



**Reply Comments for:**

**Consultation on a Policy and Licensing Framework for  
Spectrum in the 3800 MHz Band**

SLPB-006-21

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Spectrum Management and Telecommunications

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## INTRODUCTION

1. Comcentric Networking Inc. (Comcentric) welcomes the opportunity to provide Reply Comments to ISED on its Consultation on a Policy and Licensing Framework for Spectrum in the 3800 MHz Band.
2. Comcentric was established in 1999 by a group of independent telecommunication service providers serving residential and business subscribers in the Counties of Huron, Bruce, and Perth in Southwestern Ontario.
3. The six broadband service providers which joined together in the creation of Comcentric operate as SILECs (small incumbent local exchange carriers) in their respective service areas. These operators are Brooke Telecom Co-operative Ltd, Huron Telecommunication Co-operative Limited, Hay Communications Co-operative Limited, Mornington Communications Co-operative Limited, Quadro Communications Co-operative Limited and Tuckersmith Communications Co-operative Ltd.
4. These companies – founded in the period between 1909 and 1924, have been providing innovative, affordable and customized communications services to their subscribers. Their service offerings include high speed internet connectivity, wireline telephony, TV and mobility services to the community.
5. Comcentric currently holds fifteen 3500 MHz spectrum licenses in the Tier 4 service areas of Kincardine, Listowel/Goderich and Stratford.

## COMCENTRIC' REPLY COMMENTS ON SELECTED SUBMISSIONS

### Coexistence with aeronautical radionavigation systems

*Q1. ISED is seeking comments on its proposal to extend the mitigation measures described in SRSP-520 to protect radio altimeters from flexible use operations in the 3500 MHz band to flexible use operations in the 3800 MHz band (3650-3900 MHz). This extension is proposed until domestic and international studies are completed.*

6. In the Comment phase of this consultation process, Comcentric agreed with ISED that the safety of Canadians was paramount but has also expressed the view that it was against technical restrictions affecting the deployment of 3500 MHz or 3800 MHz spectrum - unless absolutely necessary.
7. Comcentric notes that the question has generated a lot of comments from the various stakeholders, with several parties adopting a position similar to Comcentric's but some others, notably Bell Mobility, SaskTel and the CWTa, strongly opposed the imposition of

deployment restrictions for 3800 MHz, referring to numerous international reports and studies, highlighting that international jurisdictions where the band was deployed around airports have no reported case of interference with altimeters. These entities therefore rejected the extension of the 3500 MHz mitigation measures to the 3800 MHz band and suggested in the case that restrictions are required, that the aviation industry should bear the cost of updating altimeters.

8. As the international situation evolves and ISED continues its own investigations, Comcentric has no doubt that the situation will resolve itself. As pointed out by Iristel in its comments, the 3800 MHz band will only be available for flexible use on March 31<sup>st</sup>, 2025 - date at which the satellite FSS users and WBS users in urban areas are required to clear the band. It is likely that any outstanding technical issue will be resolved in that time frame.
9. Comcentric believes that the industry players who rejected the deployment restrictions might have a point. Comcentric submits that ISED could concede that the restrictions are not yet required and complete its studies and analysis. In the eventuality that restrictions are found necessary, ISED could at that time, extend the mitigation measures described in SRSP-520 to protect radio altimeters from flexible use operations in the 3500 MHz band to flexible use operations in the 3800 MHz band.

