30 January 2013

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Re: Gazette Notice No. DGSO-006-12 — Consultation on Renewal Process for 2300 MHz and 3500 MHz Licences

Pursuant to the procedures outlined in the above noted document, attached are Reply Comments by Cogeco Cable Inc. (“Cogeco”).

We thank you for the opportunity to provide comments and remain available to answer any questions you may have regarding our submission.

Yours very truly,

Michel Messier,
Director, Regulatory Affairs, Telecommunications
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Canada Gazette Notice No. DGSO-006-12

Consultation on Renewal Process for 2300 MHz and 3500 MHz Licences

Reply Comments of Cogeco Cable Inc.

30 January 2013
Introduction

1. Cogeco Cable Inc. ("Cogeco") welcomes the opportunity to reply to the comments filed by other parties in response to Industry Canada’s Consultation on Renewal Process for 2300 MHz and 3500 MHz Licences. As a holder of 3500 MHz licences, Cogeco’s reply comments are focused on the renewal process for this band.

2. In these reply comments Cogeco will address the following issues:
   - Need for a consultation process before any change to the spectrum utilization policy of the 3500 MHz band;
   - Licence term extension; and,
   - Deployment requirement and renewal expectation.

3. Failure to address any specific issue raised by other parties should not be taken by the Department as acquiescence with the position.

Need for a consultation process before any change to the spectrum utilization policy of the 3500 MHz band

4. Several parties in this proceeding concurred with Industry Canada in noting that many countries around the world are currently reconsidering their 3500 MHz band plans, indicating that such a review would likely have an important impact on the availability of the equipment ecosystem for this band.

5. Given the current uncertainty in this matter, most parties have raised the need for a consultation process which would allow for the assessment of these international developments before Industry Canada takes any decision revising the Canadian spectrum utilization policy on the 3500 MHz band plan. Indeed, as
highlighted by the following interventions, the appropriate path to follow for this band plan remains unclear at the present time:

Radio Advisory Board of Canada (RABC): … the Canadian band plan has to be harmonized globally or regionally so that standardized equipment supported by a sufficiently large ecosystem and spectrum can be utilized to the maximum. In the near future a consultation process should be initiated to fully assess this very large amount of spectrum taking in to account 3GPP band plan and potentially the new U.S band plan.

Shaw: International uncertainty applies to the 3500 MHz band with both the United States and European countries currently reviewing their approaches to these bands. These international developments will have a tremendous impact on the potential development of services in the 2300 MHz and 3500 MHz bands within Canada. It is important that Canada aligns its approach with international developments as much as possible to maximize Canadian consumers’ access to international device ecosystems.

Inukshuk-Bell-Rogers: Given the very limited technological alternatives for this band in Canada, the lack of harmonization between the Canadian band plan and other emerging regional band plans, such as Europe, and the current uncertainty regarding whether the prevailing and economically viable band plan will be for FDD or TDD, it is premature for the Department and Canadian licensees such as Inukshuk to opt for a FDD or TDD band plan. More time is required for these issues to be clarified.

TELUS: FWA requires a fundamental reallocation to mobile service. However, both the Department in the consultation and the RABC submission essentially note that there is no clear path forward at present for Canada and, at the appropriate time in the future, a mobile transition consultation is required.

6. Cogeco agrees with this assessment and submits that Industry Canada should accordingly announce, as a result of this consultation, that the spectrum utilization policy regarding the 3500 MHz band will remain unchanged until such a consultation process is completed in the near future.

7. The initial intent behind the current allocation of the 3500 MHz band was the provision of broadband or fixed wireless access services. Despite the fact that merely 26% of the licensed spectrum was used or partially used as of July
2011\(^1\), it should however be recognized that some licensees have met the deployment requirements. Therefore, not only would it be premature to change the current spectrum utilization policy of this band, but it would also be unfair with respect to those licensees who have complied with the deployment requirements.

8. Further, this would be inappropriate and contrary to the advance notification provided by Industry Canada at paragraph 52 of the Consultation paper which states:

Licensees in the 3500 MHz band are hereby given advance notification that changes to the existing allocation and band plan may be considered in the next two to three years. Changes may include review of, and possibly revision to, the spectrum utilization policy, the band plan and the authorized frequencies. A consultation process will precede any such changes.

**Deployment of mobiles services should be forbidden**

9. For greater certainty, until such a revision has occurred and a determination has been made regarding the appropriate spectrum utilization policy for this band plan in Canada, Industry Canada should specifically forbid the deployment of mobile services on this band.

