



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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Fax-On-Demand 202 / 418-2830
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DA 06-1991
Released: October 5, 2006

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF YAK COMMUNICATIONS (AMERICA) INC. FROM YAK COMMUNICATIONS INC. TO YAKTASTIC INC.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 06-182

Comments Due: October 19, 2006
Reply Comments Due: October 26, 2006

On September 29, 2006, Yak Communications (America) Inc. ("Yak America"), Yak Communications Inc. ("Yak") and Yaktastic Inc. ("Yaktastic") (collectively, "Applicants"), filed an application, pursuant to section 63.04 of the Commission's rules,¹ requesting authority to transfer control of Yak America to Yaktastic.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules because, upon completion of the proposed transaction, (a) Yaktastic will have a market share in the interstate, interexchange market of less than 10 percent, and (b) Yaktastic will provide competitive telephone exchange services or exchange access services (if at all) exclusively in areas served by a dominant local carrier not a party to the transaction, and (c) neither of the Applicants is dominant with respect to any service.³

Yak America is a Florida corporation authorized to provide and provides resold interexchange telecommunications services in all of the contiguous 48 states and the District of Columbia. The services offered by Yak America include basic 1+ long distance services, 10-10 casual calling services and calling card services. Yak America has no affiliates that offer domestic telecommunications. Yak America is a direct, wholly owned subsidiary of Yak.

Yak, a Florida corporation, is a publicly held company. Charles Zwebner, a Canadian citizen,

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed an application for transfer of control associated with authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

³ 47 C.F.R. § 63.03(b)(2)(i).

holds 25% of the stock of Yak and is the only shareholder with an interest of 10 percent or greater. Mr. Zwebner serves as President and CEO of Yak and CEO of Yak Communications (Canada), Inc., an Ontario corporation that is a direct, wholly-owned subsidiary of Yak. Mr. Zwebner does not hold a 10 percent or greater ownership interest in any other company that offers domestic telecommunications services.

Yaktastic Inc. is a newly formed corporation organized under the laws of the State of Delaware. Yaktastic is 100% owned by Anthony Lopez, a U.S. citizen. Neither Yaktastic nor Anthony Lopez holds any authorizations to provide telecommunications services. Neither Yaktastic nor Anthony Lopez holds a 10 percent or greater ownership interest in any other company that offers domestic telecommunications services.

Pursuant to the terms of a Stock Purchase Agreement ("Agreement") dated September 25, 2006, Yaktastic will purchase from Yak all of the issued and outstanding shares of capital stock of Yak America for a cash payment.⁴ As a result, Yak America will become a direct, wholly-owned subsidiary of Yaktastic. Thus, post-consummation, Yak America will ultimately be owned by Anthony Lopez.

Applicants state that the proposed transaction will serve the public interest by enabling Yak America to continue providing telecommunications services in the U.S. market, to the ultimate benefit of American consumers. Immediately following consummation of the proposed transaction, Yak America will continue to offer to its customers the same services at the same rates, terms and conditions as at present pursuant to existing authorizations, tariffs, contracts, and published rates and charges. Applicants assert that the proposed transaction does not present any anti-competitive issues as it entails simply the sale of ownership interests in Yak America to another company, and the transaction will be completely transparent to customers.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file **comments on or before October 19, 2006** and **reply comments on or before October 26, 2006**.⁵ Unless otherwise notified by the Commission, Applicants are permitted to transfer the assets and related control on the 31st day after the date of this notice.⁶ Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the

⁴ Applicants note that, on September 21, 2006, Yak announced that its Board of Directors approved and agreed to support a cash tender offer by Globalive Communications Corp. ("Globalive") to acquire all of the outstanding shares of Yak's common stock pursuant to a definitive agreement with Globalive. Globalive is a Nova Scotia unlimited liability company. Applicants further state that Yak intends to close the sale of Yak America to Yaktastic before consummating the sale of its common stock to Globalive. The Globalive transaction is outside of the scope of our review in this proceeding.

⁵ See 47 C.F.R. § 63.03(a).

⁶ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

You may submit comments, identified by the above noted docket number, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Cecilia Seppings, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A103, Washington, D.C. 20554; email: cecilia.seppings@fcc.gov;
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B155, Washington, D.C. 20554; e-mail: dennis.johnson@fcc.gov;
- (4) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (5) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CYB402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

For further information, please contact Cecilia Seppings at (202) 418-1588, or Dennis Johnson at (202) 418-0809.

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