Streamlined **ITC-214-19981028-00756**
MANNESMANN TELECOMMUNICATIONS USA, INC.

Categories of Services for 214 Applications
(Streamline/Non-streamline)

ITC-214-19981028-00756

- ☐ ASSIGNMENT OF LICENSE
- ☐ GLOBAL FACILITIES-BASED SERVICE
- ☑ GLOBAL FACILITIES-BASED/GLOBAL RESALE SERVICE
- ☐ GLOBAL RESALE SERVICE
- ☐ INDIVIDUAL FACILITIES-BASED SERVICE
- ☐ INTERCONNECTED PRIVATE LINE RESALE SERVICE
- ☐ LIMITED GLOBAL FACILITIES-BASED SERVICE/LIMITED GLOBAL RESALE SERVICE
- ☐ LIMITED GLOBAL FACILITIES-BASED SERVICE
- ☐ LIMITED GLOBAL RESALE SERVICE
- ☐ INMARSAT AND MOBILE SATELLITE SERVICE
- ☐ SWITCHED RESALE SERVICE
- ☐ TRANSFER OF CONTROL
- ☐ SUBMARINE CABLE LANDING LICENSE
- ☐ INTERNATIONAL SPECIAL PROJECT

Description of Application: ______________________

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FCC/MELLON OCT 28 1998

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
Mannesmann Telecommunications USA, Inc.	)	
Application for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, for Global Authority to Provide Facilities-Based and Resale Services	)	File No. ITC-214-19981027 ITC-214-19981028-00756

APPLICATION FOR SECTION 214 AUTHORITY

Mannesmann Telecommunications USA, Inc. ("Mannesmann Telecom" or "the Applicant") hereby requests global facilities-based and global resale authority pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214 ("Section 214"), and Section 63.18 (e)(1) and (2) of the Commission's Rules, 47 C.F.R. § 63.18(e)(1) and (2). Mannesmann Telecom seeks authorization to provide service between the United States and all permissible destinations as follows:

> ***Facilities-based Services.*** Mannesmann Telecom seeks authorization to acquire interests in facilities previously authorized by the Commission and to provide over those facilities authorized international services, including international basic switched, private line, data, television, and business services. Specifically, to provide these services, Mannesmann Telecom seeks authorization to use half-circuits or whole circuits, including those obtained through IRUs, on licensed U.S. common carrier and non-common carrier facilities that do not appear on the exclusion list of facilities published by the Commission.
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> ***Resale.*** Mannesmann Telecom also seeks authorization to resell the switched and private line services of unaffiliated U.S. carriers. Specifically, Mannesmann

Telecom seeks authorization to resell international (i) basic switched services and noninterconnected private line services and (ii) to all destinations found by the Commission to satisfy the applicable requirements, private lines interconnected to the public switched network at one or both ends to provide switched services.

Mannesmann Telecom is a corporation organized on October 16, 1998 under the laws of the state of Delaware that plans to offer business and residential customers a range of international telecommunications services. Mannesmann Telecom is a wholly owned subsidiary of Mannesmann Corporation, a corporation organized under the laws of the state of New York, which is a wholly owned subsidiary of Mannesmann AG, a company organized under the laws of Germany. Mannesmann AG owns 55.5% of the Mannesmann Arcor Consortium, a joint venture organized under the laws of Germany and owned 15% by AT&T, 15% by Unisource Deutschland GmbH, 10% by Deutsche Bank AG, and 4.5% by Air Touch. The Mannesmann Arcor Consortium owns 74.9% and Deutsche Bahn owns 25.1% of Mannesmann Arcor AG& Co. ("Mannesmann Arcor"), a provider of telecommunications services incorporated and operating in Germany.

Under the Commission's rules,[1/] Mannesmann Telecom would be deemed "affiliated" with Mannesmann Arcor because Mannesmann AG indirectly owns controlling interests in both Mannesmann Telecom and Mannesmann Arcor. In addition, Mannesmann Telecom may be considered to be under common control and thus arguably affiliated with other carriers providing service in Germany, Austria, and Italy, all of which are WTO Member countries. In Germany, Mannesmann AG owns (i) directly 65.2% of Mannesmann Mobilfunk GmbH, a mobile

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1/ See 47 C.F.R. § 63.18(h)(1)(i)(B); Market Entry and Regulation of Foreign-affiliated Entities, Report and Order, 11 FCC Rcd 3873, 3907 (1995).

