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RECEIVED

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Federal Communications Commission
Office of Secretary

February 1, 2006

VIA ELECTRONIC AND HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: TMI Communications and Company, Limited Partnership
File No. 189-SAT-LOI-97
IBFS Nos. SAT-LOI-19970926-00161
SAT-AMD-20001103-60158
ET Docket No. 95-18
Industry Canada Amended Approval in Principle

Dear Ms. Dortch:

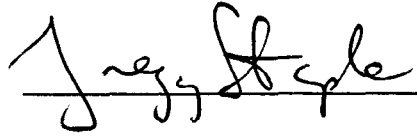
Transmitted herewith on behalf of TMI Communications and Company, Limited Partnership (TMI) is a letter to TMI from Industry Canada, dated September 29, 2005, modifying the Approval in Principle issued by Industry Canada for the above referenced 2 GHz Mobile Satellite System (MSS). This modification permits TMI to develop its MSS system at 111.1°W and to use Ku band feeder link spectrum available to Canada at that position. TMI has requested a further modification to this Approval in Principle, *inter alia*, to reflect adjustment to the TT&C frequencies required by TMI. In the near future, TMI will file a request to modify its FCC Letter of Intent (LOI) Authorization to conform the LOI to the terms of its modified Canadian authorization.

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Please direct any questions regarding this submission to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gregory C. Staple", written over a horizontal line.

Gregory C. Staple
*Counsel for TMI Communications and
Company, Limited Partnership*

cc: Roderick Porter
Cassandra Thomas
Robert Hall
Gardener Foster

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Industry Canada Industrie Canada

300 Slater Street
Ottawa, ON K1A 0C8

Our File: 46215-1 (RH 38235)

SEP 29 2005

Mr. Ted Ignacy
Vice President, Finance
TMI Communications and Company, Limited Partnership
1601 Telesat Court
Gloucester, Ontario
K1B 1B9

Dear Mr. Ignacy:

I refer to your request of April 28, 2005 seeking a further modification of Industry Canada's May 6, 2002 approval in principle to TMI Communications and Company, Limited Partnership (TMI) permitting TMI to develop its 2 GHz mobile satellite service at the 107.3°W orbital position. More specifically, TMI is requesting a modification to the approval that would permit TMI to develop its mobile satellite service at the 111.1°W orbital position using the allotment Ku band spectrum available to Canada at that position.

In addressing your request, we have taken into consideration the importance of promoting new mobile satellite networks capable of offering advanced and innovative communication services to Canadians living in all areas of Canada. The Department recognizes that the fixed satellite Ku allotment band spectrum and orbital positions can play a valuable role in the development of Canadian mobile satellite networks. The Department further recognizes the limited service coverage of the Canadian satellite positions that are currently available through the ITU fixed satellite allotment plan and notes that no other potential Canadian satellite operators have come forward with plans to develop a fixed satellite service using these resources. Finally, we have taken into consideration the revised mobile satellite spot-beam antenna architecture and other technological advancements incorporated into your satellite plan, as well as the increased demand these advancements will have on the amount of feederlink spectrum required to support the feederlink segment of your proposed mobile satellite system.

Taking the above into account, we concur with your request that additional feeder-link spectrum will be needed, and that a standalone orbital position is

...2

Canada

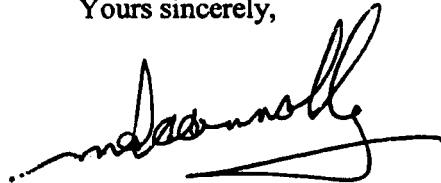
justified for TMI to develop its 2 GHz mobile satellite service. We, therefore, have concluded that it is in the public interest to assign Canada's allotment Ku band at the 111.1°W orbital position to TMI in support of the advanced and innovative mobile services to be provided to Canadians.

Attached, you will find the conditions of licence applicable to the Department's approval of TMI's 2 GHz satellite plan. These conditions consolidate the original conditions affixed to the May 2002 approval in principle, as amended from time to time, and include modifications applicable to the use of the 111.1°W orbital position using the radio frequency bands set out in the table below.

Radio Frequency Band	Use
2000-2020 MHz and 2180-2200 MHz	Service to subscriber stations
10.70-10.95 GHz, 11.2-11.45 GHz, and 12.75-13.25 GHz	Feederlinks
14-14.05 GHz, 14.45-14.50 GHz, 11.70-11.75 GHz and 12.15-12.20 GHz	Telemetry, Tracking and Control

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,



for Jan Skora
Director General
Radiocommunications and
Broadcasting Regulatory Branch

Attachment: 1

ATTACHMENT

Revised 29 September 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 and that it is approved to operate its next generation satellite at the 107.3°W orbital position.

Use of the feeder link spectrum shall be implemented in accordance with the provisions of Appendix 30B of the ITU *Radio Regulations* for the 111.1°W orbital position.

11. Use of Telemetry, Tracking and Control Spectrum

TMI shall coordinate the use of spectrum for telemetry, tracking and control operations with

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*.

other Canadian satellites which operate using the same fixed satellite service spectrum.

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, tracking 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*.