

# Wireless auction to boost rural communities

Offering sets new rules aimed at improving access in underserved areas

BY MICHAEL MCKIERNAN  
For Law Times

Rural communities have the most to gain from the long-overdue auction of new wireless spectrum as long as providers are willing to invest, according to a professor at Western Law.

In March, the federal government set the date and rules for the auction of broadband in the 700 megahertz band. The sale will go ahead on Nov. 19 despite earlier assurances it would be complete by early 2013.

And things will look quite different from the last spectrum auction in 2008 with a string of fresh features introduced by the industry minister aimed at boosting competition and lowering prices.

Samuel Trosow, who teaches copyright and media law at Western, has been paying attention to the auction and says it represents a chance to restore Canada's reputation as a leader in broadband access.

"There's been a lot of criticism in the last few years that Canada seems to have fallen behind in terms of providing access," he says.

Rural communities have traditionally fared particularly badly when it comes to broadband access, according to Trosow.

"It's just becoming so essential now to life in the digital age. It can no longer be viewed as a luxury that only some people can have. . . . The opening up of this new spectrum provides an opportunity for underserved areas to get new services and to allow new players to come into the picture and hopefully that will happen."

Rather than setting aside spectrum for new entrants, as happened in 2008, Industry Canada has imposed spectrum caps that will ensure at least four providers can gain access to blocks of it in each region.

The 2008 auction saw new entrants like WIND Mobile, Public Mobile Inc., and Mobicity come on the scene after the federal government earmarked 45 per cent of the available spectrum exclusively for emerging players.

But Carl De Vuono, a partner with McMillan LLP in Toronto, says he's not sure they'll all be so active this time around.

"I don't think they're all going to participate as fully in this auction," he says.

"There's all kinds of talk about consolidation with maybe one surviving and taking on the big guys."

The government has also tightened up its rules on mandatory tower sharing in order to facilitate new entrants to the wireless market and threatened to clamp down on incumbents who drag their feet in negotiating agreements.

"Canadian families work hard for their money and our government wants them to keep more of it. Our government's priority is to

provide greater wireless coverage at better rates for consumers," said Industry Minister Christian Paradis as he unveiled the auction date.

"Through better use of existing cellphone towers and by taking action to promote at least four wireless providers in every region of the country, our government is making it possible for all Canadians to have access to world-class wireless service they can afford, no matter where they live," Paradis added.

The government has also lifted foreign ownership restrictions on providers with a national market share of less than 10 per cent in an attempt to attract new investment. Recently, Paradis was in Spain as part of efforts to court international players at the annual Mobile World Congress.

Another new rule will force providers with two blocks of paired spectrum to



There's lots of talk of consolidation among the new wireless entrants, says Carl De Vuono.

deploy services to rural areas, but Trosow says the government could have gone further.

"My view is that they need to take a more aggressive role in regulating this industry," he says, noting the rural deployment requirement will suffer from the fact that few providers will end up holding two paired blocks while those that do only need to match their current coverage. That means carriers that have poor rural service now will face a lower standard.

Industry Canada demands providers roll out their 700-megahertz service to 90 per cent of those covered by their current offering within five years and 97 per cent of the population within seven years.

"There has to be some willingness to enter the market in certain areas. They can't force

companies to make bids," says Trosow.

Still, he's hopeful the auction will give the Canadian wireless market a shakeup.

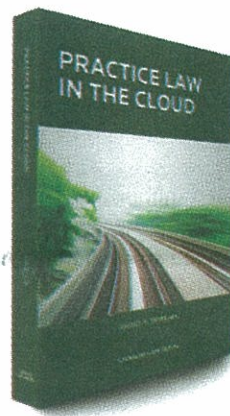
"There's a growing recognition in Canada that the telecommunications industry needs to be more competitive and consumers are paying too much, certainly compared with the U.S.," says Trosow, adding he's often stunned by cellphone offers in ads on U.S. TV stations.

"Those rates are just not available to you here. . . . I hope the new entrants try to pick up some of these licences and smaller local providers try. But it's going to be tough. They're going up against some well-funded entities."

De Vuono says the newly released spectrum will be attractive to providers for its strength and persistence.

"It used to be used for analog television, so apparently it can go through walls and into basements. So it's going to be a very useful spectrum for broadband mobile."

Applications to participate in the auction are due in June with the total minimum acceptable bids for the 98 licences coming in at just under \$900 million. However, the federal government can expect several times that amount when the final bids are in. **LT**



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