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Via email: spectrumoperations-operationsduspectre@ised-isde.gc.ca

Re: Canada Gazette, Part I, November 11, 2023, Notice No. DGSO-003-23 — Consultation on Amending CPC-2-0-20 — Radio Frequency (RF) Fields — Signs and Access Control

A. INTRODUCTION

1. The Canadian Telecommunications Association appreciates the opportunity to provide comments on *Notice No. DGSO-003-23 — Consultation on Amending CPC-2-0-20 — Radio Frequency (RF) Fields — Signs and Access Control*.
2. We represent companies that provide services and products across the wired and wireless communications sector in Canada. Our primary role is to advocate on behalf of the sector and to inform Canadians about the contributions that the telecommunications sector makes to Canada, including innovation, economic growth, social well-being, and sustainability. We also facilitate industry initiatives, such as enhancing accessibility, charitable giving, and consumer protection.
3. While we appreciate Innovation, Science and Economic Development Canada's (ISED) goal to protect the public when in the proximity of radiofrequency (RF) emitting equipment, we have concerns with some of the proposed site control requirements.
4. This submission was developed in conjunction with our members and associates, including through consultations with members of our Structure, Tower & Antenna Council (STAC), which is dedicated to helping ensure the continued safety of Canada's communication towers and the people who work to build and maintain them. To the extent that there is any inconsistency between our submission and that of one of our members, regarding the position of such member, the member's submission shall prevail.

B. RECOMMENDATIONS

Recommendation #1: Define the term “operator personnel” to make clear that such personnel includes representatives of operator subcontractors.

5. It is important that the regulations reflect that operator personnel can include employees of other companies under contract to the operator to build, modify or maintain the site or its infrastructure. The nature of Canada’s tower and antenna installation and maintenance industry is such that much of the work required to build and maintain site infrastructure is contracted out to qualified third-party companies. These contracted companies perform work for operators on dozens of tower sites each day, and their employees often require access to an RAA when employees of the operators are not present on the site.
6. For this reason, we request that the following definition be added to section A3 of the proposed circular:

Operator personnel Persons who are the employee of an operator or another company working under contract to an operator for the purposes of building, modifying or maintaining transmitters or supporting infrastructure.

Recommendation #2: Add a reasonableness standard to operators’ obligation to inform property owners of the potential risk of harm from over-exposure to RF energy. (A5. Responsibility: sixth paragraph)

7. While we support ISED’s goal of ensuring property owners are provided the necessary information required to protect themselves against prolonged over-exposure to RF energy, it must be acknowledged that there may be circumstances where, despite reasonable efforts by the operator, it is unable to confirm that the property owner has received the required safety information. This can include where the property owner fails to respond to inquiries from the operator, does not provide accurate contact information, or fails to advise of a change in property ownership.
8. For these reasons, we recommend the sixth paragraph of section A5 be amended to include a reasonableness qualification on the obligations of the operator:

In some circumstances, property owners could be present inside an RAA at the site for prolonged periods and may not be aware of the potential for over-exposure to RF energy. Operators should ~~take responsibility for making appropriate arrangements with~~ **make reasonable efforts to inform** the owner(s) of the property on which their antenna installation is located (e.g. farm field or building) ~~so that the property owner(s) is made aware~~ of the

risks of over-exposure within an RAA **and so they** can effectively avoid such risks.

Recommendation #3: Amend A7.2 to make clear that operators are not responsible for unauthorized access to an RAA that is the result of a concerted effort to circumvent access control measures. *(A7.2 Existing access controls: third bullet point)*

9. Operators share ISED's goal of preventing unauthorized people from accessing RAAs. In addition to their goal of protecting the public from the potentially harmful effects of overexposure within an RAA, operators are also motivated by the desire to protect their considerable assets on each site from the threats of theft and vandalism.
10. Yet as recent examples of theft and vandalism at telecommunications sites have demonstrated, even properly constructed access control measures can sometimes be circumvented by individuals who are intent on causing harm.
11. As such, the proposed requirement in Section A7.2 that the "height of a fence/barrier must inhibit an individual from passing over it" should be qualified to recognize that fences and other barriers are intended to prevent the general public from inadvertently entering an area that could be unsafe. They are not intended to guarantee that an individual intent on gaining access to a restricted area cannot do so. To achieve this, we recommend that the third bullet point in this section be modified to state that the "height of the fence/barrier must inhibit an individual from **inadvertently** passing over it" or "must inhibit an individual from passing over it **without concerted effort**."

