



October 26, 2019

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Innovation, Science and Economic Development Canada
c/o Director, Spectrum Regulatory Best Practices
235 Queen Street (6th 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 comments*

Please find attached the 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)**

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

eastlink

October 26, 2020

1. Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), appreciates the opportunity to provide 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).
3. Eastlink supports ISED’s proposal to repurpose portions of the 3650-4200 MHz band to allow for the deployment of both fixed and mobile services, similar to the licensing model for the 3500 MHz band. Repurposing this band will foster more efficient and intensive use of mid-band spectrum to facilitate and incentivize investment in next generation wireless services. We further support and share ISED’s objectives for the 3800 MHz band. Specifically, 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 submits that the above objectives require a framework that ensures that wireless service providers who are already investing in mobile wireless networks and serving Canadian consumers have reasonable opportunity to access the 3800 MHz band spectrum, and particularly that regional providers with limited resources compared to their large national competitors have reasonable access to the limited spectrum in this band. Eastlink has made significant investments into our wireless network, bringing advanced wireless services, and competition to new areas, including rural areas that may have had only one network operator prior to our service launch. It is critical that facilities-based competitors continue to have

reasonable access to spectrum in the 5G bands if Canadians are to continue enjoying the benefits of competition that has been supported by ISED's spectrum policies, such benefits including lower prices, expanded coverage, and more consumer-friendly and innovative service plan options available with regional wireless providers.

5. Eastlink is concerned with the proposal put forward by Telesat as it appears to grant them decision making authority when it comes to how this valuable spectrum will be allocated. Based on the limited detail provided, Eastlink is concerned that implementing their proposal will grant Telesat the ability to dictate the terms, conditions and opening prices for this spectrum, compromising the ability of smaller, regional providers to gain access to this spectrum. We are equally concerned that providing Telesat, who will obviously have financial incentives to earn as much as possible from the sale of this spectrum, the ability to influence how this spectrum will be distributed will result in inflated spectrum prices. Eastlink submits that ISED should launch a separate consultation to determine the licensing process for this spectrum, which should include an ISED led auction with pro-competition measures.
6. Eastlink has responded to a number of ISED's questions below. We have not commented on all questions, but reserve the right to do so in the reply phase of this consultation.

Consultation questions

Q4 - ISED is seeking comments on the proposal to add a primary mobile service, except aeronautical mobile, allocation in the 3700-4000 MHz band to the CTFA and the specific changes shown in annex B.

7. Eastlink supports ISED's proposal to add a primary mobile service, except aeronautical mobile, allocation in the 3700-4000 MHz band to the CTFA. Eastlink agrees with ISED's view that aligning the use of this spectrum with the US will allow for the adoption of common industry equipment standards allowing for economics of scale in equipment.

Q5 - ISED is seeking comments on developing a flexible use licensing model for fixed and mobile services in the 3650-4000 MHz band.

8. Eastlink supports ISED's proposal on developing a flexible use licensing model for fixed and mobile services in the 3650-4000 MHz band. A flexible use model would allow licensees to

use the spectrum for different services, encouraging the development of new technologies and innovation.

Q13 - ISED is seeking comments on:

a. establishing unpaired blocks of 10 MHz for the 3650-3700 MHz band

b. establishing unpaired blocks of 10 MHz for the 3700-3980 MHz band

9. Eastlink supports ISED's proposal to use 10 MHz blocks. The use of 10 MHz blocks ensures that ISED will have the flexibility needed to provide all bidders – including smaller regional providers – reasonable access to the 3800 MHz spectrum under the licensing process, including adoption of pro-competition measures.

Q14 - Subsequent to changes to the spectrum utilization described in section 7 and recognizing the need to change the current WBS licensing model, ISED is seeking comments on its proposal to displace the existing WBS licensees and designate 80 MHz of spectrum available for the development of a new shared licensing process in the 3900-3980 MHz band as described in Option 2. Specifically, ISED is seeking comments on:

a. the amount of spectrum proposed (80 MHz) under a shared spectrum licensing process

b. whether there should be a provision that allows certain users (e.g. existing WBS licensees) priority licensing (e.g. an initial application window before accepting applications from others)

10. Eastlink submits that Option 2 would require Eastlink to completely replace the equipment used to offer our WBS, or discontinue the service. Option 1 would allow us to continue to offer WBS with minimal change to the service.

11. Eastlink submits that in the event ISED develops a new shared licensing process in the 3900-3980 MHz band priority licensing should be given to existing WBS licensees to minimize the disruption for existing end-users.

