



2002-09-30

Mr. Larry Shaw
Director General
Telecommunications Policy Branch

Mr. Jan Skora
Director General
Radiocommunications and Broadcasting Regulatory Branch

Mr. R.W. McCaughern
Director General
Spectrum Engineering Branch

Dear Sirs:

**CWTA Comments - *Canada Gazette* Notice DGTP-004-02:
Revision to the 1992 Spectrum Policy Framework for Canada**

The Canadian Wireless Telecommunications Association (CWTA) is pleased to respond to the call for comments in the above noted proceeding. CWTA supports the objective of renewing the Spectrum Policy Framework for Canada (Framework) so that it both reflects the Department's policies and practices, and allows for responsiveness in the face of the evolving communications environment in the longer term.

Core Objectives

At this time, CWTA does not believe that there is sufficient rationale to significantly modify the Framework's Core Objectives. Each of the Objectives remains relevant and continues to provide guidance to Industry and the Department. CWTA notes that while the objectives include references to acting with regard to the government's Regulatory Policy and the *Telecommunications Act*, they do not refer to regulations or obligations imposed by other government departments or agencies.

CWTA has observed that, presently, there appears to be little coordination of regulatory obligations between the various departments and agencies of the government that oversee the wireless industry, even when the same policy objectives are being pursued. CWTA urges the Department to establish, as a priority, a mechanism for considering new and existing regulatory obligations within the context of the aggregate of all federal government regulations and requirements.

Policy Principles

Timely Release of Spectrum

CWTA fully supports the Department's intent is to release spectrum for licencing in a timely manner, as well as the intention to not generally withhold spectrum during a licencing process. Further, CWTA urges the Department ensure that all stages of a licencing process be conducted in a timely and efficient manner. CWTA notes that the current auction processes require significant expenditures by the licencees prior to receiving the licence and finally putting the spectrum to use.

Experience to-date of the length of time for the completion of the post-auction qualification process has been unacceptably long despite the expectations of the Department for an "expeditious" process. In light of this, the CWTA encourages the Department to seek remedies to this situation. With the Department's increasing application of economic principles to the management and allocation of spectrum, timely processes are vital. To achieve this aim, the Department should consider streamlining the confirmation process for licence conditions, particularly the Canadian control and ownership requirements, or pre-qualifying bidders and applicants.

Application of Economic Principles

CWTA recognizes that the application of economic principles plays an important role in achieving the Department's mandate to responsibly manage the radio spectrum on behalf of Canadians. As recognized in the Framework, these principles must be weighed against policy, regulatory, technical and operational principles.

CWTA urges the Department to ensure that economic principles are applied equitably to all commercial spectrum users. CWTA notes that, at this time, a small group of spectrum users contribute a disproportionate share of the Department's spectrum revenue. CWTA estimates that Cellular and PCS service providers pay in the range of 50% to 60% of the total spectrum fee revenues collected by the Department. The remaining fees are paid by the remainder of all other licencees. These licensees contribute far less licence fee revenue to the Department than Cellular and PCS licensees, despite the fact that, in the aggregate – and in some cases individually - they have been licensed with far more spectrum.

When the Department has determined no economic rents exist for certain spectrum, licencees remain obliged to reimburse the Department, through licence fees, for spectrum management costs. To ensure a transparent and equitable system, CWTA would encourage the Department to publish on an annual basis, the spectrum management costs it incurs. This would be consistent with the Canadian Radio-television and Telecommunications Commission's annual publication of Broadcast Fees and Telecommunications Fees as well as the United States Federal Communications Commission's annual publication of its Regulatory Fees.

Policy Guideline 4 – Socio-economic Factors

CWTA believes that the Department can further address socio-economic factors by providing incentives for licensees to serve rural and remote areas. For example,

spectrum licence fees could be discounted when the radio spectrum is used to provide services in rural and remote areas.

This approach would generally promote the objectives of Canadian telecommunications policy, and would advance the objective found in section 7 (b) of the *Telecommunications Act* which is “to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural area in all regions of Canada”.

The application of this principle would have the effect of driving down the cost of serving rural and remote areas and in creating a more favorable business case for carriers. This in turn would result in the provision of affordable services in areas that would not otherwise have proved economically viable.

