

IN THE MATTER OF
THE SECURITIES LEGISLATION OF BRITISH COLUMBIA,
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,
QUEBEC, NOVA SCOTIA AND NEWFOUNDLAND AND LABRADOR

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR
EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
CLEARNET COMMUNICATIONS INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application from Clearnet Communications Inc. ("Clearnet") for a decision under the securities legislation of each of the Jurisdictions (the "Legislation") that the Clearnet be deemed to have ceased to be a reporting issuer or the equivalent thereof under the Legislation;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS Clearnet has represented to the Decision Makers that:

1. Clearnet is a corporation continued under the *Canada Business Corporations Act* (the "CBCA"), is a reporting issuer in each of the Jurisdictions, and is not in default of any of the requirements of the Legislation, other than its failure to file its interim financial statements as at, and for the financial periods ending, June 30, 2001, and September 30, 2001.
2. Clearnet's head office is located at 200 Consilium Place in Scarborough, Ontario.
3. Clearnet does not intend to seek public financing by way of an offering of its securities.
4. Clearnet has authorized capital consisting of an unlimited number of Class A non-voting shares (the "Class A Shares"), 1,851,376,400 Class B shares (the "Class B Shares"), 18,513,764 Class C subordinate voting shares (the "Class C Shares"), 18,513,764 Class D subordinate voting shares (the "Class D Shares") and an unlimited number of preference shares. Clearnet's issued and outstanding capital consists of 44,603,286 Class A Shares, 321,236,012 Class B Shares, 6,092,591 Class C Shares, 7,790,741 Class D Shares, 5,500,000 Series 1 preference shares (the "Series 1 Preference Shares"), 209,215 Series 2 preference shares (the "Series 2 Preference

Shares") and 811,606 Series 3 preference shares (the "Series 3 Preference Shares," and together with the Series 1 Preference Shares and the Series 2 Preference Shares, the "Preference Shares").

5. On September 20, 2000 TELUS Corporation ("TELUS") made offers (the "Take-over Bid") to acquire all of the outstanding shares of Clearnet. On October 20, 2000, TELUS acquired all of the Class B Shares, Class C Shares and Class D Shares and in excess of 95% of the outstanding Class A Shares of Clearnet pursuant to the Take-over Bid. On January 12, 2001 TELUS completed the acquisition of the remaining Class A Shares through the compulsory acquisition provisions of the CBCA.

6. As of December 13, 2000 Clearnet had \$149,616,000 principal amount of 6.75% Convertible Debentures (the "Convertible Debentures") and 573,923 Warrants to purchase Class A Shares (the "Warrants") outstanding. On December 15, 2000, TELUS made offers (the "Subsequent Offers") to purchase all of the outstanding Convertible Debentures and Warrants. On January 9, 2001, TELUS acquired in excess of 98% of the principal amount of Convertible Debentures outstanding and on January 18, 2001 TELUS acquired in excess of 99% of the outstanding Warrants pursuant to the Subsequent Offers. In February 2001, TELUS completed the acquisition of the remaining Warrants and Convertible Debentures through the compulsory acquisition provisions of the CBCA.

7. Subsequent to the Take-over Bid and the Subsequent Offers, Clearnet amended its articles of incorporation to create the Preference Shares. All of the outstanding Preference Shares were issued to subsidiaries of TELUS and are owned, indirectly, by TELUS.

8. During the period from December 1995 to April 1999 Clearnet distributed over \$2 billion principal amount of senior discount notes (the "Senior Discount Notes") to the public in Canada and the United States pursuant to prospectuses and registration statements, in underwritten offerings. The Senior Discount Notes are non-convertible securities.

9. On May 11, 2001 Clearnet commenced tender offers and consent solicitations (the "Tender Offers") in respect of the Senior Discount Notes which then remained outstanding. The Tender Offers expired at midnight on June 8, 2001 and pursuant to the Tender Offers Clearnet repurchased 99.9% of each of four (4) classes of Senior Discount Notes.

10. The respective Indentures (the "Indentures") governing the Senior Discount Notes contained a number of restrictive covenants and provisions, including a covenant (the "Disclosure Covenant") that Clearnet would file with the Trustee of the Senior Discount Notes (the "Trustee") and provide registered holders of the Senior Discount Notes, after the filing thereof with the United States Securities and Exchange Commission (the "SEC"), copies of Clearnet's annual reports, information, documents and other reports (collectively, the "Reports") that Clearnet is required to file with the SEC pursuant to Section 13(a) or 15(d) of the United States Securities and Exchange Act of 1934 (the "Exchange Act"), notwithstanding that the Clearnet may not be required to remain subject to the reporting requirements of the Exchange Act.

