



November 30, 2020

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Innovation, Science and Economic Development Canada  
c/o Director, Spectrum Regulatory Best Practices  
235 Queen Street (6<sup>th</sup> Floor, East Tower)  
Ottawa, Ontario K1A 0H5

Dear Sir/Madam:

**Re: *Canada Gazette, Part 1, August 27, 2020, Notice No. SLPB-002-20 — Consultation on the Technical and Policy Framework for the 3650-4200 MHz Band and Changes to the Frequency Allocation of the 3500-3650 MHz Band – Eastlink’s reply comments***

Please find attached the reply comments of Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), in response to Canada Gazette Notice SLPB-002-20– *Consultation on the Technical and Policy Framework for the 3650-4200 MHz Band and Changes to the Frequency Allocation of the 3500-3650 MHz Band*.

We appreciate the opportunity to provide our views to the Department.

Sincerely,

A handwritten signature in blue ink that reads "Marielle Wilson". The signature is written in a cursive, flowing style.

Marielle Wilson  
Vice President, Regulatory

**CONSULTATION ON THE TECHNICAL AND POLICY FRAMEWORK FOR THE  
3650-4200 MHz BAND AND CHANGES TO THE FREQUENCY ALLOCATION OF  
THE 3500-3650 MHz BAND  
CANADA GAZETTE, PART 1, AUGUST 27, 2020 (SLPB-002-20)**

**REPLY COMMENTS OF  
BRAGG COMMUNICATIONS INC., OPERATING AS EASTLINK**

**eastlink**

**November 30, 2020**

1. Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), appreciates the opportunity to provide reply comments on the issues raised under SLPB-002-20 – *Consultation on the Technical and Policy Framework for the 3650-4200 MHz Band and Changes to the Frequency Allocation of the 3500-3650 MHz Band* (the “Consultation”).
2. Under the Consultation, Innovation, Science and Economic Development Canada (“ISED”) seeks comments on the technical policy framework for the 3650-4200 MHz band (referred to as the 3800 MHz band) to accommodate flexible use for fixed and mobile services, as well as proposed changes to the 3500-3650 MHz frequency allocation related to the status of fixed satellite service in the Canadian Table of Frequency Allocations (CTFA). Eastlink has reviewed the comments submitted by other parties to this Consultation and herein provides our reply comments. We note that our failure to comment on any particular claim or proposal filed by other parties to this Consultation should not be construed as agreement where such agreement would be contrary to our comments filed under the Consultation and/or our business interests.
3. Parties to this Consultation generally agreed with the Department’s view that 3800 MHz spectrum will play a critical role in the deployment of 5G services across Canada. As noted in our initial comments, Eastlink supports and shares ISED’s clear objectives for the 3800 MHz band. Specially, that the band would be used to:
  - (i) foster investment and the evolution of wireless networks by enabling the development of high quality 5G networks and technology;
  - (ii) support sustained competition in the provision of wireless services so that all consumers and businesses benefit from greater choice and competitive prices; and
  - (iii) facilitate the deployment and timely availability of services across the country, including in rural, remote, and Northern regions.
4. Eastlink supports ISED’s proposal to develop a flexible use licensing model for fixed and mobile services in the 3650-4200 MHz band. We reiterate that reasonable access to 3800 MHz spectrum will be critical for regional service providers to be able to continue competing with the three national wireless service providers in the 5G market as we are doing in the 4G/LTE mobile wireless market. Regional providers have been investing billions of dollars in

mobile wireless networks since 2008, and access to this mid-band spectrum is critical for all regional providers to continue with our network expansion and serving offerings, including the provision of 5G services. Bell/Telus and Rogers have far more spectrum than regional service providers, and will almost certainly continue to hold far more spectrum in any future licensing process in the 3800 MHz band due to their spending power in auctions and their existing holdings.

5. As outlined in our initial comments, Eastlink submits that ISED should launch a separate consultation that will determine the licensing process for this spectrum, which should include an ISED led auction with pro-competition measures. The national incumbents continue to be far larger than the regional service providers with exceptionally more resources available to them, and a track record of acquiring as much spectrum as the rules allow. Regional service providers have consistently attempted to acquire open market spectrum in the past auctions – as evidenced by the price discovery round bidding – and, with just a few exceptions, have consistently been able to acquire only the set-aside or spectrum cap-protected licences.

