Consultation on a Licensing Framework for Mobile Broadband Services (MBS) – 700 MHz Band

Canada Gazette Notice No. DGSO-002-12

Submission of Quebecor Media Inc., on behalf of itself and Videotron G.P.

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EXECUTIVE SUMMARY

Quebecor Media appreciates the Department’s efforts to modernize Canada’s spectrum auction format and rules and to remove weaknesses associated with the previously employed Simultaneous Multiple Round Ascending (SMRA) format.

The proposed new Combinatorial Clock Auction (CCA) format offers potential for significant improvement over the SMRA format, most notably by eliminating the exposure risk, which is the possibility that a bidder could win some but not all of the licences needed for its business case.

This significant improvement, however, must not come at the cost of erecting barriers against the full and effective participation of regional carriers in upcoming spectrum auctions.

Canada’s spectrum policy framework has always recognized the substantial benefits that flow from a vibrant regional carrier presence and has always worked to encourage this presence. Indeed, since 2008, it has been the new entrant carriers, all of whom have a regional presence, that have transformed the traditionally oligopolistic Canadian wireless sector, improving responsiveness to consumers and generating substantial consumer savings in the process.

Now is not the time to undermine these achievements. Whatever spectrum auction format the Department adopts must not impede the ability of these regional new entrant carriers to secure the additional spectrum resources they need to extend and deepen their networks.

Unfortunately, the new CCA format, as currently proposed, contains one important flaw that stands as a barrier to full and effective participation by regional carriers. Specifically, in those cases where licences remain unallocated at the end of the clock stage, the minimum incremental bid (the “minimum safety increment”) that a regional carrier must place in the supplementary round to guarantee its final clock package can be prohibitive. Because the minimum safety increment is constant across all bidders, it will tend to be far less constraining for large national bidders. The result is a structural deficiency in the proposed CCA format whereby large national bidders can easily confer upon themselves the certainty of winning their final clock package while small regional bidders must risk placing potentially prohibitive end-of-auction jump bids to do the same. Such a result, where the benefits of price and allocation discovery in the clock stage accrue solely to large bidders, is neither efficient nor fair.

Quebecor Media calls upon the Department to devise a solution to provide certainty to regional bidders that they will not lose their final clock packages during the supplementary round. Among the possible measures that should be investigated are: (i) restricting each supplementary round bidder to bidding only on the packages on which it bid in the clock stage; (ii) restricting each supplementary round bidder to bidding only on its final clock package, augmented by unallocated licences at the bidder's discretion; or (iii) prohibiting bidders who have no final clock package from participating in the supplementary round. If none of these measures are deemed to be effective, then serious consideration must be given to ending the auction after the clock
stage, perhaps followed quickly by a residual auction dedicated to the sale of the unallocated licences.

Quebecor Media also calls upon the Department to give greater attention to ensuring that its associated entity rules accommodate in a non-discriminatory manner the potential associations that could be formed between national carriers, between regional carriers, and between regional and national carriers. Specifically, to the extent the Department allows associated entities in the same geographic area to participate as separate bidders in the 700 MHz auction, it should also allow associated entities in different geographic areas to do the same. There is no inherent reason to believe that the consumer benefits from intra-regional cooperation should be greater than the consumer benefits from inter-regional cooperation.

Finally, we note that the Department’s proposed anti-collusion rule, if left as currently drafted, stands to work at cross purposes to the Department’s efforts to accommodate beneficial associations among industry players. To correct this problem, we recommend the removal of the words “including its disclosed associated entities” from the second paragraph of the proposed rule. For clarity, we emphasize that this amendment should apply regardless of whether the associated entities are bidding together or separately during the auction.
I. INTRODUCTION AND OVERVIEW

1. Quebecor Media Inc. (Quebecor Media), on behalf of itself and its wholly-owned subsidiary Videotron G.P. (Videotron), is pleased to provide the following submission in response to Consultation on a Licensing Framework for Mobile Broadband services (MBS) – 700 MHz Band, Canada Gazette Notice No. DGSO-002-12 (the Consultation Document).

2. Videotron was the largest new entrant participant in the Government’s 2008 auction of Advanced Wireless Service (AWS) spectrum licences, investing a total of $555 million to acquire seventeen licences covering the entirety of the province of Quebec and parts of Eastern and Southern Ontario.

3. Since acquiring its AWS licences, Videotron has invested in excess of $750 million in additional resources to deploy and provide service over an advanced fourth generation (4G) wireless network that now covers over seven million people.

4. Videotron’s array of sophisticated wireless devices, highly competitive monthly rates and innovative efforts to leverage its affiliated content properties have revived the once moribund Quebec wireless market. Consumers have reacted with enthusiasm, with over 312,000 having signed up for the company’s wireless services by the end of the first quarter of 2012.

