April 30, 2002

BY E-MAIL: wireless@ic.gc.ca

Mr. Michael Helm
Director General
Telecommunications Policy Branch
Industry Canada
200 Slater Street
Ottawa, Ontario
K1A 0C8

Dear Mr. Helm,

Re: Canada Gazette Notice DGTP-001-02: Consultation Paper on Revisions to the Spectrum Utilization Policies in the 3-30 GHz Frequency Range (SP 3-30 GHz)

Imark Corporation ("Imark") welcomes the opportunity to comment on SP 3-30 GHz. Our comments are related primarily to the use of the extended Ku downlink band 10.95-11.2 GHz. Specifically, Imark takes the position that the Department should provide full flexibility for the deployment of fixed-satellite service earth stations in the band 10.7-11.7 GHz on a coordinated first-come-first-served basis with the fixed service, and should not retain domestic footnote C16A for FSS in the band 10.7-11.7 GHz.

Imark Corporation

Imark is a publicly-traded Canadian company based in Toronto, Ontario. Through its wholly-owned subsidiary LinCsat Communications Inc, ("LinCsat"), Imark delivers 2-way high-speed Internet access services by satellite to homes, offices, and institutions, regardless of their location in Canada. The LinCsat service is focused on reaching Canadians in rural and remote markets. Imark has implemented a highly targeted marketing plan aimed at reaching specific vertical sectors within these markets.

Imark's strategic partner in the LinCsat business is Hughes Network Services. Imark uses the DiRECWAY™ system manufactured by Hughes as the core technology for the LinCsat system. LinCsat is the only "powered by" partner for Hughes in Canada, joining such US "powered by" partners as AOL, Earthlink and Pegasus. The "powered by" arrangement allows LinCsat to own and control its subscribers and to develop the LinCsat brand, and allows for the creation of unique Canadian portal software and other customized Canadian products and services.

Proposed Use of Spectrum

Imark is presently providing the LinCsat service through the use of conventional Ku-band FSS facilities. The monthly price of the LinCsat service, which is driven largely by the cost of the underlying facilities, starts at $129.95 for a single user and ranges up to $679.95 for a service suitable for up to 20 users. Although this pricing is quite competitive with business rates for DSL and cable modem services in many markets, it is still substantially higher than the pricing of comparable residential services.

In an effort to provide the LinCsat service at more competitive rates, Imark has identified a number of potential FSS facilities suitable for provisioning the LinCsat service in the extended Ku-band. Any of these facilities would provide excellent Canadian coverage. However, the facilities operate in the downlink band 10.95-11.2 GHz, and under the provisions of domestic footnote C16A, the use of spectrum for fixed-satellite services in the band 10.7-11.45 GHz is limited to large antenna earth stations located in areas outside of urban centres. The LinCsat service uses small 76 cm dishes, and therefore use of these facilities would be prohibited under domestic footnote C16A.

The uplink band for the proposed LinCsat service using these facilities would likely be 13.75-14 GHz. This band is subject to the constraints set out in ITU Radio Regulations Footnote S5.502, specifically requiring a minimum 4.5 meter antenna diameter for GSO FSS Earth stations operating in the band. Agenda item 1.24 for WRC-2003 contemplates a discussion to determine whether the constraints on the minimum FSS earth station antenna diameter can be relaxed without disrupting the sharing of the band among the FSS, Radiolocation, Radionavigation, and Space Research services.

To enable the use of extended Ku facilities in Canada for two-way high-speed Internet services like the LinCsat service, we urge the Department to reconsider its preliminary

view that the status quo with respect to sharing conditions of FSS with the other services allocated in this band, consistent with Footnote S5.502 should be maintained. Imark is of the view that the constraints on the minimum FSS earth station antenna diameter can be relaxed without disrupting the sharing of the band among the FSS, Radiolocation, Radionavigation, and Space Research services.

Conclusion

As the Department is well aware, there are few options for high-speed Internet access in the remote and rural areas of Canada. Indeed, making such service available in these underserved areas at affordable rates is one of Industry Canada's top priorities. Satellite is the obvious solution but it can become a ubiquitous solution only if the service is affordable. Until Ka band spectrum becomes widely available, which may take several years, one short-term solution is to make accessible and usable the extended Ku band spectrum that is available now — but remains largely unused because of the onerous conditions that attach to its use.

The ability to use this largely unoccupied band with 76 cm earth stations may make the provision of two-way high-speed Internet access much more affordable for Canadians in rural and remote areas.

Accordingly, Imark takes the position that the Department should remove the application of Canadian footnote C16A from the band 10.95-11.2 GHz. We urge the Department to take the necessary regulatory steps to allow this spectrum to be used, in a practical and affordable way, for a service that is high on the Department's list of priorities.

Thank you for the opportunity to comment on this important issue of spectrum policy.

Yours sincerely,

Scott Gibson
Vice President & General Counsel