

Memorandum

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To: William Caton, Acting Secretary
Federal Communications Commission

From: Betty Poulsen
International Bureau,
Policy Division

Date: 1/27/2003

Re: Document Submission for Docket #_IB No. 02-286

Please enter the attached document in docket number IB# 02-286

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If you have any questions, please feel free to contact me on (202) 418-.0421

Thank you



International Bureau

Federal Communications Commission
Washington, DC 20554

January 23, 2003

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Jean L. Kiddoo
Paul O. Gagnier
Counsel for Applicants
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116

Re: Application of Global Crossing Ltd. (Global Crossing) and GC Acquisition Limited (New GX) for Consent to Transfer Control of Various Licenses and Authorizations and Petition for Declaratory Ruling, IB Docket No. 02-286

Dear Mr. Lipman, Ms. Kiddoo, and Mr. Gagnier:

This is a further request for information in relation to the various applications and the petition for declaratory ruling docketed in IB Docket No. 02-286. We are making this further request as a result of our review of the information provided by the applicants on December 18, 2002 in response to our December 4, 2002 information request, applicants' January 16, 2003 letter, and other aspects of the record. Please respond to this request by February 6, 2003. The docket is a restricted proceeding with respect to the Commission's ex parte rules.

1. Creditor Shareholders. In a January 16, 2003 letter, applicants advise that the U.S. Bankruptcy Court, S.D.N.Y., confirmed Global Crossing's Chapter 11 plan of reorganization on December 26, 2002. The information currently before us in IB Docket No. 02-286 states that, under the proposed transaction, Global Crossing's pre-Chapter 11 creditors will own 38.5% of the equity and voting rights of New GX, the transferee. Applicants' December 18, 2002 letter stated, however, that "[t]he identities and shareholdings of the Creditors that will become shareholders of New GX have not been determined." When will the process of determining the Creditor shareholdings in New GX be completed? Have all Creditors been identified, and, if so, how many Creditors are there? Has the distribution of any portion of the 38.5% aggregate amount to be held by Creditors been determined? Please provide the following information for each named Creditor shareholder: (1) the equity and voting interests to be held in New GX; (2) the citizenship of any individual Creditor shareholder; and (3) a principal place of business showing for any Creditor shareholder that is a foreign entity, and for any Creditor shareholder that is controlled by a foreign individual or entity. To the extent any of these Creditor shareholdings would change the foreign carrier affiliations of New GX, applicants should update their certifications in the transfer of control applications for the international section 214 authorizations and cable landing licenses held by Global Crossing subsidiaries and affiliates. In addition, update the organizational charts in Exhibits 1 and 2 attached to the December 18, 2002 letter to include any Creditor shareholders acquiring a ten-percent-or-greater interest in New GX.

2. Foreign Ownership Interests in HWL and CKHL. We note that we asked, in question 5 of the December 4, 2002 letter, for the percentage of the shares of Hutchison Whampoa Limited (HWL) held by or for the benefit of individuals or entities whose citizenship or principal place(s) of business are in countries other than the United States, Hong Kong or Singapore. We also sought similar information for Cheung Kong (Holdings) Limited (CKHL). From information provided to date, applicants have represented that HWL is owned 49.97% by CKHL. Ownership of the remaining 50.03% is unidentified. Applicants have represented that CKHL is owned 36.17% by The Li Ka-Shing Unity Trust and companies controlled by Li Ka-Shing Trustee Company Limited as trustee of the trust. Ownership of the remaining 63.83% is not identified.’ Applicants stated that the information requested is not known to applicants, Hutchison Telecom, or HWL.

Applicants should be aware that the section 310(b)(4) rulings issued by the International Bureau require licensees and their parent companies to monitor their attributable foreign equity and voting interests and to calculate these interests consistent with the attribution principles enunciated by the Commission.² We are concerned that the recordkeeping of HWL and CKHL may not accurately reflect all foreign ownership, due to the fact that stock is purchased **through** brokerage houses and held in street name, which does not necessarily reflect actual ownership. It would assist our review if HWL and CKHL could make further inquiries with the nominees holding their shares as to the citizenship of their beneficial interest holders. This information is particularly important here, where both HWL and CKHL have significant blocks of shares that are publicly traded. Additionally, this information will be particularly relevant given the large (38.5%) block of shares that would be owned by creditor shareholders whose identities and citizenship have not been identified to date for the record.

