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Spectrum Management and Telecommunications

Client Procedures Circular

# Licensing Procedure for Spectrum Licences for Terrestrial Services

## Preface

The current issue of this document was updated to include minor adjustments to all service areas as a result of Industry Canada's modernization of its Spectrum Management System (SMS) in 2015.

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## Contents

<b>1.</b>	<b>Principle</b> .....	<b>1</b>
<b>2.</b>	<b>Mandate</b> .....	<b>1</b>
<b>3.</b>	<b>Background</b> .....	<b>1</b>
<b>4.</b>	<b>General Policy</b> .....	<b>1</b>
	4.1 Eligibility .....	1
<b>5.</b>	<b>Procedure</b> .....	<b>2</b>
	5.1 Service Areas .....	2
	5.2 Licence Fees.....	2
	5.3 Licence Renewal.....	2
	5.4 Environmental Process, Radio Frequency Fields and Land-Use Consultation .....	3
	5.5 Air Navigation Obstruction Clearance and Marking .....	3
	5.6 Transfer or Division of Spectrum Licences and Subordinate Licensing Arrangements ....	3
	5.7 Returned Spectrum Licences .....	11
	5.8 Coordination, Coexistence Agreements and Boundary Conditions .....	12
	5.9 Coexistence Agreements.....	12
	5.10 Boundary Conditions .....	12
	5.11 Submission of Technical Information.....	13
	5.12 Filing Requirements.....	13
	5.13 Conditions of Licence .....	14
<b>6.</b>	<b>Contact Information</b> .....	<b>15</b>
	<b>Annex A — Sample Notification of Spectrum Licence Transfer or Division</b> .....	<b>16</b>
	<b>Annex B — Site Data Elements</b> .....	<b>18</b>
	<b>Annex C — Application for a Spectrum Licence</b> .....	<b>20</b>
	<b>Annex D — Sample Application for a Subordinate Licence</b> .....	<b>21</b>

## 1. Principle

The radio frequency spectrum is a natural resource managed for the benefit of all Canadians. Industry Canada endeavours to provide access to this resource with minimal administrative burden while ensuring the efficient use of the radio frequency spectrum.

## 2. Mandate

Under subparagraph 5(1)(a)(i.1) of the [Radiocommunication Act](#), the Minister may issue spectrum licences in respect of the utilization of specified radio frequencies within a defined geographic area. The Minister may fix the terms and conditions of any such licence, including terms and conditions as to the services that may be provided by the holder thereof. In accordance with section 19 of the [Department of Industry Act](#), the Minister may fix spectrum licence fees in respect of the rights and privileges provided.

## 3. Background

The federal budget legislation of 1996 amended the [Radiocommunication Act](#) to provide for spectrum licences, a new class of radio authorization incorporating the concept of area licensing. Spectrum licensing benefits both the government and licensees by reducing the administrative burden associated with licensing individual radio apparatus. Common to all spectrum licences is authorization by geographic area(s) and frequencies or frequency block(s), rather than authority for the installation and operation of an individual radio apparatus. Spectrum licensees are responsible for ensuring that their radiocommunication networks are properly planned and coordinated prior to operation, which includes obtaining approval for antennas and supporting structures.

## 4. General Policy

Industry Canada issues spectrum licences to authorize the use of a specific frequency/frequencies or a frequency block(s) within a defined geographic area(s) under certain minimal conditions. Once authorized, licensees would be permitted to establish and modify their radiocommunication networks, while adhering to the conditions of the spectrum licence.

Licensing policies are constantly adapting to changes in radiocommunication in order to respond effectively to the evolving competitive environment and user needs. A number of licensing mechanisms are available to Industry Canada to assign frequencies, such as the “first-come, first-served” (FCFS) approach and the competitive licensing process.<sup>1</sup>

### 4.1 Eligibility

Spectrum licences may be issued to persons or entities eligible to be issued radio licences under the [Radiocommunication Regulations](#). It should be noted that persons or entities that own or operate wireless transmission facilities and that provide telecommunications to the public for compensation or broadcasting services are also subject to regulation by the Canadian Radio-television and Telecommunications Commission (CRTC) under the [Telecommunications Act](#) and the [Broadcasting Act](#).

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<sup>1</sup> The two types of competitive licensing are the use of auctions and the use of a comparative review.

## 5. Procedure

### 5.1 Service Areas

Over the past several years, Industry Canada has developed a four-tier service area structure. Tier 1 is a single national service area. Tier 2 consists of eight provincial and six large regional service areas in Ontario and Quebec. Tier 3 contains 59 smaller regional service areas. Tier 4 comprises 172 localized service areas. All tiers are based on spectrum grid cells. Details are available in Industry Canada's publication entitled [Service Areas for Competitive Licensing](#), which is available at [www.ic.gc.ca/eic/site/smt-gst.nsf/eng/h\\_sf01627.html](http://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/h_sf01627.html).

While the tier system provides a ready and standardized scheme for describing geographic licence areas, Industry Canada recognizes that there may be occasions when service areas are more appropriately defined in consultation with the applicant. This is more likely to occur in the radio frequency bands that are licensed on an FCFS basis with no predefined geographic service areas. Industry Canada will identify these unique service areas on its [Spectrum Management and Telecommunications](#) website ([www.ic.gc.ca/spectrum](http://www.ic.gc.ca/spectrum)). The spectrum grid cell concept has also been used in an FCFS licensing process. Applicants determine their service area, which is mapped as closely as possible to the spectrum grid cells. Industry Canada then licenses these applicants for the areas covered by the matching spectrum grid cells.

