



Notice SPB-002-24

Improving Indigenous Access to Spectrum: Draft
Indigenous Priority Window Spectrum Policy Framework

September 30, 2024

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Mark Saunders
Innovation, Science and Economic Development Canada
Spectrum Policy Branch
6th Floor, East Tower
235 Queen St
Ottawa ON K1A 0H5

RE: Comments on Notice No. SPB-002-24 — Improving Indigenous Access to Spectrum: Draft Indigenous Priority Window Spectrum Policy Framework

Dear Mr. Saunders,

1. TCOR Solutions ("TCOR") is pleased to submit the following comments on Notice No. SPB-002-24 — Improving Indigenous Access to Spectrum: Draft Indigenous Priority Window Spectrum Policy Framework ("the draft Framework").
2. We recognize that the intent of Notice No. SPB-002-24 is to announce Innovation, Science and Economic Development Canada's (ISED) publication of an engagement process to seek input on a new draft spectrum policy framework called the Indigenous Priority Window (IPW), through the release of the document entitled *SPB-002-24, Improving Indigenous Access to Spectrum: Draft Indigenous Priority Window Spectrum Policy Framework*.
3. TCOR is a Canadian company that designs and deploys telecommunications solutions for both rural and underserved communities across Canada.
4. TCOR recognizes the lack of broadband equity across Indigenous communities and fundamentally believes that Indigenous Peoples should be given priority to the spectrum over their lands, and that they should be able to develop Indigenous-led-and-owned connectivity solutions for their communities. To that end, the draft Framework is a positive step that can contribute to the closing of the digital divide in rural and remote Indigenous communities and contribute to Canada's journey of reconciliation with Inuit, Métis and First Nations peoples.
5. From an access perspective, it has been a challenge for TSPs to obtain spectrum licenses over the past 20 years. Spectrum acquisition has posed a major obstacle to the provision of service. There has been widespread "spectrum squatting." Additionally, in our experience, the auction process as it stands today is not designed to be won by the smaller players. Rather, the largest companies, with the deepest pockets, tend to win spectrum auctions, which has kept spectrum licences for rural and remote parts largely out of reach. As a result, we have seen TSP's largely bypass the auction process and instead subordinate spectrum in its service areas.
6. It is our position that the draft Framework has the potential to increase access to spectrum for Indigenous TSPs operating in rural and remote areas of Canada, and as such, it is a

positive development for last mile connectivity and will make a significant and positive difference to these communities.

7. TCOR has provided a detailed response to ISED's specific questions on the draft Framework as follows:

Q1. Policy Objectives:

Do you agree with the stated policy objective in section 3.1? If not, how should it be modified?

- a. How can we measure the success of the IPW spectrum policy framework?
- b. How would you like to see the IPW spectrum policy framework used in the future?
- c. Are there any other spectrum access measures we should consider to further support Indigenous connectivity?

8. TCOR agrees with ISED's stated policy objective in section 3.1, which is to reduce barriers to spectrum access and support Indigenous applicants in accessing spectrum on a priority basis.

9. This objective is consistent with Section 7 of the *Telecommunications Act*, which sets out the objective to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions, to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada, and to respond to the economic and social requirements of users of telecommunications services.

10. This objective is consistent with the principles of the United Nations Declaration on the Rights of Indigenous People (UNDRIP), which emphasizes the urgent need to respect and promote the inherent rights of Indigenous peoples of the world, especially their rights to their lands, territories and resources. Article 26 states that Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. Article 27 calls for states to establish and implement, in conjunction with Indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to Indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources. Finally, Article 29 states that Indigenous peoples have the right to the productive capacity of their lands or territories and resources.

11. This objective is consistent with advances in Indigenous rights in other jurisdictions such as in the United States, Mexico and New Zealand.

12. Success of the draft Framework should be measured in terms of the following metrics:

- (i) Number of spectrum licenses awarded;
- (ii) Quantity of spectrum awarded;
- (iii) Number of licenses put into use;
- (iv) Quantity of spectrum put into use;
- (v) Number of customers serviced;
- (vi) Geographic area serviced.

Q2. Eligibility Criteria:

What eligibility criteria should we consider for IPW applicants?

- a. Does the existing applicant-based option (Option 1), as defined in section 3.2, resonate with you? If so, which parts do you think are the most valuable to use to create the final eligibility criteria?
- b. Does the community support-based option (Option 2), as defined in section 3.2 resonate with you? If so, do you think it should be combined with Option 1 or should it stand on its own?
- c. Does the project-based option (Option 3), as described in section 3.2, resonate with you? If so, which parts do you think are the most valuable to use to create the final eligibility criteria?
- d. Are there other approaches that may be better suited to create the final eligibility criteria?

13. TCOR is supportive of Option 1. Under this option, applicants must either be registered in Canada's Indigenous Business Directory ("IBD") (noting that Elders, band and tribal councils are exempt from registration), or be registered in a beneficiary business list, when acquiring a spectrum licence.

