

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

- 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: _____

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION

REMITTANCE ADVICE

FCC MAILBOX of 1 JUN 01 1999

APPROVED BY OMB 3060-0589

SPECIAL USE
FCC USE ONLY

(1) LOCKBOX # 358.115

SECTION A - PAYER INFORMATION

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

Kelley Dye & Warren LLP

(3) TOTAL AMOUNT PAID (dollars and cents)
\$ 780.00

(4) STREET ADDRESS LINE NO. 1
1200 19th Street, N.W., Suite 500

(5) STREET ADDRESS LINE NO. 2

(6) CITY Washington, D.C. (7) STATE (8) ZIP CODE 20036

(9) DAYTIME TELEPHONE NUMBER (include area code) (10) COUNTRY CODE (if not in U.S.A.)

20036

(202) 955-9600

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)

Hong Kong Telecommunications (Pacific) Limited

(12) STREET ADDRESS LINE NO. 1

P.O. Box 9896 GP0

(13) STREET ADDRESS LINE NO. 2

(14) CITY Hong Kong (15) STATE (16) ZIP CODE

(17) DAYTIME TELEPHONE NUMBER (include area code) (18) COUNTRY CODE (if not in U.S.A.)

852-28830580

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEETS (FORM 159-C)

SECTION C - PAYMENT INFORMATION

(19A) FCC CALL SIGN/OTHER ID (20A) PAYMENT TYPE CODE (PTC) (21A) QUANTITY (22A) FEE DUE FOR (PTC) IN BLOCK 20A

C U T

1

(23A) FCC CODE 1 (24A) FCC CODE 2 \$ 780.00

FCC USE ONLY

(19B) FCC CALL SIGN/OTHER ID (20B) PAYMENT TYPE CODE (PTC) (21B) QUANTITY (22B) FEE DUE FOR (PTC) IN BLOCK 20B

FCC USE ONLY

(23B) FCC CODE 1 (24B) FCC CODE 2

(19C) FCC CALL SIGN/OTHER ID (20C) PAYMENT TYPE CODE (PTC) (21C) QUANTITY (22C) FEE DUE FOR (PTC) IN BLOCK 20C

FCC USE ONLY

(23C) FCC CODE 1 (24C) FCC CODE 2

(19D) FCC CALL SIGN/OTHER ID (20D) PAYMENT TYPE CODE (PTC) (21D) QUANTITY (22D) FEE DUE FOR (PTC) IN BLOCK 20D

FCC USE ONLY

(23D) FCC CODE 1 (24D) FCC CODE 2

SECTION D - TAXPAYER INFORMATION (REQUIRED)

(25) PAYER TIN (26) COMPLETE THIS BLOCK ONLY IF APPLICANT NAME IN B-11 IS DIFFERENT FROM PAYER NAME IN A-2

0 1 3 5 3 3 5 1 0 7

APPLICANT TIN

0

SECTION E - CERTIFICATION

(27) CERTIFICATION STATEMENT

I, Joan J. 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 J. Griffin

(28) MASTERCARD/VISA ACCOUNT NUMBER: SECTION F - CREDIT CARD PAYMENT INFORMATION

XX

EXPIRATION DATE:

MONTH YEAR

VISA I hereby authorize the FCC to charge my VISA or MASTERCARD

AUTHORIZED SIGNATURE

DATE

for the service(s)/authorization(s) herein described.

KELLEY DRYE & WARREN LLP

1200 19TH STREET, N.W.
WASHINGTON, DC 20036

FIRST UNION NATIONAL BANK
WASHINGTON, DC

005527

68-122/540 00480

May 27, 1999

PAY
TO THE
ORDER OF

Federal Communkcation Commission

\$ 780.00

Seven-Hundred and Eighty

00/100

DOLLARS

MEMO

Filing fee 031829.001

David L. Vaughan MP

SECURITY FEATURES INCLUDED. DETAILS ON THE BACK

⑈005527⑈ ⑆054001220⑆ 2000034690853⑈

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

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AFFILIATED OFFICES

NEW DELHI, INDIA

TOKYO, JAPAN

June 1, 1999

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

Magalie R. Salas, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Room 8-C723
Washington, DC 20554