### 5.2 Licence Fees

The Minister of Industry, pursuant to section 19 of the [Department of Industry Act](#), fixes fees for spectrum licences issued pursuant to paragraph 5(1)(a) of the [Radiocommunication Act](#). Prior to fixing a fee, Industry Canada normally holds a public consultation with all interested parties and the general public to enable a review and discussion of the proposed fee. With respect to spectrum licences issued through a spectrum auction, the winning bids established as a result of auction rules made pursuant to subsections 5(1.1), 5(1.2), 5(1.3) and 5(1.4) of the [Radiocommunication Act](#) are accepted in lieu of fees.

Licence fees are based on spectrum management costs where resource rents do not exist. When resource rents do exist, fees will ensure a fair economic return to the public in addition to recovering spectrum management costs.

### 5.3 Licence Renewal

At the end of the licence term,<sup>2</sup> licensees will normally be issued new licences following a renewal process unless one of the following situations takes place: a breach of a licence condition occurs, a fundamental reallocation of spectrum to a new service is required, or an overriding policy need arises. Section 40 of the [Radiocommunication Regulations](#),<sup>3</sup> regarding the assignment of frequencies, continues to apply. It is important to note that the Minister, pursuant to this regulation, would reallocate spectrum only under certain circumstances, taking into consideration whether licensees have complied with the conditions of licence, have made large investments in infrastructure, and/or are serving an established client base. If a reallocation were contemplated, it would take place only after a public consultation.

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<sup>2</sup> The licence term is determined through public consultation.

<sup>3</sup> Section 40 of the [Radiocommunication Regulations](#) reads as follows: "The assignment of a frequency or frequencies to a holder of a radio authorization does not confer a monopoly on the use of the frequency or frequencies, nor shall a radio authorization be construed as conferring any right of continuing tenure in respect of the frequency or frequencies."

Licences issued after renewal typically include new conditions of licence and new applicable fees.

It should be noted that spectrum licences are 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 (as per paragraph 5(1)(b) of the [Radiocommunication Act](#)). Such powers would be exercised on an exceptional basis and only after consultation.

#### **5.4 Environmental Process, Radio Frequency Fields and Land-Use Consultation**

Industry Canada recognizes the importance of considering the potential impact of antennas and their supporting structures on their surroundings, and as such, has instituted the procedures outlined in Client Procedures Circular CPC-2-0-03, [Radiocommunication and Broadcasting Antenna Systems](#), as amended from time to time. Spectrum licensees must ensure that they meet all of these requirements.

#### **5.5 Air Navigation Obstruction Clearance and Marking**

Spectrum licensees must ensure that antenna structures are marked in accordance with the recommendations of Transport Canada. To obtain aeronautical clearance from Transport Canada, complete Form 26-0427, [Aeronautical Assessment Form for Obstruction Marking and Lighting](#), which can be found at [wwwapps.tc.gc.ca/wwwdocs/Forms/26-0427E\\_1405-04\\_E.pdf](http://wwwapps.tc.gc.ca/wwwdocs/Forms/26-0427E_1405-04_E.pdf). Additional information concerning the requirements for aeronautical obstruction clearance and air navigation obstruction marking can be obtained by contacting Transport Canada, Regional Superintendent, Aerodrome Safety, or by consulting [Transport Canada's website](#).

#### **5.6 Transfer or Division of Spectrum Licences and Subordinate Licensing Arrangements**

Spectrum licences are a subset of radio authorizations that may be issued at the discretion of the Minister of Industry through various licensing processes. In order to meet the policy goals of the government, the spectrum licences assigned under the different licensing processes may not have the same privileges. One such privilege is that of the enhanced transferability and the divisibility rights accorded to spectrum licences. These spectrum licences may be transferred in whole or in part (either in geographic area or in bandwidth) to a third party, subject to the conditions stated on the licence and review and approval by Industry Canada, as set out in this document and in other regulatory requirements. The Minister has the authority to consider any and all matters deemed relevant to the request for a transfer, and to grant the transfer as requested, to fix additional terms and conditions, or to refuse the transfer.

Under the [Radiocommunication Act](#), any use of spectrum must be authorized by the Minister. Where any person acts in a manner that is contrary to the provisions outlined in this Section 5.6 such that they enter into agreements, arrangements or understandings to use, or impact the use of, spectrum without being

authorized to do so by the Minister as outlined in the this document, they will be considered to be acting in breach of the conditions of licence, contrary to the [Radiocommunication Act](#) and will be subject to the enforcement provisions set out in that Act.

### 5.6.1 Definitions

The following definitions are adopted for, and are applicable to, Section 5.6 of this document:

**Affiliate:** An entity is an Affiliate of any other entity where it controls or is controlled, directly or indirectly, by the other entity, or is controlled, directly or indirectly, by any entity that also controls the first entity.

**Agreement:** Where the word “Agreement” is used in Section 5.6, it includes all forms of agreements, arrangements, commitments and understandings.

**Applicants:** Applicants to a Transfer Request include the current licensee and the proposed Transferee. In the case of a Deemed Transfer, the term Applicants will include, in addition to the licensee, the entity taking Control of the Licence or Control of the Licensee or Affiliate, and in the case of a Prospective Transfer, the term includes the entity to which the future Licence Transfer would be made.

**Control of a Licence:** A Licence is controlled by any party that, directly or indirectly, has the power or ability, whether exercised or not, to determine or influence the use of all or part of the licensed spectrum or the disposition of all or part of the Licence. Industry Canada will consider, among other matters, the degree of control exercised by entities acting in concert with each other in assessing the Control of a Licence. More than one entity at a time may exercise Control of a Licence.

