

Notice No. SLPB-003-17
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**Consultation on a Licensing Framework for Residual
Spectrum Licences in the 700 MHz, 2500 MHz, 2300 MHz, PCS
and 1670-1675 MHz Bands**

Comments
of
SHAW COMMUNICATIONS INC.

August 15, 2017

INTRODUCTION

1. Shaw Communications Inc. (“Shaw”) provides its comments below in response to Notice No. SLPB-003-17 published on July 15, 2017 and Innovation, Science and Economic Development Canada’s (“ISED” or the “Department”) *Consultation on a Licensing Framework for Residual Spectrum Licences in the 700 MHz, 2500 MHz, 2300 MHz, PCS and 1670-1675 MHz Bands* (the “Consultation Document”).
2. In accordance with the procedures set out in Notice and subject to Shaw’s review of and ability to reply to the comments and suggestions put forward by other parties to the proceeding, Shaw is pleased to provide these initial comments, on behalf of itself and its wholly-owned subsidiary, Freedom Mobile Inc. (“Freedom Mobile”), in response to the Consultation Document.
3. Since 2016, Shaw has worked to establish Freedom Mobile as an innovative, affordable, high-quality alternative to the wireless incumbents in western Canada and Ontario. Shaw invested \$1.6 billion to acquire WIND Mobile, now known as Freedom Mobile. Since then, Shaw has continued to invest many hundreds of millions of dollars in network upgrades, the launch of its LTE-Advanced network in Calgary, Edmonton, Vancouver, Toronto and Ottawa, as well as the acquisition of 700 MHz and 2500 MHz licences from Quebecor Media Inc.
4. These and other similar future investments are essential to Shaw’s ability to compete against wireless incumbents and to the development of sustainable competition in markets across the country. However, Shaw’s ability to make further inroads in all areas in which it operates is fundamentally constrained by the relative size and lack of diversity of its spectrum portfolio as compared to that of the incumbents. Shaw currently holds substantially less spectrum than each of the three incumbent wireless providers, even with our recent acquisition of pockets of 2500 MHz and 700 MHz spectrum from Videotron. This hinders our ability to compete in many ways, including our ability to expand and upgrade our network as efficiently and cost-effectively as may be possible for the wireless incumbents, particularly outside of densely populated urban centres.
5. The upcoming residual auction is an opportunity for the Government to further its Innovation and Skills Plan by ensuring that the outcome of this consultation and the auction incrementally advances the availability of robust, dynamically competitive mobile broadband connectivity alternatives that are responsive to the needs of Canadian consumers and businesses. Indeed, ensuring that Canadians have access to competition and choice while maintaining a strong investment environment for telecommunications services are among the priorities identified in the Minister’s mandate letter.¹

¹ <http://pm.gc.ca/eng/minister-innovation-science-and-economic-development-mandate-letter>.

6. In turn, choice and competition are important drivers of consumer benefits, chief among which are lower prices, innovative service offerings, and supplier responsiveness. This reality was most recently demonstrated by the Competition Bureau, which found that in areas of the country where the wireless incumbents “face competition from a strong regional competitor, prices are substantially lower.”² Indeed, competitive market forces exert discipline on prices in the marketplace. At the same time, they propel suppliers to invest and innovate in order to offer differentiated products that are increasingly responsive to the needs and usage profiles of different segments of the marketplace.
7. It is, therefore, important that ISED set appropriate rules and an auction framework that will serve to maximise facilities-based competition and choice in the wireless telecommunications sector.
8. Shaw’s responses to the Department’s consultation questions are set out in in the enclosed Appendix. As will be apparent from these responses, Shaw generally supports the Department’s proposed licensing framework for the residual spectrum, as presented in the Consultation Document. In particular, as discussed below in Part II and consistent with the Consultation Document’s proposals, it is critically important that the Department maintain the in-band spectrum aggregation limits, or caps, that were initially established for the 2500 MHz and 700 MHz bands. The market conditions and policy considerations that led to the establishment of the caps still hold true. Indeed, the incumbents continue to control the vast majority of mobile terrestrial spectrum capacity across all low, mid and high-frequency bands. Maintaining these caps in place is therefore essential to attaining a more equitable distribution of spectrum holdings between incumbent and new competitors, and avoiding further concentration of spectrum in the hands of the incumbent wireless carriers.
9. With respect to the proposed licence conditions associated with each of the spectrum bands to be made available through the residual auction, Shaw generally agrees with the Department’s proposed licence conditions as set out in Annexes A through E of the Consultation Document. However, as discussed in Part III below, the Department should take the opportunity to review the timeframes to achieve the deployment levels set out at Annex F of the Consultation Document for certain of the relevant bands in light of relevant factors, such as the absence of a robust device ecosystem, that are likely to affect the timing of deployment.

² The Bureau conducted a thorough pricing analysis as part of its *Statement Regarding Bell’s Acquisition of MTS* and found that mobile wireless pricing is substantially lower in areas where a strong regional competitor is present: <online: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04200.html>>.

