

Categories of Services for 214 Applications
(Streamlined/Non-streamlined)

- 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:

*Services to China +
Russia will be resubmitted as
domestic for complying with
antitrust laws.*

P B 1

FCC/MELLON APR 12 1999

FIRST UNION NATIONAL BANK
WASHINGTON, DC

05404

KELLEY DRYE & WARREN LLP
1200 19TH STREET, N.W.
WASHINGTON, DC 20036

April 12, 1999

15-122/540
00480

PAY TO THE ORDER OF Federal Communications Commission

\$ 780.00

Seven-Hundred and Eighty-----00/100----- DOLLARS

MEMO 009525.006 Filing fee



⑈005404⑈ ⑆05400122012000034690853⑈

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

APPROVED BY OMIB 3060-0589

(1) LOCKBOX # 358.115

PAGE NO. 1 OF 1

SPECIAL USE
FCC USE ONLY

SECTION A - PAYER INFORMATION

(2) TOTAL AMOUNT PAID (dollars and cents)

(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card)
Kelley Drye & Warren LLP

(4) STREET ADDRESS LINE NO. 1

1200 19th Street, N.W.

(6) STREET ADDRESS LINE NO. 2

Suite 500

(8) CITY

Washington, D.C.

(7) STATE

USA

(9) ZIP CODE

20036

(3) DAYTIME TELEPHONE NUMBER (include area code)

(202) 955-9600

(10) COUNTRY CODE (if not in U.S.A.)

USA

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT COMPLETE SECTION B
IF MORE THAN ONE APPLICANT USE CONTINUATION SHEETS (FORM 159-C)

SECTION B - APPLICANT INFORMATION

(11) APPLICANT NAME (if paying by credit card, enter name exactly as it appears on your card)

Cable & Wireless Global Markets, Inc.

(12) STREET ADDRESS LINE NO. 1

8219 Leesburg Pike

(13) STREET ADDRESS LINE NO. 2

(14) CITY

Vienna

(15) STATE

VA

(16) ZIP CODE

22182

(17) DAYTIME TELEPHONE NUMBER (include area code)

(703) 905-4109

(18) COUNTRY CODE (if not in U.S.A.)

USA

SECTION C - PAYMENT INFORMATION

(18A) FCC CALL SIGN/OTHER ID

(20A) PAYMENT TYPE CODE (PTC)

(20B) QUANTITY

(20C) FEE DUE FROM PTC IN BLOCK 20C

\$ 780.00

(22A) FCC CODE 1

(20B) PAYMENT TYPE CODE (PTC)

(20C) QUANTITY

(20D) FEE DUE FROM PTC IN BLOCK 20D

(18B) FCC CALL SIGN/OTHER ID

(20B) PAYMENT TYPE CODE (PTC)

(20C) QUANTITY

(20E) FEE DUE FROM PTC IN BLOCK 20E

(23B) FCC CODE 1

(20B) PAYMENT TYPE CODE (PTC)

(20C) QUANTITY

(20F) FEE DUE FROM PTC IN BLOCK 20F

(18C) FCC CALL SIGN/OTHER ID

(20B) PAYMENT TYPE CODE (PTC)

(20C) QUANTITY

(20G) FEE DUE FROM PTC IN BLOCK 20G

(23C) FCC CODE 1

(20B) PAYMENT TYPE CODE (PTC)

(20C) QUANTITY

(20H) FEE DUE FROM PTC IN BLOCK 20H

(18D) FCC CALL SIGN/OTHER ID

(20B) PAYMENT TYPE CODE (PTC)

(20C) QUANTITY

(20I) FEE DUE FROM PTC IN BLOCK 20I

(23D) FCC CODE 1

(20B) PAYMENT TYPE CODE (PTC)

(20C) QUANTITY

(20J) FEE DUE FROM PTC IN BLOCK 20J

SECTION D - TAXPAYER INFORMATION (REQUIRED)

(25) PAYER TIN

0 1 3 5 3 3 5 1 0 7

APPLICANT TIN

(27) CERTIFICATION SIGNATURE

Joan M. Griffin

(Print Name)

Certify under penalty of perjury that the foregoing and supporting information are true and correct to the best of my knowledge, information and belief. SIGNATURE *Joan M. Griffin*

(28) MASTERCARD

SECTION F - CREDIT CARD PAYMENT INFORMATION

MASTERCARD

EXPIRATION DATE: MONTH YEAR

VISA

AUTHORIZED SIGNATURE

DATE

SEE PUBLIC BURDEN ESTIMATE ON REVERSE

FCC FORM 159 JULY 1997 (REVISED)

KELLEY DRYE & WARREN LLP
A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

1200 19TH STREET, N.W.

