



Competitive Carriers Association
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February 24, 2014

VIA ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: EX PARTE NOTICE

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:

On February 19th, Canada concluded its auction of 700 MHz spectrum resources, which raised record-setting auction revenues of US\$4.8 billion.¹ Prior to the auction, the Canadian regulator, Industry Canada, joined the global consensus around preventing excessive aggregation of spectrum below 1 GHz by adopting low-band spectrum-aggregation limits.² Far from diminishing auction revenues, the Canadian spectrum-aggregation limits appear to have increased revenues above expectations while strengthening consumer choice and competition for Canadians by introducing new wireless competition into the market. Establishing a reasonable, up-front spectrum aggregation limit for the upcoming incentive auction would likely yield similar results.

Industry Minister James Moore declared the auction “a clear win for Canadians,” noting that competition was expanded in every region of the country based on the auction’s allocation of this high-quality spectrum.³ Moore added that the auction succeeded because the auction rules “were designed to put consumers front and center.”

The similarities between the lead-up to Canada’s 700 MHz auction and the current arguments here in the U.S. over spectrum aggregation limits are striking. “The summer of 2013 ignited a great deal of debate regarding [Canada]’s wireless policy,” Moore said. “Much of this debate has been filled with assumptions, speculation and misinformation about the outcome of this auction and the intent of our wireless policy. While this debate has played out among analysts and commentators,

¹ See Industry Canada, *700 MHz Spectrum Auction-Process and Results* (Feb. 19, 2014), available at <http://bit.ly/1oUBv3K> (“Canadian 700 MHz Auction Results”).

² See *Ex Parte Letter* from C. Sean Spivey, Assistant General Counsel, Competitive Carriers Association, to Marlene Dortch, Secretary, FCC, Docket Nos. 12-268, 12-269 (Feb. 5, 2014).

³ The Honourable James Moore, Minister of Industry, *Announcement of 700 MHz Spectrum Auction Results* (Feb. 19, 2014), available at <http://bit.ly/1fkbmam>.

our government had one goal: to take deliberate, concrete steps to create more choice, lower prices, and better wireless service for Canadians and their families. With today's results, it's clear we made the right decisions.”⁴

Industry Canada's low-band spectrum-aggregation limits likely enhanced 700 MHz auction receipts—at a minimum, they do not appear to have reduced revenues.⁵ Indeed, the nearly US\$4.8 billion raised in the Canadian auction – the most ever for a wireless auction in Canada – was more than double preliminary market estimates of around US\$2.3 billion and outstripped the US\$3.8 billion generated from the last Canadian spectrum auction in 2008.⁶ Specifically, Industry Canada generated CA\$5.27 billion by auctioning 68 MHz of low-band spectrum,⁷ resulting in an average price per MHz-POP for both paired and unpaired spectrum of US\$2.09.⁸ This average price represents a roughly 60% premium on the price that the 700 MHz spectrum sold for in the United States in 2008, which averaged US\$1.30 per MHz-POP.⁹

The Canadian 700 MHz auction is just the latest example of the fallacy of there being a mutually exclusive choice between pro-consumer, pro-competition reasonable spectrum-aggregation limits and robust auction revenues.¹⁰ Implementing reasonable aggregation limits and sound auction design can and will stimulate both higher auction revenues and increased competition in the wireless market.¹¹ Based on the experience of countries around the world,¹² including most recently Canada, the Commission can confidently adopt reasonable limits on below-1 GHz spectrum concentration knowing that it will be helping to spur competition, stimulate investment, and accelerate innovation while continuing to generate robust auction revenues.

⁴ *Id.*

⁵ Of course, no one factor affects spectrum auction revenue. Market conditions, auction design, economic outlook, and other factors all play a role.

⁶ See Nirmala Menon, *Canada Raises C\$5.27 Billion From Wireless Spectrum Auction: Auction Proceeds Could Help Government Reach 2015 Budget-Surplus Goal*, Wall Street Journal (Feb. 19, 2014), available at <http://on.wsj.com/1nQBUkh>.

⁷ See *Canadian 700 MHz Auction Results*.

⁸ See, e.g., Industry Canada, *700 MHz Spectrum Auction FAQs* (Feb. 19, 2014), available at <http://bit.ly/1bnOCqm> (calculating an average price of CA\$2.32 per MHz-POP); see also Industry Canada, *Licensing Framework for Mobile Broadband Services (MBS) – 700 MHz Band* ¶ 165 (March 2013), available at <http://bit.ly/1oUocAq> (providing that Canada's population is approximately 33,475,914).

⁹ See, e.g., J.P. Morgan, *Telecom Services and Towers* 16 (Dec. 5, 2012) attached to *Ex Parte* Letter from Trey Hanbury, Counsel to T-Mobile USA, Inc., to Marlene Dortch, Secretary, FCC, Docket No. 12-268 (July 28, 2013).

¹⁰ See, e.g., *Ex Parte* Letter from Gary L. Phillips, Assoc. General Counsel, AT&T, to Marlene Dortch, Secretary, FCC, Docket No. 12-268 (Oct. 31, 2013); *Ex Parte* Letter from Leora Hochstein, Executive Director, Federal Regulatory Affairs, Verizon, to Marlene Dortch, Secretary, FCC, Docket No. 12-268 (Jan. 27, 2014).

¹¹ See, e.g., Achim Wambach, Stephan Knapek & Vitali Gretschno, *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, FCC, Docket Nos. 12-268, 12-269 (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).

¹² See *Ex Parte* Letter from Rebecca Murphy Thompson, General Counsel, Competitive Carriers Association, to Marlene Dortch, Secretary, FCC, Docket Nos. 12-268, 12-269 (Sept. 4, 2013).

This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206(b)(2) of the Commission's rules.

Sincerely,

/s/ C. Sean Spivey

C. Sean Spivey
Assistant General Counsel