March 31, 2014

Director
Spectrum Management Operations
Industry Canada
235 Queen Street
Ottawa, Ontario K1A 0H5

Dear Sir/Madam:

Re:  Canada Gazette, Part I, February 27 2014, Notice No. DGSO-001-14 – Consultation on Amendments to Industry Canada’s Antenna Tower Siting Procedures – Eastlink’s comments

Please find attached the comments of Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), in response to Canada Gazette Notice DGSO-001-14, Consultation on Considerations on Amendments to Industry Canada’s Antenna Tower Siting Procedures (Part I, 27 February 2014).

We appreciate the opportunity to comment on the matters discussed in the Consultation.

Sincerely,

Denise Heckbert
Manager, Wireless Regulatory, Eastlink

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INDUSTRY CANADA
CONSULTATION ON AMENDMENTS TO INDUSTRY CANADA’S
ANTENNA TOWER SITING PROCEDURES
(DGSO-001-14)

COMMENTS OF
BRAGG COMMUNICATIONS INC., OPERATING AS EASTLINK

31 MARCH 2014
1. Bragg Communications Inc., carrying on business as Eastlink (“Eastlink”), appreciates the opportunity to provide comments on the issues raised under DGSO-001-14 – Consultation on Industry Canada’s Antenna Tower Siting Procedures (the “Consultation”).

2. Under the Consultation, Industry Canada (the “Department”) seeks comments on its proposed amendments to CPC-2-0-23 Radiocommunication and Broadcasting Antenna System (“CPC-2-0-23”). Eastlink submits that our failure to address any part of the consultation document does not constitute agreement with a proposal where such agreement would be contrary to our business interests. Eastlink herein provides our comments.

Tower siting today

3. The Department has asked five questions in the Consultation and Eastlink shall respond to each below. However, Eastlink would first like to comment on certain tower siting issues that will not be resolved by the amendments proposed in the Consultation and which the Department may wish to investigate further. Eastlink submits these additional issues cause confusion among some municipalities and members of the public, and unnecessarily stymie network development. Eastlink notes that efficient network development is critical to bringing advanced wireless services to rural areas to close the technology gap and ensure that our rural areas have the services they need for economic growth and meaningful competition. We submit that certain of these unresolved issues could be addressed through improved communication by the government and public access to additional information, and we request that the Department consider these issues alongside this Consultation.

4. For example, Eastlink submits that there is confusion in some municipalities as to the role the local government can and should play in tower siting consultations. Eastlink works closely with many municipalities and we have good working relationships with most of these governments. In our experience, certain municipalities’ understanding of their role in tower siting can range from an expectation of complete control to those that they feel they have responsibilities imposed without any actual authority. In such municipalities, tower siting
processes can be unpredictable and loosely defined, which causes frustration for the municipality, the public and those wishing to build towers. Eastlink submits this could be significantly improved if the Department were able to proactively clarify to Canadian municipalities specifically what their role is in the process and what authority they have over final decisions. Eastlink submits this would allow the affected municipalities to establish clear tower siting rules and to communicate those to the public.

5. In addition, the most common public concern regarding new towers could largely be addressed via improved government communication; the health impact of cell towers. Health Canada has stated that cell towers do not pose a health risk and that it is continuously reviewing Safety Code 6 requirements to ensure they reflect the most up to date science. However, Health Canada and the Department are not present during consultations and have made only very limited resources available to the general public. In many cases, the public would be far more receptive to health information if it were provided by those that establish the standards. Eastlink submits that it would be helpful for the Department and Health Canada to provide rich and accessible resources on antenna installations and health, and to make such materials available to all Canadians on publicly accessible websites.

6. Eastlink submits that addressing these two issues would allow tower siting conversations to focus on the issues that are the basis of public consultation, including aesthetic impacts, proximity to locally sensitive areas, and reasonable alternative location suggestions.

7. Eastlink further submits that the above changes, in keeping consultations focused and productive, would also help provide some much needed clarity around expected timing of consultations, which can often take as long as 18 months, making it difficult to plan network deployments.