### Licence areas

*Q3. ISED is seeking comments on its proposal to use Tier 4 service areas for the 3800 MHz licensing process.*

10. Comcentric notes that Cogeco, ECOTEL and CanWISP advocated for the use of Tier 5 service areas for the 3800 MHz auction. The BC Broadband Association supported CanWISP's proposal.
11. Cogeco's proposed that Tier 5 service areas only be applied in the 3 largest metropolitan areas. In Comcentric's view, the benefits of Cogeco's proposal in increasing access to spectrum for smaller service providers would be limited.
12. ECOTEL proposed the use of Tier 5 service areas in rural and remote areas, more specifically in underserved areas. While Comcentric believes this might be too restrictive given small service providers need spectrum both in underserved areas and in areas they are serving today, ECOTEL's proposal supports Comcentric's conclusion towards Cogeco's proposal.
13. CanWISP, supported by the BCBA, proposed a Tier 5 auction for the 3800 MHz band. Comcentric agrees with CanWISP that the use of Tier 5 service areas would be the most appropriate measure to support ISED's policy objective of accelerating Canada's

Connectivity Strategy's target of 100% of the households covered with 50/10 Mbps within the timeframe of 2030.

14. The rest of the industry – including large national Mobile Network Operators (MNOs), supported the use of Tier 4 services areas for the 3800 MHz licensing process, in light of the administrative simplicity of reusing the same tier size used in the 3800 MHz auction.
15. Comcentric concedes that the use of Tier 4 service areas would be simpler than the use of Tier 5 for the 3800 MHz auction but submits that the use of Tier 5 is entirely feasible. Furthermore, Comcentric submits that administrative simplicity should not supersede ISED's policy objectives in matter of increasing the connectivity of rural Canadians.
16. At question Q28a of the Consultation document, ISED asked stakeholders for potential measures or conditions of license that could accelerate Canada's Connectivity Strategy. Comcentric submits that the use of Tier 5 service area for the 3800 MHz licensing process is one such measure that should be adopted by ISED.

### Pro-competitive measures

*Q4. ISED is seeking comments on its proposal to implement pro-competitive measures in the 3800 MHz auction.*

17. In their past submissions, large national MNOs have generally rejected pro-competitive measures (that was the case in Bell Mobility and Rogers current submissions). Surprisingly, TELUS supported the use of pro-competitive measures for the 3800 MHz licensing process in its submission. However, TELUS' claim that it too needs pro-competitive measures to help compensate an alleged asymmetry in pre-auction national mobile service providers holdings is, in Comcentric's view, misplaced audacity.
18. The rest of industry stakeholders were all in favor of the use of pro-competitive measures. Comcentric believes that the wide industry support for pro-competitive measures clearly shows that they are required. Comcentric's arguments which were in alignment with ISED's policy objectives and successful experience of previous spectrum auctions were largely echoed by other entities.
19. Comcentric submits that the evidence shows that pro-competitive measures are required and urges ISED to proceed with their implementation for the 3800 MHz auction.

### ***If pro-competitive measures are to be implemented***

*Q5. If adopted, ISED is seeking comments on three proposals for pro-competitive measures in the 3800 MHz auction. Three options are proposed:*

- *Option 1: a 50 MHz set-aside*
- *Option 2: a 100 MHz cross-band cap across the 3500 MHz and 3800 MHz bands or*

- *Option 3: a 50 MHz set-aside and 100 MHz cross-band cap across the 3500 MHz and 3800 MHz bands*

*Q6. ISED is seeking comments on alternative options for pro-competitive measures for the 3800 MHz auction.*

