



PUBLIC NOTICE

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DA 16-1080
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DOMESTIC SECTION 214 APPLICATION GRANTED FOR THE TRANSFER OF CONTROL OF INCONTACT, INC. TO NICE-SYSTEMS LTD.

WC Docket No. 16-177

On May 31, 2016, inContact, Inc. (inContact) and NICE-Systems Ltd. (NICE Systems) (together, Applicants) filed an application pursuant to section 214 of the Communications Act of 1934, as amended, and section 63.03 of the Commission's rules, requesting approval to transfer control of inContact to NICE Systems.¹

On June 15, 2016, the Wireline Competition Bureau (Bureau) released a Public Notice requesting comment on the Application.² On June 16, 2016, the U.S. Department of Justice (DOJ), with the concurrence of the U.S. Department of Defense and the U.S. Department of Homeland Security (collectively, the Executive Branch Agencies) filed a letter requesting that the Commission defer action in WC Docket No. 16-177 while they completed their review of any national security, law enforcement, and public safety issues.³ We deferred action on the Application in response to the Executive Branch Agencies' request.⁴

On September 21, 2016, the Executive Branch Agencies submitted a Petition to Adopt Conditions to Authorizations and Licenses (Petition).⁵ In the Petition, the Executive Branch Agencies advise the Commission that they have no objection to the Commission approving the authority sought in the Application provided that the Commission "conditions its approval on the assurance of inContact, Inc. ('inContact') and NICE, Ltd. ('NICE') abiding by the commitments and undertakings set forth in the attached September 20, 2016 Letter of Agreement ('Agreement') between inContact, NICE, and the

¹ See 47 U.S.C. § 214; 47 C.F.R. § 63.03; *Streamlined Application for Authority to Assign International and Domestic Blanket Section 214 Authority*, WC Docket No. 16-177 (filed May 31, 2016) (Application)

² *Domestic Section 214 Application Filed for the Transfer of Control of inContact, Inc. to NICE-Systems Ltd.*, WC Docket No. 16-177, Public Notice, DA 16-669 (WCB June 15, 2016).

³ Letter from Hunter P. Deeley, U.S. Department of Justice, to Marlene H. Dortch, FCC, WC Docket No. 16-177 (filed June 16, 2016).

⁴ *Notice of Removal of Domestic Section 214 Applications from Streamlined Treatment*, WC Docket Nos. 16-171, 16-177, Public Notice, DA 16-781 (WCB July 7, 2016).

⁵ Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 16-177 and File No. ITC-T/C-20160531-00162 (filed Sept. 21, 2016).

DOJ.⁶ DOJ filed the Petition and Agreement in WC Docket No. 16-177 on September 21, 2016.

The Bureau finds, upon consideration of the record, that grant of the Application, subject to compliance with the Agreement, will serve the public interest, convenience, and necessity.⁷ Consistent with Commission precedent, the Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.⁸ Therefore, pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the Bureau hereby grants the Application discussed in this Public Notice subject to compliance with the Agreement described above. A failure to comply with and/or remain in compliance with any of the provisions of the Agreement shall constitute a failure to meet a condition of this authorization and thus grounds for declaring the underlying authorizations terminated without further action on the part of the Commission. Failure to meet a condition of this authorization may also result in monetary sanctions or other enforcement action by the Commission.

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 Dennis Johnson, Wireline Competition Bureau, Competition Policy Division, (202) 418-0809.

⁶ *Id.* at 1.

⁷ *See* 47 C.F.R. § 63.03(b).

⁸ 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*, IB Docket No. 97-142, Market Entry and Regulation of Foreign Affiliated Entities, IB Docket No. 95-22, 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.