1 November 2001

Mr. Jan Skora  
Director General -  
Radiocommunications and Broadcasting Regulatory Branch

Mr. Michael Helm  
Director General - Telecommunications Policy Branch

Mr. Robert McCaughern  
Director General - Spectrum Engineering Branch

Industry Canada  
300 Slater Street  
Ottawa, Ontario, K1A 0C8

Dear Sirs:

Subject: Comments - Canada Gazette - Notice No. DGRB-006-01

On behalf of the Bell Wireless Alliance, Bell Mobility is pleased to submit the attached reply comments in response to the above captioned Notice concerning the Consultation on the Auction of Spectrum Licences for Wireless Communication Services in the 2300 MHz Band and Fixed Wireless Access in the 3500 MHz Band – Proposed Policy, Licensing Procedures and Technical Considerations, as published in the Canada Gazette, dated 10 August 2001.


If there are any questions concerning this submission, or earlier comments, please do not hesitate to contact me at your convenience.

To facilitate posting to the Department’s Web site, a machine readable file copy of this submission, in MS Word 97 is being filed via Internet email.

Yours truly,

Attachment
Bell Wireless Alliance Reply Comments Concerning:

Consultation on the Auction of Spectrum Licences for Wireless Communications Services in the 2300 MHz Band and Fixed Wireless Access in the 3500 MHz Band – Proposed Policy, Licensing Procedures and Technical Considerations Published in the Canada Gazette, dated 10 August 2001

1 November 2001
Introduction

1. Bell Mobility, on behalf of the members of the Bell Wireless Alliance, is pleased to submit the following reply comments in response to Notice No. DGRB-006-01: Consultation on the Auction of Spectrum Licences for Wireless Communication Services in the 2300 MHz Band and Fixed Wireless Access in the 3500 MHz Band – Proposed Policy, Licensing Procedures and Technical Considerations, as published in the Canada Gazette, dated 10 August 2001 (the Notice). For the purposes of this submission, the members of the Bell Wireless Alliance are Aliant Telecom Inc., Bell Mobility Cellular Inc., MTS Communications Inc. and MTT Mobility Inc.

2. The Bell Wireless Alliance filed comments in response to the Notice, on behalf of the above members, on 15 October 2001.

3. The members of the Bell Wireless Alliance are wireless service providers (WSPs), currently operating throughout Canada and are licensed to provide public switched mobile voice services, in both analogue and digital 800 MHz (cellular) as well as the 2 GHz Personal Communications Services (PCS) frequency bands. In addition to cellular and PCS services, some members provide a complete range of innovative wireless communications solutions including wireless web-browsing and data, two-way messaging and paging. In addition, Bell Mobility is moving quickly to extend these advanced wireless services throughout its licensed service areas, including Western Canada. Through their partnership, the members of the Bell Wireless Alliance are provided with a seamless national roaming capability for their public switched mobile voice services throughout Canada.

4. The Bell Wireless Alliance notes that Industry Canada’s web site lists some 22 parties, in addition to itself, as having filed comments in response to the Department’s Notice concerning its consultation on licensing spectrum for Wireless Communication Services (WCS) in the 2300 MHz band and Fixed Wireless Access (FWA) in the 3500 MHz band. In the following reply comments, the Bell Wireless Alliance provides its response to those issues which it feels to be primarily pertinent to the Department’s consultation. The Bell Wireless Alliance notes that failure to reply to any comment adverse to the interests of, or inconsistent with the positions taken by its members, should not be construed as agreement with such comment.

Specific Comments

Section 4.4 - Interim FWA Licensing under SP 3400-3700 MHz

5. The Bell Wireless Alliance reiterates its concern related to the proposed application of the moratorium on FCFS licensing at least six months prior to the commencement of the auction. Since the timing of such a moratorium would create uncertainty for pending licence applications for FWA systems in high-cost areas, Bell Mobility reiterates its request that the Department exclude such pending licence applications from the moratorium. In the view of the Bell Wireless Alliance, such a course would not be inconsistent with the views expressed by the majority of commenters.