20. Among the options for pro-competitive measures presented by ISED, Comcentric supported Option 3, but argued that the proportion of spectrum set-aside from past auctions was notably higher than the 50 MHz proposed by ISED and that the need for additional spectrum for regional and smaller service providers has not changed. Comcentric further stated that 50 MHz of set-aside spectrum was insufficient for the 3800 MHz licensing process, which led to the proposal of a fourth option, where the set-aside would be increased to ten blocks or 100 MHz while still applying the proposed 100 MHz spectrum cap. Comcentric then showed that this approach would be more consistent with ISED's past auctions where a set-aside was used.
21. Comcentric notes that Quebecor, Eastlink, TerreStar and Sogetel also proposed an increase of the set-aside to 100 MHz – to be combined with the proposed spectrum cap.
22. Iristel proposed an increase of the set-aside to 100 MHz in rural areas, along with a reduction of the spectrum cap to 80 MHz for those same areas. ECOTEL provided a similar view to Iristel but with a 60 MHz set-aside.
23. Cogeco supported ISED's Option 3, However set-aside eligible entities that are already in favor of the spectrum cap, would likely support Comcentric's proposed Option 4.
24. SaskTel opposed the implementation of a cross-band cap for obvious reasons based on their success in the 3500 MHz auction: SaskTel already holds between five and 12 blocks in Tier 4 service areas of Saskatchewan.
25. Comcentric submits that there is clear industry support for a set-aside among entities which would be eligible. Comcentric further submits that the set-aside proposed by ISED is insufficient and deviates from ISED's approach in past auctions where the measure was implemented, in terms of the proportion of spectrum outside of the reach of national MNOs. In contrast to ISED's restrictive approach, the CRTC is about to approve mobile wholesale tariffs to create an innovative facility-based MVNO regime in Canada. Comcentric urges ISED to coordinate its approach with the CRTC and focus its efforts to increase competition rather than reducing the market expected proportion of set-aside spectrum.
26. CanWISP proposed to create a set-aside within the set-aside in rural services areas and increase the number of set-aside blocks to 16, of which eight would not be available to large regional service providers (Freedom, SaskTel, Xplore Mobile, Videotron and Eastlink). CanWISP also proposed to lower the cross-band cap to 80 MHz in rural areas and increase the set-aside to 80 MHz in urban service areas.

27. Comcentric believes the CanWISP proposal deserves consideration. Comcentric believes that despite their propensity to acquire spectrum virtually everywhere, it is reasonable to assume that national MNOs need 3800 MHz spectrum in urban and metro areas for their 5G mobile systems, given the propagation characteristics of the band. WISP and small service providers on the other hand, need spectrum in rural settings where they use it for their FWA or mobile systems covering rural agglomerations.
28. The pro-competitive measure proposed by CanWISP would still allow national MNOs to acquire spectrum in urban and metro areas as 17 spectrum blocks would be available to them in those service areas. Regional MNOs would have access to 8 set-aside blocks in areas where they are set-aside eligible. Smaller service providers (including WISPs) would have the opportunity, perhaps for the first time, to afford the spectrum they need to provide connectivity to rural Canadians.
29. Comcentric submits that, ISED should give due consideration to CanWISP's proposal. As it is aligned with both ISED's rural policy objective and overall policy objectives. Comcentric would be in favor if ISED decided to implement CanWISP's proposal.
30. TELUS, on the other hand, is proposing the implementation of a cross-band spectrum cap, a logical choice for an entity which would not be eligible to a set-aside but would like to minimize its own spectrum spending by limiting the quantity of spectrum that Rogers, and to a lesser extent Bell Mobility, could acquire during the auction.
31. TELUS also proposed that the cross-band cap be increased to 110 MHz.
32. Comcentric already demonstrated in its submission that a 100 MHz cross-band spectrum cap on a stand-alone basis (Option 2) would be insufficient to foster competition, as non-national carriers would have access to four blocks or less in 92 of the 172 service areas and no spectrum at all in five of those service areas.
33. An increase of the cross-band cap to 110 MHz only makes the situation worst: non-national carriers would have access to three blocks or less in 114 service areas, and no spectrum at all in 24 service areas. Comcentric therefore urges ISED to disregard TELUS's proposal.
34. Comcentric therefore reiterates its support for its proposed Option 4 - where a 100 MHz set-aside is combined with a 100 MHz cross-band cap across the 3500 MHz and 3800 MHz bands, or alternatively, to the CanWISP proposal where:
- i. a 160 MHz set-aside in rural & remote service areas, with 80 MHz of this set-aside reserved for small telecommunications service providers; along with
  - ii. an 80 MHz cross-band cap in rural and remote service areas; and
  - iii. an 80 MHz set-aside and 100 MHz cross-band cap in urban and metro service areas.

