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**Reply Comments** to proceedings on Innovation, Science and Economic Development's (ISED) Consultation on New Access Licensing Framework, Changes to Subordinate Licensing and White Space to Support Rural and Remote Deployment

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### **Reply comments of James Bay Cree Communications Society (JBCCS)**

#### **Introduction**

1. James Bay Cree Communications Society (JBCCS) is a Cree owned and operated non-profit radio broadcasting network that serves nine local Cree community nations. JBCCS is located on the territory covered by JBNQA that stipulates that Cree have the right and responsibility to provide communications services. As such, JBCCS's mandate includes service to the 9 Cree community radio broadcast stations of Eeyou Istchee, as well as sustaining and improving Cree language skills and fluency; coordinating the establishment and maintenance of repositories for Cree language video and audio recordings; repatriating Cree language audio and video materials held by non-Cree institutions, and live streaming band and regional government events.
2. JBCCS would like to reiterate its support for the proposed new access licensing regime, and note that the majority of respondents were also in agreement that this policy would benefit telecommunications ecologies in Canada's rural and remote regions. It would give small, independent and/or not-for profit entities access to radio spectrum to develop and operate local networks. We believe the adoption of a new access licensing regime outlined in the ISED proposal would support competition, encourage innovation, and make wireless infrastructure and services available to Canadians across the country.
3. We would also like to restate our proposal that an **Indigenous Priority Access Window** be adopted to further benefit Indigenous peoples in Canada. Indigenous entities should have the first right of refusal for spectrum licenses in their territories. We would also like to note the support of a number of parties for this policy proposal including: Advanced Interactive Canada Inc.(ACI); Eeyou Communications Network (ECN); First Mile Connectivity Consortium (FMCC); Internet Society and Mozilla; and SPRIG Learning. Access to spectrum is an important component of Indigenous self-determination and sovereignty in the 21st century. It is important that telecommunications policy does not leave another generation of Indigenous youth behind and without the resources and tools they need to succeed.

## **Federal telecommunications policy and modern treaties**

4. We would like to take this moment to remind those at the federal ministry that the authority of organizations like Cree Nation Government and the Cree Bands is necessary for genuine consultation and right to self-determination. Sections 12 and 13 of the James Bay and Northern Quebec Agreement (JBNQA) signed in 1975 stipulate that the Cree Regional Government establish and administer communications. The treaty reads:

133. The Regional Government may make ordinances to establish and administer: (1) regional and inter-municipal community radio and television aerals for the needs of those wishing to make use thereof and regulate the installation, maintenance, number and height of television and radio aerals; and (2) regional and inter-municipal public transportation services and facilities.

5. The Cree and Inuit who negotiated the 1975 treaty couldn't have anticipated the importance "aerials" and radio spectrum have today, but they understood that control over the implementation and operations of Cree communications was critical to self-determination and self-governance. Access to spectrum is increasingly necessary for the operations of modern day communications systems and everyday life. For entities like the Cree Regional Government to make use of and regulate the communications and transportation systems to both further social and cultural objectives and ensure the security and safety of the Cree people it must have access to spectrum.
6. In the recommendations from the 2020 Indigenous Connectivity Summit, hosted by the Internet Society, was "Federal regulators must therefore ensure that Indigenous governments, Indigenous-owned entities, and communities have first rights to the spectrum over their lands."<sup>1</sup> ISED policy can make this a reality, and this in turn will be an important part of addressing the disparities in access to the internet experienced by Indigenous communities across the country. ISED policy on radio spectrum can also contribute to the recognition of Indigenous self-determination and sovereignty.

## **Responses to other intervenors**

7. JBCCS would like to express its support for the submissions of Advanced Interactive Canada Inc. (AIC), First Broadband; Wilson Engineering; and Dr. Gregory Taylor's concerning the RRBS program. As intervenors pointed out, RRBS has greater coverage, higher data rate capacity and can serve a larger community than TVWS. RRBS can ensure interference-free and stable spectrum access, as well it is scalable. It is an innovative made-in Canada approach to the issue of connectivity that has served communities around the world.
8. AIC's submission documents the successes in many other countries such as Ecuador and Nigeria. The RRBS system has been key to connecting rural communities in these countries.

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<sup>1</sup> Internet Society, 2020. <https://www.internetsociety.org/resources/doc/2020/2020-ics-policy-recommendations/>

The success in connecting communities many of these countries have had using RRBS, and that it would benefit Indigenous communities in Canada.

9. AIC also notes in the Resolution of The Assembly of First Nations, and the Letter of Support signed by 65 First Nations Chiefs in Western Canada, there is the expressed wish that RRBS be retained, strengthened, and deployed as quickly as possible. It is not acceptable for ISED to end the RRBS program when it is the expressed wish of Indigenous leaders not to without a proper consultation. We ask that ISED consider a more comprehensive consultation and study on the RRBS program.

### **Accessibility of ISED proceedings**

10. JBCCS would like to take this opportunity to comment on federal government policy proceedings in general, and this proceeding in particular. Past research has demonstrated that there are significant barriers for Indigenous organizations, small ISPs, and public interest advocates to participate in policy proceedings.<sup>2</sup> We feel that there are a number of factors that inhibit participation in policy consultations including a lack of communication about policy proceedings in ways that are accessible; a lack of resources for developing a response the consultation time frame; overly technical and legal language used in consultation proceedings; and short consultation time periods.
11. JBCCS contends that the small number of Indigenous entities participating in this proceeding indicates that the consultation was accessible. It was either not well communicated to Indigenous nations, bands, and communities its technical and legal language, and “omnibus” style of presenting the issues may have inhibited participation. Access to radio spectrum is of critical importance to Indigenous self-determination, and Indigenous nations, bands, and communities should be involved in decisions on its allocation and accessibility.
12. JBCCS thanks ISED for this opportunity to participate in this consultation.

\*End of Document \*

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<sup>2</sup> See Middleton & Gorp (2009); Middleton (2011); McNally et al. (2018).