5. This success would not have been possible without the courageous and forward-looking policy decisions of the current Government. These decisions included the set-aside of a substantial portion of spectrum for new entrants in the 2008 AWS auction, and the establishment of pragmatic and durable policies for mandated site sharing and inter-carrier roaming.

6. In short, Canada chose to bet on competition rather than incumbency, and this bet is now paying off.

7. The Government’s March 14, 2012 announcement of a policy and technical framework for the auction of spectrum in the 700 MHz and 2.5 GHz bands represents a continuation of these efforts. By establishing a framework to ensure that a minimum of four operators gain access to the most valuable spectrum in each band, particularly in the high-propagation 700 MHz band, the Government has taken another important step toward securing the new entrants’ ability to compete with incumbents on a sustainable basis.

8. The purpose of the current consultation is to further refine and operationalize the policy and technical framework announced on March 14, particularly with regard to the auction format and rules for the 700 MHz band.

9. Getting this step right is crucial. An auction format that is biased against certain bidders or otherwise results in inefficient or unfair outcomes will only serve to perpetuate the advantages of those players who already hold most of the cards – the incumbents. This in turn will only serve to disadvantage Canadian consumers.
10. Quebecor Media has already invested substantial internal and external resources modeling the Department’s proposed new Combinatorial Clock Auction (CCA) format and performing detailed simulations of possible auction scenarios. We believe we have come to understand very well the characteristics of the proposed format, both positive and negative.

11. Section II of this submission reviews the features of the proposed CCA format and focuses on what we consider to be its principal flaw, namely its structural bias against regional carriers in those scenarios where there exist unallocated licences at the end of the clock stage. In this section, we will review the importance of regional carriers to the Canadian market, describe in detail the flaw in the proposed CCA format, and propose specific avenues for correction.

12. Section III of this submission addresses a second matter of particular importance to regional carriers, namely ensuring that the Department’s proposed associated entity rules accommodate the potential alliances that could be formed by regional carriers.

13. Finally, the annex to this submission addresses all of the remaining matters for consultation identified in the Consultation Document. For ease of reference, each of the Department’s questions has been reproduced in the annex, followed by Quebecor Media’s response.
II. ENSURING THE AUCTION FORMAT ACCOMMODATES REGIONAL CARRIERS

a) The Advantages of the CCA Format

14. In its Consultation Document and associated materials, the Department puts forward several advantages of the proposed CCA format relative to the SMRA format previously employed for spectrum auctions in Canada. These advantages include:

- package bidding, which eliminates exposure risk, that is, the possibility that a bidder could win some but not all of the licences needed for its business case and may be left stranded with licences that cannot be used as effectively;
- improved revealed preference/eligibility point hybrid activity rules, which encourage truthful bidding and simplify the bidding process;
- generic licences, which enhance substitution among similar licences and accelerate the auction process; and
- limited information disclosure, most notably through anonymous bidding, which lessens the potential for gaming.

15. It should be noted that not all of the above-mentioned advantages are necessarily inherent to the CCA format. A number of the attractive attributes can be implemented in an SMRA format, most notably anonymous bidding, a feature that has been implemented in other jurisdictions with SMRA.

16. This being said, Quebecor Media appreciates the Department’s efforts to modernize Canada’s spectrum auction format and rules, most notably through package bidding and the elimination of the exposure risk. As the Department notes at paragraph 23 of the Consultation Document, using package bidding to eliminate exposure risk “is particularly important given the regional nature of the licences to be auctioned and the potential for complementarities across these regional licences.”

17. Given, as stated by the Department, that the intent of the process is to reflect the regional nature of the licences being auctioned – which is consistent with the structure of the Canadian mobile industry – the Department must also take caution to ensure that its efforts at modernization do not have unintended consequences.

18. An auction framework will serve the public interest only if it treats all bidders fairly. An auction framework cannot properly serve the public interest if it contains biases or erects barriers against the full and effective participation of some categories of bidders.

19. Our concerns with the proposed CCA format focus on whether it accommodates the needs of regional carriers. We are particularly concerned that the proposed bidding rules for the supplementary round create a situation
where small regional carriers are at a structural disadvantage to large national carriers in their efforts to secure their final clock packages.

20. Before discussing these concerns in detail, we will first review the importance of regional carriers to the Canadian wireless marketplace.

b) The Importance of Regional Carriers

21. Regional carriers have played a central role in the Canadian wireless marketplace since its inception.

22. In 1984, one of the first two analog cellular bands to be allocated in Canada was licensed on a regional basis, by beauty contest, to the former local telephone monopolies. Later, in 1995, these same former local telephone monopolies received coincident regional digital PCS licences, again by beauty contest. Two of these operators, SaskTel and MTS, remain central players in their respective provincial markets to this day.