### ***Telesat Proposal***

6. ISED should reject Telesat's proposal as it will only favour the large national providers who are in the best position to purchase large volumes of this spectrum, especially if it is transferred via an open market or auction process with no pro-competition rules. Furthermore, Telesat's proposal lacks any details on important elements of ISED's spectrum licensing process, including pro-competitive measures, the opening bid price, licence areas, deployment requirements, conditions of licence, auction design or spectrum transfer guidelines, anti-collusion measures, and any other relevant conditions of licence. The wireless service providers who are parties to this Consultation expressed concern with Telesat's proposal, primarily due to the lack of information contained and uncertainty on how the spectrum will be distributed. Bell is in support of Telesat's proposal, presumably because they are in the best position to collectively control a large portion of this valuable spectrum. Any spectrum transfer process that would award spectrum to the highest eligible bidder, with no competitive measures in place, would inherently favour the much larger national providers who have infinitely more resources than a carrier of Eastlink's size. Implementing the Telesat proposal would provide the national carriers with a significant competitive advantage, and could potentially reverse the strong and positive impact regional providers have had on Canada's mobile wireless retail market. Eastlink submits that such a proposal is not in the best interest

of Canadians. In their initial comments, Telus did not oppose the Telesat proposal, but proposed a number of alternate proposals, including incorporating the 3650-3900 MHz spectrum into the upcoming 3500 MHz auction and introducing aggregation caps. Eastlink submits that although there may be some benefits to making this spectrum available earlier, given the amount of capital necessary to participate in spectrum auctions doubling the amount of spectrum available in the upcoming auction, with less 7 months before the start of the auction may prohibit smaller wireless carriers from acquiring any of this spectrum.

7. If Telesat were to distribute this spectrum in an open market, or via an auction without sufficient competitive measures, the national providers would most likely use their significant resources to buy as much spectrum as possible, and prevent the regional providers, and any other new entrants, from acquiring spectrum licences. Past auctions have shown that the national service providers will always purchase as much spectrum as possible and will thereby prevent regional service providers from acquiring any open market spectrum.
8. Eastlink submits that instead of granting Telesat authority to distribute this spectrum, which will most certainly lead to higher prices and favour the large national providers, ISED should rely on the policies they adopted under previous auction frameworks that have enabled regional wireless providers to build competitive networks across Canada. The factors that justified these policies remain applicable today. The national wireless providers still control the majority of wireless spectrum, the regional providers still require additional spectrum to compete sustainably, and the regional providers cannot outbid incumbent providers for spectrum licences in open auction frameworks, or in an open market.

### ***Pro-competitive measures***

9. Without knowing how this spectrum will be distributed, it is difficult to comment on the appropriate pro-competitive measures, as that may be dependent on how the spectrum is distributed, and how much is available. In any case, regardless of how the spectrum is transferred it is critical that pro-competitive measures be established so that regional operators have some chance at obtaining access to this important spectrum. In order to establish the appropriate licensing framework, ISED should initiate a consultation on the policy and licensing framework.

10. ISED should reject any claims by the national providers that pro-competitive measures are no longer necessary. In their submission Bell suggest that competitive measures are not necessary in today's highly competitive wireless market, and that they distort the allocation process, whereas Rogers and Telus both dismiss the use of set-asides, and instead advocate for the use of spectrum caps to prevent excessive concentration of the spectrum by any one provider. Eastlink submits that proposals for the use of spectrum caps instead of set-asides should be disregarded. The national providers have far more spectrum than their regional competitors, and a proposal to introduce a spectrum cap would only further the disparity between the regional and national providers.
  
11. Eastlink submits that ISED's decision to set aside spectrum in 2008, and in subsequent auctions, has been instrumental to the success of the regional providers and has had a strong and positive impact on Canada's mobile wireless retail market, with per-use prices steadily declining, the most advanced networks in the world being widely deployed, and increasingly consumer-friendly policies and programs launching each year, driving largely by the competition from regional service providers. Regional providers' access to this spectrum is a key component toward furthering the governments' objectives of increased wireless competition.

### ***Treatment of existing users***

12. ISED has proposed two options to address the future use of the 3650-3700 MHz by WBS licences. The first option would allow WBS licensees to remain in the 3650-3700 MHz subject to new technical rules. Under this option, ISED would maintain the current all-come, all-served licensing process and the requirement for licensee to licensee coordination. The second option would displace the WBS licensees from 3650-3700 MHz to a new licensing portion of the 3800 MHz band, specifically in the frequency range 3900-3980 MHz, and would include the 3650-3700 MHz band in future competitive process for flexible use licence. ISED is of the view that Option 2 would provide long-term stability throughout the full 3450-3980 MHz range, and would allow for a more efficient use of spectrum for future 5G applications.
  
13. Parties advocating for Option 2, outline numerous advantages associated with the potential of having access to large, continuous blocks of 3200-4200 MHz spectrum. Eastlink submits that although contiguous spectrum has many advantages, it is not clear whether the

technology will be capable of covering the entire range of spectrum. As such, it is likely that two radios will still be required, minimizing some of the potential benefits.

14. As stated in our original submission, Option 2 will result in increased costs for WBS licensees as the equipment currently in use would need to be replaced. This increase in cost may force WBS licensees with smaller customer bases to no longer offer the service. In many of the areas where fixed wireless is available, there is no alternate broadband service provider. As a result, any requirement that results in WBS licensees no longer being able to deliver the service at a reasonable cost, may leave Canadians in those serving areas with no broadband service.
15. As such, Eastlink is concerned that Option 2 will lead to significant costs that could be avoided if licence holders were able to remain in the 3650-3700 MHz frequency range. Instead of displacing WBS licensees, to minimize any concerns with interference, ISED should instead impose new technical rules.

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