Re: **Application for Authority Under Section 214 of the Communications Act of 1934,
as Amended, to Operate as a Resale Carrier Between the U.S. and China**

To the Commission:

Hong Kong Telecommunications (Pacific) Limited, 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,


Jean M. Giffir
Its Attorney

JG:ntr

Enclosures

DC01/GRHF/82599.1

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

In the Matter of

HONG KONG TELECOMMUNICATIONS
(PACIFIC) LIMITED

)
)
)
) File No. ITC - _____
)
)

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

APPLICATION

Hong Kong Telecommunications (Pacific) Limited ("HKTP" 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)(4) of the Commission's Rules, 47 C.F.R. § 63.18(e)(4), hereby requests authority to operate as a resale carrier. HKTP seeks authority to serve China in this Application.

In China, HKTP is affiliated with the Shenda Telephone Company ("Shenda"), since the entity that controls HKTP, Cable and Wireless plc ("C&Wplc"), owns a 25 percent interest in Shenda. The Commission recently granted facilities-based and resale authority to C&WUSA, an HKTP affiliate also controlled by C&Wplc, to provide service to China.¹ In the *C&WUSA China Order*, the Commission recognized that C&Wplc does not control Shenda or any other carrier in China and thus that the ECO test does not apply

¹ Cable & Wireless, Inc., Order, Authorization, and Certificate, DA 98-2498, rel. Dec. 8, 1998 (the "*C&W USA China Order*").

to C&W USA's provision of service on this route.² HKTP and C&W USA are similarly situated vis-à-vis Shenda and thus the same conclusions are warranted here.³ In the *C&W USA China Order*, the Commission held that C&W USA 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.⁴ HKTP requests and accepts the same regulatory treatment in this Application.

HKTP 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 HKTP's affiliate in China, and HKTP will accept the regulatory treatment that the Commission has already found to be appropriate in light of this affiliate's market power.

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

(a) The name and address of the Applicant is:

Hong Kong Telecommunications (Pacific) Limited
P. O. Box 9896 GPO
Hong Kong

(b) HKTP is a corporation organized and existing under the laws of Hong Kong.

² *Id.* at ¶ 9.

³ The fact that China Telecom (Hong Kong) Group Limited is an investor in HKTP's parent company, Hong Kong Telecom, does not necessitate a change in this conclusion. As discussed in HKTP's response to Section 63.18(f) below, CTHKG holds only about 13 percent of the shares of Hong Kong Telecom.

⁴ *Id.* at ¶¶ 18-19.

- (c) Correspondence concerning this Application should be sent to:

Keith Harrison
Director of International
Hong Kong Telecom
P. O. Box 9896 GPO
Hong Kong
Phone: 852-28830580
Fax: 852-29626202

With copy to:

Philip V. Permut
Joan M. Griffin
Kelley Drye & Warren LLP
1200 19th Street, N.W.
Suite 500
Washington, DC 20036
Phone: 202-955-9600
Fax: 202-955-9792

- (d) The Commission granted HKTP authority under Section 214 of the Act in the following file numbers: File No. I-T-C-98-196 (authority to resell private lines for the provision of non-telephonic services between the U.S. and Hong Kong); File No. I-T-C-214-19980930-00689 (international simple resale authority on the U.S. - Hong Kong route); and File No. I-T-C-214-19981218-00880 (authority to resell the switched services and non-interconnected private line services of U.S. facilities-based carriers for the provision of service between the U.S. and Hong Kong).
- (e) HKTP is applying for authority to operate as a resale carrier for the provision of service to China. HKTP seeks this authority pursuant to Section 63.18(e)(4) of the Commission's Rules. As evidenced by the certification provided in Attachment A, HKTP certifies that it will comply with the terms and conditions of Sections 63.21 and 63.22 of the Commission's Rules.
- (f) No response required.
- (g) No applicable; HKTP seeks only resale authority in this Application..
- (h) The registered shareholders of HKTP are two holding companies, Hong Kong Telecom Enterprises Limited ("HKTE"), a Hong Kong corporation, and Hong Kong Telecommunications (Nominees) Limited ("HKTN"), a Hong Kong corporation. HKTN and HKTE are each wholly-owned subsidiaries of another holding company, Hong Kong Telecom, which is also a Hong Kong

corporation.⁵ Cable and Wireless plc ("C&W plc"), a corporation organized under the laws of England and Wales, holds approximately 54 percent of Hong Kong Telecom.⁶ C&W plc is holding company for a number of telecommunications operations worldwide. China Telecom (Hong Kong) Group Limited ("CTHKG") owns approximately 13 percent of the outstanding shares of Hong Kong Telecom. CTHKG is a holding company and a Hong Kong corporation. Various companies related to CTHKG provide mobile and international telecommunications services in the People's Republic of China.

