



November 1, 2002

The Honourable Martin Cauchon, P.C., M.P.
Minister of Justice
and Attorney General of Canada
Department of Justice Canada
284 Wellington Street
Ottawa, Ontario
K1A 0H8

Dear Minister Cauchon:

Re: Lawful Access Consultation

On behalf of the Canadian Wireless Telecommunications Association (CWTA), I am writing to you today in regards to the Lawful Access consultation document issued by the Department of Justice Canada, Industry Canada, and the Solicitor General Canada on August 25, 2002. I believe that the results of the consultation will be improved through the provision of additional details.

On October 15, 2002, CWTA members had the opportunity to participate in a bilateral meeting with officials from the three above mentioned departments. While these officials have been helpful in clarifying a number of points in the consultation document, a number of critical questions remain unanswered.

We suggest that draft legislation as well as any accompanying regulations should be provided for public consultation. While we would expect an opportunity to comment on the draft legislation during the usual Parliamentary process, it is equally important, in our view, to have a full and complete opportunity to comment on any proposed draft regulations and any accompanying standards associated with the proposed legislation.

In order to provide meaningful comment on the policy proposal, service providers must understand the requirements that they will be expected to meet under the new

proposal. We understand that these requirements will be detailed in the new regulations. Neither the requirements, nor the regulations, have been provided to stakeholders, including the members of the CWTA, for their consideration and comment.

Further, some of the key elements of the proposal have not been defined. For example, the proposal states that all service providers must have a “basic intercept capability”. Similarly, the proposal states that service providers will be expected to assume the cost of providing lawful access capabilities whenever they undertake a “significant upgrade”. In both cases, definitions have not been provided for these terms.

CWTA recognizes that lawful access is an essential tool for national security and law enforcement. We would like to provide constructive comments regarding the proposal but our ability to do so will be limited unless further details, such as suggested above, are provided.

We look forward to reviewing the additional information and to provide constructive comments in this important consultation process.

If you or your officials require further assistance, please do not hesitate to contact David Farnes, Vice-President Industry & Regulatory Affairs, at (613) 233-4888 ext.106 or myself.

Yours sincerely,

[Original signed by Mr. Peter Barnes]

Cc: The Honourable Wayne Easter, P.C., M.P., *Solicitor General*
The Honourable Allan Rock, P.C., M.P., *Industry Minister, Industry Canada*
V. Peter Harder, *Deputy Minister, Industry Canada*
Nicole Jauvin, *Deputy Solicitor General*
Morris Rosenberg, *Deputy Minister, Justice Canada*