Q15 - Given the proposal to implement Option 2, ISED is seeking information on potential costs such as upgrading equipment, which may be incurred by WISPs that are displaced from 3650-3700 MHz to provide services using the 3900-3980 MHz band.

12. Eastlink submits that Option 2 would require Eastlink to replace all the equipment we currently use to offer our wireless broadband service. At this time we do not have pricing information for this 5G equipment.

Q43 - ISED is seeking comments on the proposal to rely on technical limits and coordination procedures rather than mandate specific technology solutions (e.g. TDD synchronization between systems) to address interference issues between TDD flexible use systems in the 3650-3980 MHz band.

13. Eastlink agrees with ISED's proposal to rely on technical limits and coordination procedures rather than mandate specific technology solutions.

Q52 - ISED is seeking comments on the use of an auction as the licensing process for the flexible use spectrum that would be considered as the 3800 MHz band, noting a separate consultation process would be issued, if required, to determine the licensing framework for the range 3900-3980 MHz.

14. Eastlink supports ISED's proposal that an auction be used as the licensing process for the flexible use spectrum that would be considered the 3800 MHz band. A separate consultation process would be required to work through the details of the auction, such as the appropriate competitive measures. Eastlink submits that it is critical that the appropriate steps be taken to ensure this spectrum is distributed in a manner that will not undermine the policies put in place to encourage competition. It is important that rural wireless service providers, like Eastlink, with limited high-capacity spectrum compared to the incumbents, have access to additional spectrum to be able to provide competitive wireless data speeds sustainably.

Q53 - ISED is seeking general comments on the proposal submitted by Telesat found in annex H, including whether such an approach would be in the best interest of Canadians and more specifically, whether it would result in the faster deployment of 5G services in the affected frequencies; more efficient use of spectrum and what the implications of this repurposing plan would be for other users of the band.

15. Eastlink does not support the proposal submitted by Telesat found in annex H, in particular that they be granted a flexible use license for the 200 MHz of spectrum that they intend to clear, and that they would make this spectrum available in the secondary market to be used by the wireless carriers in conjunction with the 3500 MHz auction. Based on our understanding, Telesat's proposal would provide them with control over the distribution of this valuable spectrum, which they will directly profit from, undoubtedly driving up the cost of this spectrum, and potentially shutting out smaller, regional providers.

16. Telesat's proposal does not provide any definitive details on how they intend to distribute this spectrum, other than to suggest one possible option that would allow them to set the terms and conditions of an auction like format, including setting the reserve price (in consultation with ISED). Under this option spectrum would be provided to the highest eligible bidder. Eastlink has significant concerns that any approach to award spectrum to the highest bidder with no competitive measures such as spectrum caps or set aside, would inherently favour the much larger national providers who would have infinitely more resources than a carrier of Eastlink's size. Eastlink submits that this would provide the national carriers with a significant competitive advantage, and could potentially reverse the strong and positive impact that new regional competitors have had on Canada's mobile wireless retail market. Eastlink submits that such a proposal is not in the best interests of Canadians.
17. Eastlink submits that although this spectrum will be valuable for 5G deployment, trying to combine the timelines for the 3500 MHz auction, with the transfer of the 3800 MHz (which will likely involve another auction), will unnecessarily complicate the process. It may also prohibit smaller regional carriers from being able to participate as they will not be provided with sufficient time to budget and plan for the significant capital expenditure that will be necessary to acquire and deploy this spectrum. Although this may allow for faster deployment of 5G services for some of the national incumbents, the unexpected capital expenses may prohibit smaller wireless carriers from acquiring any of this spectrum. In addition, we do not see any benefit to making this spectrum available on a shorter timeline than has been set out by the FCC in the United States. As ISED stated in the Consultation, it is important to align the use of this spectrum with the deployment in United States to allow for the adoption of common industry equipment standards.
18. Furthermore, Eastlink fundamentally disagrees with ISED handing their responsibility for spectrum management, over to Telesat, who have a financial incentive to design the spectrum transfer process to maximize earnings. We are deeply concerned with allowing another company that has a commercial interest in the outcome with the ability to distribute this highly valuable spectrum.

