

ATTACHMENT

Response to Question 10

Megaport (USA), Inc. (“Megaport USA”) files this foreign carrier affiliation notification pursuant to 47 C.F.R. § 63.11(b)(2)(i). As Megaport USA has previously certified, Mr. Bevan Slattery owns 47.2 percent of the shares of Megaport USA’s direct parent, Megaport Limited, and controls Megaport USA and Megaport Limited.¹ On August 7, 2015, while Megaport USA’s application for international section 214 authorization remained pending, Superloop (Hong Kong) Limited (“Superloop Hong Kong”), a company also owned and controlled by Mr. Slattery, obtained a license to provide carrier services in Hong Kong. Consequently, Megaport USA is now affiliated with Superloop Hong Kong under the Commission’s rules.² This notification is not being made “within thirty days after consummation of the acquisition,”³ as the timing requirements of the Commission’s rules are unclear when applied to situations, such as the one described herein, where the affiliation is not acquired through a corporate acquisition. Megaport USA did not acquire its affiliation with Superloop Hong Kong by means of an acquisition. Instead, Megaport USA has acquired this affiliation as a result of a “greenfield” investment where Mr. Slattery established Superloop Hong Kong and directed it to obtain a carrier license in order to authorize Superloop Hong Kong to operate as a competitive carrier in

¹ *Notification of the Pro Forma Transfer of Control of the International Section 214 Authorization Held by Megaport (USA), Inc.*, File No. ITC-T/C-20160119-00035, at Attachment 1 p. 1 (filed Jan 19, 2016).

² *See* 47 C.F.R. § 63.09(d)-(e).

³ *Id.* § 63.11(c).

Megaport (USA), Inc.
Foreign Carrier Affiliation Notification
12 February 2016
Page 2 of 4

Hong Kong. As noted in response to Question 12(c)(1), below, although licensed, Superloop Hong Kong has not yet begun to provide telecommunications services in Hong Kong.

Response to Question 12(c)(1)

Megaport USA is eligible for post-consummation notification of foreign affiliations pursuant to 47 C.F.R. § 63.11(b)(2)(i).

Superloop Hong Kong is authorized to provide international telecommunications services to the public in Hong Kong, a member of the World Trade Organization.⁴ Megaport USA is entitled to retain non-dominant classification on the U.S.-Hong Kong route pursuant to Section 63.10 of the Commission's rules because Superloop Hong Kong—as a new entrant in the Hong Kong market that has not yet begun to provide telecommunications services—lacks 50 percent market share in both the international transport and local access market in Hong Kong.⁵ Superloop Hong Kong also does not appear on the Commission's list of foreign telecommunications carriers presumed to possess market power in foreign telecommunications markets.⁶

⁴ See World Trade Organization, *Understanding the WTO: The Organization, Members and Observers*, https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Dec. 21, 2015) (“WTO Member List”).

⁵ See 47 C.F.R. § 63.10(a)(3).

⁶ See *International Bureau Revises and Reissues the Commission's List of Foreign Telecommunications Carriers that Are Presumed to Possess Market Power in Foreign Telecommunications Markets*, Public Notice, 22 FCC Rcd. 945 (Int'l Bur. 2007).

Response to Question 16

For the reasons set forth in response to Question 12(c)(1) above, Megaport USA continues to qualify for and requests continued regulation as a non-dominant international carrier on all authorized routes, including the Hong Kong route for which it has a new foreign-carrier affiliate. Superloop Hong Kong lacks market power in Hong Kong, a WTO country, entitling Megaport USA to be classified presumptively as non-dominant.

Response to Question 17

As required by 47 C.F.R. §§ 63.11(e)(1) and (2), Megaport USA certifies that it is affiliated with Superloop (Hong Kong) Limited, a company authorized to provide telecommunications services to the public in Hong Kong. (Note, however, that Superloop Hong Kong has not yet begun to offer such services.) Hong Kong is a WTO member.⁷

Response to Question 18

As required by 47 C.F.R. § 63.11(e)(3), Megaport USA certifies that it is authorized to provide global facilities-based and global resale services to Hong Kong pursuant to FCC File No. ITC-214-20150416-00090.⁸

⁷ See WTO Member List.

⁸ See Federal Communications Commission, *International Authorizations Granted*, Public Notice, 2015 WL6108244, DA 15-1178, at 3 (Oct. 15, 2015) (granting Megaport USA's application for international Section 214 authorization, File No. ITC-214-20150416-00090).

Response to Question 19

As required by 47 C.F.R. § 63.11(e)(4), Megaport USA certifies that it does not serve Hong Kong solely through the resale of international switched services of unaffiliated U.S. facilities-based carriers.

Response to Question 20

As required by 47 C.F.R. § 63.11(e)(5), Megaport USA certifies that it has the following 10-percent-or-greater direct or indirect owners:

Megaport Limited

Address: 14-16 Church Street, Fortitude Valley, Queensland, Australia 4006

Citizenship: Australia

Principal Business: holding company

Relationship: owns 100 percent of Megaport USA.

Bevan Slattery

Address: 14-16 Church Street, Fortitude Valley, Queensland, Australia 4006

Citizenship: Australia

Relationship: owns 47.2 percent, and retains de facto control, of Megaport Limited.

Response to Question 21

Mr. Bevan Slattery, Megaport Limited's Executive Chairman, is also a Director of Superloop Hong Kong, the foreign affiliate identified in this notification.