

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Executive Branch Review of FCC Applications)	
And Petitions with Foreign Ownership for)	IB Docket No. 16-155
National Security, Law Enforcement, Foreign)	
Policy, and Trade Policy Concerns)	
)	

COMMENTS OF U.S. TELEPACIFIC CORP.

U.S. TelePacific Corp. (“TelePacific”) respectfully submits these comments in response to the Commission’s Public Notice seeking comment on the May 10, 2016 National Telecommunications and Information Administration (“NTIA”) Letter regarding the “Team Telecom” process (the “Letter”).¹ In the Letter, the NTIA requested that the Commission obtain certain information and certifications related to national security and law enforcement issues in connection with applications for: international section 214 authorizations and transfers thereof; section 310 rulings; submarine cable landing licenses; and satellite earth station authorizations (together, “Applications”). NTIA proposed that with applicants’ initial Commission Application: (1) each applicant with foreign ownership should provide information on ownership, network operations, and related information; and (2) all applicants should certify compliance with certain law enforcement assistance requirements. Currently, the proposed information and certifications to be obtained are generally provided during a course of review conducted independent of Commission procedure and undertaken by a group of Federal government entities, known and referred to herein as “Team Telecom.”

¹ *Executive Branch Review of FCC Applications And Petitions with Foreign Ownership for National Security, Law Enforcement, Foreign Policy, and Trade Policy Concerns*, Public Notice, IB Docket No. 16-155, FCC 16-531 (rel. May 12, 2016) (the “*Notice*”).

I. INTRODUCTION AND SUMMARY

TelePacific, founded in 1998 and headquartered in California, is a provider of comprehensive managed services and business solutions to a multitude of customers from small businesses to multi-location enterprises. TelePacific is one of the largest competitive local exchange carriers in California and its affiliates also provide facilities-based business communications services in Nevada and Texas. Specifically, TelePacific's affiliate Mpower Communications Corp. serves customers in Nevada and California; TelePacific's affiliate Arrival Communications, Inc. serves customers in California; and TelePacific's affiliate TelePacific Communications Co. serves customers in Texas. TelePacific is also in the process of acquiring DSCI, LLC, a Massachusetts-headquartered provider of hosted communications, managed IT and connectivity services and a competitive local exchange carrier in fifteen states. TelePacific, its affiliates, and DSCI, LLC are authorized by the Commission to provide international and domestic interstate services as non-dominant carriers. Over the years, TelePacific has undergone numerous Team Telecom reviews as part of its acquisitions of U.S.-based carriers.

TelePacific views the NTIA proposal as a positive first step, and applauds the efforts of the U.S. government to codify and streamline a process that is, at present, both unregulated and unclear. Doing so is crucial to the dynamic landscape of the telecommunications industry, as the vague nature of Team Telecom review frequently delays transactions and impedes technological advancement. TelePacific urges the Commission to adopt the NTIA proposal and further urges the Commission to incorporate the additional recommendations outlined in the following section.

II. ADDITIONAL PROPOSALS

1. The Commission Should Limit the Review Period for Team Telecom

As Commissioner O’Rielly has recently noted, the Team Telecom process is opaque and “sometimes unending.”² In an industry that heavily values expediency, economy, and certainty, undergoing Team Telecom review is frequently a lengthy, costly, and uncertain endeavor. As such, TelePacific urges the Commission to set a time limit by which Team Telecom review must be completed.

Specifically, the Commission should require the Executive Branch agencies to clear or deny Applications within 90 days of submitting the information and certifications required by the Letter. Team Telecom’s failure to act within such 90-day time frame shall be deemed as the Executive Branch’s clearance of the Application. TelePacific acknowledges that there may be exceptionally complex Applications where Team Telecom requires more than 90 days to complete its review; however, the Commission should promulgate rules preventing arbitrary extension of the deadline, for example by requiring the Executive Branch to provide the Commission adequate and detailed reasoning for the extension request, as well as notifying the Applicant of the extension and its underlying rationale.

2. The Commission Should Guarantee Confidentiality of Applicant Information

At least two classes of additional information sought by the Letter require special protection during the application process. First, Applicants will submit highly sensitive commercial information regarding their operations and the nature of their networks. Second, Applicants will submit a substantial amount of personally identifiable information about individuals within their organizations, including names, address, dates of birth and passport and

² “Team Telecom Reviews Need More Structure,” *FCC Blog*, Commissioner Michael O’Rielly, (pub. Sept. 18, 2015), available at <https://www.fcc.gov/news-events/blog/2015/09/18/team-telecom-reviews-need-more-structure>.

social security numbers. The Commission must ensure that all sensitive and confidential information is safeguarded at all costs. Moreover, the Commission should automatically grant confidential treatment to this information, exempting it from the disclosure requirements in the Freedom of Information Act and other applicable regulations.

3. The Commission Should Allow Certain Transactions to Bypass Team Telecom Review

TelePacific supports the objectives of the U.S. government to safeguard homeland security. However, the present Team Telecom process indiscriminately subjects *all* Applications with any level of reportable foreign ownership to review, causing unnecessary delays for certain entities and resulting in administrative inefficiencies for all. For example, some Applications relate to transactions involving resellers with no facilities: yet, they are subject to the same level of scrutiny as facilities-based Applications. If an Applicant has no significant domestic facilities, concerns of foreign investors controlling U.S. telecommunications facilities are clearly immaterial. Any framework for streamlining and regulating Team Telecom review should include provisions limiting the types of Applications that are subject to review in the first place, including eliminating Team Telecom reviews of applicants with no significant network facilities.

4. The Commission Should Eliminate Unnecessary Certifications

Several of the proposed certifications required by NTIA in the Letter, for example compliance with CALEA or refraining from making false statements to the U.S. government, are automatically applicable regardless of whether the Applicant makes such certifications. These are statutory obligations that are unaffected by the certification. Therefore, TelePacific believes the Commission should consider waiving these certification requirements in the interest of expediency and efficiency.

III. CONCLUSION

TelePacific commends the Commission for its continued efforts to streamline the Team Telecom process. Creation of a regulated and comprehensible process is vital to preventing unnecessary delay, encouraging innovation, and harmonizing Government procedures with the dynamic landscape of both the foreign and domestic telecommunications industry. TelePacific supports many of the proposals outlined by NTIA in the Letter and further urges the Commission to consider promulgating additional provisions to allow for oversight, transparency, and efficiency of Team Telecom review. In light of the continued delays the current Team Telecom process imposes, TelePacific stresses the importance of expedient action, both at the Commission and by Team Telecom. TelePacific therefore asks that the Commission issue a rulemaking and complete the proceeding as soon as possible.

Respectfully Submitted,

U.S. TelePacific Corp.

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