



21 March 2022

To: Senior Director
Spectrum Licensing and Auction Operations
Innovation, Science and Economic Development Canada
235 Queen Street, 6th Floor
Ottawa, Ontario
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Via email: spectrumauctions-encheresduspectre@ised-isde.gc.ca

Subject: Canada Gazette Notice No. SLPB-006-21 – Consultation on a Policy and Licensing Framework for Spectrum in the 3800 MHz Band – Reply Comments

Dear Sir or Madam:

SES S.A. (“SES”) hereby submits its reply comments on the *Consultation on a Policy and Licensing Framework for Spectrum in the 3800 MHz Band*.¹~~[[OBJ]]~~

SES is a global provider of satellite and connectivity solutions headquartered in Luxembourg with operations around the world. SES provides services to broadcasters, governments, telecommunications companies, and enterprises in all parts of the world. Through its subsidiaries, SES operates a fleet of approximately 50 geostationary (GSO) satellites in multiple frequency bands and recently launched the SES-17 satellite for transatlantic service, including service in Canada. SES is also the operator of the innovative O3b constellation of 20 high-throughput, low-latency non-geostationary (NGSO) satellites in Medium Earth Orbit (MEO). Later this year, SES will be launching its next generation of MEO satellites called mPOWER, which will provide even higher throughput and more flexibility. Together, SES’s satellites cover 99% of the world’s population. SES is also the parent company of Northern Americas Satellite Ventures, Inc., which operates the Canadian-authorized Ciel-2 satellite in the Ku-band

¹ Innovation, Science and Economic Development Canada, SLPB-006-21, *Consultation on a Policy and Licensing Framework for Spectrum in the 2800 MHz Band* (Dec. 2021) (Consultation), available at <https://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf11757.html>.

Broadcasting Satellite Service frequencies at 129° W. SES is also authorised to operate Ku-band earth stations in motion (ESIMs) and two Ka-band gateway earth stations in Canada.

SES subsidiaries have been authorised for many years to provide Fixed Satellite Service (“FSS”) in Canada in the C-, Ku-, and Ka-band frequencies from satellites at multiple orbital locations. In the 3700-4200 MHz band, SES is authorised in Canada to provide FSS services from satellites at multiple orbital locations, including 20° W, 22° W, 37.5° W, 40.5° W, 47.5° W, 85° W, 87° W, 103° W, 104.95° W, 131° W, and 177° W. Such services include: (1) the collection and distribution of U.S. and other international news, live events, and programming content to Canadian cable and IPTV providers serving over 10 million households, (2) broadband connectivity to Indigenous communities in the North; (3) distribution of Canadian TV content abroad; (4) aeronautical and maritime services; and (5) connectivity for NAV Canada.

In the 3800 MHz Decision,² ISED determined that C-band FSS earth stations currently operating as gateways to serve satellite-dependent areas (“SDAs”) will be consolidated into a maximum of four sites, including those located in Weir, Quebec, and Allan Park, Ontario, and specified that further consultation would determine the locations of up to two more consolidated gateways.³ However, in this Consultation, ISED has asked for inputs on its proposal to not identify additional consolidated gateway sites other than those already identified in the 3800 MHz Decision in Weir, Quebec and Allan Park, Ontario.

As a substantial provider of C-band capacity into SDAs in Canada, such as to Nunavik and Nunavut, SES hereby submits the following comments on section 7 of the Consultation regarding additional FSS earth station sites in non-satellite-dependent areas where operations can continue in the 3700-4200 MHz band, and responds to Q2 of the Consultation.

Q2. ISED is seeking comments on its proposal to not identify additional consolidated gateway sites other than those already identified in the 3800 MHz Decision in Weir, Quebec and Allan Park, Ontario.

In providing comments, respondents are requested to include supporting arguments and rationale.

SES does not support ISED’s proposal not to identify additional consolidated gateway sites other than those already identified in the 3800 MHz Decisions. As explained below, additional sites are necessary to ensure competitive supply of an essential input and continuity of critical connectivity services in SDAs. Failure to identify additional gateways will likely raise prices for this essential input and lead to a reduction in or loss of services in such areas. SES encourages ISED to take more time to consider and evaluate additional consolidated gateway locations.

² Innovation, Science and Economic Development Canada, SLPB-002-21, *Decision on the Technical and Policy Framework for the 3650-4200 MHz Band and Changes to the Frequency Allocation of the 3500-3650 MHz Band* (May 2021) (3800 MHz Decision), available at <https://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf11699.html>.

³ See 3800 MHz Decision at §10.3.3.