**Control of a Licensee or Affiliate:** An entity has Control of a Licensee or Affiliate when it has the power or ability, directly or indirectly, whether exercised or not, to determine or decide the strategic decision-making activities of the licensee or Affiliate or to manage and run its day-to-day operations, including, but not limited to, Control of a Licence. Control may be demonstrated by ownership interests or through other means. Where an entity beneficially owns more than 20% of the voting shares — or if there are no voting shares but an entity beneficially owns a greater than 20% stake in the ownership interests of a licensee or Affiliate — that entity will be presumed (subject to rebuttal) to have Control of a Licensee or Affiliate. Control may be demonstrated by an examination of a number of factors, including ownership interests, relationships and Agreements between the relevant parties, and/or the ability to exercise influence. Industry Canada will also consider the degree of control exercised by entities acting in concert with each other. More than one entity at a time may exercise Control of a Licensee or Affiliate.

**Deemed Transfer:** Any immediate change to the Control of a Licence or Control of a Licensee or Affiliate that can be affected without making a Transfer Request, including a change made through the granting of any full or partial right or interest in a Licence through an Agreement. Arrangements for strategic alliances, joint ventures and similar understandings may result in a change in the Control of a Licence.

**Licence:** The term “Licence” in this section includes spectrum licences and Subordinate Licences.

**Licence Transfer:** A transfer of any Licence, including a division of a Licence, the granting of a Subordinate Licence, or a Deemed Transfer.

Primary Licence: A licence issued by the Minister under paragraph 5(1)(a) of the [Radiocommunication Act](#) that is not a Subordinate Licence and therefore is not conditional on another licence.

Prospective Transfer: A Licence Transfer (contemplated by an Agreement with another commercial mobile band licence holder, including any Affiliate, agent or representative of the other licence holder) that is to be or may be completed or that will take effect at a future date, whether or not the date is specified.

Transferee: The party to whom the Licence will be transferred.

Transfer Request: In this section, a Transfer Request includes any request to transfer a Licence, to grant a Subordinate Licence, or to divide a Licence that will result in the issuance of a new Licence, if approved.

Subordinate Licence: A licence issued by the Minister under paragraph 5(1)(a) of the [Radiocommunication Act](#) that is related to a Primary Licence, and is conditional on the Primary Licensee meeting all regulatory requirements, including the terms and conditions of the licence.

## 5.6.2 Transfers and Divisions of Spectrum Licence — Conditions and Guidelines

This section applies to all Licence Transfers and Prospective Transfers, which will be subject, as applicable, to the following conditions and guidelines:

1. All eligibility criteria and other conditions that apply to a Licence (including those related to interference management) will continue, as applicable, when the Licence is transferred.
2. The Transferee must meet the applicable eligibility criteria outlined in the [Radiocommunication Regulations](#).
3. The Transferee will only receive a licence term equal to that remaining on the original Licence, but will be eligible for the same licence renewal provisions granted to the original licensee.
4. All proposed Licence Transfers and Prospective Transfers must comply with existing policies.
5. Licences will be divisible in the geographic dimension; however, the minimum geographic size of the new divisions may be one spectrum grid cell or a portion of a Census Dissemination Area.
6. Industry Canada will, under certain circumstances, allow for the disaggregation and divisibility of spectrum licences. In general, no minimum limit will be imposed on the amount of spectrum that can be transferred in the bandwidth dimension. However, limits may occasionally be required on the minimum amount of spectrum that can be transferred in order to respect band channelling plans or other policy needs.
7. Licensees must apply to Industry Canada for all Licence Transfers and Prospective Transfers, and applications must include a declaration from all interested parties that the points listed in this Section 5.6.2 (i.e. compliance with the eligibility criteria and other conditions of licence) have been satisfactorily addressed. A sample Application for a Spectrum Licence Transfer or Division is provided in Annex A.

8. In addition to the provisions noted above, Section 5.6.4 will apply to all Licence Transfers and Prospective Transfers in commercial mobile spectrum bands.<sup>4</sup> Applications for Licence Transfers and Prospective Transfers in such bands must also include all necessary material addressing the criteria outlined in that section.
9. Industry Canada maintains a publicly accessible database listing all Licences and respective licensees, and will update the database following each completed Licence Transfer.
10. Industry Canada will normally publish a summary of its decisions with respect to Licence Transfers and Prospective Transfers in the commercial mobile spectrum bands.
11. Applicants are required to provide any and all relevant documentation based on the above considerations and the criteria and considerations set out in Section 5.6.4.2, as applicable, and will be invited to make submissions along with the application in order to permit Industry Canada to review Licence Transfers and Prospective Transfers in a timely fashion. Industry Canada may request further documents or information at any time prior to completing its review. Such information may relate to the Applicants' current deployment levels, the planned use of the spectrum, and/or existing and anticipated capacity constraints.
12. Information relating to applications for Licence Transfers and Prospective Transfers will be treated confidentially by Industry Canada, subject to the requirements of the [Access to Information Act](#), until such time as:
  - a) Industry Canada publishes a summary of the relevant decision; or
  - b) the Applicants release the information publicly.
13. Industry Canada encourages parties that are contemplating entering into Agreements related to Licence Transfers and Prospective Transfers to seek informal, non-binding advice prior to doing so. Information submitted in the course of obtaining this advice will be treated as confidential, subject to the provisions of the [Access to Information Act](#), and no information related to these requests will be published.

### **5.6.3 Subordinate Licensing**

A Subordinate Licence allows for more efficient use of spectrum by permitting licensees to enter into Agreements that allow another party to operate within the licence area, using the licensed spectrum or a portion of their frequency or geographic area without having to completely transfer their spectrum licence(s).

Industry Canada notes that parties using spectrum that is licensed to another party by virtue of spectrum sharing or other similar Agreements are required to seek a Subordinate Licence from Industry Canada, under the terms set out herein.