8. Eastlink herein answers the Department's specific questions issued under this Consultation but we request that the Department consider the above noted suggestions as well to address the core issues in tower siting.
Consultation questions

Update to Section 1.2 of CPC 2-0-23

9. Eastlink generally agrees with this amendment.

Update Section 4.2 of CPC 2-0-23

10. Eastlink generally accepts the proposed amendments but only with two critical clarifications:

- In certain municipalities, the wireless service provider (or “proponent”) is not responsible – or not allowed – to do the public information mailing ourselves. This is true of several municipalities in Eastlink’s serving area. As a result, we have no control as to what is included on or in the envelope, how it is delivered, or who it may be delivered to within a community. Eastlink requests that the amendment (#1) be modified so that it applies only in the case where the proponent is responsible for the public information notification under the municipality’s protocol.

- Eastlink requests that the Department clarify that “lowest ground level at the base, including foundation” in #4 means “ground level where ground level meets the foundation” and not “the bottom of the foundation.” This is a necessary clarification for two reasons; first, we do not know how deep we will need to dig until we perform soil tests. As such tests often require tree clearing, we do not perform these until after completion of public consultation. Therefore, we could not know the depth of the bottom of the foundation until the start of construction, and; second, the depth below the surface to which the foundation extends does not impact the community and, therefore, is not a helpful detail to provide during a consultation as it may unnecessarily exaggerate the tower height and confuse the public.

New Section 4.4 to be added to CPC 2-0-23

11. Eastlink generally supports this section insofar as “conclusion of consultation” is defined as “the date upon which the Land Use Authority or Industry Canada has provided concurrence for the proposed site, and the Proponent has received all relevant municipal documents and
approvals, including permits, such that the Proponent would be able to begin construction." Eastlink requests this clarification as there are certain cases where an initial consultation may be complete but ongoing discussions regarding alternative sites, government approvals, or difficulties in obtaining the necessary development permits can delay construction by many months, sometimes more than a year.

*Update to Section 6 of CPC 2-0-23*

12. Eastlink submits that an absolute requirement for full consultations on all 15m or smaller poles would not be in the interest of the public, the municipalities, or proponents because it could inadvertently discourage development of smaller antenna installations.

13. When building in urban or suburban areas, wireless service providers would generally prefer to install one 45m tower instead of three or four 15m poles for a few key reasons, including:

- As the 45m tower is taller, it can reach beyond obstacles such as trees and buildings and can, therefore, serve a larger area. As a result, there is more flexibility within that larger serving area as to where we can locate the tower. This larger area of potential locations means that we are more likely to find a site that satisfies community concerns while still providing the wireless coverage the community needs. The same is not true for 15m poles which cannot reach beyond treetops and buildings. This means that each 15m pole serves only a small area and must be located somewhere within that small area. This limits the flexibility we have to consider alternative sites.

- In addition, should the community request we consider an alternative site for a proposed 45m tower, there is just one consultation to extend and rework. As the area within which we could potentially locate the 45m tower is larger, it is possible to move the tower limited distances to alternative sites without having to also shift all the surrounding towers. The same is not true for small poles. Where we are planning to build three or four 15m poles to cover an area, the area each pole covers is small, so that when the community requests us to move one of the poles, we may need to move all of the other 15m poles as well to ensure the coverage provided is unbroken. This means we may need to restart three or four new consultations to move all the 15m poles, including some that may have been approved by the community.
14. For these reasons, the ability to build 15m poles without completing full in-depth consultations mitigates the time and risk involved in building these smaller antenna sites. Removing this exemption would have the opposite effect, inadvertently discouraging deployment of such sites. This exemption from full consultations benefits local communities as well, as it makes it possible for wireless service providers to improve coverage and capacity in an area efficiently and in a way that minimizes impact on the community. Communication still plays an important role in these smaller poles but a full consultation as considered in CPC 2-0-23 is not required. The key is to ensure that the municipality is aware of the planned 15m pole so it can alert the wireless service provider of key local concerns. The current CPC 2-0-23 already provides the guidance that exemptions are not absolute and that consultation may be required in certain circumstances.