The following individuals are interlocking directors of HKTP:

Linus Wing-lam Cheung
Alistair Grieve

- (i) As evidenced by the certification provided in Attachment A, HKTP certifies that it is a foreign carrier in Canada. HKTP also certifies that it is affiliated with foreign carriers that operate in the countries listed in Attachment A.
- (j) As evidenced by the certification provided in Attachment A, none of the items listed in Section 63.18(j) of the Commission's Rules are true vis-à-vis HKTP's provision of service to China. In particular and as discussed above, in the *C&W USA China Order*, the Commission held that C&W plc does not control Shenda or any other carrier in China and thus that the ECO test does not apply.⁷
- (k) See response to (j) above.
- (l) See response to (m) below. HKTP will file quarterly traffic reports to the extent required by the Commission.
- (m) In the *C&W USA China Order*, the Commission held that C&W USA would be classified as a (1) 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.⁸ HKTP requests and accepts the same regulatory treatment in this Application.

(n) As evidenced by the certification provided in Attachment A, HKTP certifies that it has not agreed to accept special concessions directly or indirectly from

⁵ The address of HKTE, HKTN, and Hong Kong Telecom is the same as that of HKTP.

⁶ The address of C&W plc is 124 Theobalds Road, London WC1X 8RX, England.

⁷ See *C&W USA China Order* at ¶ 9.

⁸ See *C&W USA China Order* at ¶¶ 18-19.

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.

(o) As evidenced by the certification provided in Attachment A, HKTP 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.

(p) Streamlined processing is appropriate for this Application under Section 63.12 of the Commission's Rules because the Commission has already determined the market power of HKTP's affiliate in China, and HKTP will accept the regulatory treatment that the Commission has already found to be appropriate in light of this affiliate's market power.

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

Respectfully Submitted,

HONG KONG TELECOMMUNICATIONS
(PACIFIC) LIMITED

By:



Philip V. Permut⁹

Joan M. Griffin

KELLEY DRYE & WARREN LLP

1200 19th Street, N.W.

Suite 500

Washington, D.C. 20036

(202) 955-9600

Its Attorneys

Date: May 28, 1999

⁹ Pursuant to Section 1.743(b) of the Commission's Rules, this Application is signed by HKTP's counsel on its behalf as all HKTP representatives that are authorized to sign the Application are absent from the U.S.

CERTIFICATION

The undersigned hereby certifies, on behalf of Hong Kong Telecommunications (Pacific) Limited ("HKTP"), that:

1. HKTP is a foreign carrier in Canada.
2. HKTP is affiliated with foreign carriers that operate in the countries listed in Annex 1 to this Certification.
3. HKTP will comply with the terms and conditions of Sections 63.21 and 63.22 of the Commission's Rules.
4. None of the items listed in Section 63.18(j) of the Commission's rules are true vis-à-vis HKTP's provision of service to China.
5. HKTP 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.
6. 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: 
Philip V. Permut
Joan M. Griffin

Date: May 28, 1999

¹⁰ Pursuant to Section 1.743(b) of the Rules, this Application is signed by HKTP's counsel on its behalf as all representatives of HKTP 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	Pakistan
Antigua	Panama
Ascension Island	Philippines
Australia	Russia
Barbados	Seychelles
Bermuda	Solomon Islands
British Virgin Islands	St. Helena
Bulgaria	St. Kitts & Nevis
Canada	St. Lucia
Cayman Islands	St. Vincent
China	Thailand
Diego Garcia	Tonga
Dominica	Trinidad & Tobago
Falkland Islands	Turks & Caicos
Fiji	United Kingdom
Grenada	Vanuatu
Hong Kong	Yemen
Indonesia	
Jamaica	
Japan	
Macao	
Maldives	
Montserrat	