SUITE 500

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BANGKOK, THAILAND

JAKARTA, INDONESIA

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MUMBAI, INDIA

TOKYO, JAPAN

April 12, 1999

Federal Communications Commission
International Bureau Telecommunications Division
P.O. Box 358115
Pittsburgh, PA 15251-5115

Attn: Susan O'Connell

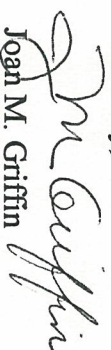
Re: Application of Cable & Wireless Global Markets, Inc. for Authority
Pursuant to Section 214 of the Communications Act of 1934, as Amended, to
Operate As a Facilities-Based and Resale Carrier Between the U.S. and
China and Between the U.S. and Russia

Dear Sir or Madam:

Cable & Wireless Global Markets, Inc., by its attorneys, hereby submits for filing an original and five (5) copies of its above-captioned application. Enclosed is a duplicate of this filing and a return envelope. Please date-stamp the duplicate upon receipt and return it in the envelope provided. Also enclosed is a check in the amount of \$780.00 for the filing fee.

Please do not hesitate to call me at the above referenced number if you should have any questions regarding this matter.

Sincerely,


Joan M. Griffin
Its Attorney

JG:nrr
Enclosures

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

In the Matter of
)
)
CABLE & WIRELESS GLOBAL)
MARKETS, INC.)

Application for Authority Under)
Section 214 of the Communications)
Act of 1934, as Amended, to Operate)
As a Facilities-Based and Resale)
Carrier Between the U.S. and China)
and Between the U.S. and)
Russia)

File No. ITC - _____

APPLICATION

Cable & Wireless Global Markets, Inc. ("CWGM" or "Applicant"), by its
attorneys and pursuant to Section 214 of the Communications Act of 1934, as amended
("the Act") and Section 63.18(e)(6) of the Commission's Rules, 47 C.F.R. § 63.18(e)(6),
hereby requests authority to operate as a facilities-based and resale carrier. CWGM seeks
authority to serve Russia and China in this Application.

In Russia, CWGM is affiliated with three foreign carriers -- Sakhalin Telekom
("ST") and Sakhalin Syjaz ("SS"), which operate exclusively in the Sakhalin Island
region of Russia, and Nakhodka Telekom ("NT"), which operates in the Nakhodka and
Vladivostok regions. In granting facilities-based and resale authority to provide service
to Russia to another Cable & Wireless company, Cable & Wireless, Inc. ("C&WUSA"),
the Commission found that these affiliates either possess insufficient market power to

discriminate against unaffiliated carriers, or that it would not serve the public interest to apply the effective competitive opportunities (“ECO”) test under these circumstances.¹ CWGM and C&WUSA are similarly situated vis-à-vis the Cable & Wireless Russian affiliates and thus the same conclusions are warranted here.

In the *C&WUSA Russia Order*, the Commission held that C&WUSA would be classified as a non-dominant carrier in its provision of service to all regions of Russia except the Sakhalin Island region.² With respect to the Sakhalin Island region, C&WUSA would be classified as (1) non-dominant, if it is providing only switched services through the resale of other U.S.-authorized carriers’ switched services (except affiliated U.S. carriers regulated as dominant on the route), and (2) dominant, if it is providing any other service.³ CWGM requests and accepts the same regulatory treatment in this Application.

In China, CWGM is affiliated within the meaning of Section 63.18(h)(1)(i)(A) of the Commission’s Rules with the Shenda Telephone Company (“Shenda”). The Commission recently granted facilities-based and resale authority to C&WUSA to provide service to China.⁴ In that Order, the Commission recognized that C&WUSA is not affiliated within the meaning of Section 63.18(h)(1)(i)(B) with Shenda or any other

¹ See *Cable & Wireless, Inc.*, Order, Authorization and Certification, DA 98-628, rel. Apr. 2, 1998 at ¶¶ 10, 12-13 (“*C&WUSA Russia Order*”). The Cable and Wireless affiliates in St. Petersburg that were discussed in the *C&WUSA Russia Order* (i.e., Peterstar and Beellic Communications Ltd.) have since been sold. See *Cable & Wireless, Inc.*, Notification of Foreign Affiliation, File No. FCN-NEW-19980904-00028, filed Sept. 4, 1998.

² *C&WUSA Russia Order* at ¶ 15.

³ *Id.* at ¶¶ 15-16; see *Cable & Wireless, Inc.*, Order, Authorization and Certificate, DA 98-1887, rel. Sept. 18, 1998, at ¶ 27, n. 64.