23. Beginning in 1999, when Canada shifted to spectrum auctions as a means of allocating spectrum resources, a conscious decision was made to establish cartographic and related infrastructure for regional licence allocation. Specifically, a system of geographic licensing tiers was established, ranging from “Tier 1” (a single national service area) to “Tier 4” (comprising 172 localized service areas).

24. In all four of the auction processes that have been held to date or are scheduled to be held in Canada for mobile wireless frequency bands, licences have been issued on a Tier 2 or Tier 3 basis. In no case has the decision been made to issue licences on a Tier 1 (Canada-wide) basis.

25. Regional spectrum licensing, as just described, has provided the flexibility for various industry players to pursue their own tailored business objectives. National players may pursue the acquisition of uniform spectrum blocks across the country, or may limit themselves to topping up their holdings in specific priority territories. Regional players, including new entrant providers, may focus on territories where they already have a market presence or other competitive strengths, or may choose to expand their presence into new territories.

26. Such a flexible approach to geographic licensing is entirely consistent with the reference at section 1.1 of the Radiocommunication Act to the Canadian Telecommunications Policy, of which the second objective is “to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada”.

27. More importantly, the Department’s flexible approach, by accommodating both national and regional players, has produced immensely favourable results for Canadian consumers.

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1 Telecommunications Act, section 7.
28. As the Honourable Christian Paradis, Minister of Industry, pointed out in March 2012 in announcing the policy and technical framework for the auction of the 700 MHz and 2.5 GHz bands, average Canadian mobile wireless prices have fallen by more than 10% since the 2008 AWS auction. These gains can be directly attributed to the deployment and launch of a series of new regional networks by players such as Videotron, Wind, Mobilicity and Public Mobile, all of whom secured their initial spectrum resources in the 2008 auction.

29. In fact, a recent study by Convergence Consulting reports that the new entrants undercut incumbent pricing by 40% in 2011.

30. Further evidence also suggests that downward pressure on pricing is most intense precisely in those regional markets where new entrants have been most active:

*The barrage of discounted offers in Toronto and Montreal is driving down ARPU for carriers with higher exposure in those cities. Ontario customers pay an average of $59 per month – down from $63 year-over-year, according to the CRTC. In Quebec, that figure is a shade under $50 now. Meanwhile, in B.C. ARPU is above $60, and is almost $63 in Saskatchewan. In resource-rich Alberta, the figure is closing in on $70.*

31. In addition, the positive consumer impact of the new regional carrier launches has not been limited solely to pricing. A recent report by Seaboard Group provides persuasive quantitative evidence that wireless service penetration has accelerated due to the presence of the post-2008 new entrants.

32. In other words, more Canadians are finding they have more options for attractive and affordable wireless services, and they are subscribing to these services in greater numbers than ever before.

33. The new entrant carriers, all of whom have a regional presence, have transformed the traditionally oligopolistic Canadian wireless sector, improving responsiveness to consumers and generating substantial consumer savings in the process.

34. Now is not the time to undermine these achievements. Whatever spectrum auction format the Department adopts must not impede the ability of these regional new entrant carriers to secure the additional spectrum resources they need to extend and deepen their networks.

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3 As covered in *New entrants to have 6.5% market share by year-end: Report*, The Wire Report, April 3, 2012.
4 From *BCE rolling west to start work on expansion plan*, The National Post, March 9, 2012.
5 *Long Term Evolutionary Challenge: Limiting Wireless Carrier Gluttony*, Seaboard Group, February 2012, pages 30 to 34.
c) The Flaw in the Proposed CCA Format

35. As stated earlier, Quebecor Media has invested substantial internal and external resources modeling the Department’s proposed CCA format and performing detailed simulations of possible auction scenarios. We believe we have come to understand very well the characteristics of the proposed format, both positive and negative.

36. In our assessment, the new CCA format, as currently proposed, contains one important flaw that stands as a barrier to full and effective participation by regional carriers. This flaw relates to the design of the supplementary round. To understand it, we must first back up and review the purpose served by the supplementary round as well as the preceding clock rounds.

37. The clock rounds (which, when taken together, are referred to as the clock stage) serve the stated purpose of price and allocation discovery. Bidders bid on packages of licences that they assemble, at licence prices that are set by the auctioneer and that increase as successive rounds of bidding demonstrate excess demand. The clock stage stops when a round occurs in which there is no excess demand for any licence.

38. At this point in the process, a given bidder should expect to have a high assurance that it will finish the auction with its final clock package. Having bid sincerely for potentially dozens of rounds, having adjusted its optimal package round-by-round as individual licence prices have evolved, and having seen demand gradually fall away as bidding progressed, a given bidder should not then face the prospect of a radical shift in the auction result. If such a radical shift does occur, then it is evident that the price and allocation discovery stage will have been a failure.

39. Unfortunately, the supplementary round, as currently designed, provides the potential for just such a radical shift. At cause is the possibility that a substantial number of unallocated licences remain at the end of the clock stage, coupled with the flexibility afforded to bidders to assemble new packages in the supplementary round.

