



PUBLIC NOTICE

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Actions Taken Under Cable Landing License Act

Section 1.767(a) Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Cable Landing Licenses (47 C.F.R. § 1.767(a))

By the Chief, Telecommunications and Analysis Division, International Bureau:

Pursuant to An Act Relating to the Landing and Operation of Submarine Cables in the United States, 47 U.S.C. §§ 34-39 (Cable Landing License Act), Executive Order No. 10530, Exec. Ord. No. 10530 reprinted as amended in 3 U.S.C. § 301, and section 1.767 of the Commission's rules, 47 C.F.R. § 1.767, the following applications ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules, 47 C.F.R. § 0.261. 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.

These applications have been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 C.F.R. § 1.767(b), and consistent with procedures established with the Department of State. See Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Streamlined Procedures for Executive Branch Review of Submarine Cable Landing License Requests, State Department Media Note (Revised) (rel. Dec. 20, 2001) available at <http://2001-2009.state.gov/r/pa/prs/ps/2001/6951.htm>.

This public notice serves as each cable landing licensee's Cable Landing License, or modification thereto, pursuant to the Cable Landing License Act and sections 1.767 and 1.768 of the Commission's rules. Cable landing licensees should review carefully the terms and conditions of their licenses. Failure to comply with these terms and conditions or relevant Commission rules and policies could result in fines or forfeitures.

Acceptability for Filing Public Notice: Application filed by Microsoft Infrastructure Group, LLC, Microsoft Operations Pte Ltd, China Mobile International Limited, China Telecommunications Corporation, China United Network Communications Group Company Limited, Chunghwa Telecom Co., Ltd., and KT Corporation (together, the Applicants) for a license to land and operate a non-common carrier fiber-optic submarine cable network connecting the continental United States, China, Japan, the Republic of Korea, and Taiwan, the New Cross-Pacific (NCP) cable system. The Application was placed on Public Notice on December 3, 2015. File No. SCL-LIC-20151104-00029, Public Notice, Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL-00170S (IB, Dec. 3, 2015). Letters of support for the proposed cable system were filed by the National Association of Manufacturers (NAM) on Dec. 16, 2015, and by the U.S. Department of Commerce, and Tyco Electronics Subsea Communications LLC (TE SubCom) on December 17, 2015.

The Application has been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 C.F.R. §1.767(b), and consistent with procedures established with the Department of State. See Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Streamlined Procedures for Executive Branch Review of Submarine Cable Landing License Requests, State Department Media Note (Revised) (rel. Dec. 20, 2001) available at <http://www.state.gov/r/pa/prs/ps/2001/6951.htm>. The Department of Homeland Security (DHS), with the concurrence of the Department of Justice (together, the Agencies) filed a Petition to Adopt Conditions to Authorizations and Licenses on January 12, 2017. The Agencies have no objection to the Commission approving authority to land and operate the NCP cable system, provided that the Commission conditions approval on the commitment of Microsoft Infrastructure Group, LLC to abide by the undertakings set forth in the January 12, 2017, National Security Agreement between Microsoft Infrastructure Group, LLC and the Agencies.

Actions Taken: (1) Grant of Cable Landing License to Microsoft Infrastructure Group, LLC, et al. for the purpose of landing and operating a non-common carrier fiber-optic submarine cable system, connecting the continental United States, China, Japan, the Republic of Korea, and Taiwan, and (2) grant of the Petition to Adopt Conditions to Authorizations and Licenses filed on January 12, 2017 by the Department of Homeland Security, with the concurrence of the Department of Justice.

Licensee Information: The Applicants for the cable landing license for the NCP cable system are the following: (1) Microsoft Infrastructure Group, LLC (MIGL), (2) Microsoft Operations Pte Ltd (MOPL), (3) China Mobile International Limited (CMI), (4) China Telecommunications Corporation (China Telecom), (5) China United Network Communications Group Company Limited (China Unicom), (6) Chunghwa Telecom Co., Ltd. (Chunghwa), and (7) KT Corporation (KT).

(1) MIGL, a Washington State limited liability company, will lease and control the U.S. cable landing station. MIGL is a wholly-owned direct subsidiary of Microsoft Corporation (Microsoft), a Delaware corporation whose shares trade publicly on the U.S. NASDAQ Stock Market. Microsoft has no 10-percent-or-greater direct or indirect shareholders.

