



September 5, 2017

ic.spectrumauctions-encheresduspectre.ic@canada.ca

Senior Director
Spectrum Licensing Policy Branch
Innovation, Science, and Economic Development Canada
235 Queen Street, 6th Floor
Ottawa, Ontario K1A 0H5

Dear Sir/Madam:

Re: *Canada Gazette, Part I, July 15, 2017, Notice No. SLPB-003-17 – Consultation on a Licensing Framework for Residual Spectrum Licences in the 700 MHz, 2500 MHz, 2300 MHz, PCS, and 1670-1675 MHz Bands – Eastlink’s reply comments*

Please find attached the comments of Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), in response to Canada Gazette Notice SLPB-003-17 – *Consultation on a Licensing Framework for Residual Spectrum Licences in the 700 MHz, 2500 MHz, 2300 MHz, PCS, and 1670-1675 MHz Bands* (Part I, July 15, 2017).

We appreciate the opportunity to provide our views to the Department.

Sincerely,

A handwritten signature in blue ink, appearing to read "D Heckbert", is placed above the typed name.

Denise Heckbert
Director, Wireless Regulatory, Eastlink

Email: regulatory.matters@corp.eastlink.ca
6080 Young Street Halifax NS B3K 2A4

**INNOVATION, SCIENCE, AND ECONOMIC DEVELOPMENT CANADA
CONSULTATION ON A LICENCING FRAMEWORK FOR
RESIDUAL SPECTRUM LICENCES
IN THE 700 MHz, 2500 MHz, 2300 MHz, PCS, and 1670-1675 MHz BANDS
CANADA GAZETTE, PART I, JULY 15, 2017 (SLPB-003-17)**

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



5 SEPTEMBER 2017

1. Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), appreciates the opportunity to provide reply comments on the issues raised under SLPB-003-17 – *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”). Under the Consultation, Innovation, Science and Economic Development Canada (the “Department”) seeks comments on its proposed terms and conditions, and auction framework, for licensing available spectrum in the above noted bands. Eastlink herein provides our comments.
2. We have reviewed the comments submitted by other parties to the Consultation and herein provide our reply comments; our failure to comment on any particular position or proposal should not be construed as agreement where such agreement would be contrary to our comments filed 15 August 2017 or our business interests.
3. Eastlink’s positions on the 11 questions posed by the Department in the Consultation are set out in our comments, as filed 15 August 2017, and we will not reiterate them herein. Instead, we focus on Bell and Telus’ proposals to modify the Conditions of Licence related to wholesale roaming service, which proposals Eastlink submits the Department should disregard, as detailed herein.

Mandatory Roaming

4. Bell and Telus each raised the issue of Mandatory Roaming in their comments. Bell suggested that, as the CRTC has regulated rates, the Department should remove Mandatory Roaming requirements from the Conditions of Licence altogether.¹ Telus suggested, for the same reason, that the Department open a consultation on the Mandatory Roaming Conditions of Licence.² Eastlink strongly opposes such proposals and submits that Bell and Telus’ proposals should be disregarded.
5. Bell suggests that there may be some conflict between the Department’s Conditions of Licence and the CRTC’s rate regulation. However, this is simply not the case. The Department stated in its revised Mandatory Roaming framework, “The CRTC has the authority to set rates

¹ Bell comments, Par. 29

² Telus comments, Par. 43-44

and conditions for the provision of telecommunications services within the jurisdiction of the *Telecommunications Act*.³ The Department did not state anywhere in that decision that, in the event the CRTC exercised such a right that it would void the Condition of Licence or otherwise diminish the Department's oversight or authority. Clearly, the Department envisioned a regulatory environment where the Department could continue to mandate wholesale roaming be provided as a Condition of Licence, whether or not the CRTC decided to regulate wholesale rates.

