

# APPENDIX A

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## Terms in Inukshuk Wireless Partnership Authorization, March 30, 2006

### Service Deployment

Condition of licence 2 requires deployment and maintaining commercial service to all areas identified on the attached Detailed MCS Deployment Schedule.

For the purposes of this condition of licence, as well as the evaluation referred to in condition of licence 1, commercial service is defined as:

- a) the licensee has installed sufficient base station transmitting and receiving equipment, together with related switching and ancillary equipment such that the service offering is available to seventy percent of the households within the specific deployment area (city or community);
- b) the service is being offered for sale to the public;
- c) the service is being provided within a reasonable period of time to those opting for it.

Alternatively, items b) and c) of this definition will be deemed to be met if the licensee or its associated resellers have subscribers equivalent to at least five percent of the households in the particular deployment area.

**As outlined in your letter to the Deputy Minister, dated September 12, 2005, an evaluation will be made as of December 31, 2009, to determine the extent to which deployment has taken place and to what extent there remains "unused" spectrum. This evaluation to be conducted by the Department, may include an assessment by an independent third party selected by the Department. The evaluation will be done on the basis of both geographic areas deployed, as well as the amount of spectrum put to productive and spectrally efficient use in those areas deployed. In terms of geography, the smallest assessment area will be defined by Statistics Canada Census Subdivisions and the smallest assessment in terms of spectrum will be units of 1 MHz.**

**Following the above-noted evaluation, upon notification by the Department, you will be required to surrender the licences immediately. A renewal licence for the term to March 31, 2011, will be issued covering those particular geographic areas and those parts of the spectrum where the licensee has demonstrated to the satisfaction of the Department that the spectrum has been put to productive and spectrally efficient use taking into account commercially available technology, cost considerations and good engineering practices.**

# APPENDIX B

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## Recent History of the band 2500 in Canada

### Lead up to the 2006 Policy

- 1997 to 2000 MCS and MDS licenses awarded in beauty contests for fixed wireless / broadcast services. BC Tel, TELUS, QuebecTel (and Bell and others) all required to vacate the band
- The World Radio Congress took decisions in 2000 & 2003 dictating transition of the Band 2500 to mobile
- Dec 2001 Inukshuk breach of license conditions. Department reissues for 2 years with new build plan
- Mar 2003 license condition breach by MCS and MDS licensees but Department grants one year extension
- Nov 2003 New Inukshuk (MCS) JV between Microcell, Allstream and McCaw via NR Communications
- Mar 2004 third license condition breach by MCS and MDS licensees. Department grants renewal to 2011
- Apr 2004 Department issues consultation on Revisions to Allocations in the Band 2500
- Jun 2004 TELUS makes public bid for Microcell for c.\$1.2B
- Aug 2004 Department removes spectrum cap
- Sep 2004 Rogers trumps TELUS to buy Microcell for c.\$1.4B including a one third share of Inukshuk
- Oct 2004 Deadline for comments on Revisions to Allocations in the Band 2500-2690 MHz and Consultation on Spectrum Utilization. Bell firmly lobbied for full reclamation and re-auction of band. TELUS supported the Radio Advisory Board of Canada submission which echoed Bell's position but also noted opposite view of anonymous incumbents (i.e. new incumbent Rogers). Rogers otherwise silent
- Mar 2005 Bells purchases 50% stake in McCaw's NR Communications (for a 1/6 share of Inukshuk) without notice to Rogers. Bell Rogers dispute erupts. The Department is in process on its Band 2500 reallocation decision
- Aug 2005 Allstream exits the Inukshuk JV
- Sep 2005 Bell and Rogers announce that Bell has purchased the remaining stake in NR such that Inukshuk becomes jointly owned by Bell and Rogers alone. Inukshuk announces a \$200 build-out plan over 3 years covering major metros and areas underserved by wireline broadband
- Mar 2006 Industry Canada approves Inukshuk license transfer to JV with extensive build-out schedule
- Mar 2006 Gazette Notice DGTP-002-06 issued: Policy Provisions for the Band 2500-2690 MHz to Facilitate Future Mobile Service (i.e., the "2006 Policy")<sup>1</sup>. Enables conversion to mobile. 66MHz of paired FDD spectrum (2535 - 2568 and 2655 – 2588 MHz) identified for liberation (incumbent clawback)

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<sup>1</sup> As this lead up detail shows, the 2006 Policy was the Department's reaction to Bell and Rogers acquiring Inukshuk

### **What the 2006 Policy meant for and drove in terms of consolidation**

- The clawback created paired FDD spectrum (for band entrants like TELUS) and left MCS and MDS incumbents to create paired FDD spectrum via swaps, sales or partnerships. For example, near-national MCS incumbent Inukshuk<sup>2</sup> needed MDS incumbents Craig and Look to obtain FDD pairings in Canada's largest markets.

### **Market Activity since the Issuance of the 2006 Policy**

- 2005 – 2009 Craig and Look continuously market their spectrum holdings and tax losses
- Nov 2008 - Craig BC is first and only licensee to request a conversion. Granted interim conversion and a tier 4 service area (Vancouver)
- Mar 2009 - Department declares moratorium on conversions and renewals and releases DGRB-005-09, a further consultation on the 2.5GHz transition
- Apr 2009 - Inukshuk announces acquisition of Look Communications (uniting all upper and lower FDD pairs in key Canadian markets)
- Apr 2010 - Inukshuk announces acquisition of Craig Wireless (uniting all upper and lower FDD pairs in key western Canadian markets)

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<sup>2</sup> It is worth noting that TELUS was the party to first attempt to buy Microcell in 2004 (and accordingly Microcell's stake in the 2.5GHz band via near-national Inukshuk) but TELUS' offer was later exceeded by an offer from Rogers. Having no MCS or MDS spectrum, TELUS had no incentive to acquire regional MDS incumbents versus waiting for the auction of liberated and unassigned spectrum.