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Federal Communications Commission
Office of Secretary

August 1, 2005

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: TMI Communications and Company Limited Partnership
File Nos. SAT-LOI-19970926-00161;
SAT-AMD-20001103-60158;
SAT-MOD-20021114-00237

Dear Ms. Dortch:

Transmitted herewith, on behalf of TMI Communications and Company Limited Partnership (TMI), is a copy of the modified approval-in-principal issued by Industry Canada on July 26, 2005 for TMI's above referenced 2 GHz MSS system. The modified approval authorizes TMI to use 2 x 7 MHz of spectrum (instead of 2 x 4 MHz) with an additional 2 x 3 MHz available subject to certain conditions.

Please direct any questions regarding this filing to the undersigned.

Very truly yours,



Gregory Staple

bcc: Robert Power
Zie Rivers
Jennifer Manner



Industry Canada Industrie Canada

300 Slater Street
Ottawa, ON K1A 0C8

JUL 26 2005

Our File: 46215-1 (35381 RH)

Mr. Ted H. Ignacy
Vice-President, Finance
TMI Communications and Company, LP
1601 Telesat Court
P.O. Box 9826
Ottawa, ON
K1G 5M2

Dear Mr. Ignacy:

I refer to your letter of June 30, 2005 requesting a modification to the amount of 2 GHz spectrum that is currently assigned to TMI Communications and Company, Limited Partnership (TMI) under its approval-in-principle issued by Industry Canada on May 6, 2002 and as amended on February 21, 2005. More specifically, you have asked the Department to assign additional spectrum to better reflect the spectrum demands and design characteristics of the proposed 2 GHz satellite system and to reflect recent developments in the United States regarding the reallocation of available 2 GHz spectrum¹.

In reviewing your request, the Department has taken into account that its May 2002 approval-in-principle was granted on a non-competitive basis and that the spectrum assignment was made, consistent with the principles set out in the Department's policy on the implementation and authorization of 2 GHz mobile satellite services (MSS) in Canada², and taking into account the award of spectrum to MSS systems by the Federal Communications Commission (FCC).

In October 2003, the Department initiated a public consultation on new spectrum for advanced wireless services in the 2 GHz range (DGTP-007-03). One proposal was to change the mobile satellite frequency allocations to the bands

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¹ Reference FCC June 29, 2005 Commission invites comments concerning use of portions of returned 2 GHz Mobile satellite service frequencies. IB Docket No. 05-220 and IB Docket No. 05-221.

² As found in section 5 of Industry Canada's Spectrum Utilization Policy, Amendments to the Microwave Spectrum Utilization Policies in the 1-3 GHz Frequency Range (SP 1-3 GHz).

Canada

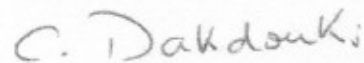
2000-2020 MHz and 2180-2200 MHz (instead of 1990-2025 MHz and 2160-2200 MHz). The Department has not yet taken a decision on these proposed allocation changes, but all considerations would indicate that it would be beneficial to harmonize the Canadian allocations and spectrum designation for mobile satellite services within the North American context. Furthermore, the Department intends to be in a position to accommodate the greatest number of mobile satellite networks so as to offer Canadians choice of services and suppliers. The Department reserves the flexibility to make future allocation and spectrum designation changes which will advance the public interest.


The Department has concluded that, while changes to the spectrum allocation are still being considered, your request for modifications should be accepted to support your plans for developing an advanced Canadian mobile satellite capable of serving the Canadian market and beyond. With two satellite operators, which include TMI, having definitive plans to implement mobile satellite services in the near term, the Department supports TMI's request to change its assignment of mobile satellite spectrum from 4 MHz in each direction, plus the conditional 4 MHz in each direction. TMI will be authorized to use 7 MHz in each direction with an additional 3 MHz in each direction available on a conditional basis. The conditional spectrum would be available to TMI subject to the final planning of the spectrum for the North American market.

Attached you will find the conditions applicable to the Department's approval of TMI's 2 GHz mobile satellite plan. These conditions consolidate the original conditions affixed to the May 2002 approval in principle with the conditions as amended in February 2005 and by this letter.

Please note that in accordance with the Department's commitment to fair, open and transparent licensing processes, this letter will be posted on our Strategis website. If you have any questions about this letter, please contact Richard Hiebert at (613) 998-4333.

Yours sincerely,



 Jan Skora
Director General
Radiocommunications and
Broadcasting Regulatory Branch

Attachment: 1

ATTACHMENT

Revised 22 July 2005

**TMI Communications and Company, Limited Partnership (TMI)
Conditions to Obtain Authority to Operate a 2 GHz Space Station
to Provide Mobile Satellite Services in Canada**

1. Eligibility

TMI shall conform on an ongoing basis with Canadian eligibility requirements as set out for a radiocommunication carrier in section 10(2) of the *Radiocommunication Regulations*.

