

**Conditions for PCS and Cellular Spectrum Licences
(Updated November 1, 2005)**

The following conditions of licence apply to licensees for radio frequency spectrum licensed through a first-come, first-serve (FCFS) or competitive process for cellular or PCS spectrum. It should be noted that the licence is subject to relevant provisions in the Radiocommunication Act and the Radiocommunication Regulations. For example, the Minister continues to have the power to amend the terms and conditions of spectrum licences (paragraph 5(1)(b) of the *Radiocommunication Act*). Such powers would be exercised on an exceptional basis and only after consultation.

1. **Licence Term**

PCS and Cellular Spectrum Licences:

The term of this licence will expire on [insert date].

PCS Spectrum Auction Licences:

The term of this licence will expire on [insert date].

At the end of this term, licences will likely be renewed for a ten-year term unless a breach of a licence condition has occurred, a fundamental reallocation of spectrum to a new service is required, or an overriding policy need arises. A public consultation regarding the renewal of the licence will begin no later than two years prior to the end of the licence term if the Department foresees the possibility that it will not renew this licence.

For licences not acquired through a spectrum auction, licensees must pay the annual licence fee before March 31 of each year for the subsequent year (April 1 to March 31). For more information, refer to Gazette Notice No. DGRB-005-03 – *Radio Authorization Fees for Wireless Telecommunication Systems that Operate in the Radio Frequency Bands 824.040 MHz to 848.970 MHz, 869.040 MHz to 893.970 MHz or 1850 MHz to 1990 MHz*.

2. **Licence Transferability and Divisibility**

Licensees may transfer their licence(s) in whole or divide the licence in both bandwidth (i.e. disaggregation) and geographic (i.e. partitioning) dimensions. For more information, refer to Client Procedure Circular 2-1-23, *Licensing Procedure for Spectrum Licences for Terrestrial Services* (CPC-2-1-23), as amended from time to time, namely Sections 5.1 Service Areas and 5.6 Transfer and Divisibility of Spectrum Licences.

For each proposed transfer or division of licence, licensees must provide written notification to the Department. (A sample notification of a spectrum licence transfer is provided in Appendix A of CPC-2-1-23.) Transferees must also provide appropriate documentation showing that they meet the eligibility criteria and all other conditions of licence. The Minister of Industry reserves the right, prior to transferring or dividing

licences, to request additional documentation in order to determine if the proposed new licensees comply with the appropriate eligibility requirements. The proposed new licensees must also provide an attestation (or other appropriate documentation) that they will meet the appropriate conditions of licence. For the purposes of this condition, the "transfer" of a licence includes any leasing, subleasing or other disposition of the rights and obligations of the licence.

3. **Spectrum Aggregation Limit**

On August 27, 2004, the Minister of Industry announced a decision rescinding the mobile spectrum cap policy (Gazette Notice No. DGTP-010-04 – Decision to Rescind the Mobile Spectrum Cap Policy).

4. **Eligibility Criteria**

Licensees will employ the radio frequencies that are the subject of this licence as a radiocommunication carrier in order to operate one or more interconnected radio-based transmission facilities (that is, any radio apparatus which is used for the transmission or reception of intelligence to or from anywhere on a public switched network) that may be used by licensees or another person to provide radiocommunication services for compensation. Licensees acting as radiocommunication carriers must comply on an ongoing basis with the eligibility criteria in subsection 10(2) of the *Radiocommunication Regulations*. Licensees must notify the Minister of Industry of any change that would have a material effect on their eligibility. Such notification must be made in advance of any proposed transactions of which licensees have knowledge. For more information, refer to Client Procedures Circular 2-0-15, Canadian Ownership and Control (CPC-2-0-15), as amended from time to time.

5. **Displacement of Incumbent Microwave Licensees¹**

Licensees must comply with the revised transition policy outlined in Appendix 2 of the *Policy and Licensing Procedures for the Auction of Additional PCS Spectrum in the 2 GHz Frequency Range* issued on June 28, 2000, and the relocation procedure for the relocation of incumbent microwave stations outlined in Client Procedures Circular 2-1-09, *Displacement of Fixed Service Stations Operating in the 2 GHz Frequency Range to Accommodate Licensed Personal Communications Services (PCS)* (CPC-2-1-09).

