

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

FILED/ACCEPTED
OCT - 7 2009
Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Caribbean Crossings Ltd.)
) File No. SCL-T/C-20090506-00009
Application for Transfer of Control of)
Submarine Cable Landing License)
)
)
)
)

**PETITION TO ADOPT CONDITIONS TO
AUTHORIZATIONS AND LICENSES**

The Department of Homeland Security (“DHS”), Department of Justice (“DOJ”), and Department of Defense (“DOD”) (collectively, “the Agencies”) submit this Petition to Adopt Conditions to Authorizations and Licenses (“Petition”), pursuant to Section 1.41 of the Federal Communications Commission (“Commission”) rules.¹ Through this Petition, the Agencies advise the Commission that they have no objection to the Commission approving the authority sought in the above-referenced proceeding, provided that the Commission conditions its approval on the assurance of Caribbean Crossings Ltd., for itself and its affiliates, to abide by the commitments and undertakings set forth in the October 2, 2009 Letter of Assurances (“LOA”), which is attached hereto.

In the above-referenced proceeding, the Applicant petitioned the Commission for authority under the Cable Landing License Act, 47 U.S.C. §§ 34-39, Section 1.767 of the Commission’s rules, 47 C.F.R. § 1.767, and Executive Order 10530² to transfer control in Cable Bahamas Ltd., the parent corporation of Caribbean Crossings Ltd., licensee of the Bahamas Internet Cable System (“BICS”),³

¹ 47 C.F.R. § 1.41.

² Exec. Ord. No. 10530 § 5(a) (May 10, 1954), reprinted as amended in 3 U.S.C. § 301.

³ See Caribbean Crossings Ltd., DA 00-1349, released June 20, 2000. By Public Notice Report No. TEL-00607, DA 02-3357, released December 5, 2002, the Commission approved the modification of

from Columbus Communications Ltd. to the remainder of the shareholders of Cable Bahamas Ltd.

The Commission has long recognized that law enforcement, national security, and public safety concerns are part of its public interest analysis, and has accorded deference to the views of other U.S. government agencies with expertise in those areas. *See In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications, etc.*, 16 FCC Rcd. 21,661, 21707 ¶ 94 (2001).

After discussions with representatives of the Applicant in connection with the above-referenced proceeding, the Agencies have concluded that the additional commitments set forth in the LOA will help ensure that the Agencies and other entities with responsibility for enforcing the law, protecting the national security, and preserving public safety, can proceed appropriately to satisfy those responsibilities. Accordingly, the Agencies advise the Commission that they have no objection to the Commission granting the application in the above-referenced proceeding, provided that the Commission conditions its consent on compliance by Caribbean Crossings Ltd. with the LOA.

The Agencies are authorized to state that the Applicant does not object to the grant of this Petition.

Respectfully submitted,

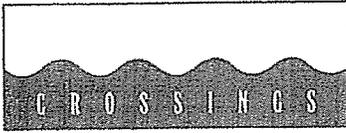
/s/ Greg Pinto
Greg Pinto
Director - RCO
U.S. Department of Homeland
Security
3801 Nebraska Avenue, N.W.
Washington, DC 20528

/s/ Richard C. Sofield
Richard C. Sofield
Director - Foreign Investment
Review Staff
National Security Division
U.S. Department of Justice
950 Penn. Avenue, N.W.
Washington, D.C. 20530

for Hillary J. Morgan
Robert S. Gorman
General Counsel
Defense Information Systems
Agency
P.O. Box 4502 (DISA OGC)
Arlington, VA 22204

October 7, 2009

Caribbean Crossings' license to permit the construction of a second fiber optic link and a self-healing fiber ring between The Bahamas and the United States. FCC File No. SCL-MOD-20020925-00094.



October 2nd, 2009

Mr. David Heyman
Assistant Secretary for Policy
U.S. Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington D.C. 20528

Mr. David S. Kris
Assistant Attorney General for
National Security
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Ms. Cheryl J. Roby
Assistant Secretary of Defense for Networks NII (Acting)
U.S. Department of Defense
6000 Defense Pentagon Room 3E240
Washington, D.C. 20301-6000

Mr. Robert S. Gorman
General Counsel
Defense Information Systems Agency
P.O. Box 4502 (DISA OGC)
Arlington, VA 22204

Re: **Caribbean Crossings Ltd., Application for Transfer of
Control of Submarine Cable Landing License (SCL-T/C-
20090506-00009)**

Dear Mr. Heyman, Mr. Kris, Ms. Roby, and Mr. Gorman:

This letter of assurances ("LOA") outlines the commitments by Caribbean Crossings Ltd. ("Caribbean Crossings") to the U.S. Department of Homeland Security ("DHS"), the U.S. Department of Justice ("DOJ"), and the U.S. Department of Defense ("DOD") (collectively, "U.S.G. Agencies") to address national security, law enforcement and public safety concerns raised by the U.S.G. Agencies

Caribbean Crossings Ltd.
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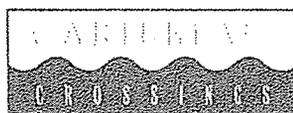
in connection with the above-referenced application to the Federal Communications Commission ("FCC").