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<sup>4</sup> Commercial mobile spectrum includes Cellular, Personal Communications Services (PCS), Advanced Wireless Services (AWS), the Broadband Radio Service (BRS) and the Wireless Communication Services (WCS). It also includes Mobile Broadband Services (MBS) in the 700 MHz band.

Primary licensees may apply to Industry Canada jointly with another party in order to request a Subordinate Licence. The request would then be reviewed and, subject to Industry Canada's satisfaction with the application, the request would be approved and the third party would be issued a Subordinate Licence. The Subordinate Licence would include a subset of the Primary Licence conditions, as well as additional terms and conditions that may vary from those of the Primary Licence. The Primary Licence and Subordinate Licence would both exist at the same time.

A request for a Subordinate Licence for commercial mobile spectrum will also be subject to the requirements outlined in Section 5.6.4. Requests for Subordinate Licence in those bands must also include material addressing the criteria outlined in that section.

Industry Canada will continue to maintain a publicly accessible database that lists all Licences.

In general, the issuance of a Subordinate Licence will be subject to, but not limited to, the following conditions and guidelines:

1. The Subordinate Licence cannot exceed the authorization granted by the Primary Licence in any respect (e.g. Licence term, service area and/or frequencies) and does not constitute a transfer of the Primary Licence.
2. The party to whom a Subordinate Licence will be issued (the subordinate licensee) must meet the applicable eligibility criteria, as outlined in the [Radiocommunication Regulations](#).
3. The Subordinate Licence term can be for a term of less than or equal to the duration of the Primary Licence. The term for which a Subordinate Licence is being sought must be clearly specified in the application. The Subordinate Licence will expire on the earliest of:
  - a. the expiration or revocation (by Industry Canada) of the Subordinate Licence;
  - b. the expiration or revocation of the Primary Licence; or
  - c. the date that the Primary Licence and Subordinate Licence holders have notified the Minister for which they wish the licence to be revoked with consent.
4. Subordinate Licence conditions may vary, depending on applicable policies and technical requirements. However, in general, they will be subject to, but not limited to, the following conditions and guidelines:
  - a. aggregation limits;
  - b. eligibility;
  - c. international and domestic coordination agreements;
  - d. compliance with Health Canada's limits with respect to radio installations and operation (see [Safety Code 6](#));
  - e. lawful interception requirements;
  - f. applicable spectrum utilization policies and technical standards;
  - g. the provision of technical information; and
  - h. tower sharing (for telecommunication common carriers).
5. Subordinate Licences are not divisible or transferable.

6. The Subordinate Licence is conditional on the primary licensee meeting all regulatory requirements, including the terms and conditions of the licence. If Industry Canada is considering renewal, suspension or revocation of the Primary Licence, the Subordinate Licensee will also be served notice and provided an opportunity to reply prior to a suspension, non-renewal or revocation of both licences under subsection 5(2) of the [Radiocommunication Act](#).
7. The primary licensee will retain the responsibility for international or domestic coordination requirements, including operator-to-operator agreements on spectrum sharing. The primary licensee should involve the subordinate licensee in any coordination agreements impacting areas for which the subordinate licensee holds a licence. The subordinate licensee will be required to abide by the terms and technical requirements and parameters set out in these agreements, as part of the terms and conditions of the subordinate authorization. In the event that there are changes to coordination agreements, the primary licensee must notify the subordinate licensee(s), who would then have to abide by any new or amended terms and conditions.
8. Where implementation of spectrum usage requirements exist, the responsibility of being in compliance rests with the primary licensee. Implementation by the subordinate licensee will count toward meeting the primary licensee's responsibilities, and should be reported accordingly to Industry Canada.
9. Where research and development (R&D) requirements exist, the responsibility of being in compliance rests with the primary licensee. The adjusted gross revenue resulting from operations of the primary and subordinate licensees' spectrum will be used in calculating the R&D investment requirement of the primary licensee. The R&D investment made by the subordinate licensee can be counted towards the primary licensee's R&D requirement, and should be reported accordingly to Industry Canada.
10. Where a displacement and transition policy exists, either the primary licensee or the subordinate licensee may invoke the transition policy provisions; however, a subordinate licensee must notify the primary licensee of any displacement request submitted to Industry Canada.
11. Industry Canada's approval is required for all proposed Subordinate Licences. Industry Canada may also request attestations or other documentation to ensure that the above requirements (e.g. compliance with the eligibility criteria and other conditions of licence) have been satisfactorily addressed. A sample request for a Subordinate Licence is provided in Annex D, which indicates the information that will be required by Industry Canada.
12. The Minister has the authority to grant Primary Licences and Subordinate Licences and to fix or amend their terms and conditions. In doing so, s/he may take into consideration not only the joint application, but also all other relevant matters.
13. Industry Canada will contact the primary licensee directly for non-compliance issues of the Primary Licence conditions and the subordinate licensee directly for non-compliance issues of the Subordinate Licence conditions. Industry Canada also has the authority to contact either the primary or the subordinate licensee regarding compliance issues and, if necessary, to revoke or suspend the Primary Licence and/or the Subordinate Licence, in accordance with the [Radiocommunication Act](#).

14. When a Primary Licence is being considered for renewal, a joint application may be submitted to Industry Canada to request the renewal of the Subordinate Licence at the same time.
15. Industry Canada will not take a role in negotiating, reviewing or enforcing any Agreement undertaken by the subordinate and primary licensees.

#### **5.6.4 Commercial Mobile Spectrum**

This section incorporates decisions set out in Industry Canada's DGSO-003-13, [\*Framework Relating to Transfers, Divisions and Subordinate Licensing of Spectrum Licences for Commercial Mobile Spectrum\*](#).