40. Where there are no unallocated licences at the end of the clock stage there is no problem. As stated at paragraph 43 of Annex B of the Consultation Document, “if all of the licences are allocated at the end of the clock stage, then the supplementary round will not affect the final clock allocation”.

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6 See the Consultation Document, paragraph 30. See also The Combinatorial Clock Auction from a bidder’s perspective, presentation by Peter Cramton, May 30, 2012, page 37, final bullet.
7 Technically, bidders bid on packages of “products”, which may include generic licences. For ease of comprehension, we will simply refer to packages of licences.
8 The “final clock package” is the package with which a bidder finishes at the final clock round. At that point in the auction no packages overlap, i.e. licences appear only once across all bidder-defined packages and there is no excess demand for individual licences, although some licences may not be included in a package and hence are referred to as being “unallocated”.
9 At paragraph 39 of Annex B of the Consultation Document, the Department recognizes that the effectiveness of price discovery can be assessed by how well the final clock allocation predicts the auction outcome.
41. However, as stated at paragraph 16 of Annex B of the Consultation Document, “there may be some unallocated licences in the final clock round due to a licence never having received a bid, and/or bidders reducing or substituting their demands in any clock round, including the final clock round.” This has been confirmed by Quebecor Media’s simulations.

42. Problems arise when the value of these unallocated licences, as measured by their final clock prices less their opening bid prices, amounts to a substantial percentage of final clock bids. When this occurs, a possibility opens up for one or more bidders to assemble new packages of licences in the supplementary round, to include in these packages a number of unallocated licences, and to thereby cause a cascading realignment of the auction outcome. An honest bidder that was quite satisfied with its final clock package may end up winning nothing at all. This entire sequence of events can occur without ever offending the revealed preference/eligibility point hybrid activity rules.

43. In the Consultation Document, the Department has attempted to allay concerns about such a dramatic failure of price and allocation discovery by pointing out that:

Bidders also have the opportunity to guarantee that they win their final clock package by submitting a supplementary bid that increases the dollar amount of their final clock package by at least the value of the unallocated licences as evaluated at the final clock prices less the opening bid prices of the unallocated licences. ¹⁰

44. With due respect to the Department, this attempt to reassure bidders is entirely unsatisfactory. The problem lies in the fact that the minimum incremental bid (the “minimum safety increment”) that a given bidder must place in the supplementary round to guarantee its final clock package is constant across bidders, i.e. completely independent of the magnitude of an individual bidder’s final clock bid.

45. Imagine a scenario where the minimum safety increment is $100 million. A large national carrier with a $900 million final clock bid may not have much hesitation adding a $100 million top-up as a safety increment, particularly if it anticipates a final price reduction due to the Vickrey-based price determination algorithms. In stark contrast, a small regional carrier with a $100 million final clock bid may have great reluctance doubling its bid in order to cover the minimum safety increment, particularly since there is no guarantee of a Vickrey-based price reduction on this amount.

46. In this scenario, the clock stage will have worked as a predictor of final auction outcome for the large national carrier, but will have failed for the small regional carrier. Price and allocation discovery will have worked for one category of carrier but not the other. This is both inefficient and unfair.

¹⁰ Consultation Document, Annex B, paragraph 42, as amended by the Department on June 18, 2012.
At the May 30, 2012 information session on the proposed auction format and rules, Peter Cramton, the Department’s auction consultant, suggested that bidders need not be overly disturbed by the prospect of losing their final clock packages to supplementary bidders capable of posting larger incremental bids, as this would simply reflect the fact that licences are going to those who value them the most.

Once again, with due respect to Dr. Cramton, this response is entirely unsatisfactory. As Dr. Cramton himself acknowledged earlier in the same information session, spectrum auction valuation and budgeting is not a hermetic one-time analytical event. If that were the case, the Department could simply dispose of the clock stage entirely and proceed immediately to the supplementary round, as a form of massive sealed envelope bidding exercise. Instead, real-world spectrum auction budgets tend to evolve as bidders gain experience and knowledge from the progressive accumulation of data in the bidding rounds.

A small regional carrier that has bid honestly and consistently throughout the entire clock stage and has been allocated a final clock package that responds to its business and budgetary requirements should not subsequently be put in a position of having to risk placing a potentially prohibitive end-of-auction jump bid in order to secure its victory.

Stated another way, one cannot claim that the purpose of the clock stage is to permit price and allocation discovery, then accept a situation where the final auction outcome is radically different from the final clock result.