(2) MOPL, a Singapore private limited company, will own part of the NCP cable system. MOPL is 100% owned by Microsoft Singapore Holdings Pte Ltd (MSHPL), a Singapore company, which, in turn, is 100% owned by Microsoft. Microsoft has no 10-percent-or-greater direct or indirect shareholders.

(3) CMI, a Hong Kong limited company, manages and operates the international business of China Mobile Limited (CML), of which it is a wholly-owned indirect subsidiary. CMI's ten-percent-or-greater direct or indirect interest holders are: (1) China Mobile International Holdings Limited (CMIHL), a Hong Kong investment holding company (100% direct ownership interest in CMI), (2) CML, a Hong Kong company (100% direct ownership interest in CMIHL and 100% indirect ownership interest in CMI), (3) China Mobile Hong Kong (BVI) Limited (CMHK-BVI), a British Virgin Islands investment holding company (72.72% direct ownership interest in CML and 72.72% indirect ownership interest in CMI), (4) China Mobile (Hong Kong) Group Limited (CMHKG), a Hong Kong investment holding company (100% ownership interest in CMHK-BVI and 72.72% indirect ownership interest in CMI), and (5) China Mobile Communications Corporation (CMCC), a People's Republic of China investment holding company (100% ownership in CMHKG, and 72.72% indirect ownership in CMI). CMCC is 100% owned by the Chinese Government and subject to the supervision of the State-Owned Assets Supervision and Administration Commission (SASAC) of the State Council of the People's Republic of China. No other individual or entity owns 10 percent or more of CMI's shares.

(4) China Telecom, a Chinese corporation, provides fixed-line telephone services, mobile services, Internet access services, and information services. China Telecom is wholly-owned by the Chinese government through SASAC of the State Council of China.

(5) China Unicom, a Chinese corporation, provides fixed-line telephone services, broadband and other Internet-related services, business and data communications services, and international voice and data services. The Chinese Government directly owns 96.5 percent of China Unicom.

(6) Chunghwa, a Taiwan corporation, provides integrated telecommunications services. Chunghwa's shares are publicly-traded on the Taiwan Stock Exchange and the New York stock exchange. Its ten-percent-or-greater direct or indirect interest holder is the Ministry of Transportation and Communications (MOTC). The Taiwanese Government through the MOTC directly owns 35.29% of Chunghwa. In addition to the shares held through MOTC, the Government of Taiwan through other entities holds an additional 4.61% of Chunghwa's shares, bringing in the total interest of the Taiwanese Government to 39.9% percent. No other individual or entity owns 10 percent or more of Chunghwa's shares.

(7) KT, a Korea corporation, provides integrated telecommunications services in Korea. KT's shares are publicly-traded on the Korea stock exchange, the New York stock exchange, and the London stock exchange. No individual or entity owns 10 percent or more of KT's shares.

Cable Design and Capacity: The cable system will consist of six segments, with up to seven optical fiber pairs per segment. The NCP cable system, along with associated cable stations, will consist of the following: (1) Segment 1 will connect China Telecom's existing cable landing station at Chongming, China, with MIGL's planned cable landing station at Pacific City, Oregon. Segment 1 includes five subsegments, demarcated by the cable landing stations in Chongming, China and Pacific City, Oregon, and Branch Units 1 through 4; (2) Segment 2 consists of two terrestrial segments, with Segment 2.1 connecting the beach manhole at Chongming, China, with CMI's terrestrial cable landing station that is currently under construction at Lingang, China, and Segment 2.2 connecting CMI's terrestrial cable landing station at Lingang, China, with a beach manhole at China Unicom's existing cable landing station at Nanhui, China; (3) Segment 3 will connect China Unicom's existing cable landing station at Nanhui, China, with Branch Unit 1; (4) Segment 4 will connect Branch Unit 2 with KT's existing cable landing station at Busan, Korea; (5) Segment 5 will connect Branch Unit 3 with Chunghwa's existing cable landing station at Toucheng, Taiwan; and (6) Segment 6 will connect Branch Unit 4 with an existing cable landing station at Maruyama, Japan that is owned and operated by SoftBank Mobile Corp. (SoftBank). The cable system will have an initial configuration capacity of 1.2 terabits per second (Tb/s), and a total design capacity of 70 Tb/s using 100 gigabit wavelength technology. The NCP cable system will total 13,000 kilometers in length and the Applicants expect the cable system to enter into commercial service in the fourth calendar quarter of 2017.