11. The Indentures contained a covenant (the "Delivery Covenant") that Clearnet would provide the Trustee with audited financial statements for each fiscal year and statements of income for

each fiscal quarter (collectively, the "Financial Statements"), and that the Trustee would, while such statements were current, maintain custody of same and make them available for inspection by registered holders of Senior Discount Notes.

12. Other than the Disclosure Covenant and the Delivery Covenant, the Indentures do not contain any provision giving registered or beneficial holders of Senior Discount Notes any right to receive, review or examine financial or other reports similar to the Reports or the Financial Statements.

13. The Indentures contain a provision (the "Amending Provision") that, with the consent of not less than a majority in principal amount of each class of Senior Discount Notes, the Trustee may enter into a supplemental indenture for the purpose of adding provisions to, changing in any manner or eliminating any provisions of the respective Indentures of each class of Senior Discount Notes, or modifying in any manner the rights of the registered holders of such class of Senior Discount Notes.

14. The Indentures do not contain any provision requiring, and have not ever contained a provision requiring, Clearnet to file any financial or other information with a Decision Maker in any Jurisdiction. The Indentures do not contain any provision requiring, and have not ever contained any provision requiring, Clearnet be a reporting issuer or the equivalent in any Jurisdiction.

15. The Tender Offers included a Consent Solicitation, the purpose of which was to amend or eliminate substantially all of the restrictive provisions or covenants contained in the Indentures including the Disclosure Covenant and the Delivery Covenant (the "Proposed Amendments").

16. The Tender Offers stated that:

(i) the Proposed Amendments would eliminate substantially all of the restrictive provisions and covenants of each Indenture, including the Disclosure Covenant and the Delivery Covenant, which might have an adverse effect on the value of the Notes; and

(ii) if the Tender Offers were consummated and the Proposed Amendments were adopted and became operative, Clearnet intended to terminate its registration under the Exchange Act, at which time it will no longer be obligated under the Indentures or applicable law to file Reports with the SEC or to furnish copies thereof to registered holders of Senior Discount Notes, which would adversely affect the amount of publicly available information about Clearnet and might affect the liquidity and trading prices of the Senior Discount Notes.

17. Upon consummation of the Tender Offers:

(i) the Indentures were amended and substantially all restrictive provisions and covenants (other than the covenants to pay principal and interest) of the

Indentures, including the Disclosure Covenant and the Delivery Covenant, were eliminated in accordance with the Amending Provision;

(ii) Clearnet no longer provides Reports to holders of the Senior Discount Notes, as contemplated in the Disclosure Covenant, and does not file those reports with the SEC;

(iii) Clearnet no longer provides the Financial Statements to the Trustee, as contemplated in the Delivery Covenant; and

(iv) Clearnet terminated its registration under the Exchange Act.

18. To the best information and belief of Clearnet, Clearnet currently has 16 beneficial holders of the Senior Discount Notes resident in Ontario, 15 beneficial holders (other than TELUS) of Senior Discount Notes resident in British Columbia, 12 beneficial holders of Senior Discount Notes resident in Alberta, 9 beneficial holders of Senior Discount Notes resident in Quebec, 1 beneficial holder of Senior Discount Notes resident in Manitoba, and 1 beneficial holder of Senior Discount Notes resident in Newfoundland. These beneficial holders of Senior Discount Notes hold an aggregate of approximately \$1.55 million principal amount of Senior Discount Notes, which is less than one tenth of one percent (0.1%) of the original outstanding principal amount of the Senior Discount Notes.

19. As a result of the Take-over Bid, the Subsequent Offers and the compulsory acquisition procedures, all of the issued and outstanding securities of Clearnet, other than the Senior Discount Notes, are owned, directly or indirectly, by TELUS.

20. Clearnet ceased to be a registrant with the SEC on January 12, 2001 and was removed from NASDAQ at that time. The Class A Shares were delisted on The Toronto Stock Exchange on February 12, 2001. No securities of Clearnet, including debt securities, are listed or quoted on any exchange or market in Canada or elsewhere.

AND WHEREAS under System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each Decision Maker is of the opinion the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that Clearnet is deemed to have ceased to be a reporting issuer or the equivalent thereof under the Legislation.

DATED this 22nd day of April, 2002.

"Theresa McLeod"
A Commissioner

"Lorne Murphy"
A Commissioner

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - as a result of a take-over bid, issuer has one beneficial holder of equity securities - following take-over bid, issuer entered into consent solicitation and tender offer and acquired over 99.9% of the principal amount of each class of debt security outstanding - following consent solicitation and tender offer, issuer has 54 beneficial holders of debt securities - indenture governing debt securities contain provision that the indenture may be amended with consent of not less than a majority in principal amount of each class of debt security - issuer deemed to have ceased to be a reporting issuer.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am. s. 83.