Spectrum is an essential input for wireless carriers. The 700 MHz band, due to its highly favourable propagation characteristics and well-developed technology ecosystems, is a particularly valuable input. The stakes in this auction are simply too high to have it end with a last minute gamble, particularly if the risks of this gamble fall disproportionately on the shoulders of the regional carriers.

d) Correcting the Flaw

The CCA auction format is an enormously flexible format that various national regulatory authorities, in countries such as Switzerland, Australia, Ireland and the United Kingdom, have each tailored to their own particular allocation requirements and policy objectives. Quebecor Media is confident that a solution can be found to accommodate the specific Canadian requirement of ensuring an equitable treatment of large national carriers and small regional carriers.

As described above, the central flaw in the CCA model, as currently proposed by the Department, relates to the possibility that the final auction outcome emerging from the supplementary round may be radically different from the final clock result. Small regional bidders require certainty that they will not lose their final clock packages during the supplementary round.
54. Correcting this flaw essentially involves introducing one or more additional bidding constraints into the supplementary round.

55. One possible constraint for the supplementary round would be to restrict each bidder to bidding only on packages on which it bid during the clock stage. The advantage of this constraint would be to impede bidders from artificially adding unallocated licences to their preferred packages for the sole purpose of boosting their contribution to the aggregate auction result. If a bidder had never expressed any interest in the unallocated licences in the clock rounds, it would not be permitted to add them in the supplementary round.

56. An alternative approach for the supplementary round, if the Department is particularly motivated by the desire to find a purchaser for the licences left unallocated at the end of the clock stage, would be to restrict each bidder to bidding only on its final clock package, augmented by unallocated licences at the bidder's discretion. A bidder with no final clock package would be restricted to bidding only on packages of unallocated licences. The advantage of this constraint would be to prevent bidders from using unallocated licences to facilitate a last minute shift in their core bidding strategy.

57. Yet another approach would be to simply prohibit bidders who have no final clock package from participating in the supplementary round. This constraint would not reduce the amount of the minimum safety increment that a given bidder might be faced with making in the supplementary round, but it would at least reduce somewhat the likelihood that the bidder would lose its final clock package should it be unable to make the safety bid. In particular, this constraint would avert a situation where a bidder drops out of the clock stage at a late round, only to mount a surprise return in the supplementary round through the inclusion of unallocated licences in its preferred package.

58. What unites all of these possible additional bidding constraints is the objective of ensuring that the final clock result is a strong and reliable predictor of the final auction outcome. Absent this assurance, the price and allocation discovery stage of the auction will have failed, and the burden of the failure will fall disproportionately on the shoulders of regional carriers.

59. For clarity, we note that each of these possible additional bidding constraints would be incremental to the various supplementary round revealed preference constraints already outlined in the Consultation Document. We do not recommend weakening any of the revealed preference constraints already put forward.

60. To summarize, Quebecor Media calls upon the Department to devise a solution to provide certainty to regional bidders that they will not lose their final clock packages during the supplementary round. Among the possible measures that should be investigated are: (i) restricting each supplementary round bidder to bidding only on the packages on which it bid in the clock stage; (ii) restricting each supplementary round bidder to bidding only on its final clock package, augmented by unallocated licences at the bidder’s discretion; or (iii) prohibiting bidders who have no final clock package from participating in the supplementary round. If none of these measures are deemed to be effective,
then serious consideration must be given to ending the auction after the clock stage perhaps followed quickly by a residual auction dedicated to the sale of the unallocated items.
III. THE TREATMENT OF ASSOCIATED ENTITIES

a) Accommodating Inter-Regional Associations

61. At section 5 of the Consultation Document, the Department proposes changes to the rules that were in place in previous auctions regarding associated entities. The intent of these changes is “to provide increased flexibility in the treatment of a certain subset of associated entities such that they could be allowed to participate in the auction as separate entities, and have the spectrum cap apply separately to them, as long as this would not have an adverse impact on the integrity of the auction, or the intent of the spectrum caps”11.

62. To ensure auction integrity and transparency, the Department proposes that all entities wishing to participate in the auction process be required to disclose in writing, as part of their application, the names of affiliated and associated entities. Entities would also be required to submit a narrative describing all key elements and the nature of the affiliation or association in relation to the acquisition of the spectrum licences being auctioned and the post-auction relationships of the said entities. The submitted narrative would be made available to other bidders and to the public on Industry Canada’s website prior to the auction.12

63. Finally, the Department proposes that associated entities could be permitted to participate separately in the auction if it is determined, based on the submitted narrative, that this would not negatively impact the integrity of the auction process. Furthermore, it is proposed that the spectrum caps could be applied individually to associated entities provided they can demonstrate that they intend to compete separately in the applicable licence area and continue to function as competitors to a level satisfactory to the Department.13

64. Quebecor Media understands that among the Department’s objectives in putting forward this set of proposals is to facilitate associations that may ultimately benefit consumers through investment and spectrum efficiencies in common licence areas, particularly rural areas. It is unclear to us, however, whether the Department also recognizes the potential benefits to consumers from associations involving entities who seek licences in different licence areas.

