

In the matter of Telecom Notice of Consultation CRTC 2017-259, *Call for comments – Reconsideration of Telecom Decision 2017-256 regarding final terms and conditions for wholesale mobile roaming service*

Comments of CWTA on the Second Phase of Interventions

3 November 2017

Introduction

1. The Canadian Wireless Telecommunications Association (“CWTA”), has received Supplemental Interventions from Ice Wireless, Shaw Communications Inc. (“Shaw”), OpenMedia and Bell Mobility. Pursuant to the procedure outlined in Telecom Notice of Consultation CRTC 2017-259-1, CWTA provides these further comments on the second phase of interventions that were submitted by the aforementioned parties on 27 October 2017.

Scope of this proceeding

2. CWTA agrees with Shaw that “Some parties have inappropriately conflated the issue of mandated MVNO access with the possible creation of a mandated Wi-Fi First roaming regime.”¹ CWTA and its members are concerned that these parties have inappropriately fused these issues together. Mandated MVNO access is a topic that is clearly outside the scope of both the Order-in-Council² and TNC 2017-259. The Order-in-Council narrowly asks the Commission to reconsider the definition of a “home” network for the purposes of mandated wholesale roaming on the networks of national wireless incumbents, as determined in Telecom Decision CRTC 2017-56.³ CWTA submits the Commission should dismiss all arguments in favour of mandated MVNO access, or models that resemble MVNO access, as being outside the scope of this proceeding.

More Wireless Investment is Required

3. Both Bell Mobility and Shaw identified the shocking argument provided by Ice Wireless that “the mobile wireless network infrastructure that Canada requires for both its current and future needs has largely already been build.”⁴ The Second Intervention of Bell Mobility clearly demonstrates that Ice Wireless is incorrect. As Shaw succinctly puts it, Canada needs more, not less investment.⁵ CWTA agrees.

4. Innovation, Science and Economic Development Canada (‘ISED’) and its counterparts in most other countries have a shared focus on the development and deployment of 5G. It is understood that 5G will not only be innovative and transformational, it will be disruptive. It will change the manner in which all other industries operate, delivering untold benefits to consumers and businesses. 5G will be the

¹ Shaw, Second Intervention, 27 October 2017, paragraph 5.

² Order of the Governor in Council to the Canadian Radio-television and Telecommunications Commission referring back for reconsideration Telecom Decision CRTC 2017-256, *Wholesale mobile wireless roaming service tariffs – Final terms and conditions*, P.C. 2017-0557, 1 June 2017

³ Telecom Decision CRTC 2017-56, *Wholesale mobile wireless roaming service tariffs – Final terms and conditions*, 1 March 2017.

⁴ Ice Wireless, Intervention dated 8 September 2017, paragraph 71.

⁵ Shaw, Second Intervention dated 27 October 2017, paragraph 33.

underlying infrastructure for the Internet-of-Things (IoT) ecosystem, an ecosystem of connected sensors and processors that will in turn aggregate the computational ability of many devices and connect computational power with massive amounts of data flowing from sensors. 5G is not just innovative, it will accelerate innovation and productivity in other industries and important sectors of the economy, such as healthcare, agriculture and transportation.

5. Bell Mobility has introduced several documents that clearly demonstrate the estimated massive wireless investment that will be required for the introduction of 5G services in Canada, and around the Globe.⁶ CWTA's initial comments provided the Commission with a brief summary of how ISED views 5G as the next major advancement in mobile telecommunications. ISED recognizes the importance of 5G to innovation in Canada and the economic goals of the country. The reports introduced by Bell Mobility offer insights from the European Union, the GSMA, the United Kingdom, the United States and independent agencies regarding the international focus on 5G investment, including the massive amounts of capital required. As noted by Bell Mobility, the European Commission anticipates investment approaching CAD \$21 billion for the earliest stages of 5G development. Some of the reports also provide explanation of the major investment drivers including backhaul, small cell deployment, site acquisition and spectrum.

6. In addition to investments to develop and deploy 5G networks and services, ongoing and future investments are required to expand network coverage to meet the needs of Canadians who do not have access to the latest generation of wireless services and/or who have insufficient network capacity. Bell Mobility has provided evidence of its significant capital budget in 2018 for coverage expansion.⁷ Shaw has provided evidence of the investment it has made to acquire Freedom Mobile and launch its LTE-Advanced network.⁸ Moreover, the evidence in this proceeding clearly demonstrates that the new facilities-based competitors continue to make substantial investments to expand their offerings in direct competition with the incumbent operators.

7. Mandating access for Wi-Fi First providers will undermine the incentives to invest in 5G technology since Wi-Fi first providers will be permitted to exploit these investments without making any investment themselves. This will make it difficult for facilities-based mobile service providers to

⁶ Second intervention of Bell Mobility Inc., 27 October 2017 (Appendices A to I).

⁷ Second Intervention of Bell Mobility, 27 October 2017, paragraph 17.

⁸ Second Intervention of Shaw, 27 October 2017, paragraph 37.

differentiate themselves through ongoing investment in advanced new technologies. Lower levels of investment will undermine Canada's ability to compete in a digital world.

Wi-Fi First will hurt, **not** stimulate investment

8. CWTA rejects the assertion by Ice Wireless that "expanding the home network will likely stimulate investment in mobile wireless infrastructure in rural areas".⁹ Ice Wireless has not provided any evidence to support the assertion. Indeed, Ice Wireless admits that it is "not suggesting that every Wi-Fi first service provider will invest its revenues..."¹⁰ It states further that "many Wi-Fi first service providers will never invest in traditional mobile wireless network infrastructure, such as towers, backhaul and spectrum...".¹¹ Finally we note that Ice Wireless believes "there is no valid justification for requiring Wi-Fi first service providers to own or operate a home network".¹² CWTA submits that the comments of Ice Wireless reveal that it is erroneous to expect that Wi-Fi first providers will stimulate investment.

