THE CANADIAN CHAMBER OF COMMERCE
LA CHAMBRE DE COMMERCE DU CANADA

Submission on Opening Canada's Doors to Foreign Investment in Telecommunications: Options for Reform

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Opening Canada’s Doors to Foreign Investment in Telecommunications: Options for Reform

The Canadian Chamber of Commerce welcomes the government’s consultation on options for allowing increased foreign investment in telecommunications. The Canadian Chamber is pleased to comment on the consultation paper having advocated for liberalization of ownership restrictions in this sector. In 2008, the Chamber made the following recommendation to the Competition Policy Review Panel: “To the extent that these (sectoral investment) restrictions address legitimate public policy issues, such issues should be addressed directly through less intrusive regulatory measures, rather than broad foreign investment restrictions that impede Canadian competitiveness”.

The government’s commitment to “open Canada’s doors further to venture capital and to foreign investment in key sectors, including the satellite and telecommunications industries” was made in the Speech from the Throne on March 3, 2010 and was further demonstrated by the Cabinet’s decision allowing Wind Mobile into the Canadian market. The consultation paper moves forward with this commitment by outlining three options for comment.

The Canadian Chamber of Commerce stated in its 2008 submission to the Competition Policy Review Panel that foreign ownership restrictions for telecommunications common carriers as well as broadcasting distribution undertakings “… should be phased out and that the federal government should work to ensure that reciprocal access is granted in foreign markets”. The consultation document seeks comments on the following three reform options:

- Allow non-Canadian ownership in telecommunications common carriers and broadcasters up to 49%
- Allow unlimited non-Canadian ownership and control in small telecommunications common carriers (under 10% of market)
- Allow unlimited non-Canadian ownership and control of all telecommunications common carriers.

The Chamber’s focus for this consultation is on the key principles that the Chamber believes should guide the government in its evaluation of these three options.

Consistency and symmetry should be hallmarks of ownership rules

“The Government of Canada is committed to ensuring that Canadian consumers and businesses can benefit from any potential reform of foreign investment in the telecommunications sector,” according to the consultation paper. The Chamber maintains that businesses (and specifically regarding this policy, telecom carriers) of all sizes should be potential beneficiaries of a reform to the foreign investment policy in telecom.

For reasons of fairness and equity, we recommend that the Government ensure symmetric treatment of all telecommunications companies under a new rule. This approach should allow players of all sizes, whether they are telecom-only carriers or integrated carriers (operating also under broadcasting regulation), to be eligible beneficiaries of whatever new policy is put in place. The benefits of symmetry are acknowledged by the Government in the consultation paper when it prefaces specific comments by stating: "In recognition of the benefits of regulatory symmetry between small and large telecommunications common carriers…."

Respecting symmetry in the choice of a new policy option will ensure consistency with respect to the policy's application and with respect to communications policy overall in Canada. With regard to existing policy, the Chamber notes the symmetrical treatment reflected in the *Convergence Policy Statement* issued by the Government in 1996, allowing telecom companies to compete in television program delivery and cable companies to enter the telephone business. A policy of promoting reliance on market forces is among the objectives in the *Telecommunications Act*[1] and as the consultation paper notes: "In 2006, the Government of Canada reinforced this market-driven approach by issuing a policy direction to the CRTC to rely on market forces to the maximum extent feasible." Regulatory symmetry is one of the hallmarks of that policy direction. Asymmetrical rules create market distortions and undermine a reliance on market forces.

<u>Increased investment should be encouraged by the new rules</u>

Telecommunications is among the most capital-intensive sectors in the economy. It requires infusions of billions of dollars of capital expenditures every year to expand and maintain networks and to deliver services and solutions to consumers and businesses, providing the latest technologies available globally. Canada cannot risk any potential fall-off in its investment capacity in this sector.

Consistent with the foundational symmetry principle, noted above, the Chamber believes it is important to ensure policy is formulated with the intent of bringing investment into the sector and putting in place a regulatory/policy environment that creates the right investment incentives that will foster vibrant facilities-based competition for the sector as a whole, rather than creating rules which favour only certain companies.

[1] See: *Telecommunications Act,* s. 7(f): "It is hereby affirmed that telecommunications performs an essential role in the maintenance of Canada's identity and sovereignty and that the Canadian telecommunications policy has as its objectives … (f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective." Available on line at: http://laws.justice.gc.ca/en/T-3.4/