65. An association of two or more regional carriers, for example, may seek to coordinate certain of their activities related to equipment acquisition, network deployment, roaming, service marketing and/or spectrum acquisition strategy, without necessarily forming a joint venture or bidding consortium. Consumers stand to benefit when such entities have the flexibility to associate among themselves in order to better confront the established national carriers in the marketplace or the auction arena.

11 Consultation Document, paragraph 63.
12 Consultation Document, paragraphs 66-68.
13 Consultation Document, paragraphs 69-70.
66. To allow geographically overlapping carriers the flexibility to associate amongst themselves and still participate separately in the auction, while denying this same flexibility to geographically non-overlapping carriers, would constitute a bias against the full and effective participation of the latter group of carriers in the 700 MHz auction.

67. This bias would be all the more unacceptable when one considers that even overlapping carriers ultimately employ a form of geographic subdivision when building a joint network, as evidenced by the following statement from a senior executive of Telus (referring to the company’s 2009 joint network build with Bell):

“We got Canada built out in less than one year – 98% covered – by basically splitting up the country and making it economical to do,” Bob McFarlane, chief financial officer at Telus, said in an interview at an industry conference this month. “That’s the benefit of having network sharing.”

68. It is also worth noting that the prevailing rules of the United States Federal Communications Commission (FCC) prohibiting communications during auctions are more severe for overlapping bidders than for non-overlapping bidders:

Prohibition of certain communications. (1) Except as provided in paragraphs (c)(2), (c)(3), and (c)(4) of this section, after the short-form application filing deadline, all applicants for licenses in any of the same geographic license areas are prohibited from cooperating or collaborating with respect to, discussing with each other, or disclosing to each other in any manner the substance of their own, or each other's, or any other competing applicants' bids or bidding strategies, or discussing or negotiating settlement agreements, until after the down payment deadline, unless such applicants are members of a bidding consortium or other joint bidding arrangement identified on the bidder's short-form application pursuant to §1.2105(a)(2)(viii). (underlining added)

69. A brief discussion of the application of the above prohibition was provided in the FCC’s public notice for the auction of the 700 MHz band as follows:

15. To ensure the competitiveness of the auction process, Section 1.2105(c) of the Commission’s rules prohibits auction applicants for licenses in any of the same geographic license areas from communicating with each other about bids, bidding strategies, or settlements unless such applicants have identified each other on their short-form applications (FCC Forms 175) as parties with whom they have entered into agreements pursuant to Section 1.2105(a)(2)(viii).

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16. The anti-collusion rule will apply to any applicants that submit short-form applications for Auctions 73 or 76 and select licenses in the same or overlapping CMAs, EAs, REAGs or the nationwide license in the D Block. (...) Thus, applicants that have applied for licenses covering the same markets (unless they have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under Section 1.2105(a)(2)(viii)) must affirmatively avoid all communications with or disclosures to each other that affect or have the potential to affect bids or bidding strategy, which may include communications regarding the post-auction market structure.

70. Quebecor Media does not seek a duplication of the FCC rules. Rather, we call upon the Department to give greater attention to ensuring that its own associated entity rules accommodate in a non-discriminatory manner the potential associations that could be formed between national carriers, between regional carriers, and between national and regional carriers.

71. Specifically, to the extent the Department allows associated entities in the same geographic area to participate as separate bidders in the 700 MHz auction, it should also allow associated entities in different geographic areas to do the same. There is no inherent reason to believe that the consumer benefits from intra-regional cooperation should be greater than the consumer benefits from inter-regional cooperation.

b) Amendment to the Anti-Collusion Rule

72. At section 5.1 of the Consultation Document, the Department proposes changes to the anti-collusion rule that was in place during previous auctions. The stated intent of these changes is to accommodate the participation of some associated entities as separate bidders in the auction.

73. As described in the preceding sub-section of this submission, Quebecor Media generally supports efforts to facilitate associations, both intra-regional and inter-regional. We are concerned, however, that the drafting of the Department’s proposed anti-collusion rule will unduly impede associated entities from realizing the legitimate benefits of their association.

74. Specifically, we note that the Department’s proposed rule includes a requirement for each applicant to “certify that it will not discuss during the auction, any agreements, arrangements or understandings of any kind with any competitor, including its disclosed associated entities, regarding the spectrum licences being auctioned or the post-auction market structure” (underlining added)

75. To understand the adverse impact of this requirement, consider first the case of two or more associated entities that choose (or are otherwise required) to participate in the auction as a single bidder. According to paragraph 73 of the

17 Consultation Document, paragraph 79.
Consultation Document, these associated entities will be required to select one entity amongst themselves to participate in the auction. However, according to the proposed anti-collusion rule, the selected entity will then be unable to communicate with the other entities. This is entirely impractical, as the other entities will certainly want to have input into bidding strategy as the auction progresses (e.g., is it time to shift to another spectrum block? is it time to reduce our territorial ambitions? what is our supplementary round strategy in light of what we have seen in the clock rounds?) It would be impossible to predict all of these potential decisions in advance of the auction.