Caribbean Crossings is a wholly owned subsidiary of Cable Bahamas Ltd. ("Cable Bahamas") organized in the Bahamas. Caribbean Crossings has sought FCC approval for a transfer of control from the current controlling shareholder of Cable Bahamas to the other shareholders. The transaction will result in an increase in ownership interest held by the Government of the Bahamas from 20.5% to 29.2%. No other shareholder entity will have a 5 percent or greater ownership position after the transaction.

Caribbean Crossings has 100 percent ownership of the Bahamas Internet Cable System ("BICS"), the private fiber optic submarine cable system that connects the Bahamas to the United States. Caribbean Crossings holds the cable landing license for the BICS. Caribbean Crossings does not have a network operations center ("NOC") in the United States. Caribbean Crossings has a Collocation License and Conduit License with Brasil Telecom of America, Inc. ("GlobeNet") for the BICS cable landing station and conduit from the beach manhole to the sole U.S. landing station at Boca Raton, Florida (located at 500 South Dixie Highway, Boca Raton, Florida 33432, USA). The Cable Bahamas/Caribbean Crossings NOC is located in Nassau, Bahamas and Cable Bahamas is responsible for all buildings and landing stations in the Bahamas.

Caribbean Crossings undertakes to comply with the following commitments to the U.S.G. Agencies:

1. In a letter to DHS dated September 25, 2008, Caribbean Crossings voluntarily provided a confidential description of the Principal Equipment and maintenance contracts for the BICS. On or before December 15, 2009, Caribbean Crossings will provide to the U.S.G. Agencies an updated list of Principal Equipment used within the BICS infrastructure for normal, contingency, and disaster recovery modes of operation. Principal Equipment includes, but is not limited to, to the extent applicable: network element servers, routers, switches, repeaters, submarine line terminal equipment, system supervisory equipment ("SSE"), signal modulators and amplifiers, multiplexers and demultiplexers (i.e., synchronous digital hierarchy ("SDH") wavelength division multiplexers ("WDM"), dense wavelength division multiplexers ("DWDM"), and coarse wavelength division multiplexers ("CWDM")). The list should include available information on each item's

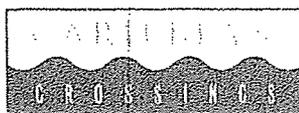


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manufacturer and model number and non-embedded software necessary for the proper monitoring, administration, and provisioning of the Principal Equipment. In addition, the list should include the identity of any third party vendors, contractors, and subcontractors for the Principal Equipment of the BICS, including outsourced functions that would otherwise be performed by personnel of Caribbean Crossings, to install, operate, manage, and/or maintain the Principal Equipment. Caribbean Crossings will notify the U.S.G. Agencies prior to any changes to the information provided above.

2. Caribbean Crossings agrees to make Network Management Information for the BICS, and any security product lists for the operations support system and network management systems for the BICS, available promptly to the U.S.G. Agencies upon request. For purposes of this LOA, "Network Management Information" means: (a) network management operations plans, processes and procedures, to include any information security plan; and (b) descriptions of the placement of network operation center(s) and linkages (for service offload, disaster recovery, or administrative activities) to the BICS.

3. Upon request by the U.S.G. Agencies, Caribbean Crossings shall promptly provide to the U.S.G. Agencies information regarding the network architecture of, and associated interconnection points to, the Domestic Communications Infrastructure ("DCI") of the BICS, including system architecture descriptions of the network management systems and NOC(s) for managing the DCI and controlled interfaces to NOC(s). Following the provision of such information, Caribbean Crossings shall notify the U.S.G. Agencies prior to performing any non-emergency maintenance, repair, or replacement that would result in a material modification thereto. In the event of any material modification that is the result of any maintenance, repair or replacement that is undertaken pursuant to a bona fide emergency and is necessary to ensure the continued operation of BICS, Caribbean Crossings agrees to provide advance notice of the modification to the U.S.G. Agencies if practicable, and, in any case, as promptly as reasonably practicable after the maintenance, repair or replacement is completed. For purposes of this LOA, DCI means (a) transmission, switching, bridging and routing equipment (including software and upgrades) used by or on behalf of Caribbean Crossings to provide, process, direct, control, supervise or manage Domestic Communications; (b) facilities and equipment used by or on behalf of Caribbean Crossings that are physically located in the United States; or (c) facilities used by or on behalf of Caribbean



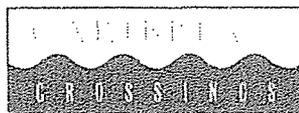
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Crossings to control the equipment described in (a) and (b) above. DCI does not include equipment or facilities used by service providers other than Caribbean Crossings that are:

- (a) interconnecting communications providers; or
- (b) providers of services or content that are
 - (1) accessible using the communications services of Caribbean Crossing; and
 - (2) available in substantially similar form and on commercially reasonable terms through communications services of companies other than Caribbean Crossing.