10. Several parties have mentioned in their interventions that they expect that the introduction of mobile services will become economically feasible with the deployment of the LTE ecosystem supporting both FDD and TDD modes for this band at the international level.

11. Furthermore, Inukshuk-Bell-Rogers have specifically requested that they be allowed to deploy mobile services in order to satisfy their deployment requirements. Cogeco opposes this specific request.

\(^1\) Consultation paper, Table 3 – Deployment for licences in the 3500 MHz band as of July 2011.
12. Allowing such deployment of mobile services would be tantamount to a *de facto* change of the allocation spectrum policy of this band and would provide a mobile windfall for these licensees, thus representing an unfair competitive advantage in a context where other licensees stated experiencing a spectrum shortage. As noted by Quebecor Media:

[L’éventualité du déploiement de services mobiles basés sur la norme LTE dans les bandes de fréquences SCSF et AFSF équivaut, tout compte fait, à une « réattribution fondamentale du spectre à un nouveau service » [...] alors que le déploiement de tels services n’était aucunement prévu au moment de l’acquisition initiale des licences (réalisée, rappelons-le, moyennant un prix très peu élevé).]

13. Finally, there is no urgency in allowing mobile services on this band. As submitted by Eastlink, the incumbent wireless carriers have made clear that they intend to first deploy mobile LTE services over other spectrum options (AWS, 700MHz and 2500 MHz) and hence “are unlikely to begin deployment of mobile LTE over the 2300 MHz and 3500 MHz spectrum for quite some time, even in the event that the US and Asia band plans are determined in the coming months as expected.”

**Licence term extension**

14. Given all of the above-mentioned uncertainty in the 3500 MHz band, Cogeco submits that the most logical option is for Industry Canada to extend the licence period for all existing licences. Industry Canada needs a sufficient period of time to initiate and complete an assessment of the impact of the international developments on this band through a new consultation process. It would be inappropriate and inefficient to make a determination with respect to the renewal of these licences at this time without such a review. In addition, such an

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extension will provide all licensees with additional time to meet the deployment requirements.

15. In its comments, Cogeco expressed the view that it was in favor of a three-year extension period of the licence terms for all licensees in the 3500 MHz band. Other parties favorable to an extension were, in the interest of simplicity, instead in favor of the same fixed date for all licensees and stated their agreement with the proposed 31 December 2017 date. Cogeco supports this timeframe.

Deployment requirements and renewal expectation

16. As a preliminary view, Cogeco stated that it had no objection in principle to the proposal that deployments of fixed links not servicing an end user directly should be considered as an alternative method to meet FWA spectrum deployment licence conditions. Cogeco is still of the same view.

17. In the current circumstances, as experienced by Cogeco, allowing licensees to meet their licence requirements through this alternative method effectively recognizes the difficulties in securing equipment for wireless access in these bands.

18. Furthermore, if spectrum in this band can be used for fixed links rather than remain unused in areas where wide area coverage is currently not economically feasible, it can be expected that the availability of such a deployment option would likely result in a more efficient use of spectrum in this band by the end of the licence period.

19. With respect to the number of fixed links per million population, per Tier 4 area, that would be appropriate as a condition of licence related to deployment,
Cogeco agrees with the proposal made in the consultation paper that the deployment requirement for fixed links not servicing an end user directly should be set at 15 links per million population, per Tier 4 area at the end of the licence term.

20. In another perspective, TELUS has proposed that “the entire FWA band should expire and be recalled on December 31, 2017 (or some later date as appropriate) and re-auctioned as a new mobile band based on a to-be-determined-by-consultation new 3GPP compatible mobile band plan and ecosystem.” According to TELUS, current licensees should not “be forced to make temporary fixed service deployments in order to secure temporary renewals while the Department takes the industry through a mobile transition of the FWA band.” Cogeco does not support this position.

21. The adoption of TELUS’ approach is premature and should be rejected by Industry Canada. At this time, this approach should only be considered as one option among others to be considered in the consultation process suggested above. While the issue related to the deployment of mobile services on this band remains a hot topic, it is imperative that Industry Canada retain flexibility to consider all options through this examination process.

22. Accordingly, Cogeco submits that Industry Canada should reiterate and make clear that licensees in compliance with their conditions of licence at the end of the licence period will see their licence renewed for a new licence period, unless a fundamental revision of the spectrum utilization policy of the band established as a result of a new consultation process requires a reallocation of all the 3500 MHz licences. Otherwise, the incentive for licensees to invest and meet their deployment requirements would be moot.

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