9. In its original submission, CWTA provided evidence regarding significant investment made by facilities-based carriers.¹³ Bell Mobility has provided its own capital budget for coverage expansion in 2018.¹⁴ It is certainly clear that CWTA members have made, and continue to make, significant investments to give Canadians access to best-in-class mobile networks and services across the country. Newer players like Eastlink, Freedom Mobile and Videotron have invested substantially to grow their networks, including investment in regions with lower population densities.

10. CWTA agrees with Shaw that "it is clear that expanding the definition of "home" network to include public Wi-Fi access connectivity would have a direct and significant negative impact on the ability and incentives of new wireless competitors to invest in, and expand, their networks."¹⁵ Shaw, Quebecor and Eastlink have all provided evidence demonstrating that mandating Wi-Fi First roaming will fundamentally harm the business case for continued investment in network expansion by the new facilities-based competitors.

⁹ Supplemental Intervention of Ice Wireless, 27 October 2017, paragraph 75.

¹⁰ Ibid., paragraph 83

¹¹ Ice Wireless, op. cit., paragraph 83

¹² Ice Wireless, op. cit., paragraph 132.

¹³ CWTA Intervention, 8 September 2017, paragraph 14.

¹⁴ Second Intervention of Bell Mobility, 27 October 2017, paragraph 17.

¹⁵ Second Intervention of Shaw, 27 October 2017, paragraph 38.

Facilities-based Competition is Working

11. Ice Wireless argues, based on Dr. von Wartburg's report, that the Canadian mobile wireless market is highly concentrated in the hands of the national wireless carriers. The exception pointed to by Ice Wireless is Quebec.¹⁶ It is well understood that market concentration was, and continues to be, one of the reasons behind Canada's so called "new entrant policies", which are focused on encouraging facilities-based competition. These policies have provided opportunities for new entrants to win spectrum licences and incited them to invest in facilities. It is also the reason the Commission regulates the wholesale roaming rates offered to new entrant facilities-based operators.

12. CWTA submits that the new entrant policies are working, with competition in the Quebec market perhaps being one of the best examples. The *2016 Price Comparison Study of Telecommunications Services in Canada and Select Foreign Jurisdictions* found that on average new entrants offer prices up to 36% less than the national incumbents.¹⁷ This fact was recently recognized by ISED in its document *Consultation on a Technical, Policy and Licensing Framework for Spectrum in the 600 MHz Band*, which was released in August of this year.¹⁸ ISED also recognized the significant investment made by new entrants to deploy networks across the country.

13. Perversely, Ice Wireless points to the acquisition of WIND by Shaw as evidence of a trend towards further concentration.¹⁹ CWTA disagrees. Shaw has the ability to invest heavily in Freedom Mobile and this investment will undoubtedly bolster competition. While it would be inappropriate for CWTA to comment on the pricing of individual members, we do note that Shaw has provided evidence of new service packages introduced by Freedom Mobile that it argues will provide Canadians with affordable and differentiated options. It is simply not credible to view Shaw/Freedom Mobile as increasing the concentration of market power. Rather, the opposite is true.

14. More generally, all of the new entrants require more time to establish themselves and enhance their offerings, including 5G services, to Canadians. As Shaw points out, "Canada's wireless market today is a critical juncture in its evolution".²⁰ Strong, facilities-based competitors have invested and are competing with the incumbent carriers. The market is evolving towards one with sustainable

¹⁶ Ice Wireless, Second Intervention, dated 27 October 17, paragraph ES-10.

¹⁷ See: <http://www.crtc.gc.ca/eng/publications/reports/compar/compar2016.htm#4.2.1>, Table 7.

¹⁸ Gazette Notice SLPB-005-17

¹⁹ Ice Wireless, Second Intervention, paragraph 26.

²⁰ Second Intervention of Shaw, 27 October 2017, paragraph 10.

competition. Undermining the competitors' incentives to invest will jeopardize the goal of sustainable competition.

15. It appears to CWTA, that Ice Wireless attempts to bolster its arguments by either forgetting about the new entrants in order to portray a landscape with three national carriers, or by grouping the new entrants with the national carriers in order to ignore the benefits Canadians are already deriving from the competitive networks, services and pricing the new entrants provide. By ignoring and/or hiding the new entrants, Ice Wireless is disregarding the disproportionate harm that will be caused to the new entrants from any decision to mandate Wi-Fi First.

16. In this regard, CWTA references section VI of Dr. Von Wartburg's report (beginning on page 33).²¹ In this section, Dr. Von Wartburg asserts that mandated wholesale access for Wi-Fi First service providers is unlikely to reduce investment in Canada. Disturbingly, there is not one single mention of new entrants in this section. The analysis ignores the long-standing policy to stimulate new facilities-based players. As CWTA noted in its original submission, the Commission's own analysis and determinations in four Decisions has recognized that mandated MVNO access, in any form, would have a detrimental effect on investment in wireless infrastructure.²²

OpenMedia

17. CWTA has carefully reviewed the second intervention of OpenMedia. The Commission added a second phase of interventions to this proceeding to "give parties that have not yet filed expert evidence the opportunity to do so."²³ OpenMedia has not filed expert evidence. The second intervention contains nothing new, it merely recounts information from previous proceedings.

Conclusion

18. CWTA appreciates the opportunity to comment on the supplemental interventions.

*** End of Document ***

²¹ Supplemental Intervention of Ice Wireless, 27 October 2017, Appendix A.

²² CWTA Intervention, 8 September 2017, paragraph 4.

²³ Telecom Notice of Consultation CRTC 2017-259-1, 5 October 2017, paragraph 6.