6. **Radio Station Installations**

For each radio station, licensees must ensure that:

- radio stations are installed and operated in a manner that complies with Health Canada's limits of human exposure to radio frequency electromagnetic fields for the general public including the consideration of existing radiocommunication installations within the local environment;
- where applicable, antenna structures are marked in accordance with the recommendations of Transport Canada with respect to a potential hazard to air

¹Applicable to PCS spectrum only.

navigation;

- prior to the installation of antenna structures, meaningful consultation has taken place with all local municipalities or land-use authorities with the aim of developing consensus solutions. Installation of any antenna structure must be delayed for a period of time sufficient for Departmental review where, after considering reasonable alternatives and consultation options, land-use consultation negotiations remain at an impasse;
- all requirements prescribed in the Client Procedures Circular 2-0-03, *Environmental Process, Radiofrequency Fields and Land-Use Consultation* (CPC-2-0-03), as amended from time to time, are respected; and
- radio installations are installed and operated in a manner that complies with technical boundary and out-of-band emission conditions as specified by the Department.

7. **Provision of Technical Information**

When the Department requests technical information on a particular station or on a network, the information must be provided by licensees to the Department according to the definitions and criteria specified by the Department. Refer to CPC-2-1-23, Appendix B - Site Data Elements, for a list of minimal radiocommunication installation data elements required for the Department's technical database.

8. **Laws, Regulations, and Other Obligations**

Licensees are subject to, and must comply with, the *Radiocommunication Act*, the *Radiocommunication Regulations*, the International Telecommunication Union's (ITU) *Radio Regulations* and the *Canadian Table of Frequency Allocations* pertaining to their licensed radio frequency bands. The licence is issued on condition that the certifications made in the application materials are all true and complete in every respect.

9. **Technical Considerations**

Cellular

Licensees must comply with the technical requirements set forth in Standard Radio System Plan 503, *Technical Requirements for Cellular Radiotelephone Systems Operating in the Bands 824-849 MHz and 869-894 MHz* (SRSP-503), and must deploy equipment certified under Radio Standards Specification 118, *Land and Subscriber Stations* (RSS-118) and its Annex A, Cellular System Mobile Station-Land Station Compatibility Standard, Radio Standards Specification 128, *800 MHz Dual-Mode TDMA Cellular Telephones* (RSS-128), and Radio Standards Specification 129, *800 MHz Dual-Mode CDMA Cellular Telephones* (RSS-129). SRSP-503 provides information on channelling plans, power and antenna height limitations and image frequency relationships with UHF-TV channels. The RSS documents set out standards for transmitters and receivers for cellular telephones in the 800 MHz band.

PCS

Licensees must comply with the technical requirements set forth in Standard Radio System Plan 510, *Technical Requirements for Personal Communications Services in the Bands 1850-1910 MHz and 1930-1990 MHz* (SRSP-510), and must deploy equipment certified under Radio Standards Specification 133, *2 GHz Personal Communications Services* (RSS-133). SRSP-510 provides information on channelling plans, out-of-block emission limits, permissible effective isotropic radiated power (e.i.r.p.) and antenna heights. RSS-133 sets out standards for transmitters and receivers for PCS in the 2 GHz band.

10. **International and Domestic Coordination**

Licensees must comply with the requirements of cross-border sharing and coordination arrangements established between Canada and the United States, as amended from time to time. While frequency assignments are not subject to site-by-site licensing, licensees may be required to provide technical data to Industry Canada for given sites. This data may be requested for reasons such as the resolution of coordination conflicts as well as possible interference issues. Should international coordination be required, Industry Canada will identify the appropriate data elements, format and means of submission. Coordination between licensees within Canada will follow similar procedures as those used in international coordination.

11. **Lawful Interception**²

Licensees using spectrum for circuit-switched voice telephony systems must, from the inception of service, provide for and maintain lawful interception capabilities as authorized by law. The requirements for lawful interception capabilities are provided in the *Solicitor General's Enforcement Standards for Lawful Interception of Telecommunications* (Rev. Nov. 95). These standards may be amended from time to time following consultation with the Solicitor General of Canada and licensees. Licensees may request the Minister of Industry to forbear from enforcing certain assistance capability requirements for a limited period. The Minister, following consultation with the Solicitor General of Canada, may exercise the power to forbear from enforcing a requirement or requirements where, in the opinion of the Minister, the requirement is not reasonably achievable. Requests for forbearance must include specific details and dates indicating when compliance to the requirement can be expected.