##### **Policy Objective**

Industry Canada has developed this section in order to support the government's policy objective to maximize the economic and social benefits that Canadians derive from the use of the radio frequency spectrum resource, including the efficiency and competitiveness of the Canadian telecommunications industry, and the availability and quality of services to consumers.

The intent of this section is to provide guidance to licensees as to how Licence Transfers and Prospective Transfers will be reviewed, as well as to introduce additional conditions of licence regarding the transfer of control of Licences, all with an eye to managing the spectrum resource for the benefit of Canadians as per the policy objective outlined above.

##### **5.6.4.1 Scope of Application**

This section applies only to Licences issued for commercial mobile spectrum. Currently, commercial mobile services include Cellular, Personal Communications Services (PCS), Advanced Wireless Services (AWS), the Broadband Radio Service (BRS), Wireless Communication Services (WCS) and Mobile Broadband Services (MBS) — 700 MHz band. As new spectrum is allocated for commercial mobile services, the provisions in this section will apply to Licences issued in those bands as well.

The Minister of Industry may, in the future, impose the terms or specific conditions of licence regarding Licence Transfers and Prospective Transfers to Licences in frequency bands or services not discussed within this section.

##### **5.6.4.2 Criteria and Considerations**

In making its determination as to the impact of a Licence Transfer or Prospective Transfer on the policy objective noted above, Industry Canada will analyze, among other factors, the change in spectrum concentration levels (i.e. the amount of spectrum controlled by the Applicants in comparison to that held by other licensees) that would result from the Licence Transfer or Prospective Transfer. In each case, Industry Canada will examine the ability of the Applicants and other existing and future competitors to provide services, given the post-transfer concentration of commercial mobile spectrum in the affected Licence area(s).

As part of the determination described above, Industry Canada will normally take into account the following factors:

- a. the current licence holdings of the Applicants and their Affiliates in the licensed area;
- b. the overall distribution of licence holdings in the licensed spectrum band and commercial mobile spectrum bands in the licensed area;
- c. the current and/or prospective services to be provided and the technologies available using the licensed spectrum band;
- d. the availability of alternative spectrum that has similar properties to the licensed spectrum band;
- e. the relative utility (e.g. above and below 1 GHz) and substitutability of the licensed spectrum and other commercial mobile spectrum bands in the licensed area;
- f. the degree to which the Applicants and their Affiliates have deployed networks and the capacity of those networks;
- g. the characteristics of the region, including urban/rural status, population levels and density, or other factors that impact spectrum capacity or congestion; and
- h. any other factors relevant to the policy objective outlined in Section 5.6.4 that may arise from the Licence Transfer or the Prospective Transfer.

In cases of requests for Subordinate Licences pursuant to Agreements, Industry Canada will also consider the nature of the Agreement and the planned use of the spectrum by each of the Applicants.

Industry Canada will examine the licence holdings of the Applicants, both within the licensed spectrum band and across commercial mobile spectrum bands, in the relevant Licence area(s). All Licences held by the Applicants and their Affiliates will be considered in the analysis of the Licence Transfer or the Prospective Transfer. Additionally, Industry Canada will consider other access to spectrum through any Agreements, including spectrum involved in a Deemed Transfer, as well as any pending transfers (which include Licence Transfers that are currently under consideration or that may result from a Prospective Transfer).

While Industry Canada will examine all Licence Transfers and Prospective Transfers, those generally considered as having negligible or no impact — such as Licence Transfers made solely to effect an internal reorganization — will normally be approved.

Where a Licence Transfer or a Prospective Transfer involves more than one Licence, Industry Canada may approve the transfer of only some of the Licences requested and deny others.

#### **5.6.4.3 Deemed Transfers**

Before any Agreement implementing a Deemed Transfer takes effect, parties to the Agreement must submit an Application for a Spectrum Licence Transfer or Division (a sample is available in Annex A of this document) to Industry Canada for approval of the Deemed Transfer. The application will be reviewed by Industry Canada against the criteria set out in Section 5.6.4.2.

Where a Deemed Transfer is approved, Industry Canada will provide written confirmation to the parties that the Licence remains valid, accounting for the change in Control of a Licence or Control of a

Licensee or Affiliate. Where a Deemed Transfer is rejected, Industry Canada will provide written confirmation of its decision. The licensee will be in breach of its conditions of licence if it implements a Deemed Transfer that has not been approved.

#### **5.6.4.4 Prospective Transfers**

The licensee must apply in writing to Industry Canada for a review of the Prospective Transfer within 15 days of entering into any Agreement involving a Prospective Transfer.

Industry Canada will review the Prospective Transfer against the criteria set out in Section 5.6.4.2 above. For the purposes of the review, the Prospective Transfer will be evaluated as though the future Licence Transfer arising from the relevant Agreement has been made.

Upon completing its review, Industry Canada will provide the licensee with a decision indicating that either the Prospective Transfer provided for in the Agreement meets the policy objective set out in Section 5.6.4 above, or that the Prospective Transfer does not meet the objective. Where Industry Canada has issued a decision indicating that the Prospective Transfer does not meet the policy objective, it will be a breach of the licensee's conditions of licence to remain in any Agreement that provides for the Prospective Transfer for a period of more than 90 days from the date of the decision.

Any Licence Transfer resulting from an Agreement reviewed under this section will require a separate application to Industry Canada at the time that the parties wish to make the transfer. At that time, the Licence Transfer will be reviewed, as set out in Section 5.6.

#### **5.6.4.5 Timelines**

Under normal circumstances, departmental reviews of Transfer Requests, Deemed Transfers and Prospective Transfers will normally be completed within 12 weeks from the time of receipt of all required information. This timeline may vary due to requests for further information, where the Applicants require additional time to respond to specific concerns raised or where the complexity of the issues raised in the course of a review demands a longer period of time in order to consider the effects of the Licence Transfer or the Prospective Transfer.

