

## *Telecommunications Act* amended to remove foreign ownership restrictions on certain telecommunications providers

In our [Telecommunications Bulletin of March 2012](#), we wrote about the proposed changes to the existing foreign ownership restrictions on Canadian telecommunications service providers contained in the Telecommunications Act announced by Canada's Minister of Industry on March 14, 2012. The proposed amendments to the Telecommunications Act were included in the 2012 omnibus Canadian Federal budget bill ([Bill C-38](#)) and came into effect on June 29, 2012, just before Parliament's summer recess.

As a result of the amendments, foreign ownership restrictions have been removed on telecommunications service providers that hold less than a 10% share of the total Canadian telecommunications market based on revenue. As previously noted in our March 2012 Bulletin, these restrictions provide that non-Canadians may not own, directly and indirectly, more than 46.7% of the voting securities of a telecommunications carrier and may not otherwise exercise "control in fact " of such carrier through contract or otherwise. The Canadian Radio-television and Telecommunications Commission (CRTC) reported in its 2011

*Communications Monitoring Report* that total Canadian telecommunications revenues for 2010 were \$41.7 billion. With the current 10% revenue threshold being just under \$4.2 billion, foreign ownership restrictions will not be applicable on any of the current telecommunication service providers in Canada other than the current three largest carriers.

The announcement of the Minister in March 2012 also described various measures to be proposed relating to the upcoming auction for 700 MHz spectrum intended to promote the government's stated goals of increasing competition and investment in the Canadian telecommunications market. In this connection, the Canadian government issued a consultation paper ([Consultation on a Licensing Framework for Mobile Broadband Services \(MBS\) — 700 MHz Band](#)) on the licensing considerations related to the auction format, rules and processes, as well as on conditions of licence for spectrum in the 700 MHz band and seeking comments from interested parties.

One of the changes described in the consultation paper is the change to the format of the upcoming auction. Industry Canada has examined advances in auction theory and design and the development of new auction formats and rules in other countries. Following such examination, Industry Canada proposed the combinatorial clock auction (CCA) format for the 700 MHz auction rather than the Simultaneous Multiple Round Ascending (SMRA) auction format which has been used in most of the previous spectrum auctions in Canada and is still popular in other countries. The CCA format is a variation on the SMRA format and involves the bidding on a package of licences rather than individual licences as in the SMRA format. This change in format to the CCA format and the bidding on packages of licences eliminates the risk

under the SMRA format that a bidder will win some but not all of the licences needed for its business case and thereby be left stranded with licences that cannot be used as effectively.

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[a cautionary note](#)

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