

Consultation on Repurposing the 600 MHz Band

**Reply Comments of
the Public Interest Advocacy Centre
("PIAC")**

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1. Introduction

- 1) The Public Interest Advocacy Centre (“**PIAC**”) hereby provides these reply comments in the 600 MHz consultation.¹
- 2) In PIAC’s initial comments PIAC explained that over-the-air (“**OTA**”) broadcasting is an adored, accessible, affordable (essentially free), auspicious alternative to expensive subscriptions from broadcasting distribution undertakings (“**BDUs**”) and internet service providers, and that the potential of OTA television should be expanded, not curtailed. In PIAC’s view Industry Canada’s proposed approach would *not* maximize the economic and social benefits that Canadians derive from the use of the radio frequency spectrum. Furthermore PIAC opposed the proposal to repurpose the 600 MHz band until Industry Canada and the CRTC have arrived at a policy framework for OTA TV.
- 3) Having reviewed the submissions filed by other interveners, PIAC focuses its reply comments on the following three propositions:
 - i) Repurposing the 600 MHz band for commercial mobile broadband has limited policy justification and limited support;
 - ii) Any transition costs resulting from the transition should not penalize OTA broadcasters and consumers; and
 - iii) CRTC - Industry Canada coordination on OTA broadcasting is needed.
- 4) PIAC believes that most of the interventions submitted support these three propositions.

2. Limited justification and limited support for repurposing

- 5) PIAC recognizes the importance of co-ordinating spectrum repurposing with the United States in order to reduce interference issues and ensure a robust equipment ecosystem for any purpose to which 600 MHz spectrum is used. However, as stated in PIAC’s initial comments, PIAC questions Industry Canada’s implied assumption that mobile broadband is inherently more valuable to Canadians and necessarily achieves the policy objectives for spectrum usage over OTA broadcasting or remote rural broadband systems (“**RRBS**”).
- 6) Indeed most interveners in this process have expressed strong concern over the impact that repurposing the 600 MHz band will have on OTA stations (e.g. comments from small independent broadcasters² to large vertically integrated broadcasters,³ and individuals⁴ to

¹ Gazette Notice SLPB-005-14 (January 3, 2015) *Consultation on Repurposing the 600 MHz Band* (the “**600 MHz Consultation Document**”), as amended by Gazette Notice SLPB-001-15

² See e.g., initial comments of: CHCO-TV, Chetwynd Communications Society Community Radio TV, Independent Community TV Toronto, Télé-Québec, and Valemout Entertainment Society. Wawatay Native Communications Society.

organizations⁵) or RRBS systems.⁶ The Canadian Association of Broadcasters (the “**CAB**”), for example, stated that “there is strong justification to continue OTA transmission, as the number of OTA viewers still represents significant audiences, especially in major markets.”⁷

- 7) These interveners suggested that despite the statistics of diminishing OTA TV usage, OTA TV is highly valued for certain segments of the population. For example, those on a limited income may have no other means to access the Canadian communications systems.⁸ In some areas of the country, low power OTA stations are the only method by which consumers can access local TV due to a lack of other infrastructure.⁹ In some of these areas, there is no ‘spectrum crunch’ that would necessitate the disruption to broadcasters and consumers.¹⁰
- 8) In addition, a number of interveners such as the Canadian Broadcasting Corporation (the “**CBC**”) and the Forum for Research and Policy in Communications (the “**FRPC**”), questioned the urgency of the need for additional commercial mobile spectrum. CBC provided two documents which in the CBC’s view “raise serious doubts about the predicted demand for spectrum for mobile wireless services”, and the FRPC noted that Industry Canada had not cited evidence of the demand.¹¹
- 9) With recent decisions by the CRTC from the *TalkTV* proceeding promoting and praising benefits of OTA broadcasting, OTA TV consumption may increase in the near future. Businesses have already been started to help consumers take advantage of OTA and other methods of obtaining TV.¹²
- 10) As such, PIAC reiterates its call for Industry Canada to work with the CRTC to develop a framework for OTA broadcasting, recognizing its continued importance for Canadians across the country.