telecommunications operator and (ii) indirectly through Mannesmann Eurokom GmbH, 100% of Quickfunk GmbH, an operator of telecommunications systems in four metropolitan areas. In Austria, Mannesmann AG owns 74.8% of Tele.ring, a private fixed-network telecommunications provider. In Italy, Mannesmann AG owns 49.9% and exercises joint control of OliMan, a telecommunications company that is owned 50.1% by Olivetti; Oliman owns 100% of Infostrada, a private fixed network telecommunications operator. All of the Mannesmann AG affiliates are relatively new entrants in markets where incumbent operators -- Deutsche Telekom AG, Post & Telecom Austria AG, and Telecom Italia -- until January 1, 1998 retained monopolies in voice telephony.

These affiliations are relevant to whether Mannesmann Telecom should be classified as dominant on any route and whether processing of this application may be streamlined. Under Section 63.10(a)(3), a carrier whose non-U.S. affiliate has less than a 50% market share in the international transport market and the local access market on the non-U.S. end of the route is presumptively classified as nondominant. In addition, under Section 63.12(c)(1)(i), an applicant that qualifies for the presumption of nondominance under Section 63.10(a)(3) also qualifies for streamlined processing of its application. Commission rules and precedents provide the basis for classifying Mannesmann Telecom as nondominant on all routes and for streamlining this application. See 47 C.F.R. §§ 63.10 & 63.12 (c)(1)(i).

Mannesmann Telecom asks to be classified as nondominant as to all routes. All of Mannesmann Telecom's affiliates are relatively new entrants in the German, Austrian, and Italian markets that "lack 50 percent market share in [their] international transport and the local access markets."[2/] Thus, the Applicant clearly qualifies for the presumption of nondominance under Section 63.10(a)(3) as to all routes.

Mannesmann Telecom also asks that this application be subject to streamlined processing procedures pursuant to Section 63.12(a) and (b), because none of the exceptions that would preclude streamlined processing are implicated. With respect to the exception set forth in Section 63.12(c)(1), this application qualifies for streamlined processing because Mannesmann Telecom qualifies for a presumption of nondominance under Section 63.10(a)(3) for all routes to countries where it has affiliates.[3/] In addition, the Applicant does not seek herein the authority to resell the services of any dominant affiliated U.S. carrier,[4/] or the authority to provide switched basic services over private lines to any country for which the Commission has not previously authorized such service.[5/]

A grant of this application would serve the public interest. Entry of additional foreign-affiliated carriers in the U.S. market is one of the objectives of the WTO Basic Telecoms Agreement. As the Commission stated in the order implementing that agreement, "entry by foreign telecommunications carriers and other investors will increase competition in the U.S. telecommunications service market, providing lower prices and increased quality of service."[6/]

2/ 47 C.F.R. § 63.10(a)(3).

3/ See 47 C.F.R. § 63.12(c)(1)(i).

4/ See 47 C.F.R. § 63.12(c)(2).

5/ See 47 C.F.R. § 63.12(c)(3).

6/ See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Report and Order and Order on Recon., IB Dockets Nos. 97-142 and 95-22 (rel. Nov. 26, 1997), ¶ 4.

To that end, the Commission has concluded that the presumption of open entry for applicants from WTO Member countries serves the public interest, and it has stated its intent to expeditiously grant the vast majority of applications filed by foreign telecommunications carriers.[7/]

I. INFORMATION REQUIRED BY SECTION 63.18 OF THE COMMISSION'S RULES.

In further support of its application, Mannesmann Telecom provides the following information in response to the referenced subparagraphs of Section 63.18 of the Commission's rules.

(a) The name, address, and telephone number of the Applicant are:

Mannesmann Telecommunications USA, Inc.
450 Park Avenue, 24th Floor
New York, New York 10022
tel: (212) 826-0040

(b) Mannesmann Telecom is a corporation organized under the laws of the state of Delaware.

(c) Correspondence concerning this application should be sent to:

Joseph E. Innamorati, Esq.
Mannesmann Telecommunications USA, Inc.
450 Park Avenue, 24th Floor
New York, New York 10022
tel: (212) 826-0040
fax: (212) 826-0074

7/ Id., ¶ 29.

with a copy to:

W. Scott Blackmer
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037
tel: (202) 663-6000
fax: (202) 663-6363

(d) Mannesmann Telecom has not previously applied for nor been granted authority under Section 214 of the Act.