***If a set-aside is to be applied***

*Q7. ISED is seeking comments on its proposal to limit the eligibility to bid on set-aside licences to those registered with the CRTC as facilities-based providers that are not NMSPs, and that are actively providing commercial telecommunications services to the general public in the relevant Tier 2 service area of interest, effective as of the date of application to participate in the 3800 MHz auction. If not supporting ISED's proposal, provide alternate eligibility criteria.*

35. Comcentric notes all 3 national carriers proposed modifications to the set-aside eligibility rules, despite the fact that the set-aside's primary goal is to put a defined quantity of spectrum out of their reach. Bell Mobility proposes a series of modification to the set-aside eligibility rules, such as : that eligible entities be providing services in the relevant Tier4 area rather than Tier 2, that they be registered as a wireless service provider with the CRTC, that they have existing spectrum ownership and that the provision of services to wholesale customers be excluded from the eligibility criteria. Bell Mobility also requested more restrictive definitions of 'actively providing telecommunication services' and 'general public'. All of Bell Mobility proposals would effectively hobble the very objective of a set-aside as a pro-competitive measure.
36. TELUS states in its submission that set-aside eligibility should be granted at the Tier 1 level to increase competition in the set-aside but contradicts itself further in its submission by requesting that eligibility to bid on set-aside spectrum be limited to those that already have a track record of investing in a network in the area in which it is bidding.
37. Rogers proposed that the Department designate any set-aside eligible bidder as a facilities-based operator currently serving the local market with actual facilities, so that over-the-top services be excluded, a measure targeted at preventing Videotron's Fibrenoire subsidiary to establish set-aside eligibility for the company outside of its Quebec footprint.<sup>1</sup>
38. Comcentric believes that ISED should reject proposals to modify the set-aside eligibility from entities which have no interest in seeing a set-aside succeed. Comcentric views these proposals as another attempt from the big guys to influence and control the market.
39. Regional carriers also made a few suggestions that Comcentric believes to be self-serving: Eastlink requested that set-aside eligibility be restricted to mobile or FWA service providers and Cogeco proposed that for an entity to qualify, it had to provide services in the Tier 4 area of interest rather than the Tier 2.
40. Comcentric submits that these proposals are aimed at reducing the level of competition in the set-aside, without real evidence that they are fostering the fulfilment of ISED's policy objective. ISED should therefore reject the proposals.
41. Quebecor and ECOTEL supported ISED's proposed eligibility criteria as proposed by ISED. SaskTel, Iristel and CanWISP supported the criteria but requested minor

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<sup>1</sup> Rogers submission Par. 151



modifications, that, in Comcentric's opinion, would have little impact on the 3800 MHz licensing process.

42. Comcentric therefore argues that there is enough industry support for ISED to adopt its proposed set-aside eligibility criteria as is.

***If a cross-band spectrum cap is to be applied***

*Q10. ISED is seeking comments on its proposal that the cross-band cap be applied across the 3500 MHz and 3800 MHz bands.*

*Q11a. ISED is seeking comments on its proposal that the maximum amount of spectrum that bidders in the 3800 MHz auction can acquire is a total of 100 MHz across the 3500 MHz and 3800 MHz bands.*