15. Eastlink submits that the tower siting protocol that the Federation of Canadian Municipalities and the Canadian Wireless Telecommunications Association launched together in 2013 took these core communication components further while protecting the incentive for smaller structures. Eastlink was very involved in the process that led to the creation of the FCM protocol and we note that the wording adopted ensures that municipalities would always be notified of 15m poles to be installed in their area, and would always be provided precise location information, a description and drawing of the proposed tower, and an explanation of how the site meets the exclusion criteria in Section 6 of CPC 2-0-23. The municipality would then have an opportunity to raise concerns based on sensitivities identified in its protocol and could work with the proponent toward a mutually agreeable solution, which could include a full consultation. Such an approach ensures that each site is fully considered without subjecting all 15m or smaller sites to full consultation processes. As a result, Eastlink submits that the Department should adopt the FCM and CWTA’s draft protocol (Section 4.2.2) on antenna systems smaller than 15m:

**4.2.2 Freestanding Antenna Systems and additions to Freestanding Antenna Systems:**

The Proponent will confirm to the Municipality that the Freestanding Antenna System to be erected, or an addition to an existing Freestanding Antenna System as defined in Section 4.1(3), meets the exclusion criteria in Section 4.1 by providing the following:

1. The proposed location, including its address and location on the lot or structure;
2. A short summary of the proposed Antenna System including a preliminary set of drawings or visual rendering of the proposed system; and
3. A description of how the proposal meets one of the Section 4.1 exclusion criteria.
The Municipality will review the documentation and will contact the Proponent where there is a site-specific basis for modifying the exemption criteria based on the preferences and sensitivities expressed in Section 6 of this Protocol. In such cases, the Municipality and the Proponent will work toward a mutually agreeable solution, which may include the Municipality requesting the proposal be subject to all or part of the pre-consultation, proposal submission and public consultation process defined in Sections 5, 7 and 8 of this protocol, as applicable, concluding with a letter of concurrence or non-concurrence.

16. In any case, Eastlink submits that any provisions regarding the process for siting 15m poles should apply to all entities covered by CPC 2-0-23.

17. In addition, Eastlink reiterates our concerns, in Paragraph 10 above, regarding the description of “height of a tower” and requests that any modifications made to Section 4.2 should be made to Section 6 as well for consistency’s sake.

Update to Section 7.4 of CPC 2-0-23

18. Eastlink is not aware of any case where an antenna installation for a wireless service provider would qualify as a “designated project” under CEAA or the Regulations Designating Physical Activities. As a result, we do not have any comment on this proposed update, though we request an opportunity to comment if the Department were to determine these rules would apply to sites on non-federal lands and if it clarified such determination.

Conclusion

19. Eastlink submits that in many areas the tower siting process, based on CPC 2-0-23 and modified by municipalities to fit their specific needs, works fairly well. Community members and municipal representatives have an opportunity to comment on proposed installations and wireless service providers can work with them as partners to find reasonable alternatives where necessary. In many cases, Eastlink’s preliminary work and consideration of a local area has enabled us to propose sites that were approved by the community such that we could build on our initially proposed site. In dozens of other cases, we have found alternative sites that addressed community concerns and resulted in municipality approval. These are desirable outcomes and this is what we work toward in all communities.

20. In some areas, the process is more difficult for proponents and the local communities but Eastlink submits these issues could be addressed, at least in part, with some improved communication by the government, including making additional resources available to
community members and municipalities as noted in our opening paragraphs herein. Eastlink submits that the key to cooperative and productive consultations is a clear process, effective communication from all parties (including the Department and Health Canada), and a clear understanding of relevant roles and responsibilities for all parties. We request that the Department consider all our suggestions herein.

**END OF DOCUMENT**