(e) Mannesmann Telecom requests authority to operate as an international facilities-based carrier pursuant to Section 63.18(e)(1) of the Commission's Rules. Specifically, the Applicant requests authority to acquire interests in appropriately licensed U.S. common and non-common carrier facilities, which do not appear on the Commission's facilities exclusion list, to provide authorized international services, including IMTS, non-interconnected private line, data, television, and business services. Mannesmann Telecom qualifies for nondominant regulation as set forth in Section 63.10, in all instances, because its affiliates have less than a 50% market share in the destination markets.

Mannesmann Telecom also requests authority to operate as an international resale carrier pursuant to Sections 63.18(e)(2) of the Commission's Rules. Specifically, the Applicant requests authority to resell the international services of unaffiliated authorized U.S. carriers to provide international basic switched, non-interconnected private line, data, television, business and other authorized services to the countries identified herein.

Mannesmann Telecom also requests authority to provide switched service over interconnected private lines (facilities-based and resold) on all routes that the Commission deems to qualify for such authorization.

(g) Mannesmann Telecom does not contemplate any new construction that would constitute a major action under the Commission's rules. Accordingly, authorization of the services proposed by this application is categorically excluded from environmental processing pursuant to 47 C.F.R. § 1.1306.

(h) (1) By its signature to this application, Mannesmann Telecom hereby certifies that the foreign carriers with which it is affiliated, as "affiliation" is defined in Sections 63.18(h)(1)(i) and (ii) of the Commission's rules, are Mannesmann Arcor (Germany), Mannesmann Mobilfunk GmbH

(Germany), Quickfunk GmbH (Germany), Tele.ring (Austria), and Oliman (Italy).

(2) The name, address, citizenship, and principal business of each of Mannesmann Telecom's 10% or greater shareholders is as follows:

Mannesmann Corporation
450 Park Avenue, 24th Floor
New York, New York 10022

Citizenship: United States

Principal business: Mannesmann Corporation is the U.S. holding company for Mannesmann AG, a company organized under the laws of Germany, that engages in diversified industrial businesses. The subsidiaries of Mannesmann Corporation are active in the business fields of automotive components, engineering, and trading.

Ownership share of Mannesmann Telecom: 100%

Mannesmann Telecom does not have any interlocking directorates with other U.S. carriers.

(3) Mannesmann Telecom certifies that it has no affiliation with any U.S. carrier whose facilities-based services it proposes to resell.

(4) Mannesmann Telecom will comply with the Section 63.18(h)(4) obligation for the continuing accuracy of paragraphs (h)(1) - (3) of Section 63.18.

(5) Mannesmann Telecom seeks to operate as a U.S. facilities-based international carrier to Germany, Austria, and Italy, where Mannesmann Telecom has affiliates. Germany, Austria, and Italy are WTO Member countries.

(6) Mannesmann Telecom seeks authorization to provide international services by reselling international switched and noninterconnected private line services between the United States and Germany, Austria, and Italy, where Mannesmann Telecom has affiliates. Germany, Austria, and Italy are WTO Member countries.

(7) Mannesmann Telecom has provided a showing herein that satisfies Section 63.10(a)(3) with respect to all countries where it has affiliates.

(8) Mannesmann Telecom seeks to be classified as nondominant on all routes. The Applicant has demonstrated herein that it qualifies for nondominant classification pursuant to Section 63.10 with respect to all routes.

(i) Mannesmann Telecom certifies that it has not agreed to accept any special concessions directly or indirectly from any foreign carrier with respect to any international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and Mannesmann Telecom will not enter into any such agreement in the future without Commission approval.

(j) Mannesmann Telecom hereby certifies that neither it nor any party to this application, as defined in 47 C.F.R. § 1.2002(b)(2), is subject to denial of Federal benefits, as provided in the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a.

(k) Mannesmann Telecom hereby requests streamlined processing pursuant to Section 63.12. With respect to all affiliate routes, the destination is a WTO Member country and Mannesmann Telecom qualifies for a presumption of nondominance under Section 63.10(a)(3) because its affiliate has a limited market share.

CONCLUSION

For the foregoing reasons, Mannesmann Telecom requests that the Commission grant the authority requested in this application.

Respectfully submitted,

Mannesmann Telecommunications USA, Inc.

By: ______________________

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Dated: October 27, 1998