76. Consider next the case of two or more associated entities that are authorized to bid separately in the auction. Once again, the ability of these entities to communicate during the auction will be essential to their realizing the legitimate benefits of their association. For example, how can associated entities that intend to pursue a joint equipment acquisition strategy ensure that they will benefit from this strategy if they do not know whether they are bidding on compatible spectrum blocks at any given point during the auction?

77. The Department’s proposed anti-collusion rule, if left as currently drafted, stands to work at cross purposes to the Department’s efforts to accommodate beneficial associations among industry players. To correct this problem, we recommend the removal of the words “including its disclosed associated entities” from the second paragraph of the proposed rule. For clarity, we emphasize that this amendment should apply regardless of whether the associated entities are bidding together or separately during the auction.

All of which is respectfully submitted.
ANNEX

RESPONSES TO SPECIFIC QUESTIONS
POSED IN THE CONSULTATION DOCUMENT
3.1 Industry Canada is seeking comments on whether or not the service area boundary for licences in the 700 MHz band should deviate from the provincial boundary around the City of Lloydminster, (Alberta/Saskatchewan).

Quebecor Media has no comment on this matter.

4.2.5 Industry Canada is seeking comments on its proposal to use the CCA format, as well as the general attributes outlined above, including:

- the categories of generic licences;
- the guarantee of contiguity across blocks A and B in the lower 700 MHz band in a specific service area;
- the combined eligibility point and revealed preference activity rule in the clock rounds, and the revealed preference limit in the supplementary round;
- the use of a second-price rule; and
- the information to be disclosed during, and post-auction.

Quebecor Media’s views on the CCA format are presented in section II of the body of this submission.

In summary, we believe the new CCA format, as currently proposed, contains one important flaw that stands as a barrier against the full and effective participation by regional carriers. Specifically, in those cases where licences remain unallocated at the end of the clock stage, the minimum incremental bid (the “minimum safety increment”) that a regional carrier must place in the supplementary round to guarantee its final clock package can be prohibitive. Because the minimum safety increment is constant across all bidders, it will tend to be far less constraining for large national bidders. The result is a structural deficiency in the proposed CCA format whereby large national bidders can easily confer upon themselves the certainty of winning their final clock package while small regional bidders must risk placing potentially prohibitive end-of-auction jump bids to do the same. Such a result, where the benefits of price and allocation discovery in the clock stage accrue solely to large bidders, is neither efficient nor fair.

We call upon the Department to devise a solution to provide certainty to regional bidders that they will not lose their final clock packages during the supplementary round. Among the possible measures that should be investigated are: (i) restricting each supplementary round bidder to bidding only on the packages on which it bid in the clock stage; (ii) restricting each supplementary round bidder to bidding only on its final clock package, augmented by unallocated licences at the bidder's discretion; or (iii) prohibiting bidders who have no final clock package from participating in the supplementary round. If none of these measures are deemed to be effective, then serious consideration must be given to ending the auction after the clock stage, perhaps followed quickly by a residual auction dedicated to the sale of the unallocated licences.
Industry Canada is seeking comments on its proposed changes to the definition and rules related to associated entities. Specifically, comments are sought on:

- the types of agreements that should be captured under the definition of associated entities;
- the level of information to be disclosed to the public;
- the provision that typical roaming and tower sharing be specifically excluded from the revised definition of associated entities and whether other types of agreements such as the purchase of backhaul capacity should be deemed excluded;
- the proposal that entities that are deemed associated entities may apply to be treated as separate entities for participation in the auction;
- the proposal that associated entities may request to have the spectrum caps apply to them separately, based on an analysis of their association and of whether they intend to compete in the same licence service area;
- the criteria to be considered in determining whether the entities are competing; and
- the proposal that no changes be made to the affiliated entities rule.

Quebecor Media’s views on the proposed changes to the definitions and rules related to associated entities are presented in section III(a) of the body of this submission.

In summary, Quebecor Media calls upon the Department to give greater attention to ensuring that its associated entity rules accommodate in a non-discriminatory manner the potential associations that could be formed between national carriers, between regional carriers, and between regional and national carriers. Specifically, to the extent the Department allows associated entities in the same geographic area to participate as separate bidders in the 700 MHz auction, it should also allow associated entities in different geographic areas to do the same. There is no inherent reason to believe that the consumer benefits from intra-regional cooperation should be greater than the consumer benefits from inter-regional cooperation.

5.1 Industry Canada is seeking comments on the rules prohibiting collusion that would apply to bidders in the 700 MHz auction.

Quebecor Media’s views on the rules prohibiting collusion are presented in section III(b) of the body of this submission.