12. **Research and Development**

Licensees must invest, as a minimum, two (2) percent of their adjusted gross revenues resulting from their operations in this spectrum, over the term of the licence, in eligible research and development activities related to telecommunications. Eligible research and development activities are those that meet the definition of scientific research and experimental development adopted in the *Income Tax Act*. Adjusted gross revenues are defined as total service revenues, less inter-carrier payments, bad debts, third-party commissions, and provincial and goods and services taxes collected.

²Applicable to PCS spectrum only.

If the licence is transferred to any eligible entity prior to the expiration of its term, the condition of licence relating to investment in research and development will continue to apply on the initial transfer of the licence and on any subsequent transfer until the term of this licence expires. Prior to a transfer, in whole or in part, of this licence, the proposed transferee must undertake to ensure that the sum of the investment it will make in eligible research and development activities and all investments made by prior licensees in eligible research and development activities equals, as a minimum, two (2) percent of the aggregated adjusted gross revenues resulting from all operations in this spectrum, over the term of the licence. An attestation signed by the proposed transferee setting out the undertaking must accompany the licence transfer notification to be submitted to the Department by the licensee prior to the transfer being effected.

To facilitate compliance with this condition of licence, the licensee should consult the Department's *Guidelines for Compliance with the Radio Authorization Condition of Licence Relating to Research and Development*. Further details on the exact administrative procedures for transferring a spectrum licence will be provided in a forthcoming Client Procedures Circular.

13. **Resale**

Cellular

Cellular licensees will be required to offer analogue cellular resale and analogue cellular roaming through commercial arrangements to PCS licensees who are not also cellular licensees. The commercial arrangements are to be offered on a non-discriminatory basis and apply to those licensed areas which are common to the parties of any such arrangement. The Department does not further define the scope of these commercial arrangements.

PCS³

Licensees must offer PCS resale throughout their service area to other PCS licensees on a non-discriminatory basis.

14. **Implementation of Spectrum Usage⁴**

Within five years of the initial date upon which the licence is issued, the licensee must demonstrate to the Department that the spectrum has been put into use. The establishment of coverage to 50% of the population within the licensed service area, or some other indicator of usage that is acceptable to the Department, will be required. Supporting documentation should be submitted to the Manager, Wireless Networks Radiocommunication and Broadcasting Regulatory Branch at the address provided below.

³Clarification of the interpretation of this condition of licence can be found in the *Amendments and Supplements and Clarification Questions to the Policy and Licensing Procedures for the Auction of Additional Spectrum in the 2 GHz Frequency Range* (October 17, 2000)

⁴This condition applies only to licences issued after February 1, 2001.

15. **Annual Reporting**

Licensees must submit an annual report for each year of the term of the licence indicating continued compliance with all licence conditions, and include:

- audited financial statements as required under licensees' jurisdictions of incorporation, as well as an audited Statement of Research and Development Expenditures with an accompanying Auditor's Report, prepared in accordance with the same standards of reporting. To facilitate compliance with this reporting requirement, licensees should consult the *Guidelines for Compliance with the Radio Authorization Condition of Licence Relating to Research and Development* published by Industry Canada;
- a copy of any existing corporate annual report for the licensees' fiscal year; and
- an update on the implementation and spectrum usage within the area covered by the licence.

The reports are to be submitted, in writing, within 120 days of the licensees' fiscal year-end to:

Manager, Wireless Networks
Radiocommunication and Broadcasting Regulatory Branch
300 Slater Street, 15th Floor
Ottawa, Ontario
K1A 0C8

Confidential information provided in the reports will be treated in accordance with subsection 20(1) of the *Access to Information Act* and the *Privacy Act*.

16. **System Access Fees or Network and Licensing Charges**

Licensees are not required nor permitted to levy charges to their subscribers on behalf of Industry Canada. In particular, charges which appear to be for spectrum management purposes, such as System Access Fees or Network and Licensing Charges, are not mandated by Industry Canada.