

March 12, 2014

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

**Re: *Ex Parte Presentation***

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

Dear Ms. Dortch:

In a recent *ex parte* letter, Verizon mischaracterizes the Canadian government's stated reasons for conducting the 700 MHz auction as well as the lessons learned from that auction. Verizon also overlooks the wealth of economic evidence that is already in the record in support of spectrum-aggregation limits.

First, Verizon portrays Canada's sole objective in adopting a spectrum limit as the hope of establishing a fourth competitor in the market.<sup>1</sup> This statement is incorrect. Industry Canada explained its goals as follows:

- "sustained competition in the wireless telecommunications services market so that consumers and businesses benefit from competitive pricing and choice in service offerings;"
- "robust investment and innovation by wireless telecommunications carriers so that Canadians benefit from world-class networks and the latest technologies; and"
- "availability of these benefits to Canadians across the country, including those in rural areas, in a timely fashion."<sup>2</sup>

The emergence of a fourth competitor was incidental to the goal of generating more intense wireless competition across Canada. As widely reported throughout the Canadian press, Industry Minister James Moore expressly rejected any sense of imperative that the Canadian government would

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<sup>1</sup> *Ex Parte* Letter from Leora Hochstein, Verizon, to Marlene Dortch, Secretary, FCC, Docket Nos. 12-268 and 12-269 (filed Mar. 4, 2014) at 1 ("Verizon Letter").

<sup>2</sup> Industry Canada, *Licensing Framework for Mobile Broadband Services (MBS) — 700 MHz Band*, DGSA-001-13, ¶ 5 (Mar. 2013), available at [https://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/Licensing\\_Framework\\_MBS\\_700\\_MHz\\_Band.pdf/\\$file/Licensing\\_Framework\\_MBS\\_700\\_MHz\\_Band.pdf](https://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/Licensing_Framework_MBS_700_MHz_Band.pdf/$file/Licensing_Framework_MBS_700_MHz_Band.pdf).

introduce a fourth competitor to the market.<sup>3</sup> The government's public policy, he said, was to promote competition and "[w]hatever dynamic emerges that the marketplace can support, the marketplace will decide that."<sup>4</sup>

Second, Verizon says that Canada treated all nationwide incumbents the same way.<sup>5</sup> This statement is misleading. Canada had different rules for different types of companies based on market power.<sup>6</sup> In Canada, three companies dominate the market compared to two here in the United States. Specifically, Rogers Communications Inc., Bell Mobility Inc. and TELUS Communications Company have a combined national subscriber market share of 93%.<sup>7</sup> Industry Canada decided that any companies with high subscriber market shares – whether national or regional – would be subject to reasonable spectrum-aggregation limits. Canada's spectrum-aggregation limits thus did not apply to the country's three nationwide carriers because they were nationwide, but rather because those companies hold the vast majority of subscriber market share.<sup>8</sup> In adopting its spectrum-aggregation limits, moreover, Industry Canada recognized that: "access to spectrum represents a critical barrier to entry in this industry and that without rules preventing excessive concentration of spectrum holdings, competition could suffer;" and, "spectrum in the 700 MHz band presents an opportunity to further improve mobile services in rural Canada."<sup>9</sup> In short, all incumbents were treated the same way only to the extent that those incumbents – whether national or regional – held market power.

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<sup>3</sup> Luann LaSalle, "Industry Minister Passes Wireless Competition Buck to Markets," The StarPhoenix, Feb. 13, 2014, *available at* <http://www.thestarphoenix.com/technology/Industry+minister+passes+wireless+competition+buck+market+s/9502487/story.html>.

<sup>4</sup> Luann LaSalle, "Ottawa will let the Market Decide how Many Wireless Players will be in Each Region," Calgary Herald, Feb. 12, 2014, *available at* <http://www.calgaryherald.com/business/Ottawa+will+market+decide+many+wireless+players+will+each+region/9500138/story.html> (emphasis added).

<sup>5</sup> Verizon Letter at 1.