The phrase "on behalf of" as used in this section does not include entities with which Caribbean Crossings has contracted for peering, interconnection, roaming, long distance, or other similar arrangements. DCI does not include equipment dedicated to the termination of international undersea cables outside the United States, provided that such equipment is utilized solely to effectuate the operation of such undersea transport network(s) and in no manner controls land-based transport network(s) or their associated systems in the United States. For the purposes of this LOA, "Domestic Communications" means: (a) Wire Communications or Electronic Communications (whether stored or not) from one U.S. location to another U.S. location; and (b) the U.S. portion of a Wire Communication or Electronic Communication (whether stored or not) that originates or terminates in the United States. "Electronic Communication" has the meaning given it in 18 U.S.C. § 2510(12). "Wire Communication" has the meaning given it in 18 U.S.C. § 2510(1).

4. Caribbean Crossings agrees to take all practicable measures to prevent unauthorized access to, and to protect the physical security of, the BICS. Caribbean Crossings agrees to make their security policies and procedures for the BICS available promptly to the U.S.G. Agencies upon request and to negotiate in good faith to address any recommendations and national security or law enforcement concerns held by the U.S.G. Agencies with respect to these policies and procedures.



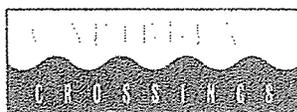
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5. Caribbean Crossings has designated Eric Fishman¹ as a point of contact (POC) and agree to maintain a POC within the United States with the authority and responsibility for accepting and overseeing compliance with a wiretap order, pen/trap order, subpoena or other lawful demand by U.S. law enforcement authorities for the content of communications or U.S. Records (defined below). Caribbean Crossings will notify DHS and DOJ of any change in the point of contact within five (5) business days of such change and will provide identifying information to include full name, citizenship, date and place of birth, all residence and business addresses and phone numbers, and any further information as DHS and DOJ may require. Any new point of contact shall be a resident U.S. citizen, and Caribbean Crossings shall cooperate with reasonable lawful requests by any U.S. government authority desiring to conduct any further background checks.

6. Caribbean Crossings will make any customer billing records, subscriber information, or other related information used, processed, or maintained in the ordinary course of business relating to communications services offered to U.S. persons ("U.S. Records"), available in the United States in response to lawful U.S. process. For these purposes, U.S. Records shall include information subject to disclosure to U.S. federal or state governmental authorities under the procedures specified in 18 U.S.C. §§ 2703(c)-(d) and 2709. Caribbean Crossings shall retain for at least 18 months all U.S. Records.

7. Caribbean Crossings agrees to take all practicable measures to prevent unauthorized access to, or disclosure of the content of, communications or U.S. Records in violation of any U.S. federal, state, or local laws. If Caribbean Crossings learns of any unauthorized disclosure with respect to U.S. Records, it will deliver a written notification containing all the known details concerning each such incident to the U.S.G. Agencies within five (5) business days.

8. Caribbean Crossings will implement a screening process to ensure that all personnel whose positions involve unescorted access to the DCI meet certain personnel screening requirements, including a process to ensure that any personnel of third party vendors,

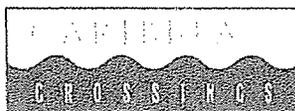


contractors or subcontractors with unescorted access to the DCI also meet such requirements. No individual shall be granted unescorted access to the DCI prior to completion of the screening process. The personnel screening process shall include, at a minimum, a background and financial investigation and a public criminal records check. Caribbean Crossings will maintain records relating to the status of screened personnel, and will provide these records, upon request and consistent with applicable law, to the U.S.G. Agencies.

9. Caribbean Crossings agrees that upon at least five (5) days notice, the U.S.G. Agencies may visit any and all Caribbean Crossings facilities, including any landing stations, NOCs, and administrative or security offices, to conduct on-site reviews concerning the implementation of the terms of this letter and shall be allowed unimpeded access to information concerning technical, physical, management, or other security measures needed by the U.S.G. Agencies to verify compliance with the terms of this letter. Upon reasonable notice from the U.S.G. Agencies, Caribbean Crossings will make available for interview any officers or employees of Caribbean Crossings or any third party vendors, contractor or subcontractor.

