



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, S.W.
WASHINGTON, D.C. 20554

DA 06-947

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> <ftp.fcc.gov>

Released: May 10, 2006

**NTT DOCOMO, INC., GUAM CELLULAR AND PAGING, INC., AND GUAM
WIRELESS TELEPHONE COMPANY, L.L.C. SEEK FCC CONSENT TO
ASSIGN AND TRANSFER CONTROL OF LICENSES AND AUTHORIZATIONS
AND REQUEST A DECLARATORY RULING ON FOREIGN OWNERSHIP**

WT Docket No. 06-96

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: June 9, 2006
Oppositions Due: June 19, 2006
Replies Due: June 26, 2006

I. INTRODUCTION

NTT DoCoMo, Inc. (“DoCoMo”), Guam Cellular and Paging, Inc. (“Guam Cellular”), and Guam Wireless Telephone Company, L.L.C. (“Guam Wireless”) (collectively, the “Applicants”) have filed a series of applications pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended (“Communications Act”),¹ and a petition for declaratory ruling under Section 310(b)(4) of the Communications Act.² In these applications, the Applicants seek Commission approval to transfer control of Guam Cellular to DoCoMo Guam Holdings, Inc. (“DoCoMo Guam”), a wholly-owned subsidiary of DoCoMo organized under the laws of Guam, and to assign certain wireless assets of Guam Wireless to Guam Cellular, as controlled directly by DoCoMo Guam. The proposed transfer and assignment will occur simultaneously upon consummation, after which DoCoMo, through DoCoMo Guam, will indirectly control Guam Cellular.

These applications pertain to licenses for the Part 22 Cellular Radiotelephone Service, the Part 22 Paging and Radiotelephone Service, the Part 24 Personal Communications Service, the Part 27 Wireless Communications Service, the Part 27 Lower 700 MHz Service, the Part 90 Industrial/Business Pool Service, and the Part 101 Common Carrier Fixed Point-to-Point Microwave Service, as well as domestic and international Section 214 authorizations. The Applicants also request a declaratory ruling that the

¹ 47 U.S.C. §§ 214, 310(d). The applications were amended subsequent to their initial submission. When searching for these applications on the Wireless Telecommunications Bureau’s Universal Licensing System (“ULS”) at <http://wireless.fcc.gov/uls/>, the amended versions of the applications will appear with an “AM” as the purpose code.

² *Id.* § 310(b)(4).

public interest would not be served by denying approval of DoCoMo's indirect foreign ownership in Guam Cellular.

These assignment and transfer of control applications were filed in connection with a proposed acquisition whereby DoCoMo Guam will acquire 100 percent of the common shares of Guam Cellular for cash consideration. Simultaneously, the Applicants state that DoCoMo will acquire for cash consideration certain assets from Guam Wireless. To effectuate this acquisition, Guam Wireless will assign its FCC authorizations and certain other assets to Guam Cellular. Upon consummation, the Applicants state that Guam Cellular will become an indirect wholly-owned subsidiary of DoCoMo. Further, Guam Cellular also will hold Guam Wireless' wireless-related assets and will continue to operate the business of Guam Wireless.

II. SECTION 310(d) APPLICATIONS

A. Transfer of Control Application

The following application for consent to the transfer of control of certain Cellular Radiotelephone, Paging and Radiotelephone, Wireless Communications, Lower 700 MHz, Industrial/Business Pool, and Common Carrier Fixed Point-to-Point Microwave Service licenses held by Guam Cellular to DoCoMo has been assigned the file number listed below.

File No.	Licensee	Lead Call Sign
0002556700 ³	Guam Cellular and Paging, Inc.	KNKI654

B. Assignment Application

The following application for consent to the assignment of a Personal Communications Service license from Guam Wireless to Guam Cellular has been assigned the file number listed below.

File No.	Licensee	Call Sign
0002553437	Guam Wireless Telephone Company, L.L.C.	KNLF300

III. SECTION 214 APPLICATIONS

A. Transfer of Control Applications

The following application for consent to the transfer of control of Guam Cellular's two international Section 214 authorizations to DoCoMo has been assigned the file number listed below.

File No.	Authorization Holder	Authorization Numbers
ITC-T/C-20060405-00234	Guam Cellular and Paging, Inc.	ITC-214-20040517-00201 ITC-214-19961120-00583

³ This application has been designated the lead application for the Section 310(d) applications.

The Applicants also have filed an application for consent to transfer control of Guam Cellular's domestic Section 214 authority to DoCoMo in connection with the transaction described above. The application is attached to the above referenced application for consent to the transfer of control of Guam Cellular's two international Section 214 authorizations to DoCoMo.⁴ Applicants assert that this transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules because: (1) DoCoMo (through DoCoMo Guam) and Guam Cellular will hold a market share in the U.S. interstate, interexchange market of less than ten percent; (2) DoCoMo will provide no local exchange services in the U.S.; and (3) neither Applicant is dominant with respect to the provision of any telecommunications service in the U.S.⁵ Applicants state, however, that they do not oppose non-streamlined treatment because this domestic transfer of control will be reviewed as part of a larger transaction not subject to streamlined treatment. In light of the multiple applications pending before the Commission in this transaction and the public interest review associated with them, we conclude that Applicants' domestic transfer of control application is not subject to streamlined treatment.

Applicants state that the proposed transfer of control is in the public interest because DoCoMo's acquisition of Guam Cellular will provide competitive benefits for consumers and allow Guam Cellular to expand and upgrade its existing networks.