6. As noted in our comments, the design of a point-to-multipoint Subscriber Radio Systems (SRS) for applications in rural and high-cost areas, requires a point-to-point fixed link in most applications between the Central Office and the SRS hub location. In such applications, the Bell Wireless Alliance reiterates its request that the Department permit the use of
point-to-point fixed systems in the 3400-3700 MHz band when used in conjunction with a point-to-multipoint FWA system.

Section 4.5 - Incumbent Licensees in the FWA Band

Section 4.5.1 - FWA Licensees in the Band 3400-3550 MHz (Blocks A–F)

7. The Bell Wireless Alliance continues to support the Department's proposal that FWA systems licensed and installed in high-cost serving areas be permitted to continue to operate and grow within their licensed spectrum block and service area. As noted in our comments, the Bell Wireless Alliance requests that the Department consider extending, on a case-by-case basis, the current provision whereby "all FWA operators are required to bring their system into service within six months of the date of issue of the licence/approval in principle". Moreover, we continue to be of the view that for many FWA applications, the six-month period is inadequate for overall FWA system installations, including the municipal approval of tower installations. In the view of the Bell Wireless Alliance, no substantive reasons were offered in the comments filed which would cause it to alter this recommendation.

Section 5.0 - Treatment of Incumbent Licensees

Section 5.2 - Transition Policy Provisions

8. Based on its review of the comments submitted, the Bell Wireless Alliance continues to support the Department's proposed transition policy and in particular continues to support the "where necessary" basis of the policy. The Bell Wireless Alliance submits that no compelling rationale, that would warrant a change to this position, was advanced in the comment round.

Section 6.0 - Eligibility and Spectrum Aggregation Limits

Section 6.2 - Eligibility to Acquire Spectrum and Spectrum Aggregation Limits

9. The Bell Wireless Alliance notes that a majority of parties either offered no comment, on this issue, or submitted that eligibility restrictions were not required. Based on its review of the comments submitted, the Bell Wireless Alliance continues to support the Department's proposal that all successful bidders in the auction be eligible to become a radiocommunication carrier subject to the Ownership and Control requirements outlined in the Radiocommunication Regulations.

10. Rogers Wireless, in its submission, proposes that a distinction be drawn between cablecos and incumbent local exchange carriers (ILECs) with regard to eligibility. In its Notice the Department does not differentiate between ILECs or cable companies, or an affiliate of such entities, in a given service area. The Bell Wireless Alliance agrees with the Department and suggests, for the purposes of this auction, that no such artificial differentiation between the two should be drawn. In any event, the Bell Wireless Alliance noted with interest AT&T Wireless' recent announcement of its abandonment of fixed wireless service in the United States. In light of this announcement, the Bell Wireless Alliance suggests that precluding ILECs from the auction, as proposed by Rogers AT&T Wireless, may not be in the public interest.
11. The Department also sought comments on whether a certain amount of spectrum should be set aside and whether bidding on such spectrum should be limited to new entrants. The Department's Notice required that parties supporting the adoption of a new entrant set-aside stipulate how such a provision would be in the public interest.

12. In its comments the Bell Wireless Alliance did not support the adoption of new entrant set-asides as part of a spectrum auction allocation. As noted in those comments, one of the fundamental principles of allocating spectrum through auctions is to ensure that spectrum ends up in the hands of those who value it most. The Bell Wireless Alliance remains of the view that, by its very nature, the concept of a new entrant set-aside flies in the face of this principle and inherently skews and distorts the entire auction process. The Bell Wireless Alliance notes that most of the parties, who favoured adoption of a new entrant set-aside, offered little in the way of substantive support for their position, as required by the Department's Notice. Others proposing a set-aside, or outright exclusion of certain parties, based their recommendation on a view that such measures would facilitate the entry of smaller players into the market. In Bell Wireless Alliance's respectful submission, none of the parties proposing extraordinary measures, such as set-asides or exclusions, put forth substantive or convincing evidence that would indicate that such measures would be in the public interests. Consequently, the Bell Wireless Alliance recommends that the Department not distort the auction process by adopting set-aside provisions, or exclusions, for the purposes of this licensing process.

