



December 7, 2021

Via Email: spectrumauctions-encheresduspectre@ised-isde.gc.ca

Innovation, Science and Economic Development Canada
c/o Senior Director, Regulatory Policy, Spectrum Licensing Policy Branch
235 Queen Street (6th Floor, East Tower)
Ottawa ON K1A 0H5

Re: *Consultation on the New Access Licensing Framework, Changes to Subordinate Licensing and White Space to Support Rural and Remote Deployment*
Notice No. SLPB-004-21

1. The following constitutes the reply comments of Shaw Communications Inc. (“Shaw”), on behalf of itself and of Freedom Mobile Inc. (“Freedom”), to Innovation, Science and Economic Development Canada (the “Department”) in connection with the proceeding initiated by the *Consultation on New Access Licensing Framework, Changes to Subordinate Licensing and White Space to Support Rural and Remote Deployment*, No. SLPB-004-21 (the “Consultation” or the “Consultation Document”).
2. Shaw has reviewed the initial comments of the interveners in this proceeding. As a general observation, Shaw notes that there is support amongst interveners for the Department’s objectives in this proceeding, in particular for the focus on service deployment and availability in rural and remote regions of the country.¹ However, like Shaw,² a number of parties question the need for an access licensing regime at this time or raise doubts about whether it will actually advance those objectives.
3. For instance, SSi Canada expresses its concern that “the means and process as proposed in the Consultation are not consistent with the [Spectrum Policy Framework for Canada], and could cause significant harm to exactly the parties making the best use possible of the public resource of spectrum to maximize economic and social benefits from Canadians in remote and rural regions.”³ Bell states, “The proposed Access Licensing Framework is inappropriate because ISED's policy objectives are currently being met without the need for ISED to impose a new regulatory measure which is designed to revoke portions of an existing licensee's spectrum licence even though they have been compliant with their conditions of licence.”⁴ It notes that ISED has already adopted numerous spectrum policies, several of which have not yet been implemented, designed

¹ For example, Xplornet Initial Comments, at paragraph 5.

² Shaw Initial Comments, at paragraph 2.

³ SSi Canada Initial Comments, at paragraph 20.

⁴ Bell Initial Comments, at paragraph ES4.

to improve access to spectrum resources.⁵ Rogers states that the new regime is likely to be a “net negative” for wireless policy in rural and remote areas of Canada.⁶

4. Other parties highlight additional challenges or risks associated with the access licensing proposal. For example:
 - Eastlink observes that “allowing access to already licensed spectrum raises risks that need to be carefully considered so that the significant investments service providers make in acquiring and deploying spectrum are not compromised.”⁷
 - Xplornet states that it has “certain reservations” concerning the access licensing, such as “stripping a primary licensee of its spectrum is a significant action, and Xplornet submits that ISED must ensure that is only done in a fair and reasonable manner.”⁸ Xplornet advocates instead for an access licensing regime that is imposed only where deployment conditions are not met.
 - Rogers states, “The lack of proposed consultation with primary licensees and their commercial subordinates could result in interference to current deployments and coverage. The lack of consultation could also result in new deployments to expand coverage and capacity that are currently under construction – both wholly-funded by operators and projects that receive public-funding – being not able to be put into service, stranding private investments, and wasting public funds designed to provide rural and remote service. These unintended consequences showcase the real risks the proposed Access Licensing Framework will have versus the current subordination regime, and why the Department must always consult with primary licensees prior to any access licences being granted.”⁹
5. Furthermore, the initial comments offer little concrete evidence of demand for the regime, with the would-be beneficiaries offering minimal or no constructive feedback on mechanics and in many instances focusing their submissions on the importance of the subordination regime and deployment conditions instead.¹⁰ Amongst the parties that are supportive of this regime, there is little consensus on how it would work in practice.
6. Subordination, on the other hand, represents a proven market-based solution for achieving all three of the Department’s objectives for this proceeding that does not invite the challenges associated with access licensing or other sharing proposals. As noted by SSi Micro, imposing access licensing could, in fact, undermine the market forces that drive subordination activity.¹¹ Shaw agrees and we submit that this would be contrary to the Department’s enabling guidelines, which state that market forces should be relied

⁵ *Ibid*, at paragraph ES5.

⁶ Rogers Initial Comments, at paragraph E1.

⁷ Eastlink Initial Comments, at paragraph 4.

⁸ Xplornet, at paragraph 6.

⁹ Rogers Initial Comments, at paragraph E5.

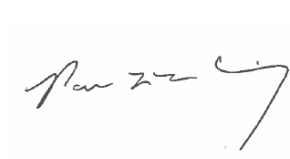
¹⁰ For example, First Broadband Initial Comments; Canadian Canola Growers Association Initial Comments, at page 2; Canadian Federation of Agriculture Initial Comments, at page 3.

¹¹ SSi Micro Initial Comments, at paragraph 3.

upon to the maximum extent feasible and that regulatory measures, where required, should be minimally intrusive, efficient and effective.¹²

7. Accordingly, the Department's subordination framework is, and should remain, the primary mechanism for facilitating secondary market transactions of spectrum at a level below the licensed tier size. The subordination process ensures that primary licensees in the band continue to have a role in managing the spectrum asset, including coordination. Escalating deployment requirements that allow subordinations to be considered in their achievement will help to stimulate subordination activity. Shaw supports the Department's proposals to streamline the subordination approval process to reduce its administrative burden and improve its efficacy.
8. Shaw thanks the Department for its consideration of these reply comments.

Yours truly,

A handwritten signature in black ink, appearing to read "Paul Cowling", with a stylized flourish at the end.

Paul Cowling
Senior Vice President, General Counsel and Regulatory Affairs

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¹² Spectrum Policy Framework for Canada, page 9 (Enabling Guidelines (a) and (f)).