43. Comcentric notes that TELUS and Bell Mobility - the two national MNOs which are sharing a radio access network, have been bidding in ISED auctions separately, and would not be eligible to a set-aside, are the only industry players in support of a cross-band cap rather than a set-aside. As previously stated, TELUS supports the implementation of a cross-band cap and would see it augmented to 110 MHz. Bell Mobility rejects pro-competitive measures in general, but states that a cross-band cap would be least damaging than a set-aside.
44. Even Rogers, which made a significant effort in its submission to depict the situation as unfair, favored a set-aside if ISED was to implement a pro-competitive measure. The only spectrum cap Rogers would support is one applied at the 'network level' rather than at the entity level.
45. SaskTel and Xplornet - two entities holding a significant amount of 3500 MHz spectrum, also rejected the use of a cross-band cap, preferring a 50 MHz set-aside (ISED's Option 1).
46. The rest of the industry is in favor of a cross-band cap, as long as it is used in conjunction with a set-aside. Some proposed a variation to the number of blocks in the cap as previously discussed, but the general industry support is for a combination of both measures.
47. Comcentric already demonstrated that a cross-band cap alone (be it of 100 or 110 MHz) is insufficient to put spectrum in the hands of non-national carriers.
48. Comcentric therefore reiterates its support for the implementation of a 100 MHz cross-band cap. However, Comcentric's support is conditional to the adoption of a set-aside to accompany the cross-band cap for the 3800 MHz auction. Comcentric also believes that the cap should not be implemented in lieu of an increase of the set-aside to 100 MHz (or 160 MHz if CanWISP's proposal was retained).

Auction format and rules

*Q13. ISED is seeking comment on:*

- c. If a set-aside is applied, stakeholder preference on whether the set-aside should be wholly contained in the unencumbered category or in the encumbered category in the 43 service areas with encumbrances, and the proposal to consider all blocks won by set-aside eligible bidders as set-aside blocks.*
49. Comcentric notes that all three national MNOs are requesting that the set-aside be placed in the encumbered part of the band, if ISED implements a set-aside. Rogers claims that it would maximize the clean spectrum that the national networks can access, allowing two nationwide networks to serve these markets with a comparable amount of spectrum across the 3500 MHz and 3800 MHz bands, but Comcentric notes that Rogers' network is mostly absent from areas featuring encumbrance, especially satellite dependent areas.
50. Comcentric already submitted in its reply comment to question Q6 that in rural and remote areas (including satellite dependent areas and areas with encumbrance), small service providers and WISPs have a greater need for spectrum resources in the 3800 MHz band than national MNOs.
51. The rest of the industry supports ISED's proposal that the set-aside be wholly contained in the unencumbered category. Comcentric therefore submits that ISED should proceed with the implementation of its proposal.
52. Should ISED agree to increase the set-aside to 100 MHz or ten blocks, Comcentric understands this would require the creation of two different set-aside products in the 43 areas featuring encumbrance.

*Q14. ISED is seeking comments on its proposal to use anonymous bidding during the auction.*

53. As per filed in the comment phase, Comcentric fully supports the use of anonymous bidding. Comcentric notes that while the entire industry supported anonymous bidding, several entities, including Bell Mobility, TELUS, Rogers and Xplornet have requested that the identity of set-aside eligible bidders (along with where they are eligible) be revealed prior to the auction.
54. Comcentric opposes the request for several reasons:
- i.* it would not have any positive impact on the spectrum allocation process;
  - ii.* it would risk putting anonymous bidding in jeopardy in areas where only one or a few entities are set-aside eligible

- iii. it would invite prospect bidders with large litigation teams to launch legal challenges on the regulator's assessment of who's eligible where and who's not, weakening the regulator.

55. Comcentric submits that ISED's current process and level of transparency around set-aside eligible entities does not need to be changed.

### Conditions of licence for flexible use spectrum in 3800 MHz band

*Q23. ISED is seeking comments on its proposal to issue new flexible use spectrum licences in the 3800 MHz band with a 20-year licence term and the proposed wording of the condition of licence.*

56. Comcentric notes that while the industry is generally in favor of the proposed 20-year license term, stakeholders including Bell Mobility, TELUS, Rogers, Xplornet and the CWTa argued that final payment of auction fees two full years before the spectrum becomes available, would unfairly burden the winning bidders and impair their ability to invest in their networks by tying up significant capital resources.

57. These entities requested that spectrum payment be delayed until the spectrum becomes available. Requesting spectrum payment two years before the spectrum has been cleared by the satellite industry, would hinder service providers in meeting the needs of Canadians and frustrate the overall objective of ISED's spectrum policy framework.