Comments concerning the 2500 MHz Band

13. It is evident, from the comments submitted, that the circumstances surrounding the future application and use of the 2500 MHz band, both in Canada as well as internationally, are far from clear. Among the factors adding to this uncertainty are the Department's caveats surrounding its allocation of the 2500 MHz MCS spectrum to MCS licensees; the action of the ITU in allocating the 2500 MHz band for potential 3G mobile wireless use and the recent regulatory initiatives and actions taken by the FCC and the NTIA in the United States.

14. While the Department set the term of the MCS licenses for three years, i.e., to 31 March 2003, Microcell in its comments requested that the Department confirm Inukshuk's 2500 MHz allocation for the full ten year license term and refrain from proceeding with the auction. For its part, Nokia recommends reserving 30 MHz of bandwidth in the 2300 MHz band to accommodate services displaced by 3G mobile allocations. Rogers Wireless proposes an alternative approach recommending that, if the uncertainty surrounding the FWA Band continues, the licensing of the FWA Band should be delayed while the licensing of the WCS Band be allowed to proceed. Other parties, notably the RABC, TELUS and the Bell Wireless Alliance were of the view that the Department, prior to proceeding with the proposed spectrum auction, should ensure that it has a clear appreciation for the issues arising from the recent FCC 01-256, released during the course of this proceeding and NTIA initiatives in this regard.

15. The Bell Wireless Alliance recommends, in this regard, that in order to ensure an auction that is fair as well as in the interests of providing a reasonable degree of certainty to industry participants, the Department should make its intentions known with regard to the 2500 MHz band. Either the Department is going to confirm the MCS licensees in the band or designate it for 3G mobile services. In any event, whichever is the case, the important point is that this must be made known to the industry before any new spectrum auctions.
16. The Bell Wireless Alliance strongly believes that if, as noted in the Department's letter to MCS licensees, they will be required to reallocate to another band, this must be clarified before the proposed auction. Such action would clarify the status of the 2500 MHz band, i.e., signal whether or not it will be designated for 3G use and its future allocation undertaken in fair and equitable manner. Conversely, if the MCS licensees will be permitted to remain in the 2500 MHz band, then the Department must clearly indicate to all interested parties that a future designation of the 2500 MHz band for mobile 3G use would require the reallocation of the current MCS licensees into another band at that time. The Bell Wireless Alliance strongly disagrees with the concept of designating occupied spectrum for 3G mobile service without simultaneously establishing an appropriate and transparent transition policy for the current inhabitants.

Section 8.0 - Licensing Process

Section 8.7 - Issuance of Licences

17. A number of respondents, CWTA, RABC, Rogers Wireless, TELUS Mobility and the Bell Wireless Alliance, noted that spectrum auction experience in Canada to date, demonstrates a serious flaw in the current process as it relates to the actual issuance of licences.

18. The Bell Wireless Alliance continues to strongly support the view that the Department could dedicate more resources, including full-time legal counsel, to the post-auction determination process. As an incentive to expeditiously complete the process, the Bell Wireless Alliance recommended in its comments that provisional winners only be required to pay 50% of the outstanding high bids within 30 days of the close of the auction, with the remaining 50% paid at the completion of the determination process and the issuance of the spectrum licence.

19. The Bell Wireless Alliance also continues to support the recommendation, advanced by the RABC among others, that current licensees (who are, by definition, Canadian) should be considered as being in compliance with the ownership and control requirements. Given that existing licensees are under an obligation to inform the Minister of any material change to their ownership and control and, in the absence of any indication to the contrary, such entities should be automatically issued their licences.

Conclusion

20. The Bell Wireless Alliance sincerely appreciates the opportunity to comment on the proposals contained in the Department's Notice and looks forward to continuing the discussion of this issue within the industry.

*** End of Document ***