⁴ *Cable & Wireless, Inc.*, Order, Authorization and Certificate, DA 98-2498, rel. Dec. 8, 1998 (the “*C&WUSA China Order*”).

carrier in China and thus that the ECO that does not apply to C&WUSA's provision of service on this route.⁵ CWGM and C&WUSA are similarly situated vis-à-vis Shenda and thus the same conclusions are warranted here. In the *C&WUSA China Order*, the Commission held that C&WUSA would be classified as (1) a non-dominant carrier, if it is providing only switched services through the resale of other U.S.-authorized carriers' switched services (except affiliated U.S. carriers regulated as dominant on the route), and (2) dominant, if it is providing any other services.⁶ CWGM requests and accepts the same regulatory treatment in this Application.

CWGM recognizes that its authorization to provide facilities-based service to affiliated markets in Russia (*i.e.*, the Sakhalin Island region, Nakhodka, and Vladivostok) will be subject to the benchmark settlement rate condition adopted in the Commission's *Benchmark Settlement Rates Order*⁷ and thus that it will be unable to provide facilities-based service on these routes until the settlement rates of CWGM's foreign affiliates on the routes are within benchmark.⁸ CWGM accepts this condition, except to the extent that the condition is found to be unlawful. The Commission did not impose the benchmark settlement rate condition on C&WUSA's provision of facilities-based service to China⁹ and thus there are no grounds for applying it to CWGM in this case.

⁵ *Id.* at ¶ 9.

⁶ *Id.* at ¶¶ 18-19.

⁷ *See International Settlement Rates*, Report and Order, 12 FCC Rcd 19806 (1997) ("*Benchmark Settlement Rates Order*").

⁸ In the *C&WUSA Russia Order*, the Commission did not apply the benchmark condition to C&WUSA's provision of facilities-based service to unaffiliated markets in Russia. *C&WUSA Russia Order* at ¶ 21.

⁹ *See C&WUSA China Order* at ¶ 22.

CWGM requests that the Commission process this Application in accordance with its streamlined processing procedures. Streamlined processing is appropriate under Section 63.12(c) of the Commission's Rules, because the Commission has already determined the market power of CWGM's affiliates in these countries, and CWGM will accept the regulatory treatment that the Commission has already found to be appropriate in light of these affiliates' market power.

Pursuant to Section 63.18 of the Commission's Rules, CWGM sets forth the following information in support of this Application:

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

Cable & Wireless Global Markets, Inc.
8219 Leesburg Pike
Vienna, VA 22182
Phone: (703) 905-4109
- (b) CWGM is a corporation organized under the laws of the State of Delaware.
- (c) Correspondence concerning this Application should be sent to:

Philip V. Permut
Joan M. Griffin
KELLEY DRYE & WARREN LLP
1200-19th Street NW
Suite 500
Washington, D.C. 20036
Phone: (202) 955-9600
Fax: (202) 955-9792
- (d) CWGM currently holds limited global resale authority, as granted in File No. I-T-C-98-474 (effective August 5, 1998).
- (e) CWGM is applying for authority pursuant to Section 63.18(e)(6) of the Commission's Rules to operate as a facilities-based and resale carrier for the provision of service to China and Russia.
- (f) No response required.

- (g) CWGM will use previously authorized facilities to provide its facilities-based services and thus this Application is categorically excluded from environmental assessment pursuant to Section 1.1306 of the Commission's Rules.
- (h)
- (1) As evidenced by the certification provided in Attachment A, CWGM is affiliated with foreign carriers in the countries listed in Annex 1 to that Attachment. Also, CWGM is a foreign carrier in Canada.
- (2) CWGM is ultimately 100 percent owned by Cable and Wireless plc ("C&W plc"), a company organized under the laws of England and Wales.¹⁰ C&W plc is a holding company for a number of telecommunications operations worldwide. There are no shareholders that control ten percent or more of C&W plc. At present, CWGM has no interlocking directorates with any other U.S. common carrier.
- (3) As evidenced by the certification provided in Attachment A, CWGM is indirectly affiliated with a U.S. carrier, Cable & Wireless, Inc. ("C&WUSA"). CWGM proposes to resell the facilities-based international services of C&WUSA, as well as the facilities-based international services of other U.S. carriers.
- (4) No response required.
- (5) Russia: As discussed above, CWGM is affiliated with SS, ST, and NT in Russia. In the *C&WUSA Russia Order*, the Commission held that NT does not possess sufficient market share or control bottleneck facilities to enable NT to discriminate against unaffiliated U.S. carriers.¹¹ With respect to SS and ST, the Commission found that it would not serve the public interest to apply the ECO test with respect to these affiliates.
- China: As discussed above, in the *C&WUSA China Order*, the Commission held that C&WUSA is not affiliated within the meaning of Section 63.18(h)(1)(i)(B) with Shenda or any other carrier in China.¹²
- (6) See response to (h)(5) above.
- (7) See response to (h)(8) below. CWGM will file quarterly traffic reports to the extent required by the Commission.

