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July 15, 2008

Mr. David Murchison  
Executive Director  
Expert Panel on Securities Regulation  
Ottawa, Ontario  
K1A 0G5

**Re: TELUS Submission to Expert Panel on Securities Regulation**

Dear Sir:

TELUS Corporation, through its subsidiaries and wholly owned partnerships (together referred to as TELUS), is a leading national telecommunications service provider in Canada, offering a wide range of wireline and wireless communications products and services including data, voice and entertainment, and is the largest incumbent telecommunications company in Western Canada. In 2007, TELUS generated \$9.1 billion in annual revenue and had 11.1 million customer connections. TELUS earns the majority of its revenue from access to, and usage of, its telecommunication infrastructure. The majority of the balance of TELUS' revenue arises from providing products that facilitate access to, and usage of, TELUS' telecommunication infrastructure.

On behalf of TELUS, I offer this letter in response to the Expert Panel on Securities Regulation's (the Panel) call for submissions to hear the views of market participants on securities reform. Although we have not responded specifically to each consultation item, we hope you will find our thoughts on the issue of securities reform useful.

The Panel has asked important questions regarding the objectives and structure of securities legislation. While we support the call for legislative reform, TELUS believes that the lack of a single, national securities regulator is a prime reason behind many weaknesses in the current system. We are concerned that no amount of substantive legislative reform will fully address the gaps in our current system if securities legislation remains open to the interpretation of 13 separate regulators. TELUS supports the creation of a single, national securities regulator governing a single set of regulations as a critical element to remedying weaknesses and establishing a regulatory framework that enhances the competitiveness of Canada's capital markets and provides effective enforcement. Accordingly, TELUS will focus the majority of its remarks on why the creation of a single securities regulator is the first step towards meaningful reform, using recent TELUS experience to illustrate our perspective. We have avoided repeating the debates that will be very familiar to the Panel.

**A SINGLE NATIONAL REGULATOR**

Canadian securities regulatory authorities, through the introduction of the Passport System and other initiatives of the Canadian Securities Administrators (CSA), have made great strides in recent years to harmonize and improve securities regulation. While TELUS applauds these efforts, we believe that they have not adequately addressed the main weaknesses in the current system. We believe these weaknesses exist in four main areas:

- Policy development
- International brand
- Enforcement

- Costs

### **Policy Development**

TELUS agrees that the efforts of the CSA and the introduction of the Passport System are an improvement to the current system. However, we note that:

- The CSA has often been unsuccessful in obtaining 100% agreement with its initiatives.
- Even if the CSA obtains agreement, different jurisdictions can have different interpretations of the policies.
- The Passport System does not reduce the volume of regulation.
- Ontario has opted out of the Passport System.
- Neither the Passport System nor the CSA are able to respond in a speedy or timely manner to issues that arise as 13 separate regulators must be consulted.

The failure of the current system, despite the efforts of the CSA and the Passport System, to be able to reduce regulation, deal with policy developments in a timely manner and reach consensus amongst all 13 regulators has had a real and direct impact on TELUS. The following are all examples of policy issues that have affected TELUS in just the last four years.

#### *Example 1:*

When the CSA first introduced the Investor Confidence Rules in 2004, every province but British Columbia accepted them. All BC based issuers, such as TELUS, had to determine how the new rules would apply and how those rules would conflict or interact with any BC initiatives. Ultimately, BC adopted the Investor Confidence Rules in late 2007 and early 2008, but in the intervening three years, there was uncertainty requiring continuous monitoring and assessment.

#### *Example 2:*

Secondary market civil liability became effective in Ontario on December 31, 2005. It has taken three years for the other provinces to adopt similar legislation (resulting in a three year gap in investor protection). Today, deviations remain. For example:

- BC introduced a new BC Securities Act, which contained civil liability provisions that materially differed from Ontario's Bill 198. Ultimately, BC abandoned this initiative in order to concentrate on the Passport System.
- More recently, Saskatchewan's secondary market civil liability legislation deviates from Ontario's in several ways:
  - Saskatchewan did not adopt the same provisions on costs designed to discourage unmeritorious claims. It's unclear if unsuccessful parties could better avoid costs under the Saskatchewan legislation.
  - Saskatchewan did not specify a limitation period; rather it defaulted to provincial legislation which is, generally, two years from the date that the plaintiff first knew or ought to have known of the loss or injury (with knowledge being presumed as of the date of the act or omission unless proved otherwise). By contrast, the limitation period under Ontario's legislation is: the earlier of six months after the issuance of a news release disclosing that leave has been granted to sue, and three years after the date on which the misrepresentation was made or when the requisite disclosure was first required to be made.

#### *Example 3:*

Issuers across Canada faced uncertainty in the fall of 2005, when it was discovered that amendments to certain prospectus exemptions unintentionally prohibited 1) the reinvestment of dividends from one class of shares into a second class of shares under dividend reinvestment programs (DRIPs); and 2) the sale by a DRIP administrator of a participant's shares held under a DRIP. The response to this problem illustrates the benefit of having a single regulator.

On the first prohibition, each provincial securities commission except Ontario, BC and Yukon, issued relief from the prohibition on the cross-class purchase within approximately seven weeks. BC advised that when it adopted the new securities laws which prohibited cross-class purchases, it did not revoke the old laws which allowed cross-class purchases. Accordingly, under BC law, cross-

class purchases were still permissible and no additional relief was required. TELUS and other issuers had to obtain an exemption order from Ontario and Yukon in order to continue with cross-class investment.