2. Licence Transferability

This approval and any consequent licences issued to TMI may not be transferred or assigned without a full review of the application by the Department and authorization of the Minister. For clarification, and without limiting the generality of the foregoing, "transfer" includes any leasing, sub-leasing or other disposition of the rights and obligations of the licences, and also includes any change which would have a material effect on the ownership or control in fact of TMI.

3. Laws, Regulations, and Other Obligations

TMI is subject to and must comply with the ITU *Radio Regulations*, the Canadian *Radiocommunication Act*, *Radiocommunication Regulations*, and spectrum and radio policies pertaining to its authorized radio frequency bands and satellite orbital position.

4. Coverage of Canada

TMI shall make fair and reasonable efforts to provide MSS service to all regions of Canada within the coverage contour as described in its application.

5. Benefits to Public Institutions

TMI shall direct a minimum of two percent of the gross adjusted revenues from the lifetime operation of this satellite, including any revenue derived from the advanced sale or lease of satellite capacity, at providing service to public institutions. TMI and Industry Canada shall work jointly to develop the terms and conditions for access to this service by public institutions.

Gross adjusted revenue is defined as total revenue less intercarrier payments, bad debts, third party commissions, and goods and services taxes collected.

6. Implementation Milestones

TMI shall meet the following implementation milestones by the respective dates set out in the following table:

Table of Implementation Milestones

	Milestone	Date
1	Submission of design specifications to Department for approval	June 15, 2002
2	Signature of contract for the construction of the first of two satellites	July 15, 2002
3	Placement of the satellite into its assigned orbital position	November 30, 2007

6.1 Submission of Final Design Specifications

Prior to entering into a contract for the procurement of its satellite, TMI must demonstrate to the Department that the satellite design 1) will meet the coverage and capacity set out in its application of May 17, 2001, 2) will comply with all technical and operational requirements as set out in Articles 21 and 22 of the ITU *Radio Regulations*, 3) will indicate what sub-bands will be used for the feeder links to be located in Canada, and that the use of feeder link spectrum will be implemented in accordance with the provisions and procedures of Appendix 30B of the ITU *Radio Regulations*. To this end, TMI shall submit, by the Milestone 1 date above, the design specifications for the new satellite to the Department for approval.

6.2 Signature of Contract

Within 15 days of final signature of the Milestone 2 contract, TMI must provide evidence satisfactory to the Department that TMI is bound to a contractual agreement with a satellite manufacturer for the construction of the proposed satellite.

7. Capacity to Meet the Needs of Users and Service Providers in Canada

TMI shall operate the satellite as a Canadian radiocommunication carrier and shall offer directly or through re-sellers the satellite services or capacity on a non-discriminatory basis in Canada.

8. Assigned Spectrum for Service to Subscriber Stations

TMI will be authorized 10 MHz in each of the two bands (2000-2020 MHz and 2180-2200 MHz)¹ for service to subscriber stations. This 10 MHz will consist of 7 MHz in each direction, with an additional 3 MHz in each direction available on the condition that it does not constrain the entry of another MSS operator into the Canadian market. The Department will retain full flexibility to adjust TMI's assignment of 2 GHz service band spectrum in order to harmonize the assignment with other MSS assignments and with allocations for other services (eg., terrestrial mobile services) in the North American market.

TMI's specific MSS assignment in these bands will be determined in consultation with the Department. After the assignment has been determined, TMI may request that the Department initiate notification for the potential displacement of fixed systems in Canada in accordance with condition 9 below.

9. Displacement of Fixed Stations

Should displacement of fixed stations operating in the assigned service band spectrum be required to accommodate the offering of mobile satellite services, TMI and Industry Canada shall work jointly to effect such displacement in accordance with the Department's spectrum transition policy to facilitate the introduction of MSS in the bands 1990-2025 MHz and 2165-2200 MHz.²

10. Use of Feeder Link Spectrum

Feeder link earth stations shall be coordinated with terrestrial fixed services and be implemented in accordance with the *Canadian Table of Frequency Allocations* and any relevant spectrum utilization policies.

TMI shall endeavour to minimize the amount of feeder link spectrum needed to implement its satellite, and shall coordinate its use of feeder link spectrum with Mobile Satellite Ventures (Canada) Inc which operates a satellite using the same feeder link spectrum at 106.5°W. Use of the feeder link spectrum shall be implemented in accordance with the provisions of Appendix S30B of the ITU *Radio Regulations* for the 107.3°W orbital position.