6. Furthermore, the CRTC's framework does not require that the Department relinquish any oversight or authority on wholesale roaming. The CRTC's framework is established in keeping with the Department's Mandatory Roaming framework, in that it sets the rates and terms for a service mandated by the Department. The incumbents made arguments during the CRTC's wholesale roaming proceeding along the lines of Bell and Telus' comments under this Consultation, but the Commission did not find there was a conflict between the two regimes. Eastlink submits that Bell and Telus have not provided any evidence in their comments to this Consultation that there is a conflict or any jurisdictional problem.
7. In any case, the CRTC's rate regulation applies only to the National Carriers. Only the Department's Mandatory Roaming framework applies to all spectrum licensees. And, the underlying justification for the framework has not changed; Mandatory Roaming Conditions of Licence continue to be necessary for any operator providing service to customers who will travel outside that operator's network coverage area.
8. In its comments, Telus also made arguments about theoretical network arbitrage in hopes of having in-footprint roaming exempted from the Conditions of Licence. However, Telus has filed such comments in several previous consultations before, and, in all cases, the Department and CRTC maintained that access to wholesale roaming service, throughout the country, at commercially reasonable rates was in the best interest of Canadians. For example, after an extensive consultation in 2013, the Department deliberately modified the Conditions of Licence to ensure that no carrier was permitted to withhold roaming in any area of its network (change shown as strikethrough below) regardless of whether the area overlapped with the network footprint of the wholesale roaming customer,

³ Revised Frameworks for Mandatory Roaming and Tower and Site Sharing, DGSO-001-13, Decision C-3

"Roaming must enable a subscriber (a Roamer) already served by the Requesting Operator's network (Home Network) to originate or terminate communications on the Licensee's network (Host Network) ~~when out of range of the Home Network~~, wherever technically feasible."⁴

9. Earlier this year, the Commission determined – in keeping with the Department's Conditions of Licence – that it is best for Canadian consumers and sustainable competition in the retail wireless markets to have a single, uniform wholesale roaming rate and application across each incumbent's network, regardless of whether it overlaps with the footprint of the wholesale roaming customer. Specifically, the Commission stated,

There is no solid and stable boundary to a wireless network, and coverage gaps are inherent to the nature of mobile wireless services. As the Commission found in the wholesale wireless framework, the incumbents already hold market power in the wholesale roaming market and the barriers to entry are high. Moreover, it takes significant time for smaller wireless carriers to expand their facilities and fill coverage gaps. Therefore, given the overlapping nature of public mobile networks, in-footprint roaming and occasional traffic offloading are important to the quality of roaming services.⁵

10. Clearly, the issue has been thoroughly considered by both the Department and the CRTC, and it has been determined that wholesale roaming should be mandated (and subject to regulated rates) throughout the serving areas of Bell, Telus, and Rogers, regardless of whether their networks overlap with those of their wholesale roaming customers. We note that Rogers maintained its support for the Mandatory Roaming framework in its comments under this Consultation.⁶

Conclusion

11. Eastlink reiterates that we generally support the Department's proposals as set out in this Consultation with a few key exceptions, as detailed in our 15 August 2017 comments.
12. We submit that the Mandatory Roaming Conditions of Licence continue to be necessary to support sustainable competition in the retail market. The Department expressly contemplated an arrangement where the CRTC's rate regulation could overlay the Mandatory Roaming framework, including noting the possibility in the Mandatory Roaming framework itself. Nothing has changed that has altered the importance of wholesale roaming to sustainable

⁴ March 2013 *Revised Frameworks for Mandatory Roaming and Antenna Tower and Site Sharing*

⁵ TD CRTC 2017-56 *Wholesale mobile wireless roaming service tariffs – Final terms and conditions*, Par. 104

⁶ Rogers 15 August 2017 comments, Paragraph 23

competition, the CRTC has adopted policies that are consistent with those of the Department with respect to Mandatory Roaming (often citing the Department's decisions in such policy frameworks), and no evidence has been provided of a conflict between the Department and the CRTC's policies or of any change the wholesale or retail market that would justify a change to the Mandatory Roaming Conditions of Licence. As a result, Eastlink submits the Bell and Telus proposals regarding Mandatory Roaming should be disregarded.

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