10. With respect to the auction format for the residual licenses, Shaw generally supports the proposed use of a single-round sealed bid auction in combination with a second-price rule and the Vickrey price determination mechanism.
11. In the case of the 2500 MHz spectrum licences and as discussed in further detail in Part IV of these comments, Shaw's support for the single-round sealed-bid auction format and Vickrey second-price rule is conditional on maintaining the proposed package bidding rules as set out in Sections 6.2 and 6.3 of the Consultation Document.

I. SPECTRUM AGGREGATION LIMITS

12. The Department proposes that all 700 MHz and BRS (2500 MHz) spectrum being offered in the upcoming residual auction be subject to the spectrum aggregation limits originally established for these bands. Shaw agrees with this proposal. Indeed, it is Shaw's view that these measures are critical to promoting sustainable competition in Canada's mobile wireless market for the long-term benefit of Canadians.
13. New competitors remain at a considerable disadvantage relative to the incumbents with respect to spectral capacity and diversity. As an example, in the large urban markets of Toronto, Calgary, Edmonton and Vancouver, Shaw holds a maximum of 80 MHz of mobile terrestrial spectrum. In comparison, Rogers holds close to or more than 200 MHz of spectrum in each of these markets, while Bell and Telus together control close to or above 300 MHz of spectrum in each of these markets. By offering an opportunity to increase, and diversify, spectrum holdings, this residual auction will enhance the ability of new competitors to deliver robust, affordable, high-quality and innovative alternatives to the incumbent wireless carriers' offerings.
14. Thus, subject to maintaining the proposed spectrum aggregation limits in the 700 MHz and 2500 MHz bands, the proposed licensing of these residual spectrum licences will contribute to achieving the Department's policy objectives for the allocation of the residual spectrum licences, including the enhancement of the availability of next-generation wireless services to more Canadians and facilitating sustained competition in the Canadian wireless market.³ A competitive market means innovation and investment in the wireless industry and as a result, it will provide lower prices, better services, and more choice for Canadian consumers.

II. DEPLOYMENT REQUIREMENTS

15. Roll-out or deployment obligations are used to ensure that the spectrum is used and to discourage speculation without use, or spectrum warehousing with no specific use intended. A

³ Consultation Document, paragraph 5.

further purpose of deployment obligations has been to encourage the delivery of services in all regions of Canada.

16. In this residual auction, Shaw generally agrees that the starting point should be the deployment obligations as originally set out by the Department in prior licensing framework decisions with respect to the spectrum frequencies that are being made available.
17. However, given the importance of both the policy objectives that underlie deployment obligations and their potential effect on licensees, Shaw submits that the Department should carefully consider whether the deployment obligations as originally set out for each of the spectrum bands that will be subject to the residual auction remain relevant and applicable. More specifically, in the current renewal consultation for AWS-1 and other spectrum, numerous parties submitted that it is not appropriate for the Department to impose more aggressive deployment obligations in the PCS I block (1670-1675 MHz), given that there is no equipment ecosystem for spectrum in the PCS I block.⁴ Similarly, for PCS G block (1910-1915 MHz / 1990-1995 MHz), Telus, a significant holder of PCS G block spectrum licences in Canada, has requested that the Department extend the deployment obligation timeframe to 15 years from the date of licence renewal. In a similar vein, in the residual auction, the Department should extend the deployment obligation timelines to the end-of-term or near-end of term for bands or sub-bands where there is no or a less robust mobile wireless device ecosystem, including the I block, G block and the unpaired 2500 MHz blocks, all of which exhibit uncertainty with respect to device ecosystems.

III. AUCTION FORMAT

18. Shaw generally supports the single-round sealed bid auction format and the use of the second-price and Vickrey price determination mechanism across all spectrum bands being made available in the residual action.
19. In the case of the 2500 MHz licences, Shaw's general support for the single-round sealed bid auction format and Vickrey second-price rule is conditional on the Department's proposed rules and groupings of package bids, as well as the determination of winning bids⁵ and final payment calculation.⁶

⁴ ISED, Notice No. SLPB-002-17, *Canada Gazette*, Part I, June 17, 2017 re *consultation on a Licence Renewal Process for Advanced Wireless Services and Other Spectrum* -- see Shaw Comments dated 25 July 2017, paragraph 58; Eastlink Comments dated 25 July 2017, para. 32; and Rogers Comments dated 25 July 2017, para. 34.

⁵ Consultation Document, paragraph 35 (Section 6.2).

⁶ Consultation Document, paragraph 39 (Section 6.3) and Annex G.

20. Shaw is in agreement that the Department's detailed proposals in relation to package bidding on pre-defined Groups will achieve the Department's objectives of allowing bidders to express preferences for complementary licences while mitigating against exposure risk.