58. Eastlink and Videotron (Quebecor), which are also CWTa members, supported the license term but expressed that the term should begin when spectrum is actually available, without referring to timing of the auction final payment.

59. Comcentric believes ISED will want all 3800 MHz licenses to start at the same time for administrative simplicity. However, Comcentric submits that ISED could delay the beginning of the license until March 31, 2025, date at which FSS operations and urban WBS users are required to clear the band. Early displacement of WBS users in areas where they can use the spectrum until 2027 could be negotiated on a case-by-case basis if new license holders wish to deploy the spectrum for flexible use before the deadline.

60. Despite having initially supported ISED's proposal on license term and payment schedule in its original submission, Comcentric now believes that ISED should defer final payment of auction spectrum license fees by two years until the spectrum is usable and adjust the license term accordingly. As pointed out by other stakeholders, this would free up capital for carriers in the near term to make substantial investments in Canada's 5G networks.

*Q25. ISED is seeking comments on the proposed deployment condition of licence as stated as well as on the proposed levels of deployment as specified in [annex B](#).*

*Q26. ISED is seeking comments on whether to accelerate the proposed timelines for deployment from what is proposed in [annex B](#).*

61. Comcentric notes that there is wide industry support for the deployment requirements proposed in annex B, (except for the request that the licence term be delayed until the spectrum is available and that the timing of deployment requirements be aligned with the adjusted licence term).
62. CanWISP was the only entity to propose more stringent deployment requirements despite the fact that spectrum will not be available in the first 2 years of the licence term. Other stakeholders rejected the imposition of more stringent deployment requirements.
63. Comcentric understands CanWISP's desire to accelerate Canada's connectivity strategy in rural areas but considers CanWISP's proposal as potentially dangerous for smaller service providers. Deployment of radio networks is capital intensive and takes time. Accelerating deployment requirements when spectrum is not available in the first two years of the licence term would require service providers to initiate deployments a long time before the spectrum is available. Delays in spectrum clearing by existing users' risks leaving service providers with stranded capital, an outcome that would have even more impact on WISPs and small service providers.
64. The proposed additional deployment requirements for long term evolution (LTE) mobile network operators - presented in annex C of the Consultation paper, were rejected by the national and regional MNOs. Comcentric also rejected these additional deployment requirements as they would not be applied equally among service providers and thus penalise service providers who invested early in the deployment of service to the benefit of Canadians.
65. Comcentric supports for deployment requirements as a measure to ensure spectrum is put to use to serve Canadian consumers but maintains that deployment requirements need to respect the principle of fairness and be equally applied among all service providers.
66. Comcentric urges ISED ensure deployment requirements are uniform among all service providers for a given band across a given licence area.

### Measures to support Canada's Connectivity Strategy

*Q28a. ISED is seeking comments on potential measures or conditions of license that could accelerate Canada's Connectivity Strategy's target of 100% of the households covered with 50/10 Mbps within the timeframe of 2030.*

*Q28b. ISED is seeking comments as to the potential to increase deployment requirements in any relevant spectrum bands to increase both fixed and mobile services in rural and remote areas, and potentially provide coverage to currently underserved locations, such as roads.*

67. Comcentric notes that most industry stakeholders are aligned with Comcentric's position that ISED has to assess the impact of measures recently implemented or in the process of being implemented before consideration of additional measures to accelerate Canada's Connectivity Strategy's target of 100% of the households covered with 50/10 Mbps within the timeframe of 2030.
68. Comcentric notes that CanWISP proposed a series of measures including the use of deployment requirements based on area rather than population to further rural connectivity.
69. Comcentric rejects the proposed deployment requirements based on area rather than population as this type of deployment requirement might lead to significant amount of stranded capital in rural and remote areas.
70. As previously stated, Comcentric submits that the use of Tier 5 service areas in the 3800 MHz licensing process would be the right measure to accelerate Canada's Connectivity Strategy's target of 100% of the households covered with 50/10 Mbps within the timeframe of 2030.

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