On the second prohibition, all the securities commissions but Ontario agreed on the interpretation of a plan administrator's activities. Led by Alberta, all the commissions agreed to either issue an Interpretation Notice or agree to an order allowing plan administrators to conduct their activities. Ontario required an exemption order. The confusion for both issuers and investors was considerable. Many issuers, including TELUS, had to suspend their DRIP programs until the appropriate rules were passed or exemption orders were obtained, and received negative feedback from frustrated retail investors. More importantly, retail investors were confused and inconvenienced; those wishing to exit a DRIP program during this time had to obtain their shares in certificate form before selling them (instead of simply selling through their broker as they normally would have). We have no doubt that the uncertainty for issuers and investors alike would have been considerably less had there only been one regulator.

Our own experience with policy issues has led us to conclude that a single regulator, with no opt-out provisions for any provinces, is necessary to end the uncertainty for issuers and investors over the applicability and interpretation of rules and will facilitate more timely policy development.

### **International brand**

Both the Wise Person's Committee (WPC) and the Crawford Panel have correctly pointed out that the current system does not provide Canada with a single voice in international forums. The question is whether the failure to present one voice to the rest of the world could impact international cooperation with Canada.

TELUS is particularly concerned that the failure to present one voice internationally, or that the policy decisions of one province's securities commission, could potentially jeopardize MJDS and our relative ease in accessing the US capital market.

As noted in a Background Paper to the Crawford Panel's 2005 discussion paper, since 2000 the Securities and Exchange Commission (SEC) has twice re-examined MJDS because of concerns about Canada's fragmented regulatory system. In March, the SEC chose Australia to commence talks for a pact to provide mutual recognition of Australian and American securities markets. In its decision to pursue such a pact with Australia, the SEC contrasted the "patchwork" regulatory regime in Canada with that of Australia.

While we are pleased to see the CSA's announcement in May that it is working on an agreement to set forth the process to be followed in discussing mutual recognition arrangements with the United States, TELUS continues to believe that a single securities regulator would best support harmonization with (if desired) or access to US capital markets. MJDS is vital for large Canadian issuers and the importance of continued streamlined access to US capital markets cannot be underemphasized.

### **Costs**

The WPC has pointed out the significant costs of maintaining 13 different offices and staff. This also increases the cost of compliance for issuers, in terms of greater resource and time requirements, increased legal fees and filing fees to the various commissions. As a large cap issuer with in-house legal resources, TELUS is well positioned to absorb these costs. However, the majority of Canadian issuers are small or medium sized businesses for whom these costs and incremental resource requirements can create material hardship or act as a barrier to business development or expansion.

The current system can also result in opportunity costs for issuers, especially due to delays in receiving approvals for a transaction. The Passport System has not remedied this. As Ontario has opted out (CSA press release dated January 25, 2008), issuers can still miss market opportunities as a result of its divergent views. This is of concern to all Canadian issuers, regardless of size.

Two TELUS examples follow.

*Example 1:*

In order to reinstate its DRIP program when suspended as noted above, TELUS' legal counsel had to consult multiple times with various regulatory authorities. Each commission separately announced its decisions on how to address the two issues. When these decisions differed, they necessitated revisions to applications counsel was preparing on TELUS' behalf for the requisite exemption orders and further consultation to ensure that our documentation was appropriate to the changing circumstances. For medium to smaller issuers, these costs can quickly become unmanageable.

*Example 2:*

While the above example regarding the DRIP program was somewhat unusual, there are many examples of more regular transactions which are treated differently by the different securities commissions, with additional advisory costs to issuers and costly time delays as a result. For example, in 2008, TELUS conducted a simple block trade within its normal course issuer bid with a seller located in Quebec. Although we had conducted similar trades in Ontario, we found the Quebec treatment to differ and had to incur both legal costs and time on an identical and straight-forward sale, purely as a result of the vendor being situated in a different province.

**Enforcement/Investor protection**

In December 2003, the WPC provided an excellent summary of the weaknesses with enforcement under our current system. TELUS supports the assertion that enforcement remains slow and ineffective. We need look no further than the fragmented introduction of secondary market civil liability provisions in Canada to see that this is the case. Investors did not have uniform protection in Canada, as various provinces introduced similar legislation to Ontario's Bill 198 over a period of three years. In fact, uniform protection and legislation still do not exist today. Furthermore, neither the CSA nor the Passport System addresses investor protection and enforcement issues.

TELUS is concerned that a continuation of this fragmented approach to enforcement will continue to erode investor confidence and discourage investment by Canadian and international investors.

**PRINCIPLES BASED LEGISLATION**

TELUS believes that only after a single, national securities regulator is established is it meaningful to consider whether a more principles-based approach could improve securities regulation in Canada. Otherwise, we risk further fragmentation if different provinces adopt different approaches and interpretations on the application of general principles.

At this time, however, TELUS offers this brief comment on principles-based legislation. TELUS is committed to providing clear, meaningful and transparent disclosure to its shareholders. In our view, the current rules generally strike a proper balance between requiring compliance of overarching objectives and prescriptive technical rules to ensure those objectives are met. If Canadian securities authorities adopt a principles-based approach, sufficiently detailed and specific rules must also be adopted to enable issuers to respond with certainty and confidence, and to preserve ease of access to rule-based capital markets such as the United States. Sound principles supported by rules is a superior approach to relying on either extreme.

**CONCLUSION**

There has been much debate over the years on the concept of a single national securities regulator. It is time to bring it to a close. We must, once and for all, definitively address the issue of who will implement, interpret and enforce securities legislation going forward.

We would be pleased to discuss our views with you in person.

Yours truly,

A handwritten signature in black ink, appearing to read "Amy J". The signature is written in a cursive style with a large initial 'A' and a smaller 'J'.