



Competitive Carriers Association
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February 5, 2014

EX PARTE VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Policies Regarding Mobile Spectrum Holdings*, WT Docket No. 12-269
Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions, Docket No. 12-268

Dear Ms. Dortch:

Around the world, regulatory authorities have concluded that limits on the aggregation of low-band spectrum are sound spectrum management policy.¹ Industry Canada recently joined the global consensus against allowing excessive spectrum aggregation below 1 GHz when it adopted a new framework for considering whether to approve spectrum transfers.² Specifically, Industry Canada indicated that it would consider the particular utility of low-band spectrum when it evaluates the merits of a transfer of control or assignment.

Many commenters have documented how dozens of countries have concluded that, in order to maintain a competitive mobile marketplace, they must adopt reasonable and transparent limits on the amount of below-1 GHz spectrum any single bidder can acquire at auction.³ Low-band spectrum has

¹ See, e.g., Achim Wambach, Stephan Knappek & Vitali Gretschnko, *Spectrum Aggregation Limits in Auctions with Spectrum below 1 GHz: the European Experience*, attached to Letter from Trey Hanbury, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 12-268; WT Docket No. 12-269 (filed Dec. 12, 2013) (documenting how spectrum-aggregation limits for spectrum auctions are the norm in the European Union and demonstrating how these limits have no consistent effect on revenue) (“TWS Paper”); Letter from Rebecca Murphy Thompson, General Counsel, Competitive Carriers Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 12-269, Docket No. 12-268, 1 (filed Sept. 4, 2013) (identifying some of the many countries that have adopted spectrum aggregation limits, including the United Kingdom, Germany, Spain, Australia, Canada, Ireland, France, Sweden, Denmark, Iceland, the Czech Republic, South Korea, Portugal, Norway, Greece, the Netherlands, Peru, Switzerland, Argentina, Columbia, Brazil, Chile, Mexico, Singapore, and Thailand) (“CCA Letter”).

² Industry Canada, *Framework Relating to Transfers, Divisions and Subordinate Licensing of Spectrum Licences for Commercial Mobile Spectrum* (June 2013), available at [http://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/DGSO-003-13-transfer.pdf/\\$file/DGSO-003-13-transfer.pdf](http://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/DGSO-003-13-transfer.pdf/$file/DGSO-003-13-transfer.pdf) (last accessed Jan. 30, 2013) (“Canadian Transfer Framework”).

³ See CCA Letter at 1.

proven essential to the deployment of mobile broadband because it provides superior in-building penetration and has an exceptional ability to provide wide coverage with fewer base stations than higher-frequency bands.⁴ Experts around the world have recognized that, when below-1 GHz spectrum is made available at auction without limits on aggregation, incumbents may foreclose newer entrants with smaller financial reserves, skewing the competitiveness of the mobile broadband marketplace and making fewer options available to consumers.⁵

When Industry Canada adopted its new license transfer approval process in 2013, it explicitly identified the relative utility of below-1 GHz spectrum compared to above-1 GHz spectrum as a factor in determining whether the transfer of a spectrum license could harm competition.⁶ The Industry Canada framework, which aims to promote “the efficiency and competitiveness of the Canadian telecommunications industry, and the availability and quality of services to consumers,” considers “the relative utility (e.g. above and below 1 GHz) and substitutability of the licensed spectrum and other commercial mobile spectrum bands in the licensed area.”⁷

The new Canadian transfer framework will apply to spectrum acquired during Canada’s upcoming 700 MHz auction, to which Industry Canada has also applied spectrum aggregation limits in an effort to meet its policy goals of “sustained competition,” “robust investment and innovation,” and increased access for all Canadians.⁸ Each of the bidding regions has been divided into blocks, and there are four prime paired blocks per region.⁹ Any carrier controlling at least 10% of market share (a group that includes all three nation-wide Canadian incumbent carriers, which together control about 90% of the market) is limited to bidding on only one of these paired blocks in each region.¹⁰ Thus, the largest spectrum holders continue to have an opportunity to participate, but at the same time at least 25% of the most desirable blocks will go to small carriers.¹¹

⁴ See, e.g., TWS Paper at 19-21; Peter Cramton, *The Rationale for Spectrum Limits and Their Impact on Auction Outcomes*, attached to Letter from Trey Hanbury, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 12-268, WT Docket No. 12-269, 8 (filed Sept. 9, 2013) (observing that in recent European auctions regulators have employed limits with respect to low-band spectrum because of that spectrum’s scarcity and ideal propagation characteristics); Martin Cave & William Webb, *Spectrum Limits and Auction Revenue: the European Experience*, attached to Letter from Rafi Martina, Counsel to Sprint, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 12-268 and WT Docket No. 12-269, 1, 5 (filed July 29, 2013) (noting that most European regulators have adopted spectrum aggregation limits for auctions of below-1 GHz spectrum because these bands “enable[e] a degree of coverage that would be difficult to replicate without it”); Comments of the National Cable & Telecommunications Association, GN Docket No. 12-268, 3 (filed June 14, 2013) (affirming that “lower band unlicensed spectrum...possesses...critical propagation and penetration characteristics.”).

⁵ See CCA Letter at 6.

⁶ Canadian Transfer Framework ¶ 40.

⁷ *Id.* ¶ 7. During the public consideration of the Canadian transfer framework, SaskTel argued that spectrum below 1 GHz “is much better suited for rural deployments and offers improved building penetration compared to higher frequency spectrum.” Comments of SaskTel, *Consultation on Considerations Relating to Transfers, Divisions and Subordinate Licensing of Spectrum Licences*, Gazette Notice DGSO-002-13 at 5 (Apr. 3, 2013).

⁸ Industry Canada, *Licensing Framework for Mobile Broadband Services (MBS) — 700 MHz Band*, DGSA-001-13, ¶ 5 (Mar. 2013).

⁹ *Id.* § 6.2.

¹⁰ *Id.*

¹¹ See *id.* There are five paired and two unpaired blocks offered in every region. All carriers, large and small, are subject to a spectrum cap of two paired frequency blocks in each region. Large carriers are additionally

Citing similar concerns, numerous parties have proposed for the upcoming incentive auction limits on the amount of below-1 GHz spectrum any one carrier can acquire. As regulators around the world have found, reasonable limits on spectrum concentration can help spur competition, stimulate investment, and accelerate innovation.

Consistent with section 1.1206(b)(2) of the Commission's rules, please associate this letter with the above-referenced dockets.

Sincerely,

/s/ C. Sean Spivey

C. Sean Spivey
Assistant General Counsel

subject to a cap of one block out of the four prime paired blocks, so they can freely compete for the fifth paired block and the unpaired spectrum.