Given that the market in such areas is small, a reduction in the underlying operating cost of providing the service may, in many cases, transform non-viable business alternatives into profitable opportunities. In such cases, spectrum fee discounts could prove to be useful in further extending the benefits of advanced telecommunications services to rural and remote regions of Canada. This result would be consistent with the objectives of both Canada’s *Innovation Strategy* and *Connectedness Agenda*.

Policy Guideline 7 – Systems or Services Displacement

CWTA supports the Department’s objective of minimizing the reallocation of spectrum and the associated disruption to spectrum users. In instances where reallocation is deemed appropriate, however, proceeds from the licencing process could be used to mitigate impacts on the displaced spectrum users. By way of example, spectrum auction proceeds could help fund relocation or be re-invested or otherwise re-directed to advance other related radiocommunication policies, rather than going directly to the Government’s general revenue.

Policy Guideline 11 – Radiocommunication Standards

CWTA strongly supports the objective of global harmonization of spectrum allocations and frequency plans, where such harmonization is possible and practical. A number of CWTA members are active participants in various industry standards bodies that aim to achieve harmonization and standardized approaches in the development of new radiocommunication technologies and services.

CWTA believes that a clear distinction should be drawn within the Framework between spectrum allocation and standards, and the technologies developed to operate within these allocations and standards.

For example, global harmonization of spectrum for third generation (“3G”) mobile wireless services is an effort in which the Department can play, and indeed has already played, an important role. CWTA believes that the Department and other administrations around the world must not insist on the specific technologies and technical standards that carriers will use to provide 3G services within allocated spectrum.

CWTA strongly believes that market forces, not government regulation, are the most effective means to determine the specific technologies employed by radiocommunication carriers in the provision of services.

Other Considerations

Many licencees require and make use of services regulated by the Department that support and provide the foundation of their networks. These supporting systems include such things as radio-relay backhaul networks and antenna support structures. CWTA believes the Department should continue to develop policies and practices that allow licencees to efficiently and effectively deploy these supporting systems.

CWTA submits that a significant demand for spectrum designated for the fixed service – for radio-relay - will continue to exist throughout Canada, despite the growing use of fibre by some Canadian carriers. In many instances, the use of radio-relay links is key to making the successful provisioning of these mobile wireless services in suburban and rural areas. As a result, CWTA strongly urges the Department to ensure that adequate spectrum continues to be available for fixed radio relay systems particularly as 3G mobile spectrum is licenced and systems are deployed.

Antenna support structures represent another key system in the orderly development and efficient operation of radiocommunication systems and networks in Canada. CWTA recognizes that the Department should receive advice from expert agencies on various issues, but the Association believes the Department must continue to pursue policies and practices that permit licencees to efficiently construct and utilize antenna support structures. CWTA believes that such measures are fundamental to the realization of Canada's core radiocommunication policies.

Flexibility

CWTA supports the intention to allow greater flexibility, when appropriate, in the use of spectrum to allow market forces to more efficiently seek the best commercial applications. Such flexibility can provide greater opportunities for innovation and ultimately improves the quantity and quality of services available to Canadians. Where flexibility is permitted, CWTA would encourage the Department to ensure that all rules and regulations are applied equitably.

Conclusion

In summary, CWTA supports the Department's objectives for this review of the Framework and encourages the Department to take the following actions:

- Establish a mechanism for considering new and existing regulatory obligations within the context of the aggregate of all federal government regulations and requirements
- Seek remedies - such as streamlining the confirmation process or pre-qualifying bidders and applicants – to the unacceptably long post-auction qualification process
- Ensure that economic principles are applied equitably to all commercial spectrum users

- Consider publishing the spectrum management costs it incurs that must be recovered from licencees
- Provide incentives, such as discounted licence fees, for licensees to serve rural and remote areas
- Consider ways to re-invest or re-direct spectrum auction proceeds to help fund relocation of existing users or advance other related radiocommunication policies
- Maintain the policy that allows licencees to choose the technology provide service
- Ensure that policies governing supporting systems, such as radio-relay backhaul and antenna support structures are designed to effectively promote the development of radio systems in Canada
- When appropriate, allow flexible use of spectrum to drive competition and innovation in the provision of services.

CWTA appreciates the opportunity to provide these comments, and looks forward to participating in the continued development of the Framework.

Sincerely,

Electronic filing

J. David Farnes
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Industry and Regulatory Affairs