PUBLIC NOTICE

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

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
TTY 202 / 418-2555
Internet: http://www.fcc.gov
ftp.fcc.gov

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DOMESTIC SECTION 214 APPLICATION GRANTED FOR THE TRANSFER OF CONTROL OF HIBERNIA ATLANTIC U.S. LLC AND HIBERNIA MEDIA, LLC TO KCK LIMITED

WC Docket No. 14-138

On August 21, 2014, Columbia Ventures Corporation (CVC), KCK Limited (KCK), and Murosa Development S.À R.L. (Murosa) (collectively, Applicants) filed an application pursuant to section 63.03 of the Commission's rules to transfer control of Hibernia Atlantic U.S. LLC (HB Atlantic) and Hibernia Media, LLC (HB Media) to KCK.[1] HB Atlantic and HB Media, wholly-owned subsidiaries of Hibernia NGS Limited (Hibernia NGS), provide broadband and competitive interstate telecommunications services in multiple states. KCK is an investment entity incorporated under the laws of the British Virgin Islands and does not hold domestic section 214 authority.

On September 4, 2014, the Wireline Competition Bureau (Bureau) released a Public Notice requesting comment on this application.[2] On September 17, 2014, 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 reviewed potential 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 December 23, 2014, the Department of Homeland Security, on behalf of the Department of Justice and Department of Defense, submitted a Petition to Adopt Conditions to Authorizations and Licenses (Petition).[5] In the Petition, the Department of Homeland Security advises the Commission that it has no objection to the Commission granting its consent in this proceeding, provided the Commission

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[1] 47 C.F.R § 63.03; 47 U.S.C. § 214. *Domestic Section 214 Application Filed for the Transfer of Control of Hibernia Atlantic U.S. LLC and Hibernia Media, LLC to KCK Limited*, WC Docket No. 14-138, 29 FCC Rcd 10496 (Wireline Comp. Bur. 2014) (*Hibernia Public Notice*).

[2] *Hibernia Public Notice* at 1-2.

[3] *See* Letter from Joanne P. Ongman, U.S. Department of Justice, to Marlene H. Dortch, FCC, WC Docket No. 14-138 (filed Sept. 17, 2014).

[4] *Notice of Removal of Domestic Section 214 Application from Streamlined Treatment*, WC Docket No. 14-138, Public Notice, DA 14-1389 (Wireline Comp. Bur. 2014).

[5] Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 14-138 and File No. SCL-T/C-20140820-00007, ITC-T/C-20140820-00242, ITC-T/C-20140820-00244 (filed Dec. 23, 2014).

conditions its approval on the assurance of Hibernia NGS and KCK to abide by the commitments and undertakings set forth in the December 15, 2014 Letter of Assurance (2014 LOA) between the Department of Justice, Department of Homeland Security, and Department of Defense, and Hibernia NGS and KCK, as well as the commitments and undertakings set forth in the September 30, 2010 Letter of Assurance (2010 LOA) from Hibernia Group ehf to the Department of Homeland Security, Department of Justice, and Department of Defense, as revised by the 2014 LOA, and as further described in the Petition.[6] The Department of Homeland Security filed the Petition, 2014 LOA, and 2010 LOA in WC Docket No. 14-138 on December 23, 2014.

The Bureau finds, upon consideration of the record, that grant of the application, subject to compliance with the Petition and Letters of Assurances, will serve the public interest, convenience, and necessity. Upon consummation of the transaction, the resulting entity will have a market share in the U.S. interstate interexchange market of less than 10 percent, and will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier in the U.S. that is not a party to the transaction. In addition, no party to the transaction is dominant with respect to any domestic service.

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.[7] 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 Petition and Letters of Assurances described above. A failure to comply with and/or remain in compliance with any of the provisions of the Petition and Letters of Assurances 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 Jodie May, Wireline Competition Bureau, Competition Policy Division, (202) 418-0913.

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[6] *Id*. at 1-2.

[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*, 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.