Q54 - ISED is seeking comments on whether the Telesat proposal meets ISED's policy objectives outlined in section 3, including:

a) supporting rural/remote connectivity

b) promoting competition in mobile services

c) making more mid-band spectrum available to support 5G services

19. For the reasons outlined in response to Q53 Eastlink is concerned that Telesat's proposal will make it difficult for smaller regional carriers to acquire any of this additional spectrum, especially if no competitive measures are put in place, as further explained in response to Q57. Pro-competition measures will absolutely be required under any process to transfer this spectrum if ISED's objectives (a) and (b) are to be met. Eastlink has made significant investments in our wireless network, and we are continuing to bring advanced wireless services, and competition to new areas. It is regional service providers that offer innovative plans and services, and it is also regional service providers driving down the retail price of wireless services and data. We submit that it could not possibly be in Canadians' interest to have competition in the retail wireless markets limited only to 4G/LTE services, as it would make competition fundamentally unsustainable in coming years.

20. The fact is that regional service providers cannot outbid the national providers for spectrum under an open auction licensing process. Where there are no pro-competition measures in place for the 3800 MHz spectrum, regional service providers will almost certainly be unable to acquire the spectrum licences required to support 5G investments and network deployment fundamental to our ability to continue competing against the much larger national providers.

Q56 If ISED were to implement the Telesat proposal, ISED would need to consider the licensing framework for the 3700-3900 MHz band. Thus, ISED is seeking comments on:

a) whether it should, as proposed by Telesat, issue flexible licences in the 3700-3900 MHz band using the same conditions of licence as those contained in annex H of the 3500 MHz Framework, noting that some conditions may need to be adjusted to reflect the differences in the two bands and the decisions resulting from this consultation process

b) whether it should issue a single Tier 1 flexible use licence as proposed by Telesat or align with the 3500 MHz band and issue Tier 4 licences

c) what deployment conditions should apply to these licences including Telesat's proposal that the deployment requirements would only come into force after the Minister approves a transfer

d) any additional conditions of licence that should apply given the nature of the proposal

21. Eastlink disagrees with the Telesat proposal. In the event that ISED decides to implement the proposal, Eastlink submits that it will be necessary to initiate a separate consultation to determine the licensing framework. This should consider a number of important factors, including the competitive measures that would need to be put in place, rules around collusion, the licence conditions and the licence tier. Eastlink submits that in the event that both spectrum bands are made available at the same time, there should be consideration for longer deployment timelines as smaller carriers may run into financial difficulty with the unexpected capital expense associated with purchasing and deploying this spectrum. When it comes to the tier size, Eastlink is concerned with granting Telesat the ability to distribute the licences at whatever tier they determine is most appropriate, as this would favour the larger national providers. Eastlink's initial views are that the spectrum be distributed at Tier 4 service areas as that will provide regional service providers who wish to launch service in rural and remote service areas the opportunity to bid on spectrum in areas which otherwise would not be made available to them due to high cost.

Q57 - In its proposal, Telesat indicates that it takes no position on ISED imposing a pro-competitive measure such as a spectrum cap or set-aside on the 3700-3900 MHz licences. ISED would review any request for transfer in accordance with provisions related to commercial mobile spectrum through section 5.6 of CPC-2-1-23, Licensing Procedure for Spectrum Licences for Terrestrial Services. However, ISED would also consider the competitive implications on the 3500 MHz and 3800 MHz bands and consider pro-competitive measures in accordance with the Framework for Spectrum Auctions in Canada. As such, ISED is seeking comments on:

- a. the need for a pro-competitive measure (e.g. spectrum cap or set-aside)***
- b. the type of competitive measure that should be applied***
- c. the amount of spectrum that should be considered under any such competitive measure***

22. Eastlink disagrees with the Telesat proposal. Given the number of unknowns associated with their proposal it is difficult to comment on the appropriate pro-competitive measures, whether it be spectrum cap or set-aside as that may be dependent on how that spectrum will be transferred.

23. 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. It is also consistent with ISED's broader rural initiatives. ISED has repeatedly

emphasized the importance of rural networks to ensure that all Canadians can participate equally in the digital economy, and is undertaking programs worth hundreds of millions of dollars to promote deployment of mobile wireless and other broadband services in rural areas in order to support these same policy objectives. Eastlink submits that ensuring regional service providers have a reasonable opportunity to acquire this much needed spectrum is an economically efficient means of supporting rural deployment, as service providers with sufficient spectrum will make significant investments in rural areas, minimizing the need for reliance on Government funding for rural deployments or other funding initiatives.

24. If the spectrum is transferred via some sort of Telesat designed auction format, it is very unlikely that the regional service providers will acquire any spectrum, as evidenced by the fact that in past auctions regional providers have consistently attempted to acquire open market spectrum, and have typically been able to acquire only the set-aside or spectrum cap-protected licences.

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