³ See e.g., Bell Media, Rogers Communications Partnership, Shaw Communications Inc.
⁴ See e.g., initial comments of Francois Simard, Merlofast, Garry McLay, Steven May, William Devitt, and Aldo Campanelli.
⁵ See e.g., initial comments of Canadian Association of Broadcasters, CACTUS, Forum for Research and Policy in Communications, and the Small Market Independent Television Stations Coalition.
⁶ See e.g., initial comments of the Ontario Ministry of Economic Development, Employment and Infrastructure, Advanced Interactive Canada, Beacon Broadband Inc, RRI CHOICE Broadband Canada, Slave Lake Communications, Stafford Communications, Terastream Broadband Inc., and YourLink Inc.
⁷ Initial comments of Canadian Association of Broadcasters at para. 10.
⁸ Initial comments of William Devitt.
⁹ Initial comments of Valemount Entertainment Society.
¹⁰ See e.g., initial comments of Wawatay Native Communications Society.
¹¹ Initial comments of CBC at 5, and initial comments of FRPC at 4.
¹² See: Sophia Harris, “Cutting the TV cord? Call the anti-cable guy” (24 March 2015), online: <<http://www.cbc.ca/news/business/cutting-the-tv-cord-call-the-anti-cable-guy-1.3005946>>.

- 11) PIAC also notes the strong opposition to repurposing the 600 MHz band from RRBS providers. The Ontario government noted the significant public and private investment to bring Internet service to remote rural areas: \$470 million since 2007.¹³ RRBS providers who have been operating for several years and made substantial long-term investments have expressed serious concerns that their businesses will be effectively shut down through spectrum reassignment.¹⁴ Several of these interveners have even expressed their interest in *expanding* service to other communities.¹⁵
- 12) As well, RRI Choice Broadband Canada raised an important issue: how does Industry Canada's moratorium on new RRBS licences align with the principle of the Government of Canada's *Digital Canada 150*, and specifically the "Connecting Canadians" program meant to fund rural broadband deployment?
- 13) PIAC notes that few interveners directly supported Industry Canada's goal to ensure more spectrum is available for mobile broadband over OTA broadcasting or RRBS.¹⁶ The few interveners who did support the repurposing to commercial mobile spectrum are generally those companies with a vested interest in the mobile wireless business.¹⁷
- 14) Notably, TELUS stated its belief that "the urban and suburban world is largely migrating to a personal broadband paradigm through mobile technology supporting unicast..." TELUS did not mention, however, the significant expense associated with such a "unicast" service. TELUS currently offers a 300MB data add-on for \$20/month, or a 10 GB data add-on for \$85/month.¹⁸ This expense is on top of all other monthly and one-time charges. Compare this expense to the one-time expense of an antenna that OTA TV viewers incur.
- 15) Cogeco Cable Inc. ("**Cogeco**"), with an admitted interest in becoming a mobile wireless carrier, similarly expressed the view that "the focus should be on maximizing the availability of the best spectrum available for all types of streaming technologies, both licensed and unlicensed spectrum".¹⁹ This position appears premised on Cogeco's views that (i) the CRTC's *Let's TalkTV* hearing "clearly demonstrated how Canadians

¹³ See initial comments of the Ontario Ministry of Economic Development, Employment and Infrastructure.

¹⁴ See e.g., initial comments of Slave Lake Communications.

¹⁵ See e.g., initial comments of ABC Communications, Beacon Broadband Inc, Terastream and Broadband.

¹⁶ 400525 Ontario Ltd, CanWISP, MTS Inc., CanWISP, and Xplornet took the position that mobile broadband is more important.

¹⁷ See e.g., initial comments of TELUS Communications Company, Saskatchewan Telecommunications, and MTS Inc.

¹⁸ See online: <<http://www.telus.com/en/on/mobility/plans/your-choice.jsp>>.

¹⁹ Initial comments of Cogeco at 4.

embrace streaming and downloading of television content over the Internet”; and (ii) there is sufficient spectrum below 600 MHz to meet current and future OTA needs.²⁰

- 16) In response, as PIAC and other interveners have already noted, there is significant potential for OTA TV consumption to *grow* in the near future, rather than decrease. This is especially so in light of the CRTC’s recent expression of support for OTA broadcasting, reaffirming that “free OTA is a competitive alternative to cable and satellite television and must be maintained for now”,²¹ and given the increasing trend of “cord-cutting”²². On that basis it is also unclear that OTA broadcasters and RRBS providers will be sufficiently served into the future by spectrum below 600 MHz.
- 17) Overall, it appears that Industry Canada’s proposals favour the *potential* benefits of mobile broadband over the existing benefits Canadians currently enjoy through OTA TV and RRBS services, and potential future benefits. PIAC questions whether doing so meets the policy objectives in the *Spectrum Policy Framework for Canada*,²³ the *Broadcasting Act*,²⁴ and *Telecommunications Act*.²⁵

3. Transition costs should not burden broadcasters or consumers

- 18) In PIAC’s initial comments PIAC recommended that to the extent that Industry Canada will follow the U.S. in repurposing the 600 MHz band, Industry Canada should explore the use of prospective 600 MHz licensing mechanisms to enhance Canadians’ access to broadcasting and telecommunications service. For example, Industry Canada could explore the use of the proceeds from any licensing to contribute to a OTA TV transition fund, or alternatively, impose a condition of licence on 600 MHz mobile spectrum licensees to contribute to such a fund.
- 19) In this regard PIAC notes the wide consensus among interveners that, should Industry Canada proceed with repurposing the 600 MHz band as proposed, broadcasters who are repacked into other channels should be compensated for all their costs.²⁶ Several

