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November 23, 2020

By email at ic.spectrumauctions-encheresduspectre.ic@canada.ca

Innovation, Science and Economic Development Canada
235 Queen Street
Ottawa ON K1A 0H5

Re: Canada Gazette, Part I, Volume 154, Number 37 – September 12, 2020, Consultation on the Technical and Policy Framework for the 3650-4200 MHz Band and Changes to the Frequency Allocation of the 3500-3650 Band, SLPB-002-20

Dear Sirs and Mesdames —

NCTA – The Internet & Television Association (NCTA)¹ submits this letter in connection with the Technical and Policy Framework Consultation initiated by Innovation, Science and Economic Development Canada (ISED) to consider accommodating flexible use operations in the 3650-4200 MHz band (the 3800 MHz band). Our members have extensive experience with questions related to the transition of services in the 3800 MHz band, given the similar transition that is underway in the United States, guided by the Federal Communications Commission (FCC).² As content creators, video distributors, and broadband providers, NCTA members have a substantial interest in efficient and effective spectrum policy, including with respect to the 3800 MHz band. As we have done before the FCC in the United States, we urge ISED to design a transition plan that balances the opportunity to introduce new and flexible technologies into the band with the need to ensure that consumers can continue to receive uninterrupted the video services upon which they rely.

As you are aware, following its deliberations over the introduction of flexible use services into the 3700-4200 MHz band, the FCC adopted a transition plan that will enable new fixed and mobile services in the lower 280 megahertz of the band and relocate existing fixed satellite service (FSS) operations from those lower frequencies into the upper 200 megahertz.³ Critically, the FCC plan takes steps to protect remaining FSS operations from harmful interference and also

¹ NCTA is the principal trade association for the U.S. cable industry, representing more than 200 cable program networks as well as cable operators that serve nearly 80 percent of the nation's cable television customers. Cable program networks reach nearly 90 million U.S. television households and have invested more than \$430 billion in award-winning news, sports, and entertainment content since 1997. The cable industry also is the nation's largest provider of broadband service after investing over \$290 billion over the last two decades to deploy and continually upgrade networks and other infrastructure.

² See *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification, 35 FCC Rcd. 2343 (2020) (FCC C-Band Order).

³ See generally *id.*

assures incumbents – including video providers – that they will be reimbursed for their reasonable costs necessitated by their transition to the upper portion of the band.⁴ The FCC’s plan will permit existing services to continue to operate with sufficient spectrum while providing that incumbents will not be forced to expend significant resources even as they are compelled to relocate to new spectrum.⁵ ISED should follow a similar model, which would protect vital video services in Canada without sacrificing any of the Consultation’s underlying policy goals.

In Canada, as in the United States, 3800 MHz spectrum is a critical part of the video distribution chain due to its ubiquity, cost-effectiveness, and reliability. Content companies and video distributors rely on the spectrum in this band to deliver broadcast, cable, streaming, and live programming from satellites to earth station facilities across the country, before the content is then made available to consumers.⁶ In its Consultation, ISED appropriately recognizes the need to protect earth stations from harmful interference caused by new services entering the 3800 MHz band.⁷ ISED contemplates the use of a guard band and other technical mitigations to prevent harmful interference, along with new license opportunities for receive-only earth stations, and migration of some services to spectrum in the upper portion of the band. What remains unclear, however, is how the FSS transition will be funded.

Migrating incumbent video services to 4000-4200 MHz to enable new flexible use services will require substantial new investments.⁸ Expensive new equipment will be needed, including filters, compression hardware and software, and modulation and encoding systems, among other things.⁹ In addition to equipment expenses, soft costs also will be incurred as the result of a

⁴ See *id.* ¶¶ 26 (“[A] public auction will maintain the [FCC’s] ability to ensure that incumbent space station operators and earth station owners are able to provide and receive the services and content that they currently provide and receive both during and after mandatory relocation. The safeguards we adopt in conjunction with a public auction ensure that the clearing process is both equitable and transparent and that it provides customers of these incumbent C-band providers assurance that they will continue to be able to receive C-band services during and after the transition.”), 38 (“Commission oversight of a public auction and the transition process will be specifically designed to ensure that incumbent C-band users are able to maintain their existing services and are reimbursed for all reasonable costs associated with the transition.”).

⁵ See generally *id.* (finding that 200 MHz for FSS operations is sufficient to enable uninterrupted service). See also Reply Comments of NCTA – The Internet & Television Association, GN Docket No. 18-122 (filed Dec. 11, 2018). Compare Telesat’s proposal to repurpose all but 100 MHz of the C-band for 5G use. See e.g., *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*, Gazette Notice No. SLPB-002-20, ¶185 (Aug. 2020) (Consultation).

⁶ See Comments of NCTA – The Internet & Television Association, GN Docket No. 18-122 (filed Oct. 29, 2018). See also Comments of Intelsat in Response to Gazette Notice No. SLPB-002-20, ¶ 16 (filed Oct. 26, 2020) (Intelsat Comments) (noting that Intelsat delivers Canadian Broadcast Corporation (CBC) video, US and Canadian cable content, and live transmission of sports and national events).

⁷ See e.g., *Consultation* at ¶ 142 (“Given their importance to broadcasting, some measures to protect [license-exempt, receive-only] earth stations from interference from new flexible use systems in the 3700-3980 MHz band would be beneficial to the content-distribution industry.”).

⁸ See FCC C-band Order ¶ 210 (estimating that the total clearing costs will be between \$3.3 billion to \$5.2 billion.)

⁹ See Comments of NCTA – The Internet & Television Association, GN Docket No. 18-122 (filed May 14, 2020).

transition, such as legal and engineering services, planning, project management, and labor and installation costs.¹⁰ Without a clear plan as to how the transition will be financed, video providers may be confronted with a scenario in which they are either unable or unwilling to pay for the equipment necessary to ensure continuity of video delivery to Canadian consumers, or else will face the unfair prospect of being penalized economically for a mandatory migration to facilitate the delivery of new services. In any case, a fair and reasonable plan to reimburse existing users for their costs is a key element of ensuring a successful transition. As the FCC found in the United States, cost reimbursement is the only way to guarantee that satellite carriers will be able to continue to provide video distribution services with end-to-end, programmer-to-viewer quality that is at least as good as it is today. Canadian viewers deserve the same assurances that they will not be precluded from accessing the important and popular news, information, sports, and entertainment content that they love.

Accordingly, we urge ISED to establish a 3800 MHz plan that includes a clear path to reimburse existing users for the costs necessitated by the transition and to ensure that transition decisions are made in a manner that will not disrupt or degrade consumers' access to critical video services.

Sincerely,

/s/ Jared Sher

Jared Sher

¹⁰ *See id.* *See also* Intelsat Comments ¶ 27 (noting that in order to clear the lower portion of the band, Intelsat will need to determine whether the company needs to launch additional capacity, create a frequency migration plan, and develop and implement a plan, with technical mitigations, to protect incumbent services and the consumers that rely on them).