

# Northpoint – A Revolutionary Technology

- Northpoint is a patented technology that allows the terrestrial reuse of spectrum used by satellites
- Northpoint accomplishes a “triple play” allowing terrestrial sharing with satellites in the same time, place and frequency
- Prior to Northpoint complete satellite-terrestrial spectrum sharing was considered to be impossible
- Northpoint seeks to create a new wireless broadband network and offer low cost multi-channel video service and high speed internet access to consumers nationwide
- Northpoint applied to the Commission to launch Compass – a next generation DBS system that will operate as a combined terrestrial-satellite network and achieve radical improvements in spectrum efficiency and offer highly competitive service to the public
- Provide competition to cable and DBS

# Northpoint Regulatory Timeline

- 1994: Northpoint first brings its technology to the FCC
- 1997: Northpoint is granted first experimental license
- 1998: Northpoint and Skybridge file Petitions to use the DBS band. FCC joins Petitions; calls for satellite, but not terrestrial applications
- 1999: Seven satellite applicants and Northpoint file on same day
- 2000: FCC establishes MVDDS and NGSO satellite service
- Congress passes ORBIT Act prohibiting auction of spectrum “used for international satellite service;” also requires independent testing of terrestrial applicants
- FCC determines to grant all satellite applications, but seeks comment on MVDDS auction

## Regulatory Timeline, Continued...

- 2001: Northpoint is sole company to provide equipment for mandated independent testing; MITRE confirms Northpoint can share spectrum
- On 12/25/01 FCC grants without auction Boeing a nationwide license for 800 ground stations using shared spectrum
- 2002: Northpoint files Compass DBS application; FCC issues final technical rules for MVDDS; dismisses Northpoint's terrestrial applications and calls for auction
- 2003: MVDDS Auction scheduled for June 25, 2003; Despite 2000 statute, there is no independent testing requirement for applicants; Compass application dismissed, DBS auction scheduled for August 2003

## Current Status



- Northpoint marks 9<sup>th</sup> year of effort to commercialize its revolutionary technology
- Northpoint has filed appeal of license dismissal – FCC opposed expedition of appeal pending reconsideration; appeal is being held in abeyance
- Petitions for Reconsideration are pending at FCC
- Compass application dismissed and auction scheduled for August 2003

## DBS Operators and Auction Facts

- When the DBS service was established, all DBS licenses were issued without auction
  - DBS is currently using 5,800 MHz of spectrum capacity granted to it without auction
  - DirecTV has never participated in an auction
  - The two slots that were auctioned in 1996 were anomalies and the Commission has returned to its no-auction policy for DBS operators with its August 2001 Ka-Band grants
    - Notably Pegasus, DirecTV's largest distributor – who has advocated an auction for Northpoint – was given five nationwide licenses in the Ka-Band *without an auction*; Hughes Electronics, parent of DirecTV, got eight nationwide licenses, again without an auction.

## FCC Decisions on When to Auction or Not Auction Seem Arbitrary

- MSS Order (2003): Giving satellite companies right to use terrestrial portion of satellite spectrum without auction
- Satellite systems: Aug. 2001: 11 companies granted 66,000 MHz of spectrum without auction. No assertion that ORBIT prohibited auction. Licenses given to Hughes, Pegasus, Echostar, et al
- Ground based wireless licenses: Over 11,000 granted in 2001 without auction, primarily to large commercial telecommunications companies such as Nextel, AT&T Wireless, Verizon, et al
- Cable Relay Licenses: Licenses granted without auction
- Northpoint: Auction. Seeks license to operate using 500 MHz of spectrum capacity created through its own technology
  - Will share with the seven systems with whom it applied on the same day, sharing the very same spectrum, offering the same or similar services that will not be subject to auction

## Basis of Appeal

- ORBIT Act prohibits auction of spectrum used for international satellite systems – Northpoint using same spectrum
- Local TV Act requires independent testing
- Lack of mutual exclusivity
- Procedural fairness (disparate treatment of similarly situated applicants)
- Other significant issues