11. Use of Telemetry, Telecommand and Control Spectrum

TMI shall coordinate the use of spectrum for telemetry, telecommand and control operations with Telesat Canada which operates a satellite using the same fixed satellite service spectrum at 107.3°W.

¹ Note that a decision has not yet been taken on harmonizing the mobile-satellite spectrum with the U.S., per document DGTP-007-03.

² This policy is set out in section 5.0 of Industry Canada's *Spectrum Utilization Policy (SP 1-3 GHz), Amendments to Microwave Spectrum Utilization Policies in the 1-3 GHz Frequency Range*.

12. International Coordination of Satellite

The satellite must be coordinated internationally prior to commencement of operation, and be notified to the ITU. To this end, TMI must participate at its own expense in the coordination of the satellite network with the satellite and terrestrial networks of other countries; provide the Department in a form acceptable to the ITU with all satellite coordination, notification, due diligence and all other information required by the ITU to implement this satellite; and ensure that the satellite conforms with any arrangements and agreements undertaken by Canada with respect to the coordination of the satellite.

13. Lawful Interception

TMI shall provide and maintain lawful interception capabilities as authorized by law. The requirements for lawful interception capabilities are provided in the Solicitor General publication entitled *Enforcement Standards for Lawful Interception of Telecommunications*. These standards may be periodically amended following consultation with the Solicitor General of Canada and the licensees.

You may request the Minister to forbear from enforcing certain assistance capability requirements for a limited period. The Minister, following consultation with the Solicitor General of Canada, may exercise his power to forbear from enforcing a requirement or requirements where in the opinion of the Minister, the requirement(s) is (are) not reasonably achievable. Forbearance requests must include specific details and dates when compliance to requirement(s) can be expected.

14. Requirement to Hold Licences

Prior to commencement of operation of the satellite and the provision of mobile satellite service in Canada, TMI shall obtain all necessary radio authorizations from the Department.

To this end, TMI shall submit the administrative licensing information, set out in Annex B of Client Procedures Circular 2-6-02 (CPC-2-6-02), *Licensing of Space Stations in Services other than the Amateur Satellite Service and the Broadcasting Satellite Service in Planned Bands*, at least 90 days in advance of the anticipated launch date of the satellite. Additionally, all feeder link and telemetry, telecommand and control earth stations communicating with the satellite must be licensed prior to operation pursuant to Client Procedures Circular 2-6-01 (CPC-2-6-01), *Procedure for the Submission of Applications to License Fixed Earth Stations and to Approve the Use of Foreign Fixed-Satellite Service (FSS) Satellites in Canada*.

15. Reporting

TMI must submit a detailed annual report to Industry Canada. This annual report must include:

- an update indicating progress made in all areas respecting this licence;
- an update indicating continued compliance with all licence conditions;
- an update on any coordination negotiations undertaken pursuant to conditions 10, 11

and 12;

- an update on activities related to the provision of capacity to public institutions in accordance with condition 5;
- copies of any existing annual report for TMI's fiscal year with respect to this authorization; and
- a current listing of all satellite capacity being made available through this approval and consequent authorizations, the capacity assigned to Canadian service providers and others, including the parties to which it is assigned, and any unused capacity including the terms of its availability.

These annual reports are to be augmented with semi-annual interim reports providing an update on all aspects of the design, procurement, construction, coordination and launch of the satellite until the satellite has been put into service. The first interim report is due June 30, 2002, and the first annual report is due April 30, 2003. These reports are to be submitted, in writing, to the Director, Space and International Regulatory Activities, Radiocommunication and Broadcasting Regulatory Branch.

16. Traffic Reports

TMI must submit a traffic report for the satellite at the commencement of operations and every three months thereafter, indicating the channel capacity of each assigned feeder link transmit and receive frequency in terms of the number of telephone channels carried on each frequency, or telephone channel equivalencies as determined by application of section 58 of the *Radiocommunication Regulations* including all supporting information used to make this determination. These reports are to be submitted, in writing, to the Manager, Authorization Policy, Space and International Regulatory Activities, Radiocommunication and Broadcasting Regulatory Branch.

17. Payment of Licence Fees

TMI must pay the applicable annual radio authorization fees within 15 days of acceptance in orbit of the satellite from the manufacturer, and on or before March 31 of each year thereafter.³

³ Such fees are established as appropriate by application of the *Radiocommunication Regulations* and the Minister of Industry's fee order, Notice No. DGRB-009-99 -- *Radio Authorization Fees for Mobile Satellite Services Using Radio Spectrum Above 1 GHz*.