

Industry Canada

Consultation on a Licensing Framework for Mobile Broadband Services (MBS)

– 700 MHz Band

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Submitted by Dr. Gregory Taylor and Dr. Catherine Middleton

Ryerson University

Toronto, Ontario

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5.1 Prohibition of Collusion

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

We strongly support the collusion rules as outlined in paragraph 79 of the consultation document (Industry Canada 2012); however, we believe the penalties should be made more explicit. The proposed policy states that should participants in the auction be found guilty of collusion, they “may be subject to disqualification from the auction and/or forfeiture penalties”. Since collusion between bidders damages the integrity of the overall auction and in the end ensures the people of Canada do not receive full value for a significant public resource, we believe the penalties for engaging in collusion must be clear.

Collusion between bidders is a known problem in other international auctions (Bajari and Yeo 2009; Cramton and Schwartz 2002) and must be dissuaded in the strongest language.

6. Conditions of Licence for Spectrum in the 700 MHz Band

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

As stated in our 2011 submission to the *Consultation on a Policy and Technical Framework for the 700 MHz Band and Aspects Related to Commercial Mobile Spectrum* we believe the 20 year term for spectrum licences is excessive (Taylor and Middleton 2011). It is our view that the current rate of development in wireless technology is too fast and unpredictable to commit Canadian frequencies for such an extended period. We appreciate the investment required to create the required infrastructure but we believe a 20 year term does not give true value for this public resource to Canadians. The 20 year term as currently proposed runs contrary to the sole remaining policy objective of the Spectrum Policy Framework for Canada: "To maximize the economic and social benefits that Canadians derive from the use of the radio frequency spectrum resource" (Industry Canada, 2007, 4.3).

20 year licences are giving industry more than what they asked for in earlier consultations. Industry Canada's *Decisions on the Revisions to the Framework for Spectrum Auctions in Canada and Other Related Issues (March 2011)* states the following:

Comments were received from Bell Mobility, Bragg, the ITC Task Force, the CWTA, MTS Allstream, Rogers, SaskTel and TELUS. All respondents were in agreement that a 10-year licence term is insufficient. Bragg, the ITC Task Force, the CWTA, MTS Allstream, Rogers, SaskTel and TELUS were all of the view that licence terms should be 15 years, at a minimum, and preferably 20 years in duration. Bell argued that licence terms should be indefinite or, at a minimum, be 20 years. Although it proposed licence terms of 10 to 15 years, Bragg also supported the notion of indefinite licence terms. (Industry Canada, 2011a)

While all industry groups above preferred 20 year terms, they would have accepted 15. It is our opinion that 20 year terms will not give Canadians the full economic benefit of this key public resource. We do not think Industry Canada has offered a convincing rationale for the doubling of the license terms.

Industry Canada (2012) supports its 20 year decision thus:

82. This decision was based on the recognition that licence terms in excess of 10 years would create greater incentive for financial institutions to invest in the telecommunications industry and for the industry itself to further invest in the development of network infrastructure, technologies and innovation.

While the current Framework for Spectrum Auctions in Canada allows for licences of “up to 20 years” (Industry Canada 2011b, 3.5), the proposed 700 MHz licensing framework (Industry Canada 2012) allows for the longest terms possible for this valuable spectrum: “The term of this licence is 20 years” (84). We recognize the need for investment in this key communications infrastructure, but we strongly believe a 20 year license (with high chance of renewal) does not give full value to Canadians. Broadcasting licenses in Canada have traditionally been for seven year periods and also require significant infrastructure investment (Canada 1991, 9.1.b). Licenses in the 2008 700 MHz auction in the United States were for 10 year periods (Federal Communications Commission). We do not agree that the Canadian wireless licensees require longer to amortize the required investment.

It is our opinion that the future of wireless communication in Canada is too uncertain to lock in ownership for the next 20 years. In the United States in 2012, the FCC has begun Incentive Auctions to purchase spectrum from licensed broadcasters to be reassigned for wireless services. Within three years of the 700 MHz auction in the U.S., the regulator realized its projections for spectrum use were inadequate – the demand was higher than anticipated. The future of wireless communications in Canada is too important and too volatile to be subject for twenty year terms.

We recommend that licenses for the Canadian 700 MHz auction be set for ten year periods.

Sources:

- Bajari, Patrick, and Jungwon Yeo. 2009. Auction design and tacit collusion in FCC spectrum auctions. *Information Economics and Policy* 21 (2):90-100.
- Canada. 1991. Broadcasting Act.
- Cramton, Peter, and Jesse A Schwartz. 2002. Collusive Bidding in the FCC Spectrum Auctions. *Contributions to Economic Analysis & Policy* 1 (1):1078-1078.
- Federal Communications Commission. Auction 73: 700 MHz Band.
- Industry Canada. 2007. Spectrum Policy Framework for Canada.
- 2011a. Decisions on the Revisions to the Framework for Spectrum Auctions in Canada and Other Related Issues.
- 2011b. Framework for Spectrum Auctions in Canada.
2012. Consultation on a Licensing Framework for Mobile Broadband Services (MBS) —700 MHz Band.
- Taylor, Gregory, and Catherine Middleton. 2011. Consultation on a Policy and Technical Framework for the 700 MHz Band and Aspects Related to Commercial Mobile Spectrum. edited by Industry Canada.