²⁰ *Ibid.*, at 4-5. It is not clear whether Cogeco is referring to repurposing 14 TV channels such that channel 36 (596-602 MHz) and below remain available for OTA broadcasting, in light of Cogeco’s subsequent call to repurpose the *entire* 600 MHz band, presumably referring to clearing all 24 TV channels under consideration by Industry Canada, thereby leaving only channel 26 and below available for OTA broadcasting.

²¹ Speech, Jean-Pierre Blais to the London Chamber of Commerce on Let’s Talk TV and the future of television (29 January 2014).

²² James Bradshaw, “More Canadians cutting the cord? TV subscriber numbers fall for first time” (15 May 2014), online: <<http://www.theglobeandmail.com/report-on-business/more-canadians-cutting-the-cord-tv-subscriber-numbers-fall-for-first-time/article18685129/>>.

²³ Gazette Notice DGTP-001-07 (June 2007) *Spectrum Policy Framework for Canada*.

²⁴ *Broadcasting Act* (S.C. 1991, c. 11), s. 3.

²⁵ *Telecommunications Act* (S.C. 1993, c. 38), s. 7.

²⁶ See *e.g.*, initial comments of Bell, Canadian Association of Broadcasters, CACTUS, CHCO-TV, Chetwynd Communications Society Community Radio TV, Friends of Canadian Broadcasting,

interveners provided estimates of the costs they would incur, which appear to be significant especially in light of the recent transition to DTV transmitters.²⁷

- 20) For example, the Canadian Association of Broadcasters estimated it will cost \$780,000 for all OTA transmitters in Canada. The Small Market Independent Television Stations (“SMITS”) Coalition estimated that the costs would be more in the range of installed relocation costs of \$1 to \$1.5 million per station or between approximately \$20 and \$30 million for originating stations, nearly half of SMITS total annual revenues. Rebroadcast transmitters would incur relocation costs of at least \$400,000 per transmitter, for a total of \$11 million or more. Without some form of transition assistance, it appears some of these operators would, as a consequence of Industry Canada’s proposals, have no choice but to shut down rebroadcast transmitters, or entire stations.
- 21) In keeping with PIAC’s initial comments, PIAC supports the call for full compensation to independent broadcasters for the costs they will incur for moving to a different broadcast frequency. PIAC also reiterates its call to eliminate the costs for *consumers* who may need new equipment to access any relocated OTA service. As many interveners have noted, the revenues from the auction of spectrum to mobile wireless providers is an appropriate source of funding for these costs.
- 22) Additionally, PIAC continues to support exploring ways to use auction proceeds in ways that support broadband access, or alternatively, local television. PIAC believes that any such supports should be developed with a public consultation process.

4. CRTC - Industry Canada coordination on OTA TV is needed

- 23) In PIAC’s initial comments PIAC advocated for the creation of an OTA TV policy. Specifically, PIAC called on Industry Canada to work with the CRTC to develop a policy framework for OTA TV which would entail a broad public consultation and the development of long-term policy and research objectives for OTA broadcasting, failing which Industry Canada’s decision on the 600 MHz spectrum could impair the CRTC’s ability to fulfil its mandate to Canadians.
- 24) Other interveners including the CBC, the FRPC, and Drs. Gregory Taylor and Catherine Middleton also put forth a recommendation for more coordination.
- 25) In PIAC’s view, and especially in light of the widespread support for OTA TV evidenced in the submissions from a wide range of stakeholders, it is imperative that the two regulators

²⁷ Independent Community TV Toronto, RNC Media, Rogers, Shaw, SMITS, Télé-Québec, and Valemount Entertainment Society.
See e.g. initial comments of Canadian Association of Broadcasters, CHCO-TV, Communications Society Community Radio TV, and the SMITS Coalition.

work jointly on a policy framework, based on active engagement with one another and with the Canadian public

5. Conclusion

- 26) OTA TV must be retained and indeed promoted.
- 27) The 600 MHz Consultation Document elicited wide-ranging support for the continued delivery of OTA broadcasting from a wide range of stakeholders.
- 28) Industry Canada, in conjunction with the CRTC, should develop a policy framework and comprehensive plan for the future of OTA TV that provides OTA TV with a stable, predictable environment in which to thrive and grow, and to do so with no disruptions to OTA broadcasters, no disruptions to viewers and no costs imposed on OTA broadcasters and their viewers.

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