In summary, we are of the view that the Department’s proposed anti-collusion rule stands to work at cross purposes to the Department’s efforts to accommodate beneficial associations among industry players. To correct this problem, we recommend that the Department remove the words “including its disclosed associated entities” from the second paragraph of the proposed rule. For clarity, we emphasize
that this amendment should apply regardless of whether the associated entities are bidding together or separately during the auction.

6.0 Industry Canada is seeking comments on its proposal to issue spectrum licences in the 700 MHz band with a 20-year licence term.

Quebecor Media supports this proposal.

Industry Canada is seeking comments on the proposed wording of the condition of licence related to the spectrum aggregation limits.

Quebecor Media supports the proposed wording of the condition of licence related to spectrum aggregation limits, provided the Department includes an explicit statement to the effect that the reference data for subscriber market share determinations will rely on the 2012 CRTC Communications Monitoring Report. Such a statement would be consistent with the statement at paragraph 137 of Policy and Technical Framework – Mobile and Broadband Services (MBS) – 700 MHz Band – Broadband Radio Service (BRS) – 2500 MHz Band (SMSE-002-12), March 14, 2012, and would serve to eliminate any interpretative problem that may arise if a small wireless service provider grows to exceed either of the market share thresholds employed in the definition of a large wireless service provider prior to the expiry of the spectrum aggregation limits.

Industry Canada is seeking comments on the proposed wording of the condition of licence related to transferability and divisibility.

Quebecor Media has no comment on the proposed wording.

Industry Canada is seeking comments on the proposed wording of the condition of licence related to eligibility criteria.

Quebecor Media has no comment on the proposed wording.

Industry Canada is seeking comments on the proposed wording of the condition of licence related to the treatment of existing spectrum users.

Quebecor Media has no comment on the proposed wording.
Industry Canada is seeking comments on the proposed wording of the condition of licence related to radio station installations.

Quebecor Media has no comment on the proposed wording.

Industry Canada is seeking comments on the proposed wording of the condition of licence related to the provision of technical information.

Quebecor Media has no comment on the proposed wording.

Industry Canada is seeking comments on its proposed condition of licence related to compliance with legislation, regulation and other obligations.

Quebecor Media has no comment on the proposed condition of licence.

Industry Canada is seeking comments on the proposed condition of licence related to technical considerations, and international and domestic coordination.

Quebecor Media has no comment on the proposed condition of licence.

Industry Canada is seeking comments on the proposed wording of the condition of licence related to lawful intercept requirements.

Quebecor Media refers the Department to the submission of the Canadian Wireless Telecommunications Association (CWTA) on this matter. We fully support the views expressed by the CWTA.

Industry Canada is seeking comments on the proposed condition of licence related to the research and development requirement.

Quebecor Media refers the Department to the submission of the CWTA on this matter. We fully support the views expressed by the CWTA.
Industry Canada is seeking comments on the application of the proposed wording of the licence condition related to rural deployment requirements. Specifically, comments are sought on the assessment of "access to two or more blocks of paired spectrum" for the purposes of this condition of licence.

Quebecor Media has no comment on the application of the proposed wording of the licence condition related to rural deployment requirements.

Industry Canada is seeking comments on the application of the general deployment condition of licence as stated above. Specifically, comments are sought on:

- the population coverage, as specified in Table 3, for each licence service area; and
- the time frame proposed whereby the requirement must be met.

Quebecor Media has no comment on the application of the general deployment condition of licence.

Industry Canada is seeking comments on the proposed wording of the condition of licence related to mandatory antenna tower and site sharing. Comments on the specifics of the requirements should be submitted through the process announced through Canada Gazette notice DGSO-001-12.

Quebecor Media has no comment on the proposed wording. We note that we submitted comments on the specifics of the requirements through the DGSO-001-12 process.

Industry Canada is seeking comments on the proposed wording of the condition of licence related to mandatory roaming. Comments on the specifics of the requirements should be submitted through the process announced in Canada Gazette notice DGSO-001-12.

Quebecor Media has no comment on the proposed wording. We note that we submitted comments on the specifics of the requirements through the DGSO-001-12 process.
Industry Canada is seeking comments on the proposed condition of licence related to the requirement for annual reporting.

Quebecor Media has no comment on the proposed condition of licence.

7.2 Industry Canada is seeking comments on the proposed opening bids as presented in Table 4.

Quebecor Media has no comment on the proposed opening bids.

7.3 Industry Canada is seeking comments on the proposed eligibility points for spectrum licences in the 700 MHz band, as outlined in Table 5 above.

Quebecor Media has no comment on the proposed eligibility points.

7.4 Industry Canada is seeking comments on the proposed pre-auction deposits as outlined above.

Quebecor Media has no comment on the proposed pre-auction deposits.

10. Industry Canada is seeking comments on the proposed renewal process for spectrum licences in the 700 MHz band.

Quebecor Media has no comment on the proposed renewal process for spectrum licences in the 700 MHz band.