### **5.7 Returned Spectrum Licences**

When a licensee returns a spectrum licence to Industry Canada, the Department will make the associated spectrum available to the public in a timely manner so that it can be used to produce benefits for all Canadians. The spectrum will not be withheld, except when specific policy issues advocate for this decision.

Industry Canada will publicly announce the availability of the spectrum, which may include posting a notice on Industry Canada's Spectrum Management and Telecommunications website. The notice will call for expressions of interest so that the demand for the spectrum can be determined. Based on the demand, the appropriate subsequent licensing mechanism will be determined. If there is sufficient spectrum to meet the demand, Industry Canada will use its FCFS process. If the demand is greater than the spectrum available, or where there is a need to pursue certain telecommunications policy objectives, a competitive licensing process will be used.

Industry Canada normally consults to establish the policy framework and the design of a competitive licensing process. The two types of competitive licensing are (1) the use of auctions and (2) the use of a comparative review. More information on the competitive licensing process can be found in the [Spectrum Policy Framework for Canada](#) (SPFC) document, available on Industry Canada's Spectrum Management and Telecommunications website.

In order to remain current on spectrum availability, interested parties are encouraged to consult Industry Canada's website on a regular basis. The spectrum licence information will list the spectrum blocks available, the geographic areas in which this spectrum can be used and the applicable licence conditions.

## **5.8 Coordination, Coexistence Agreements and Boundary Conditions**

All spectrum licence holders are responsible for ensuring that installation(s) or modification(s) of their radio system(s) do not cause harmful interference. In order to protect existing licensed radio stations from interference, spectrum licensees are required to coordinate with co-channel, interstitial and adjacent channel operators authorized within the same or adjacent geographic areas in Canada prior to operating a new or modified system that has the potential to cause interference. Spectrum licence holders are also subject to applicable international coordination agreements, as well as arrangements between Canada and the United States or other foreign administrations.

For each radio frequency band or service where spectrum licensees have a responsibility for carrying out domestic and/or international coordination, Industry Canada will outline, as appropriate, guidelines or procedures. This may include a requirement for the submission of certain information, to be collected for the purpose of maintaining a public database that contains site-specific information on radio installations.

## **5.9 Coexistence Agreements**

Licensees are encouraged to enter into mutually beneficial coexistence agreements with neighbouring radio system operators in order to foster efficient spectrum use near common geographic service boundaries and at adjoining band edge frequencies. It is intended that such agreements will result in shared use by spectrum licensees of the zones along the perimeters of the authorized geographic area(s) and of the frequency block(s) edges on an equal basis, without prejudice to future operators.

## **5.10 Boundary Conditions**

Industry Canada plans to determine boundary conditions for various radiocommunication services in order to assist applicants in defining their geographic area(s) requirement(s) and to provide licensees with a starting point to coordinate and negotiate mutually beneficial coexistence agreements. Industry Canada also plans to consult with industry representatives to establish typical minimum operating levels required for various services.

The boundary conditions will be consistent with applicable Radio Standards Specifications (RSSs) and Standard Radio System Plans (SRSPs), which also address spurious emissions and frequency tolerances. Applicable SRSPs may also provide for band edge protection, field strength limits at the edge of licensed geographic areas, and frequency coordination and reuse limitations. Other conditions may also be considered, such as prescribing the acceptable types of radio antennas to be used.

In cases where applicants are unsuccessful in concluding coexistence agreements with other co-channel licensees, the boundary condition will be used as the basis for dispute resolution. Industry Canada's involvement in such situations will be restricted to dispute arbitration and, under such circumstances, will require additional technical information from spectrum licence holders.

### **5.11 Submission of Technical Information**

Spectrum licences are issued for a specific geographic area and as such, associated technical information for each radiocommunication installation is not required for the issuance of a spectrum licence. However, Industry Canada requires technical information associated with radiocommunication installations covered by the spectrum licence in order to carry out certain spectrum management responsibilities. To provide this capability, Industry Canada requires information in order to maintain an up-to-date technical database of radiocommunication installations.

A list of minimal radiocommunication installation data elements required for Industry Canada's technical database is provided in Annex B. Industry Canada recognizes that each radiocommunication system is unique and for that reason, the particulars concerning the provision of updated technical information will be specified upon issuance of a spectrum licence. Typically, licensees will be required to submit this data to Industry Canada on a monthly basis or as otherwise required, as well as prior to the operation of each new radiocommunication installation. When an existing radiocommunication installation is modified such that the associated data elements are amended, the licensee must also provide Industry Canada with the updated technical information.

The submission of technical data must be made in either Extensible Markup Language (XML) or ASCII-delimited files; these platform and software-independent formats may be readily generated from any spreadsheet or database program. Specific instructions for creating, validating and uploading data are available on Industry Canada's [SMS](http://sms-sgs.ic.gc.ca/eic/site/sms-sgs-prod.nsf/eng/home) website at [sms-sgs.ic.gc.ca/eic/site/sms-sgs-prod.nsf/eng/home](http://sms-sgs.ic.gc.ca/eic/site/sms-sgs-prod.nsf/eng/home).

Where appropriate, Industry Canada will support participation in our XML Data Exchange Program. For more information on the XML Data Exchange Program, please contact [SMS administration](#).

For additional support on how to provide technical information to Industry Canada, you may wish to contact your local district office. A list of Industry Canada's regional and district offices can be found in [Radiocommunication Information Circular RIC-66](#), available on the Spectrum Management and Telecommunications website at [www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf01742.html](http://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf01742.html).