10. Caribbean Crossing agrees to cooperate in good faith to address any recommendations and national security, law enforcement or public safety concerns identified by the U.S.G. Agencies with respect to any information, policies or procedures submitted pursuant to this letter of assurance or as a result of any on-site visits.

11. Promptly upon the receipt by Caribbean Crossings of information that reasonably indicates a breach of this LOA or access to, or disclosure of Domestic Communications or the conduct of Electronic Surveillance in violation of federal, state or local law or regulation, such breach or violation shall be reported to the POC, who in turn shall notify the U.S.G. Agencies of the breach or violation. The POC's report shall be made in writing to the U.S.G. Agencies, no later than ten (10) calendar days after the POC receives such information. Caribbean Crossings need not report information where disclosure of such information would be in violation of an order of a court of competent jurisdiction in the United States. For purposes of this LOA, "Electronic Surveillance" includes: (a) the interception of wire, oral, or electronic communications as defined in 18 U.S.C. §§ 2510(1), (2), (4) and (12), respectively, and electronic surveillance as defined in 50 U.S.C. § 1801(f); (b) access to stored wire or electronic communications, as referred to in 18 U.S.C. § 2701 et seq.; (c)



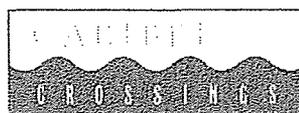
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acquisition of dialing, routing, addressing, or signaling information through pen register or trap and trace devices or other devices or features capable of acquiring such information pursuant to law as defined in 18 U.S.C. § 3121 et seq. and 50 U.S.C. § 1841 et seq.; (d) acquisition of location-related information concerning a service subscriber or facility; (e) preservation of any of the above information pursuant to 18 U.S.C. § 2703; and (f) access to, or acquisition, interception, or preservation of, wire, oral, or electronic communications or information as described in (a) through (e) above and comparable state laws.

12.If after the date of this letter, the U.S.G. Agencies find that the terms of this LOA are inadequate to address national security, law enforcement, or public safety concerns, then Caribbean Crossings will negotiate in good faith to modify this letter to address those concerns.

13.Caribbean Crossings agrees that, in the event the commitments set forth in this letter are breached, in addition to any other remedy available at law or equity, the U.S.G. Agencies may request that the FCC modify, condition, revoke, cancel, or render null and void any relevant license, permit, or other authorization under the Cable Landing License Act or Titles II and III of the Communications Act of 1934, as amended.

14.Nothing in this letter is intended to excuse Caribbean Crossings from any obligation it may have to comply with U.S. legal requirements for the retention, preservation, or production of information, records or data, or from any applicable requirements of the Communications Assistance for Law Enforcement Act ("CALEA"), 47 U.S.C. 1001, et seq., nor shall it constitute a waiver of: (a) any obligation imposed by any U.S. federal, state or local laws on Caribbean Crossings; (b) any enforcement authority available under any U.S. or state laws; (c) the sovereign immunity of the United States; or (d) any authority by the U.S. government may possess (including without limitation authority pursuant to International Emergency Economic Powers Act) over the activities of Caribbean Crossings located within or outside the United States. Nothing in this letter is intended or is to be interpreted to require the parties to violate any applicable U.S. law. Likewise, nothing in this letter limits the right of the United States Government to pursue criminal sanctions or charges against Caribbean Crossings, and nothing in this letter provides Caribbean Crossings with any relief from civil liability.



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15. This LOA shall inure to the benefit of, and shall be binding upon, Caribbean Crossings and its respective successors and assigns. Caribbean Crossings acknowledges and agrees that the obligations in this LOA apply not only to the signatories hereto, but also to any current or future subsidiary or affiliate of Caribbean Crossings that provides Domestic Communications.

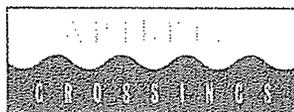
16. All correspondence to the U.S.G. Agencies under this LOA will be directed to the addressees at the addresses provided on the first page. In addition, a courtesy electronic copy of all notices and communications will be forwarded to ttelecom@usdoj.gov, IP-FCC@dhs.gov, GTFCFIUSTeamForwarding@osd.mil, and GeneralCounselDISA@disa.mil

17. Caribbean Crossings understands that, upon execution of this letter by authorized representatives of Caribbean Crossings, the U.S.G. Agencies shall notify the FCC that they have no objection to the FCC's grant of the above-referenced application.

Sincerely,
Caribbean Crossings, Ltd.

By: 

Anthony J. Butler
President & Chief Operating Officer
Date: October 2nd, 2009



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