Accordingly, please provide the following information:

(a) In order to allow the Commission to complete its review of the foreign ownership aspects of this transaction, provide ownership details (identity, citizenship, and amount of holding) for each of the companies mentioned above (HWL and CKHL) where ownership information remains outstanding.

(b) Provide a complete principal place of business showing for CKHL. Our information request dated December 4, 2002 requested a principal place of business showing for CKHL, but such showing was not fully included in the December 18, 2002 letter. Applicants have provided only part of the information required. We request that applicants complete the showing and address all the factors together in the response to this information request. Note that, in the context of the “principal place of business” showing, we consider a company’s “principal

¹ Additionally, in the December 18, 2002 filing; applicants represent that STT Communications Limited will be owned 98.91% by ST Telemedia. Ownership of the remaining 1.09% is not identified, and should be provided.

² See, e.g., *Vodafone Americas Asia Inc. (Transferor), Globalstar Corporation (Transferee), Consent to Transfer Control of Licenses and Section 214 Authorizations and Petition for Declaratory Ruling Allowing Indirect Foreign Ownership, Order and Authorization, File Nos. SES-T/C-20020117-00042 et al., DA 02-1557, 17 FCC Rcd 12849, 12866, para. 53 (IB 2002); Applications of XO Communications, Inc /or Consent to Transfer Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act. Memorandum Opinion, Order and Authorization, IB Docket 02-50, DA 02-2512, 17 FCC Rcd 19212, 19224, para. 27 (IB/WTB/WCB 2002).*

shareholders” to be its ten-percent-or-greater shareholders, *and* any shareholder with actual control, including positive or negative control. We therefore request that the principal place of business showing for CKHL address specifically whether the Li family, or any member of the Li family, has the power to control, or does in fact exercise control over, CKHL. Also ensure that CKHL appears on updated Exhibits 1 and 2.

(c) With respect to the principal place of business showing applicants have provided for HWL, does CKHL have the power to control, or does it in fact exercise actual control over, HWL?

(d) Provide the citizenship of the trustee of The Li Ka-Shing Unity Trust. With respect to any company controlled by the trustee as trustee of the trust, provide the identity, citizenship, and, as applicable, amount of ownership in CKHL. With respect to each of the beneficiaries of the trust, provide the identity, citizenship, and amount of ownership in the trust.

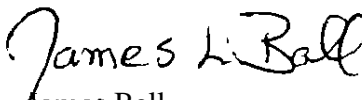
3. Foreign Government Investment. Please identify all foreign government ownership interests, direct or indirect, to be held in New GX (other than the ownership interest to be held by the government of Singapore through its ownership of Temasek, which interest applicants previously have identified).

4. Exhibits 1 and 2. Please ensure that the ownership interests, for each entity described in Exhibit 2 of the December 18, 2002 letter, are complete, correct, and consistent with the ownership interests shown for each of those entities in the charts and footnotes in Exhibit 1. There appear to be inconsistencies between Exhibits 1 and 2, for example, concerning the descriptions of how ST Telemedia and Hutchison Telecom will hold their interests in New GX.

5. Bankruptcy Court Proceedings. Please update the status of the three bankruptcy court proceedings discussed in the December 18, 2002 letter.

6. Form 603 Request. Applicants’ Form 603, Exhibit C – Pending Applications asks the Commission to include authority for New GX to control the following authorizations and filings upon consummation of the transaction: (1) authorizations issued to Global Crossing North American Networks, Inc. subsequent to the August 22, 2002 filing of the Applications but prior to consummation of the proposed transfers; (2) construction permits held by Global Crossing North American Networks, Inc. that mature into licenses after consummation of the proposed transfers and that may have been omitted from the Applications; and (3) applications, notification of minor modifications, and amendments thereto filed by Global Crossing North American Networks, Inc. and pending at the time of consummation of the transfers. Please provide a list, by Commission file number and call sign, of these authorizations and filings.

Sincerely,


James Ball
Chief, Policy Division

Cc: Myla R. Saldivar-Trotter, DOJ
Debbie Goldman, CWA
Karl Schwartz, Global Axxess
William Malone, Counsel for ACN
Julian Gehman, Counsel