B. Assignment Application

The following application for consent to the assignment of an international Section 214 authorization from Guam Wireless to Guam Cellular has been assigned the file number listed below.

File No.	Authorization Holder	Authorization Number
ITC-ASG-20060404-00181	Guam Wireless Telephone Company, L.L.C.	ITC-214-20000507-00304

IV. PETITION FOR DECLARATORY RULING UNDER SECTION 310(b)(4)

The Applicants request a declaratory ruling that it would not serve the public interest to prohibit the 100 percent indirect foreign ownership of Guam Cellular (through DoCoMo Guam) under Section 310(b)(4) of the Act.⁶ Upon consummation of the proposed assignment and transfer of control, Guam Cellular will be a wholly-owned indirect subsidiary of DoCoMo, a publicly traded corporation organized under the laws of Japan. Japan is a World Trade Organization ("WTO") member country.

According to the Applicants, as of December 2005, Nippon Telegraph and Telephone Corporation ("NTT"), a publicly traded corporation organized under the laws of Japan, holds a 61.96 percent equity and voting ownership interest in DoCoMo. The Japanese government, through the Ministry of Finance, holds a 38.37 percent equity and voting ownership interest in NTT. The Applicants state that no other entity holds more than a five percent direct or indirect ownership interest in DoCoMo or NTT. According to the Applicants, at least 75 percent of DoCoMo's shares and NTT's shares are held by investors from WTO member countries, including Japan, the United States and the United Kingdom. Foreign investors from non-WTO member countries will own less than 25 percent of each of the equity

⁴ See International Section 214 Application at 27.

⁵ 47 C.F.R. § 63.03(b)(2)(i).

⁶ 47 U.S.C. § 310(b)(4). The petition for declaratory ruling is attached to the lead Form 603 application and both Section 214 applications.

and voting interests of DoCoMo and NTT. The Applicants assert that, under the Commission's principal place of business test, the home market of both DoCoMo and NTT is Japan.

The Petition for Declaratory Ruling has been assigned File No. ISP-PDR 20060404-00005.

V. *EX PARTE* STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,⁷ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.⁸

Parties making oral *ex parte* presentations are directed to the Commission's statement re-emphasizing the public's responsibility in permit-but-disclose proceedings and are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.⁹ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁰ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.¹¹ We urge parties to use the Electronic Comment Filing System ("ECFS") to file *ex parte* submissions.¹²

VI. GENERAL INFORMATION

The assignment and transfer of control applications referenced herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies. Final action on these applications will not be taken earlier than thirty-one days following the date of this Public Notice.¹³

Interested parties must file petitions to deny no later than **June 9, 2006**. Persons and entities that file petitions to deny become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts. Oppositions to such pleadings must be filed no later than **June 19, 2006**. Replies to such pleadings must be filed no later than **June 26, 2006**. All filings concerning matters referenced to in this Public Notice should refer to **DA 06-947** and **WT Docket No. 06-96**, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

⁷ 47 C.F.R. § 1.1200(a).

⁸ *Id.* § 1.1206.

⁹ See Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings, Public Notice, 15 FCC Rcd 19945 (2000).

¹⁰ See 47 C.F.R. § 1.1206(b)(2).

¹¹ *Id.* § 1.1206(b).

¹² See discussion *infra* Part VI.

¹³ See 47 U.S.C. § 309(b).

Under the Commission's current procedures for the submission of filings and other documents,¹⁴ submissions in this matter may be filed electronically (*i.e.*, through ECFS) or by hand delivery to the Commission's Massachusetts Avenue location.

- **If filed by ECFS,**¹⁵ comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.
- **If filed by paper,** the original and four copies of each filing must be filed 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). 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at fcc@bcpiweb.com, or (202) 488-5563 (facsimile); (2) Erin McGrath, Mobility Division, Wireless Telecommunications Bureau, at erin.mcgrath@fcc.gov, or (202) 418-7447 (facsimile); (3) Susan Singer, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at susan.singer@fcc.gov, or (202) 418-7447 (facsimile); (4) David Krech, Policy Division, International Bureau, at david.krech@fcc.gov or (202) 418-2824 (facsimile); (5) Susan O'Connell, Policy Division, International Bureau, at susan.oconnell@fcc.gov or (202) 418-2824 (facsimile); (6) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, at tracey.wilson-parker@fcc.gov or (202) 418-1394 (facsimile); (7) Kimberly Jackson, Competition Policy Division, Wireline Competition Bureau, at kimberly.jackson@fcc.gov or (202) 418-7393 (facsimile); and (8) Neil Dellar, Office of General Counsel, at neil.dellar@fcc.gov or (202) 418-1234 (facsimile).

Copies of the applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc. in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C.

¹⁴ See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd 21483 (2001); see also FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001); Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media, *Public Notice*, 18 FCC Rcd 16705 (2003).

¹⁵ See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd 11322 (1998).

20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. The applications and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The applications are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>. In addition, applications filed under Parts 22, 24, 27, 90, and 101 of the Commission's rules are available electronically through ULS, which may be accessed on the Commission's Internet website. Additional information regarding the transaction will be available on the FCC's Office of General Counsel's website, <http://www.fcc.gov/ogc>, which will contain a fully indexed, unofficial listing and electronic copies of all materials in this docket.

People with Disabilities: To request this Public Notice in accessible formats (computer diskette, large print, audio recording, and Braille) send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0539 (voice), (202) 418-0432 (TTY).

For further information, contact Erin McGrath, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-2042.

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