SES echoes SSI's concerns that limiting the number of gateways to just Weir and Allan Park would create an unhealthy competitive environment for FSS C-band services in SDAs.⁴ As ISED is aware, the 3800 MHz band is used extensively to provide critical connectivity services via satellite in SDAs, such as the North and rural and remote parts of Canada. Moreover, the provision of such critical connectivity depends on connecting such areas to gateways located in the non-satellite dependent parts of Canada. Having only two gateway sites in non-satellite dependent areas would limit the competitive supply of this essential input, and create a bottleneck that will rapidly lead to higher costs, and therefore higher connectivity prices or reduced service for consumers in SDAs, including Indigenous communities. This will only worsen the current digital divide that exists between the urban and rural parts of Canada.⁵

The competitive situation is made worse by the fact that the owner/operator of Allan Park is also a C-band satellite operator that may have incentives to discriminate in favour of its own satellite capacity when offering gateway services or facilities to other service providers, e.g., by pricing teleport access to their own satellites more favourably than access to competitor satellites. If service providers are forced to pay higher costs due to anti-competitive practices of the teleport operator, these additional costs will put upward pressure on connectivity prices to their customers in satellite dependent areas, who already deal with unique connectivity challenges.

Such distortion of competition can be addressed, in significant part, by authorising additional, competitive consolidated gateway sites, including an additional site not affiliated with a satellite operator and at least one site in Western Canada.⁶ An additional unaffiliated gateway site (such as the one operated by SES's customer SSI Canada) would help ensure sufficient competition to reduce the incentives for Telesat to engage in discriminatory behavior at Allan Park. Moreover, a gateway on the western coast would be beneficial for serving customers in the West by providing access to westerly C-band satellites that may not be visible from Allan Park or Weir. SES is aware of a potential gateway site around Lake Cowichan, but the owner of that site is not currently engaged in this consultation. In SES's view, these sites should be further evaluated before ISED makes a final decision regarding the number of consolidated gateways. Identifying a couple of additional gateways, properly situated and/or RF shielded, would redress the lack of competitive supply of an essential input for service to SDAs without unduly constraining flexible use deployments.

By the same token, SES strongly opposes the suggestion that ISED remove the Weir gateway as one of the two authorized 3800 MHz gateway sites in non-satellite-dependent areas.⁷ As explained, above, two consolidated gateway sites are already insufficient. SES's customer, the Kativik Regional Government, has been using the Weir gateway location for many years to access SES C-band satellite capacity to connect Indigenous communities in the northern Quebec

⁴ See Comments of SSI Micro Ltd. ("SSI Comments") at 6-7.

⁵ *High-speed Access for All: Canada's Connectivity Strategy*, at 5-6 (2019) ("Canada's Connectivity Strategy"), available at https://www.ic.gc.ca/eic/site/139.nsf/eng/h_00002.html.

⁶ See Consultation at ¶ 29.

⁷ See Comments of Rogers Communications Canada Inc. at 97-98.

region. The loss of this site would, at best, impose significant cost and hardship on the Kativik Regional Government and its constituents or, at worst, disrupt their critical connectivity services. There is sufficient terrain blockage surrounding the Weir gateway to protect future flexible use deployment in the Montreal area.

Before ISED renders a decision on the number of consolidated FSS gateways, the current and future needs of SDAs must be assessed to ensure that the FSS demand can be met. SES is concerned that if ISED decides to adopt its proposal, there could very well be issues with meeting future connectivity needs in SDAs. Just because respondents to the 3800 MHz Consultation and the informal consultation with satellite operators have not yet identified specific additional sites should not end ISED's inquiry. If ISED is committed to delivering "high-speed access for all,"⁸ including to rural and remote communities, ISED cannot ignore the competitive, continuity and cost of service issues that would arise for end users in SDAs (including many Indigenous communities), and the service providers that serve them, that will result from not identifying a sufficient number of gateways needed to serve such areas. There are no downsides to taking a little more time to ensure the right decision will be made, but there are significant market risks that could arise if ISED makes a final decision based on an incomplete assessment of the connectivity needs in SDAs.

Considering Canada's prioritization of ubiquitous connectivity and dedication to ensuring that those located in SDAs are adequately served, taking time to consider additional gateway sites is in the public interest.⁹ Therefore, instead of closing the door on this critical issue, SES would urge ISED to take more time to look for and identify additional consolidated 3800 MHz gateway sites in non-satellite-dependent areas.

⁸ See *Canada's Connectivity Strategy* at 8.

⁹ See 3800 MHz Decision at ¶ 9; see also *Canada's Connectivity Strategy* at 8.