### **5.12 Filing Requirements**

Filing requirements for spectrum licence applicants participating in a competitive licensing process will be described during that process. Applicants for a spectrum licence participating in an FCFS licensing process may submit their applications to any Industry Canada district office. Required information includes, but is not limited to, the following:

- a narrative explaining the proposed radiocommunication system and service;
- if this is a commercial service, the company's ownership and control structure;
- the name and address of the applicant;
- a list of frequencies or frequency block(s) being applied for; and
- a map(s) clearly showing the proposed geographic or service area.

Applicants must certify that they have read and both understand and comply with the requirements of holding a spectrum licence, including all conditions of licence applicable to the radio service, which include but are not limited to:

- the eligibility requirements of the [Radiocommunication Regulations](#);
- the marking of antenna structures as required, in accordance with the recommendations of Transport Canada;
- compliance with authorization procedures for antenna supporting structures, as outlined in CPC-2-0-03;
- compliance with the terms and conditions of international coordination agreements; and
- compliance with the requirements of applicable spectrum policies, RSSs and SRSPs.

A sample spectrum licence application form is provided in Annex C of this document.

### 5.13 Conditions of Licence

Licence conditions for a spectrum licence may vary, depending on applicable policies and technical requirements. However, licence conditions will **generally** address the following:

- eligibility requirements as set out in the [Radiocommunication Regulations](#), and the requirement to notify the Minister prior to any change that would have a material effect on the ownership and control of a spectrum licence;
- assurances that radiocommunication installations are installed and operate in a manner that complies with Health Canada's limits of human exposure to radio frequency fields for the general public;
- antenna structures are marked in accordance with Transport Canada's recommendations;
- all requirements prescribed in CPC-2-0-03, as well as for existing broadcasting installations;
- radiocommunication installations are installed and operate in a manner that complies with technical boundary and out-of-band emission conditions, as specified by Industry Canada;
- requirements related to roaming and/or antenna tower and site sharing, as set out in CPC-2-0-17;

- compliance with international coordination requirements and procedures;
- assistance in the resolution of radio interference problems that may arise due to station operations, including the provision of technical information, making arrangements to conduct tests and using techniques to isolate interfering signals;
- submission of technical information on a monthly basis or as otherwise required by Industry Canada;
- compliance with appropriate terms and conditions for the radio frequency band or applicable radio service;
- compliance with applicable Spectrum Utilization Policies, SRSPs and RSSs;
- application for any Licence Transfer or Prospective Transfer; and
- roll-out requirements.

## **6. Contact Information**

Questions concerning this client procedures document should be directed to:

Manager, Emerging Networks  
Spectrum Management Operations Branch  
Industry Canada  
235 Queen Street  
Ottawa, Ontario K1A 0H5

**Annex A — Sample Application for Spectrum Licence Transfer or Division**

**Part 1: Information to Be Completed by Existing Licensee**

**1.1 Licensee Name:** \_\_\_\_\_

**1.2 Address:** \_\_\_\_\_

Street, P.O. Box, etc.

\_\_\_\_\_  
City, Town

\_\_\_\_\_  
Province

\_\_\_\_\_  
Postal Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
Email Address

**1.3 Licence Account Number:** \_\_\_\_\_

**1.4 Summary of licence(s) to be transferred or divided:**

Licence Number	Expiry Date	Spectrum	Geographic Area

**1.5 Map enclosed**    Yes \_\_\_\_\_                      No \_\_\_\_\_ (Required for partitioning)

**1.6 Proposed Date of Transfer or Division:** \_\_\_\_\_

**1.7 Information attached related to Section 5.6.4.1 of CPC-2-1-23 (Commercial Mobile Spectrum Only)**

**1.8 Authority**

I certify that I am an authorized representative of the above-named licensee and that the information stated in Part 1 of this Notification is true and correct.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant or Individual Authorized to Sign for the Licensee

\_\_\_\_\_  
Name of Applicant or Individual Authorized to Sign for the Licensee (Please print clearly)

\_\_\_\_\_  
Title of Person

**Part 2: Information to Be Completed by Proposed Licensee****2.1 Name:** \_\_\_\_\_**2.2 Address:** \_\_\_\_\_

Street, P.O. Box, etc.

\_\_\_\_\_  
City, Town\_\_\_\_\_  
Province\_\_\_\_\_  
Postal Code\_\_\_\_\_  
Telephone Number\_\_\_\_\_  
Fax Number\_\_\_\_\_  
Email Address**2.3 Authority**

I certify that I am an authorized representative of the above-named proposed licensee and that the information stated in Part 2 of this Notification is true and correct.

I certify that I have read and that I understand the contents of the eligibility criteria, as set out in the [Radiocommunication Regulations](#), and that I comply with these requirements. I will comply with the criteria on an ongoing basis and will notify the Minister of Industry of any change that would have a material effect on my eligibility. Such notification will be made in advance of any proposed transactions within my knowledge.

I certify that I understand the use to which the radio frequencies, that are the subject to the spectrum licence(s), may be employed.

I certify that I have read and that I understand all the conditions of licence that continue to apply to the spectrum licence(s), and I certify that I will comply with these conditions.

