott Moritz, Bloomberg, 28 April 2017; <https://www.bloomberg.com/news/articles/2017-04-28/charlie-ergen-gets-chance-to-play-kingmaker-as-deal-derby-begins>, downloaded on 19 June 2017.

² Consolidated Application for Transfer of Authorizations, 22 August 2011, page 3; http://licensing.fcc.gov/myibfs/download.do?attachment_key=913249.

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or "MSS/ATC)"). However, to our knowledge DISH has not yet successfully deployed any of its terrestrial spectrum, nor has it made public concrete plans to do so. Moreover, the FCC, in a December 2012 Report and Order³, made the provision of MSS optional in the U.S., thereby increasing the uncertainty around the development of any such service in North America. Additionally, we are not aware of any handset development for this band by a device manufacturer.

5. There is speculation in the industry⁴ that DISH is a potential acquisition target by any one of a number of large industry players, including Sprint, T-Mobile, Verizon, Comcast and Charter.⁵ In January 2017, the CEO of T-Mobile went as far as to predict that within a year DISH would no longer be a standalone entity.⁶ This adds to the uncertainty regarding the eventual use of the spectrum, since the acquiring entity might envision a different deployment scenario.

6. The FCC has imposed rollout conditions on DISH for the AWS-4 spectrum that must be achieved by March 2020. In order to meet this requirement, the claims made by TerreStar will be clear well before this date. As a result, denying TerreStar's application at this time should not result in an unreasonable delay to obtaining certainty on the future use of the spectrum.

7. Another consideration is the proposed term of the new licences. TerreStar requests that the expiry date of the new spectrum match that of the 2000 – 2020 MHz AWS-4 spectrum it holds.⁷ Per Decision SLPB-008-14⁸, both the ATC and MSS AWS-4 licences were granted for 20 years from 1 April 2015. If this new spectrum were to be licensed on the basis of consistency with the U.S., but the U.S. development does not proceed as predicted by TerreStar, then under this licence term, the spectrum could be inaccessible for use by another industry player until 2035 since it would be difficult for ISED to reclaim the spectrum prior to the licence expiry date.

8. Consequently, given the high degree of uncertainty, and as the facts will become clear in a timely fashion due to the FCC imposed deployment requirements on DISH, it is premature to make such an important decision at this time.

9. Notwithstanding the above, should the Department decide to proceed to license this spectrum now, and despite TerreStar's claims that "it makes little sense to conduct an auction or even a comparative selection and review process for the spectrum"⁹, the spectrum may have as-yet unrecognized value in the future.

10. To illustrate the potential value of the 1995–2000 MHz PCS H-Block, for example, DISH was prepared to pay more than \$1.5B U.S. at auction for the adjacent 2000-2020 MHz H-block spectrum in the U.S. as a condition of waiver of FCC rules.¹⁰

³ Federal Communications Commission, *REPORT AND ORDER AND ORDER OF PROPOSED MODIFICATION FCC 12-151*, released 17 December 2012.

⁴ "Why Rumors of T-Mobile Buying Dish Network Are Heating Up," Aaron Pressman, *Fortune*, 3 February 2017; <http://fortune.com/2017/02/03/dish-t-mobile-merger-rumors/>, downloaded on 20 June 2017.

⁵ "Dish Network in a central seat as telecom/media deals race begins", Jason Aycock, *Seeking Alpha*, 28 April 2017; <https://seekingalpha.com/news/3261473-dish-network-central-seat-telecom-media-deals-race-begins>, downloaded on 19 June 2017.

⁶ <https://newsroom.t-mobile.com/news-and-blogs/legere-2017-predictions.htm>, 5 January 2017; downloaded on 20 June 2017.

⁷ See Application, paragraph 50.

⁸ SLPB-008-14, *Decision on a Policy, Technical and Licensing Framework for Mobile Satellite Service and Advanced Wireless Service (AWS-4) in the Bands 2000-2020 MHz and 2180-2200 MHz*, Decision C-5, paragraph 95.

⁹ See Application, paragraph 49.

¹⁰ SLPB-008-14, *Decision on a Policy, Technical and Licensing Framework for Mobile Satellite Service and Advanced Wireless Service (AWS-4) in the Bands 2000-2020 MHz and 2180-2200 MHz*, paragraph 14, [https://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/AWS-4_Dec2014-e.pdf/\\$file/AWS-4_Dec2014-e.pdf](https://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/AWS-4_Dec2014-e.pdf/$file/AWS-4_Dec2014-e.pdf).

11. In any case, we believe that the best way to determine the fair market value of the spectrum in question would be to hold an auction or, in the alternative, a solicitation of interest from all potential industry players once the situation in the U.S. becomes clearer.

12. Having requested that this spectrum be granted at no cost, TerreStar further requests¹¹ the application of the interim licence fee structure that was applied to its AWS-4 band, an approach which is not typical for terrestrial spectrum licences. In December 2014, as part of Decision SLPB-008-14¹², Industry Canada (as ISED was then known) adopted this interim, site-specific fee structure for AWS-4 ATC spectrum because there was no spectrum licence fee in place. However, at that time Industry Canada indicated its intention to hold a separate consultation to determine the spectrum licence fees that should apply. If this new spectrum were to be granted under similar conditions, we would expect the interim fee structure to be replaced by a more typical spectrum licence fee at the earliest opportunity.

13. In the Application, TerreStar requests that the 1695–1710 MHz spectrum be granted at a Tier 1 level. Although TerreStar owns a Tier 1 licence for its 2000–2020 MHz AWS-4 spectrum, it is unusual to grant such a broad national spectrum licence for terrestrial use. We would encourage ISED to consider adopting the more typical approach of licensing at a regional level, such as Tier 2 or even Tier 3.

14. In addition, the Department should consider imposing meaningful deployment requirements regardless of how or to whom the spectrum is granted. Rollout requirements at a Tier 1 level are too broad and are more granular and, therefore, more meaningful when applied at a Tier 2 or 3 level, thereby ensuring more Canadians benefit from the spectrum being put to use.

15. Finally, we recommend a measured approach to the Application given that incumbent spectrum users could be affected. TerreStar indicates¹³ that ISED would need to displace the incumbent microwave users in the 1695-1710 MHz band to prevent existing services from causing interference with the new services TerreStar wishes to deploy. Since Bell Media is one of these incumbent broadcasters, BCE could be directly and negatively affected.

16. In conclusion, we recommend that ISED deny the Application and wait until the situation in the U.S. becomes more certain before licensing the spectrum in question. With this approach, the current users of the 1695–1710 MHz spectrum would not be displaced unnecessarily and the most efficient use of the spectrum will be clarified. Once the U.S. deployment becomes better understood, ISED could then hold further consultations, and possibly an auction, to determine the level of interest of, and value of the spectrum to, other industry players in Canada.

Yours truly,

[Original signed by R. Malcolmson]

Robert Malcolmson

Senior Vice President, Regulatory Affairs

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¹¹ See Application, paragraph 53.

¹² SLPB-008-14, *Decision on a Policy, Technical and Licensing Framework for Mobile Satellite Service and Advanced Wireless Service (AWS-4) in the Bands 2000-2020 MHz and 2180-2200 MHz*, paragraph 141.

¹³ See Application, paragraph 44.