IV. CONCLUSION

21. Shaw generally supports the Department's proposed licensing framework for the residual spectrum that is being made available. The proposals foster innovation and investment and support sustained competition so that Canadians can benefit from greater choice, while facilitating deployment and timely availability of services across the country, including rural areas.
22. Assuming that the proposed spectrum aggregation limits are maintained and subject to Shaw's comments on the discrete issues discussed in these initial comments and its review of and reply to other parties' comments, Shaw generally believes that the proposals set out in the Consultation Document will ensure that the mobile terrestrial spectrum licences that are being made available will maximise economic and social benefits for Canadians and will achieve the Department's stated policy objectives.

APPENDIX

SHAW RESPONSES TO CONSULTATION DOCUMENT QUESTIONS

3. Band Plan and Available Licences

Q1 — ISED is seeking comments on the choice of licences being made available through this licensing process:

- a. are there other licences that should be made available in this licensing process; and**
- b. are there any of these licences that should not be included in this licensing process?**

1. Shaw supports the Department's choice of spectrum frequencies to be made available in the upcoming residual auction.

4. Competitive Measures

Q2 — ISED is seeking comments on its proposals to:

- a. maintain the spectrum aggregation limits on the 700 MHz licences;**
- b. maintain the spectrum aggregation limits on the 2500 MHz licences including newly available 2585-2595 MHz licences; and**
- c. not impose competitive measures on other licences issued through this licensing process.**

2. For the reasons described above, Shaw supports the proposals to maintain the spectrum aggregation limits on 700 MHz licences and 2500 MHz licences.

5. Conditions of Licence

Q3 — ISED is seeking comments on:

- a) the likely timeframe for availability of equipment capable of providing access to licensed spectrum on an opportunistic basis;**
- b) licence terms;**
- c) the proposal to apply deployment levels to each of the licences as described in annex F; and**
- d) the proposed conditions of licence as outlined in annexes A through F.**

3. As discussed above, the Department should take the opportunity to review the timeframes to achieve the deployment levels set out at Annex F of the Consultation Document for each of the I block, G block and unpaired 2500 MHz licences in light of relevant factors, such as the absence of a robust device ecosystem, that are likely to affect the timing of deployment.

6. Auction Format and Rules

6.1 Auction format and timing

Q4 — ISED is seeking comments on its proposals:

- a. to use the sealed-bid auction format for the auction of residual licences, and
- b. on the timelines set out in the Proposed Table of Key Dates.

4. Shaw supports the Department's proposal to use a single-round sealed bid auction format for the auction of residual spectrum across all bands, provided that the use of a second price rule and Vickrey pricing mechanism is maintained.
5. The Proposed Table of Key Dates is acceptable to Shaw.

6.2 Auction format for the 2500 MHz licences

Q5 — ISED is seeking comments on its proposal to include package bidding for 2500 MHz licences in the sealed bid auction format.

6. For the 2500 MHz spectrum band, Shaw supports the Department's proposal to require package bidding on the pre-defined Groups of packages proposed in the Consultation Document, as well as the rules surrounding the determination of winning bids that are proposed by the Department at Section 6.2 of the Consultation Document. This support is conditional on maintenance of the second price rule and Vickrey pricing mechanism as proposed by the Department at Section 6.3 of the Consultation Document.

6.3 Second-price rule and Vickrey price determination mechanism

Q6 — ISED is seeking comments on its proposal to use a second-price rule for this auction and the Vickrey price determination mechanism.

7. Shaw supports the Department's proposal to use a second-price rule and the Vickrey price determination mechanism in association with the proposed single-round sealed-bid auction format across all spectrum bands.
8. Furthermore, Shaw supports the Department's proposal to apply adjusted Vickrey prices for the final payment calculation in the 2500 MHz band, as discussed at Section 6.3 and Annex G of the Consultation Document.

6.4 Opening bids

Q7 — ISED is seeking comments on the proposed opening bids as presented in tables 7, 8, 9 and 10.

9. Shaw supports the Department's proposed opening bids for the various spectrum bands that are being made available.

7. Bidder Participation – Affiliated and Associated Entities

7.2 Affiliated and associated entities

Q8 — ISED is seeking comments on its proposed rules regarding Affiliated and Associated Entities, which would apply to applicants and bidders in the upcoming auction of residual spectrum licences.

10. Shaw has no comment on the Department's proposed definitions and rules regarding Affiliated and Associated Entities.

7.3 Prohibition of collusion and other communications rules

Q9 — ISED is seeking comments on the rules prohibiting collusion and other communication rules, which would apply to bidders in the upcoming auction of residual spectrum licences.

11. Shaw has no comment on the Department's proposed definitions and rules regarding Affiliated and Associated Entities.

8. Auction Process

Q10 — ISED is seeking comments on:

- a. the proposed auction process for the auction of residual licences;**
- b. the proposed use of Canada Post's ePost Connect services for auction applications, associated documentation and bid forms; and**
- c. section 8.12, the proposal to auction some or all of the frequency bands separately. Please include any preferences on the order of the bands.**

12. Shaw has no comment on Question 10.

9. Post-Auction Licensing Process for Unassigned Licences

Q11 — ISED is seeking comments on the proposed renewal process.

13. Shaw supports the proposed renewal process and the proposal that ISED will consider making unassigned licences available for licensing through an alternative process.

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