¹⁰ The address of C&W plc is 124 Theobalds Road, London WC1X 8RX, England.

¹¹ See *C&WUSA Russia Order* at ¶¶ 10, 12-13.

¹² See *C&WUSA China Order* at ¶ 9.

(8) Russia: In the *C&WUSA Russia Order*, the Commission held that C&WUSA would be classified as a non-dominant carrier in its provision of service to all regions of Russia except the Sakhalin Island region.¹³ With respect to the Sakhalin Island region, C&WUSA would be classified as (1) non-dominant, if it is providing only switched services through the resale of other U.S.-authorized carriers' switched services (except affiliated U.S. carriers regulated as dominant on the route), and (2) dominant, if it is providing any other service.¹⁴ CWGM requests and accepts the same regulatory treatment in this Application.

China: In the *C&WUSA China Order*, the Commission held that C&WUSA would be classified as (1) a non-dominant carrier, if it is providing only switched services through the resale of other U.S.-authorized carriers' switched services (except affiliated U.S. carriers regulated as dominant on the route), and (2) dominant, if it is providing any other service.¹⁵ CWGM requests and accepts the same regulatory treatment in this Application.

(i) As evidenced by the certification provided in Attachment A, CWGM certifies that it has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. 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 will not enter into such agreements in the future.

(j) As evidenced by the certification provided in Attachment A, CWGM certifies that no party to this Application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

(k) Streamlined processing is appropriate for this Application under Section 63.12(c)(1)(iii) of the Commission's Rules because the Commission has already determined the market power of CWGM's affiliates in these countries, and CWGM will accept the regulatory treatment that the Commission has already found to be appropriate in light of these affiliates' market power.

¹³ See *C&WUSA Russia Order* at ¶ 15.

¹⁴ *Id.* at ¶¶ 15-16.

¹⁵ See *C&WUSA China Order* at ¶¶ 18-19.

For the reasons stated herein, the Commission should grant the authority requested in this Application.

Respectfully Submitted,

**CABLE & WIRELESS GLOBAL
MARKETS, INC.**

By: *David Sexton*
David Sexton¹⁶
Chief Executive

Philip V. Permut
Joan M. Griffin
KELLEY DRYE & WARREN LLP
1200-19th Street NW
Suite 500
Washington, D.C. 20036
(202) 955-9600

Its Attorneys

Date: 4/12/99

¹⁶ Pursuant to Section 1.743(b) of the Rules, this Application is signed by CWGM's counsel on its behalf as all representatives of CWGM are absent from the U.S.

CERTIFICATION

The undersigned hereby certifies, on behalf of Cable & Wireless Global Markets,

Inc. ("CWGM"), that:

1. CWGM is a foreign carrier (as that term is defined in Section 63.18(h)(1)(ii) of the Commission's Rules) in Canada.
2. CWGM is affiliated with foreign carriers that operate in the countries listed in Annex 1 to this Certification.
3. CWGM is affiliated with Cable & Wireless, Inc., a facilities-based U.S. carrier whose services CWGM plans to resell.
4. CWGM has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. 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 will not enter into such agreements in the future.
5. No party to this Application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

By: *David Sexton*
David Sexton¹⁷
Chief Executive

Date: 4/12/99

¹⁷ Pursuant to Section 1.743(b) of the Rules, this Application is signed by CWGM's counsel on its behalf as all representatives of CWGM are absent from the U.S.

Annex 1 to Attachment A

**COUNTRIES IN WHICH CABLE & WIRELESS plc POSSESSES
25 PERCENT OR GREATER COMMON DIRECT OR INDIRECT
OWNERSHIP IN A CARRIER**

| | |
|------------------------|-------------------|
| Anguilla | Macao |
| Antigua | Maldives |
| Ascension Island | Montserrat |
| Australia | Pakistan |
| Barbados | Panama |
| Bermuda | Philippines |
| British Virgin Islands | Russia |
| Bulgaria | Seychelles |
| Canada | Solomon Islands |
| Cayman Islands | St. Helena |
| China | St. Kitts & Nevis |
| Diego Garcia | St. Lucia |
| Dominica | St. Vincent |
| Falkland Islands | Thailand |
| Fiji | Tonga |
| Grenada | Trinidad & Tobago |
| Hong Kong | Turks & Caicos |
| Indonesia | United Kingdom |
| Jamaica | Vanuatu |
| Japan | Yemen |