Recommendation #4: Remove the proposed 55 mm requirement related to the "Maximum separation between the ground and bottom of the access controls" or replace with a requirement that is no less stringent than 100 mm, which is consistent with municipal requirements to protect children from other hazards. *(A7.3 Construction of new access controls; General requirements: seventh bullet point)*

12. As noted previously, operators are supportive of ISED's goal to prevent unauthorized access to RAAs, and transmission sites more generally. At the same time, operators operate with a limited budget. Unanticipated or additional capital expenditures on one priority can negatively affect available capital for other priorities. For this reason, it is imperative that laws, regulations, and other requirements consider associated implementation costs as well as the principle that requirements should be both reasonable and justified.
13. To date, ISED has not provided any evidence that would justify the costly and seemingly unreasonable requirement that the maximum spacing between the

ground and the bottom of access controls not exceed 55 mm. Operators have expressed that this requirement will likely require modification to the access controls (fencing) around the vast majority of their sites, at an estimated cost of tens of thousands of dollars per site.

14. In many cases, these costs will be incurred to simply extend, by mere centimeters, the existing fencing that has so far successfully prevented unauthorized access to the site. When pressed for a justification for this requirement on a November 17, 2023 conference call hosted by the Radio Advisory Board of Canada (RABC), ISED officials could not point to any evidence or studies suggesting that the existing spacing between access points and the ground were problematic or ineffective. Rather, an ISED official said on that call that these changes were proposed to better align with other regulators' requirements for other industries.
15. Given the stringency of this proposed requirement, it is logical to assume that at least one goal of this requirement would be to prevent small children from accessing an RAA through the spacing between the ground and the bottom of the access controls. If this is true, one must question why this requirement should be more stringent than the 100 mm requirement that is common to many of Canada's largest municipalities' swimming pool enclosure regulations, which are specifically designed to protect small children from a much more readily accessible hazard (ie: a ground-level body of water). Arguably, a residential swimming pool poses a much more serious and much more imminent threat to a small child than does them gaining access to an RAA. This is especially so if emissions within the RAA only exceed the Safety Code 6 uncontrolled limits at heights that a small child could not reach without assistance.
16. Should ISED impose this stringent and costly requirement, operators will be forced to reallocate planned capital expenditures away from other priorities to ensure compliance. This could impact their ability to allocate capital to other priorities shared by both operators and ISED, including those relating to Canada's connectivity and network reliability objectives.
17. For the reasons stated above, we recommend that ISED remove the proposed requirement relating to spacing between the ground and the bottom of the access controls, or in the alternative replace it with a new requirement that is no more stringent than the 100 mm requirement that many of Canada's largest cities deem sufficient to protect small children from accessing potentially hazardous locations.

Recommendation #5: Amend the first bullet point of section A.7.4 to reflect the shared responsibility between operators and property owners for controlling access to rooftop sites. (A7.4 Non-tower structures; Rooftop requirements: first bullet point)

18. The first bullet point of section A.7.4 is confusing and inconsistent with other sections of the guidelines. For example, section A.5 acknowledges that property owners have access to RAAs located on their property when operator personnel are not present. It is for that reason that Section A.5 requires operators to notify property owners of potential risks.
19. In contrast, the first sentence of section A.7.4 implies that property owners may not enter RAAs that have locked access points unless operator personnel are present. This does not reflect the reality of non-tower structures, such as roof tops, where property owners have the right and frequently do access RAAs on rooftops to attend to their own infrastructure, such as HVAC systems, exterior cladding, and water diversion systems. Requiring operator personnel to be present when property owners or their authorized personnel access these areas to perform such work is unreasonable and unworkable.
20. To add to the confusion of A.7.4, the second sentence references situations where “other personnel” may access the RAAs through access points but that operator personnel need not be present on site. This contradicts the unqualified statement in the first sentence regarding the need for operator personnel to be on site.
21. To avoid confusion, make the requirement consistent with other parts of the guidelines, and to reflect the fact that property owners, their personnel, agents and contractors, do access RAAs to perform non-telecom related activities without operator personnel on site, the first bullet point of section A.7.4 should be amended as follows to make clear that is the responsibility of the party accessing the RAA to ensure that the access control measures are locked or that general public access is restricted in alternative manner:

”Access points (e.g. doors, hatches, ladder access barriers) comprising part of the access control measures must be locked at all times unless **operator authorized** personnel are present at the site and are able to prevent general public access to the RAA. Any **authorized** personnel accessing the RAA must, working in conjunction with operator personnel (who may or may not be present on site), ensure the access points are locked, (e.g. gates, doors, other moveable barriers), or that general public access is restricted in an alternate manner at all times. ”

C. REQUEST FOR ADDITIONAL DETAIL

22. Additionally, we note that it would be helpful if the department could provide more details about the types of “additional information” it may request with regards to operators’ determinations around the location of access controls on their site, as referenced in the second paragraph of section A7 (Access control requirements).

D. CONCLUSION

23. While the Canadian Telecommunications Association and our members are generally supportive of the objectives sought through the proposed regulations, the above recommendations are necessary to ensure that the regulations properly reflect the shared responsibility for controlling access to RAAs.

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