

Before the  
Federal Communications Commission  
Washington D.C. 20554

In the matter of

Global Crossing Ltd. Debtor-in-Possession ) IB Docket No 02-286  
Transferor and )  
GC Acquisition Limited, Transferee )  
  
Application for consent to transfer )  
Control and Petition for Declaratory Ruling )

Comment of Edward M. Killilea

I have a direct and continuing interest in this proceeding. I am a shareholder in Global Crossing.

In this proceeding, the Commission reviews the application by Global Crossing Ltd and GC Acquisition to transfer control of Global Crossing's FCC-licensed subsidiaries to GC Acquisition, called "New GX." The transaction is designed to facilitate the reorganization of Global Crossing under Chapter 11 of the U.S. bankruptcy code.

The primary investors in New GX will be Hutchison Telecommunications Limited, a Hong Kong company, and Singapore Technologies Telemedia Pte Ltd, a Singapore company. Together these two entities will own 61.5 percent of the New GX. Global Crossing's creditors will own the remaining 38.5 percent.

Pursuant to sections 214(a) and 310(d) of the Communications Act, the Commission must:

In the Matter of Global Crossing Ltd. (Debtor in Possession), Transferor, and GC Acquisition Limited, Transferee, Application for Consent to Transfer Control and Petition for Declaratory Ruling ("Application"), IB Docket No. 02-286, Aug. 22, 2002. Determine that a proposed merger is in the public interest.

The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction serves the public interest.

The analysis focuses on demonstrable and verifiable public interest benefits that could not be achieved if there were no transfer.

The Applicants fail to prove any demonstrable and verifiable public interest benefits of this transaction. Absent an affirmative showing of public interest benefit, the Commission should deny the Applicants' transfer of control request and deny the Applicants' request for a declaratory ruling that the proposed transaction is in the public interest under Section 310(b)(4) of the Communications Act. The Applicants' assertion that the proposed transaction is in the public interest is neither demonstrable nor verifiable.

The Applicants claim that the transaction is in the public interest because "New GX" will acquire the knowledge and expertise of GCL's management and personnel in constructing and operating telecommunications networks and providing telecommunications services.

It strains credulity to understand how the acquisition of Global Crossing's "knowledge and expertise" and "management and personnel" is a public interest benefit. Global Crossing's management and personnel are responsible for the fourth largest bankruptcy in U.S. history, causing huge losses to Global Crossing's employees' through declining value of their 401(k) plans and for many, job loss, to Global Crossing's investors and to its creditors. I am one of these investor's.

According to The Wall Street Journal, Global Crossing •never turned a profit and lost about \$7 billion. Yet, Global Crossing's Chairman Gary Winnick sold shares worth more than \$734 million. Moreover, Global Crossing is now the subject of investigation into accounting and corporate fraud by the FBI, the Securities and Exchange Commission (SEC) and two congressional committees. As recently as August 29, 2002, the SEC rejected Global Crossing's settlement proposal. According to documents released by the House Energy and Commerce Committee, Leo J. Hindery Jr., then Global Crossing's chief executive, warned in a memorandum to company chairman Gary Winnick in June 2000 that the company was doomed to collapse.

One would expect the Applicants to distance New GX from this track record. Instead, the Applicants cite it is a public interest benefit. On this basis alone, the Commission should deny the Application. The Applicants' other public interest claim also fails to meet the Commission's demonstrable and verifiable standard.

The Applicants assert that the proposed transaction will enhance competition by ensuring the continued viability of the FCC-licensed subsidiaries. But the Applicants fail to provide any evidence to demonstrate why the continued viability of these subsidiaries is necessary to competition. In fact, the Applicants reference the perceived excess of international transmission capacity• as one of the factors responsible for its financial problems. 13 The Applicants themselves state that many of GCL's (Global Crossing's) carrier customers have gone out of business or cut back their demand for capacity. If this is true, the Applicants fail to demonstrate that the continued viability of Global Crossing's FCC-licensed subsidiaries is necessary to competition.

Further, the Applicants claim that a key consequence of this increased competition has been dramatically falling costs for international transmission capacity, and hence, falling prices for international telecommunications services. Here, too, the Applicants fail to provide the Commission with any data to verify this claim. The Commission can no longer accept on face value that falling prices in and of themselves are necessarily in the public interest. This can be attribute to Mr Legere's statement "of doing damage report in several publications.

The current instability and turmoil in the telecommunications industry can be attributed, in part, to a market characterized by overcapacity and unsustainable below-cost pricing by new entrants. The burden is upon the Applicants to prove with a preponderance of evidence that the requested transfer is in the public interest.

In their Application, the Applicants fail to provide demonstrable and verifiable evidence of the public interest benefits from the proposed transaction. Therefore, the Commission should deny the Applicants' request for a declaratory ruling under Section 310(b)(4). Further, absent a more detailed and verifiable showing of the public interest benefit, the Commission should deny the Applicants' transfer request.

Respectfully Submitted,

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