15. TCOR is not supportive of Option 2. Under this option, an applicant may be considered eligible for a licence if they can demonstrate support from the Indigenous communities within the licence area. While this could work for one-off deployments, this could lead to a patchwork approach where there is support in some locations but not in others, essentially discouraging economies of scale which are critical to achieve when serving small populations.

16. TCOR is not supportive of Option 3. Under this option, applicants may be considered eligible if they can demonstrate their initiative fits into a benefits matrix. This option would be difficult to implement and understand as it is highly subjective. There are many Indigenous groups, each with different priorities. Without a clear criterion, TSPs would be discouraged from participating.

Q3. Time-limited Window:

The proposed time-limited window is 12 months (section 3.3). Do you feel this is sufficient time to submit a licence application? If not, how much time would be sufficient?

17. TCOR supports a 12-month window for submitting licence applications.

18. After this window closes, TCOR does not support opening up the program to non-Indigenous applicants. Non-Indigenous applicants should stay in the “regular track” provided by ISED’s spectrum licencing framework.

Q4. Conditions of Licence:

How can the conditions of licence described in section 3.4 be designed for future spectrum access initiatives to support Indigenous-led connectivity solutions?

19. ISED has stated that licences issued through this process will have the same conditions as those outlined in annex A of the *Access Licensing Framework - Decision on New Access Licensing Framework, Changes to Subordinate Licensing and White Space to Support Rural and Remote Deployment*.

20. TCOR believes that a condition should be added to the policy to take into account Indigenous businesses that are already operating in and providing service to a given licence area, otherwise ISED may end up “bumping out” existing Indigenous businesses which is contrary to the intentions of the policy. If an applicant is already using PCS spectrum in a designated area, that applicant should have priority among new applicants in the draft Framework.

22. With regards to the other conditions:

A1. Licence term. The conditions set out a term of licence of 3 years. TCOR believes this is not sufficient and the term of licence under the draft Framework should be increased to 5-years. A TSP must make a significant investment in order to provide service and the business model must cover the expenses of the deployment and ongoing provision of service. A 3-year window does not provide sufficient time to recover such an investment.

A2. Fees. TCOR proposes that the licence fees should be zero. We question the rationale for charging fees in the draft Framework. If to raise general revenue, fees are not appropriate since the spectrum is to be used to encourage the servicing of underserved Indigenous populations in furtherance of reconciliation. If to compensate the rest of Canadians for use of a shared public resource, fees are similarly not appropriate since the policy has been put in place to ensure the priority use of this resource belongs to Indigenous peoples. If the rationale for fees is to ensure that only “serious” applicants apply, this can be achieved with careful vetting and a 5-year licence window. In the alternate, for any funds raised in the application process, Ice Wireless proposes to provide those funds directly to Indigenous communities in Canada.

A3. Licence transferability, divisibility and subordinate licensing. TCOR supports the condition that a licence is not transferable in whole or in part and cannot be divided or subordinated.

A4. Deployment requirements. TCOR supports the condition that licences obtained through the access licensing process will be subject to the deployment requirements established for access spectrum licences for the applicable band.

A5. Radio station installations. TCOR supports the condition that the licensee must comply with *CPC-2-0-03, Radiocommunication and Broadcasting Antenna Systems*.

A6. Provision of technical information. TCOR supports the condition that the licensee must provide, and maintain, up-to-date technical information related to associated radiocommunications installations.

A7. Compliance with legislation, regulations and other obligations. TCOR supports the condition that the licensee is subject to, and must comply with, the Radiocommunication Act and the Radiocommunication Regulations, as amended from time to time.

A8. Technical considerations, and international and domestic coordination. TCOR supports the condition that the licensee must comply on an ongoing basis with the technical aspects of the appropriate Radio Standards Specifications (RSS) and Standard Radio System Plans (SRSP), as amended from time to time.

A9. Lawful interception. TCOR supports the condition that a licensee operating as a telecommunication common carrier using the spectrum for voice telephony systems must, from the inception of service, provide for and maintain lawful interception capabilities as authorized by law.

A10. Research and development TCOR does not support the condition that the licensee must invest, at a minimum, 2% of its adjusted gross revenues resulting from the use of this licence, averaged over the term of the licence, in eligible research and development (R&D) activities related to telecommunications. This is a burden that should be shifted to TSPs that meet a certain revenue threshold.

A11. Mandatory antenna tower and site sharing. TCOR supports the condition that licensees must comply with the mandatory antenna tower and site sharing requirements set out in *CPC-2-0-17, Conditions of Licence for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements*. However, tower owners typically ask for the proponent to pay upfront fees (e.g. engineering, weight load, etc.) and these costs presents a financial barrier for smaller operators. Ice

Wireless and invites the department to include financial support for Indigenous applicants under the draft Framework.

A12. Mandatory roaming. TCOR supports the condition that the licensee must comply with the roaming requirements set out in *CPC-2-0-17, Conditions of Licence for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements*, as amended from time to time.

Q5. Engagement:

Should we consider other platforms to engage with Indigenous partners to advance economic reconciliation?

23. TCOR believes that ISED should create an Indigenous body to regulate, fund and support the growth of Indigenous TSPs. This body would be under ISED and completely separate from the CRTC.

**** END OF SUBMISSION ****