



PUBLIC NOTICE

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DA 11-1589
September 21, 2011

DOMESTIC SECTION 214 AUTHORIZATION GRANTED

Domestic Section 214 Application Filed for the Transfer of Control of Tricom USA, Inc.

WC Docket No. 10-150

On July 20, 2010, Tricom USA, Inc. (Tricom) and AMZAK Capital Management, LLC (AMZAK) (together, Applicants) filed an application pursuant to section 63.03 of the Commission's rules to transfer control of Tricom in connection with its reorganization under U.S. bankruptcy laws.¹

On August 5, 2010, the Commission released a public notice accepting the application for streamlined processing.² On August 25, 2010, the Department of Justice, including the Federal Bureau of Investigation, with the concurrence of the Department of Homeland Security (collectively, the Executive Branch Agencies), filed a letter requesting that the Commission defer action on this application while they review potential national security, law enforcement, and public safety issues.³ In response to the request, the Wireline Competition Bureau removed the application from streamlined review.⁴ On September 20, 2011, the Executive Branch Agencies withdrew their request to defer action, stating that they have no objection to the application.⁵

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the application will serve the public interest, convenience, and necessity. Upon consummation of the transaction, the resulting entity would have a market share in the U.S. interstate interexchange market of less than 10 percent and would provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant local exchange carrier that is not

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

² *Domestic Section 214 Application Filed for the Transfer of Control of Tricom USA, Inc.*, WC Docket No. 10-150, Public Notice, 25 FCC Rcd 10664 (WCB 2010).

³ Letter from Kimberly M. Schmid, U.S. Department of Justice, to Marlene H. Dortch, FCC, WC Docket No. 10-150 (filed Aug. 25, 2010).

⁴ *Notice of Removal of Domestic Section 214 Application From Streamlined Treatment*, WC Docket No. 10-150, Public Notice, 25 FCC Rcd 12506 (WCB 2010).

⁵ Letter from Richard C. Sofield, U.S. Department of Justice, to Marlene H. Dortch, FCC, WC Docket No. 10-150 (filed Sept. 20, 2011). The Executive Branch Agencies withdrew their request to defer action and stated they have no objection to the application based on the information provided to them by the Applicants, including that Tricom has agreed to surrender its section 214 licenses. *Id.*

a party to the transaction. In addition, the Applicants are not dominant with respect to any domestic service.⁶

Consistent with Commission precedent, the Wireline Competition Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.⁷ Therefore, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, the Wireline Competition Bureau hereby grants the application discussed in this Public Notice.⁸

Pursuant to section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, the grant is effective upon release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Jodie May at (202) 418-0913, Competition Policy Division, Wireline Competition Bureau.

⁶ 47 C.F.R. 63.03(b)(2)(i).

⁷ The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing a transfer of control or assignment application in which foreign ownership is an issue. *See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170-72, paras. 178-82 (1997); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21, paras. 61-66 (1997) (*Foreign Participation Order*), Order on Reconsideration, 15 FCC Rcd 18158 (2000). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. *See Foreign Participation Order*, 12 FCC Rcd at 23919-21, paras. 61-66.

⁸ A grant of the application will be without prejudice to any enforcement action by the Commission for non-compliance with the Communications Act of 1934, as amended, or the Commission's rules.