FEDERAL COURT

FAX TRANSMITTAL FORM

DATE: June 8, 2010 **FILE NO.: T-26-10**

STYLE OF CAUSE: Public Mobile Inc. v. Attorney General of Canada et al

SUBJECT OF FAX: Two orders of Madam Prothonotary Aronovitch dated June 8, 2010

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TO: Mr. Steven R. Schmidt (for Telus)
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TO: Mr. Steven Shrybman (for Interveners)
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7 pages including the cover page

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URGENT - Please note paragraph 1(i) of order for the motion to intervene, giving until June 9, 2010 for the Interveners to serve and file and memorandum of fact and law.

Federal Court Cour fédérale

Date: 20100608

Docket: T-26-10

Ottawa, Ontario, June 8, 2010

PRESENT: Madam Prothonotary Roza Aronovitch

BETWEEN:

PUBLIC MOBILE INC.

Applicant

and

ATTORNEY GENERAL OF CANADA,
GLOBALIVE WIRELESS MANAGEMENT CORP.,
BELL CANADA,
ROGERS COMMUNICATIONS INC.,
SHAW COMMUNICATIONS INC. and
TELUS COMMUNICATIONS COMPANY

Respondents

ORDER

UPON the motion of the Alliance of Canadian Cinema, Television and Radio Artists, Communications, Energy and Paperworkers Union of Canada and Friends of Canadian Broadcasting (the moving parties) for leave to intervene in these proceedings for the purpose of making oral and written submissions.

UPON considering the motion record of the proposed Interveners, the responding motion records of the Respondents the Attorney General of Canada (Attorney General) and Globalive

Wireless Management Corp. (Globalive) (the Applicant and other Respondents not having appeared on this motion), and hearing the representations of counsel.

UPON the Court's Order dated April 13, 2010.

In her Order of April 13, 2010, Madam Tabib settled the issues of the propriety and utility of the proposed intervention, leaving a narrow question for consideration by the Court in the event that the proposed interveners renewed their application. In particular, she found that the proposed interveners had standing and were appropriate parties to intervene in the underlying judicial review. It did not matter that their motives may be jurisprudential or political. She approved as relevant and justiciable, three of the four issues raised by them dealing with the purposes and objectives of the *Telecommunications Act*, in particular, the non-commercial purposes and objectives they say were ignored.

The only concern of the Court was that there not be duplication of arguments. Thus, if the applicants and Telus Communications (Telus) failed to adequately make and defend the arguments of the proposed interveners, and if they relied on commercial or competitive aspects without "exploring" the non-commercial objectives of the *Act*, the proposed interveners were free to reapply, and have done so.

Having reviewed the memoranda of fact and law of the applicant, of Telus and the draft memorandum of the proposed interveners, I am satisfied that the motion should be granted. There is no duplication. The proposed interveners properly address arguments and issues not adequately spoken to or defended by the applicant and Telus.

As to costs, they will be awarded on the basis that the motion was unnecessarily and wastefully opposed. The Attorney General and Globalive's submissions opposing this application, amount to a collateral attack on the Order of Madam Tabib, in each case mischaracterizing what is at issue in this renewed application by the moving parties. While counsel on behalf of the Attorney General narrowed the scope of his submissions and even conceded certain points at hearing, he did so ostensibly in response to the comments of the Court and after having put the moving parties to the effort and expense of preparing to respond to submissions that essentially reargued issues settled by Madam Tabib.

A request was made on behalf of the Attorney General and Globalive to extend the time for the filing of records to allow an opportunity to respond to the Interveners. In light of my order of even date granting leave to all respondents to serve and file memoranda not in excess of forty five (45) pages. I have similarly extended the time for all respondents to serve and file their records.

THIS COURT ORDERS that:

1. The moving parties, Alliance of Canadian Cinema, Television and Radio Artists, Communications, Energy and Paperworkers Union of Canada and Friends of Canadian Broadcasting are hereby granted leave to intervene in these proceedings on the following terms:

   i) By **June 9, 2010**, the interveners shall serve and file a memorandum of fact and law reproducing the submissions of the draft memorandum of fact and law filed with this Motion.

   ii) The applicant and respondents shall serve the interveners with copies of all of the documents they have filed with the Court in this proceeding.

   iii) The interveners shall be entitled to make oral argument before the Court on the hearing of the Application.

2. The style of cause be amended henceforth to show the moving parties as "Interveners".

3. Costs of this motion fixed in the sum of $2,000, are payable, jointly, by the Attorney General, and Globalive, to the moving parties, forthwith.

4. No further costs be awarded to or against the Interveners.

5. The deadline for service and filing of the respondents' records is extended to **June 18, 2010.**

"R. Aronovitch"
Prothonotary

Federal Court Cour fédérale

Date: 20100608

Docket: T-26-10

Ottawa, Ontario, June 8, 2010

PRESENT: Madam Prothonotary Roza Aronovitch

BETWEEN:

PUBLIC MOBILE INC.

Applicant

and

ATTORNEY GENERAL OF CANADA,
GLOBALIVE WIRELESS MANAGEMENT CORP.,
BELL CANADA,
ROGERS COMMUNICATIONS INC.,
SHAW COMMUNICATIONS INC. and
TELUS COMMUNICATIONS COMPANY

Respondents

ORDER

UPON the motion of the Attorney General of Canada and Globalive Wireless Management Corp. on consent.

UPON the Court's Order of even date allowing an intervention, and the request of the Attorney General for additional pages to respond to the submissions made by the Interveners.

UPON correspondence dated June 4, 2010, from the applicant consenting to all respondents filing memoranda not to exceed forty five (45) pages.

THIS COURT ORDERS that:

1. The respondents shall be permitted to file and serve memoranda of fact and law that do not exceed forty five (45) pages in length.

"R. Aronovitch"
Prothonotary