Ownership of the Cable System and Landing Points: The NCP cable system is a consortium system owned by eight members. The basic infrastructure, the entire wet segment of the NCP cable system, will be owned in fractional interests by 7 consortium members, with MOPL, CMI, China Telecom, China Unicom, Chunghwa, and KT each holding a 16.6634% participation interest and a 16.6634% voting interest, and SoftBank Mobile Corp. (Softbank) holding a 0.0196% participation interest and a 0.0196% voting interest. MIGL will hold no ownership or voting interest in any segment of the NCP cable system. Although Softbank is a member of the NCP consortium, it is not a joint applicant because it owns less than a 5 percent interest in the NCP cable system and does not own or control a U.S. cable landing station for the NCP cable system. See 47 C.F.R. § 1.767(h)(1)(2).

The cable landing stations will be owned and controlled as follows: (1) MIGL will lease and operate the cable landing station located at Pacific City, Oregon; (2) China Telecom, CMI, and China Unicom will own and operate the cable landing stations located at Chongming, Lingang, and Nanhui, China, respectively; (3) KT will own and operate the cable landing station located at Busan, Korea; (4) Chunghwa Telecom will own and operate the cable landing station located at Toucheng, Taiwan; and (5) Softbank, a Japan corporation and a telecommunications subsidiary of Softbank Group, will own and operate a cable landing station located at Maruyama, Japan. MOPL does not own, control, or lease a cable station in the NCP cable system.

Regulatory Status of the Cable: The Applicants propose to operate the cable system on a non-common carrier basis. They state that the NCP cable system will enhance competition by competing vigorously with other existing and planned submarine cable systems in the region, and will further benefit the public interest by providing transmission technologies to satisfy escalating bandwidth demands for new applications and services, particularly to access Internet content stored in the U.S. Application at 7-9. The Applicants state that they will not sell capacity indifferently to the user public. Instead, they will sell bulk capacity to users pursuant to individually negotiated infeasible rights of use (IRUs) and capacity leases, the terms of which will vary depending on the characteristics and needs of the particular capacity purchaser.

Applicants have provided information and demonstrated that the proposed operation of the cable on a non-common carrier basis satisfies the requirements set forth in National Association of Regulatory Utility Commissioners v. FCC, 525 F.2d 630, 642 (D.C. Cir 1976) (NARUC I), cert. denied, 425 U.S. 992 (1976). See also Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22202-22203, paras. 69-70; Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Notice of Proposed Rulemaking 15 FCC Rcd 20789, 20815-20818, paras. 62-67.

Conditions and Requirements: Applicants shall comply with the routine conditions specified in section 1.767(g)(1)-(14) of the Commission's rules, 47 C.F.R. § 1.767(g)(1)-(14), and with the requirements of section 1.768 of the Commission's rules, 47 C.F.R. § 1.768 (notifications and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier).

CMI is affiliated with foreign carriers that are presumed to have market power in China, and agrees to accept and abide by the reporting requirements in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-China route.

China Telecom is affiliated with foreign carriers that are presumed to have market power in China, and agrees to accept and abide by the reporting requirements in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-China route.

China Unicom is a foreign carrier in China that is presumed to have market power and is affiliated with foreign carriers that are presumed to have market power in China. China Unicom agrees to accept and abide by the reporting requirements in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-China route.

Chunghwa is a foreign carrier in Taiwan that is presumed to have market power, and agrees to accept and abide by the reporting requirements in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-Taiwan route.

KT is a foreign carrier in Korea that is presumed to have market power, and agrees to accept and abide by the reporting requirements in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-Korea route.

We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on January 12, 2017 by the Department of Homeland Security, with the concurrence of the Department of Justice (together, the Agencies). Accordingly, we condition grant of this application on Microsoft Infrastructure Group, LLC abiding by the commitments and undertakings contained in the National Security Agreement between Microsoft Infrastructure Group, LLC and the Agencies, dated January 12, 2017 (2017 NSA). A failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the cable landing license and thus grounds for declaring the license terminated without further action on the part of the Commission. Failure to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission.

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A copy of the Petition and the 2017 NSA are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20151104-00029 and accessing "Other filings related to this application" from the Document Viewing area.