<sup>6</sup> Industry Canada, "700 MHz Spectrum Auction FAQs, FAQs: Results of 700 MHz Auction, February 19, 2014," *available at* <http://www.ic.gc.ca/eic/site/icgc.nsf/eng/07398.html#j14> (last modified Feb. 19, 2014) ("National (over 10 percent market share) and regional large wireless service providers (over 20 percent market share in their respective licence areas) were limited to one paired block of prime spectrum (blocks B, C and C1/C2). Therefore, blocks A, D and E were not included in the cap and were in high demand in this auction. This is reflected in the final prices and the fact that virtually all licences were assigned—bidders obtained 97 of 98 available licences.") ("700 MHz FAQs").

<sup>7</sup> MBS and BRS Policy Framework, ¶ 14.

<sup>8</sup> 2012 CRTC Communications Monitoring Report at Table 5.5.5, Wireless Subscriber Market Share by Province (2011), and ¶ 247, *available at* [https://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/Licensing\\_Framework\\_MBS\\_700\\_MHz\\_Band.pdf/\\$file/Licensing\\_Framework\\_MBS\\_700\\_MHz\\_Band.pdf](https://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/Licensing_Framework_MBS_700_MHz_Band.pdf/$file/Licensing_Framework_MBS_700_MHz_Band.pdf).

<sup>9</sup> Industry Canada, *Policy and Technical Framework for Mobile Broadband Services (MBS) — 700 MHz Band and Broadband Radio Service (BRS) – 2500 MHz Band*, SMSE-002-12, ¶ 14 (Mar. 2012), *available at* [https://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/700MHz-e.pdf/\\$file/700MHz-e.pdf](https://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/700MHz-e.pdf/$file/700MHz-e.pdf) ("MBS and BRS Policy Framework").

Third, contrary to Verizon's claims of low revenue,<sup>10</sup> Canada's 700 MHz auction exceeded all revenue expectations and grossed more revenue than any other auction by forcing the dominant incumbents to bid against one another.<sup>11</sup> Dominant incumbents rationally seek to avoid head-to-head competition whenever they can, which suppresses auction revenue. Canada's spectrum limits and 700 MHz auction design made that strategy of avoidance or market segmentation impossible. As a result, it was not that bids on blocks favored by competitive carriers were low, but rather that the bids on the blocks where the incumbents were actually forced to compete against one another were exceptionally high.

Fourth, Verizon claims that competitive carriers do not cite enough international precedent for reasonable spectrum-aggregation limits, especially with respect to limits that benefit other nationwide carriers.<sup>12</sup> But Industry Canada itself summarized the global consensus in support of spectrum-aggregation limits this way: "through the use of spectrum caps, the responsible agencies in other countries aim to address the risk of one or more dominant providers obtaining all of the spectrum licences available for auction, resulting in a reduction of competition in the marketplace. Countries that have recently applied spectrum caps in some of their auctions include the United Kingdom, Italy, France and Germany."<sup>13</sup> Furthermore, supporters of reasonable spectrum-aggregation limits have submitted a wealth of evidence to demonstrate the positive effects of these policies in the United States and around the globe.<sup>14</sup> Simple repetition of the claim that "no evidence" has been provided does not make it so.

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<sup>10</sup> Verizon Letter at 1-2.

<sup>11</sup> 700 MHz FAQs ("The revenue for the 700 MHz auction was the most ever raised for an auction in Canada.").

<sup>12</sup> Verizon Letter at 2.

<sup>13</sup> MBS and BRS Policy Framework, ¶ 16.

<sup>14</sup> See, e.g., Peter Cramton, *The Rationale for Spectrum Limits and Their Impact on Auction Outcomes*, (Aug. 2013), attached to *Ex Parte* Letter from T-Mobile, Docket Nos. 12-268 and 12-269 (filed Sept. 9, 2013); Achim Wambach, Stephan Knapke & 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 Dortch, Secretary, FCC, Docket Nos. 12-268 and 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 Dortch, Secretary, FCC, Docket Nos. 12-268 and 12-269 at 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).

Ms. Marlene H. Dortch  
Secretary

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Pursuant to Section 1.1206(b)(2) of the Commission's rules, an electronic copy of this letter is being filed in the above-referenced docket. Kindly direct any questions regarding this filing to the undersigned.

Respectfully submitted,

*/s/ Trey Hanbury*

Trey Hanbury  
Counsel to T-Mobile USA, Inc.