Consultation on Renewal Process for 2300 MHz and 3500 MHz Licenses

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1. Axia SuperNet Ltd. is pleased to provide the following comments in response to the Consultation on the Renewal Process for 2300 MHz and 3500 MHz Licences, DGSO-006-12, dated October 2012, and released in the Canada Gazette, Part I.

2. Axia’s comments address the specific questions raised by the Consultation paper which are especially critical to the needs of rural broadband users.

(1) Industry Canada seeks comments of the proposed wording of the condition of licence related to deployment. Comments are also sought on the following proposals that:

A. deployments of fixed links not servicing an end user directly should be considered as an alternative method to meet WCS and FWA spectrum deployment licence conditions; and

B. when a requirement is considered for fixed links not servicing an end user directly, it should be set at 15 links per million population, per Tier 4 area at the end of the licence term.

When proposing an alternative deployment requirement for either WCS or FWA, provide a rationale for each band.

3. Axia believes that, in general, it is appropriate to allow an alternative method of meeting WCS and FWA spectrum deployment conditions. While deployment of fixed links may be an appropriate measure, criteria should be established to ensure that such links are actually in use, and are an effective and efficient use of spectrum. Under the wording proposed, there is no requirement for eligible links to span any appreciable distance, carry any traffic or meet any commercial need or the public good. A link of a few metres, carrying no traffic would be considered as eligible under this wording. We believe that for a link to be considered as eligible under the deployment criteria, it should cover a minimum distance, such as greater than 250m, and be carrying actual traffic of a commercial, public service or not for profit entity.

4. Axia believes that the criteria of 15 links per million population as a deployment obligation is entirely inadequate and inappropriate from a spectrum usage and efficiency standpoint. Spectrum is an extremely scarce resource, and such a low requirement is inconsistent with the value of the resource. This calculation would, in fact, result in a minimum deployment requirement of a single link in the vast majority of Tier 4 areas. A licensee who is awarded valuable spectrum should be making great use it – or should be willing to give it up to those who will. We propose that the criteria be increased to 30 links per million population, and that the minimum number of eligible links required in any Tier 4 area be set to 15. Furthermore, we believe that this requirement should be met within the first three years of a new licence term for those that elect to use this criteria.

5. As shown in Table 2 and 3 of the consultation paper, current deployment results under the existing criteria have been abysmal. Only 0.6% of licensees met the deployment
requirements in the 2300 MHz band, and 16.9% of the 3500 MHz licensees, even after multiple extensions were granted. Industry Canada should not condone or accept such performance, and should demand that users of spectrum actually use it and use it efficiently or make it available for others who will.

**Industry Canada invites comments on the options for renewal in the 2300 MHz and 3500 MHz bands.**

(2) For the 2300 MHz band, which of the two options is preferred?

6. Axia believes that it is appropriate to issue new licences under the renewal process for a full 10 year term, given that appropriate population (or links criteria as we propose in paragraph 3 and 4) deployment obligations are enforced. No such renewals should be issued to entities who have held licences but have not deployed them.

(3) For the 3500 MHz band, which of the two options is preferred?

7. Axia believes that it is appropriate to issue new licenses under the renewal process for a full 10 year term, given that appropriate population (or links criteria as we propose in paragraph 3 and 4) deployment obligations are enforced. No such renewals should be issued to entities who have held licences but have not deployed them.

(4) For Option 1 (detailed in section 7.1 of this consultation):

A. Should licence terms be extended?
   a. If so, should they be extended by the same length for all licensees?
      i. Is three years an appropriate extension?
   b. Or, should the licence terms be extended to a fixed date for all licensees?
      i. Would December 2017 be an appropriate extension date?

8. If Option 1 (licence extension) is chosen, it would be appropriate to extend all licences to the same date, to enable fair access to technology and opportunities for rollout. We believe that December 2017 is appropriate, as the technology needed, (software defined radios, etc.) is already becoming widely available. Licensees should be driven to deploy, not delay. Three years (from renewal in 2014) is a sufficient timeframe for any reasonable scale of deployment. Any licensee who argues that they are unable to deploy 15 links in a given Tier 4 area over three years, cannot properly justify a need for access to licensed spectrum.

B. Should the deployment requirement also be extended to the end of the proposed term?

9. Yes
C. In considering an extension of the licence term, do you expect equipment in the 2300 MHz band to become available soon enough to achieve the deployment requirements by December 2017?

10. Wireless technology is advancing at an extremely rapid pace. We believe that appropriate technology is already becoming available, and will be widely (and inexpensively available) well in advance of the date proposed.

D. In considering an extension of the licence term, do you expect LTE equipment in the 3500 MHz band to become available soon enough to achieve the deployment requirements by December 2017?

11. Yes. LTE implementations today already utilize spectrum from the range of 700 MHz all the way up to nearly 3 GHz. Technology vendors have responded to the fragmentation of LTE bands using a variety of technologies, such as software defined radios, adaptive antennas, etc. We believe that the technology will be both widely available and inexpensive.

E. Are there any additional considerations that should be taken into account by Industry Canada?

12. No.

(5) For Option 2 (detailed in section 7.2 of this consultation):

A. Given the potential upcoming changes, is 10 years an appropriate term for new licences issued through the renewal process?

13. Yes we believe this is appropriate, given more aggressive rollout obligations proposed in paragraphs 3 and 4.

B. Should deployment requirements apply to new licences under the renewal process? If so, what should the deployment requirements be?

14. Yes. We believe that the deployment obligations should be as we have proposed in paragraphs 3 and 4.

C. Are there any additional matters that should be considered by Industry Canada when issuing a new licence for a new term?

15. Industry Canada should not issue new licences to parties who have held licences but not deployed any resulting infrastructure. Spectrum is a critical and scarce resource, and should only be awarded to parties who have a strong motivation and current plans to make effective use of it. Spectrum should not be awarded on the basis that future technologies might make otherwise unsound business plans more palatable.
16. Where a party has deployed limited infrastructure under an existing licence and request a renewal of such licence, they should be obligated to file a deployment plan with sufficient detail as to show their commitment to meeting the deployment obligations before being awarded a renewal.

17. We believe the proposed wording is appropriate.