I also understand that Industry Canada may require additional information for the review of the proposed transfer.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant or Individual Authorized to Sign for the Transferee

\_\_\_\_\_  
Name of Applicant or Individual Authorized to Sign for the Transferee (Please print clearly)

\_\_\_\_\_  
Title of Person

## Annex B — Site Data Elements

For each radiocommunication installation:

- Spectrum Licence Number
- Company Code (Account Number)
- Administrative District Office of the Account Number
- Upload Reference Number
- Contact Name\*
- Telephone Number\*
- Telephone Extension Number\*
- Email Address\*
- Station Data
- Station Location
- Province/Territory Code
- Latitude
- Longitude
- Site Elevation
- Structure Height
- Zone Enhancer Indicator
- Tx Channel Frequency or Tx Lower Frequency Limit
- Tx Upper Frequency Limit
- Rx Channel Frequency or Rx Lower Frequency Limit
- Rx Upper Frequency Limit
- Tx Radio Model Number
- Tx Radio Manufacturer Code
- Rx Radio Model Number
- Rx Radio Manufacturer Code
- Bandwidth
- Class of Emission
- Transmitter Output Power
- Tx Omnidirectional Antenna Pattern Indicator
- Rx Omnidirectional Antenna Pattern Indicator
- Tx Antenna Model Number
- Tx Antenna Manufacturer Code
- Rx Antenna Model Number
- Rx Antenna Manufacturer Code
- Tx Antenna Height
- Rx Antenna Height
- Tx Antenna Azimuth
- Rx Antenna Azimuth
- Tx Antenna Elevation Angle
- Rx Antenna Elevation Angle
- Tx Antenna Gain

- Rx Antenna Gain
- Tx Line Loss
- Rx Line Loss

\* **Note:** This contact information will be made publicly available.

## Annex C — Application for a Spectrum Licence

**1. Applicant Name:** \_\_\_\_\_

**2. Address:** \_\_\_\_\_

Street, P.O. Box, etc.

\_\_\_\_\_  
City, Town

\_\_\_\_\_  
Province

\_\_\_\_\_  
Postal Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
Email Address

**3. Language Preference:** English \_\_\_\_\_ French \_\_\_\_\_

**4. Applicant Classification:** Individual \_\_\_\_\_ Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Joint Venture \_\_\_\_\_ Other \_\_\_\_\_

### 5. Spectrum

Spectrum	Geographic Area	Map Enclosed	
		Yes	No

### 6. Nature of Service

*Please include a brief narrative describing the nature of the proposed service and the spectrum utilization.*

### 7. Consent and Authority

I certify that I have read, I understand and will comply with:

- the eligibility criteria, as set out in the [Radiocommunication Regulations](#), and that I comply with these requirements, as applicable;
- the marking of antenna structures as required, in accordance with the recommendations of Transport Canada;
- the authorization procedures for non-site-specific radio stations, as outlined in CPC-2-0-03;
- the terms and conditions of applicable international coordination agreements; and
- the requirements of applicable spectrum policies, Radio Standards Specifications and Standard Radio System Plans.

I certify that I am the authorized representative of the above-named applicant and that all matters and things stated in this application and its attachments are true and correct. I also understand that Industry Canada may require additional information for the review of this application.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant or Individual Authorized to Sign for the Applicant

## Annex D — Sample Application for a Subordinate Licence

### Part 1: Information to Be Completed by Existing Licensee (Primary Licensee)

**1.1 Licensee Name:** \_\_\_\_\_

**1.2 Address:** \_\_\_\_\_

Street, P.O. Box, etc.

\_\_\_\_\_  
City, Town

\_\_\_\_\_  
Province

\_\_\_\_\_  
Postal Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
Email Address

**1.3 Licence Account Number:** \_\_\_\_\_

### 1.4 Summary of Proposed Subordinate Licence(s):

Primary Licence #	Subordinate Licence Expiry Date *	Subordinate Licence Frequency Range (MHz) *	Subordinate Licence Geographic Area *

\***Note:** Not to exceed the authorization granted to the primary licence in any respect.

**1.5 Map enclosed** Yes \_\_\_\_ No \_\_\_\_ (Required when subordinate licence area is smaller than the primary licence area.)

### 1.6 Information attached related to Section 5.6.4.1 of CPC-2-1-23 (Commercial Mobile Spectrum Only)

**1.7 Proposed Issuance Date of Subordinate Licence(s):** \_\_\_\_\_

### 1.8 Authority

I certify that I am an authorized representative of the above-named licensee and that the information stated in Part 1 of this Notification is true and correct.

SIGNED this \_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant or Individual Authorized to Sign for the Licensee

\_\_\_\_\_  
Name of Applicant or Individual Authorized to Sign for the Licensee (Please print clearly)

\_\_\_\_\_  
Title of Person

**Part 2: Information to Be Completed by Proposed Subordinate Licensee****2.1 Name:** \_\_\_\_\_**2.2 Address:** \_\_\_\_\_

Street, P.O. Box, etc.

\_\_\_\_\_  
City, Town\_\_\_\_\_  
Province\_\_\_\_\_  
Postal Code\_\_\_\_\_  
Telephone Number\_\_\_\_\_  
Fax Number\_\_\_\_\_  
Email Address**2.3 Authority**

I certify that I am an authorized representative of the above-named proposed subordinate licensee and that the information stated in Part 2 of this Notification is true and correct.

I certify that I have read and that I understand the contents of the eligibility criteria, as set out in the [Radiocommunication Regulations](#), and that I comply with these requirements. I will comply with the criteria on an ongoing basis and will notify the Minister of Industry of any change that would have a material effect on my eligibility. Such notification will be made in advance of any proposed transactions within my knowledge.

I certify that I understand the use to which the radio frequencies, that are the subject to the subordinate spectrum licence(s), may be employed.

I certify that I will comply with the conditions of licence that will apply to the subordinate spectrum licence(s).

I also understand that Industry Canada may require additional information for the review of the proposed subordinate licence.

SIGNED this \_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant or Individual Authorized to Sign for the Subordinate Licensee

\_\_\_\_\_  
Name of Applicant or Individual Authorized to Sign for the Subordinate Licensee (Please print clearly)

\_\_\_\_\_  
Title of Person