

**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: _____

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WASHINGTON, DC 20036

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005529

68-122/540 00480

May 27, 1999

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TO THE
ORDER OF Federal Communication Commission

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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 Various International
Points**

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,



Joan M. Griffin
Its Attorney

JG:mr

Enclosures

DC01/GRIFJ/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
Various International Points

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 Sections 63.18(e)(2) and (4) of the Commission's Rules, 47
C.F.R. §§ 63.18(e)(2) and (4), hereby requests authority to operate as a resale carrier.
HKTP seeks authority to serve all international points *except* those countries listed in
Attachment A.

HKTP is affiliated with a number of foreign carriers in the countries for which
authority is requested in this Application. The countries in which HKTP is affiliated with
a foreign carrier and for which authority is requested in this Application are listed in
Attachment B. Each of these countries is a Member of the World Trade Organization

("WTO"). Thus, grant of authority to HKTP is appropriate under the rules and policies established by the Commission in its *Foreign Participation Order*.¹

In a number of the countries for which authority is requested and in which HKTP has a foreign affiliate, the Commission has already found that the foreign affiliate lacks market power. These countries, along with the Commission decisions in which the FCC made its market power determination, are noted in Attachment B. HKTP requests that the Commission classify HKTP as a non-dominant carrier in its provision of service to these countries, as well as in its provision of service to all countries in which HKTP has no foreign affiliation. In all other countries for which authority is requested and in which HKTP has a foreign affiliate that has not been found to be nondominant, HKTP agrees to accept dominant carrier treatment.

HKTP requests that the Commission process this Application in accordance with its streamlined processing procedures. Streamlined processing is appropriate under Section 63.12(a) of the Commission's Rules for service to countries in which HKTP has no affiliate. For service to those countries in which HKTP has an affiliate, streamlined processing is appropriate under Section 63.12(c) of the Commission's Rules, because each of these countries is a member of the WTO, and either the Commission has already found that the foreign affiliate lacks market power or HKTP agrees to dominant carrier treatment.

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

¹ *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB Docket Nos. 97-142 and 95-22, Report and Order on Reconsideration, 12 FCC Red 23, 891 (1997) ("*Foreign Participation Order*").

(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.

(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 all international points *except* those locations listed in Attachment A. HKTP seeks this authority pursuant to Section 63.18(e)(4) of the Commission's Rules for service to the following countries:

Antigua
Barbados
Dominica

Fiji
Grenada
Macao
Maldives
Panama
Solomon Islands
St. Lucia
St. Vincent
Trinidad & Tobago

With respect to all other countries, HKTP seeks authority pursuant to Sections 63.18(e)(2) 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) Not applicable; HKTP is not seeking facilities-based 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.² 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.³ 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

² The address of HKTE, HKTN, and Hong Kong Telecom is the same as that of HKTP.

³ The address of C&W plc is 124 Theobalds Road, London WC1X 8RX, England.

(i) As evidenced by the certification provided in Attachment C, 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 C.

(j) and

(k) The list of countries in which HKTP is or is affiliated with a foreign carrier and for which authority is requested is provided in Attachment B. As evidenced by the certification provided in Attachment C, every country for which authority is requested in this Application and in which HKTP is a foreign carrier or has a foreign affiliate is a member of the WTO.

(l) See response to (m) below.

(m) As discussed in Attachment B, HKTP requests non-dominant treatment in its provision of service to the following countries in which it is or is affiliated with a foreign carrier. Non-dominant treatment is appropriate on these routes because the Commission has already found, as discussed in Attachment B, that HKTP or its foreign carrier affiliate in these countries lacks market power:

Australia
Canada
Japan
U.K.
Thailand
Philippines
Indonesia
Bulgaria
Pakistan

(n) As evidenced by the certification provided in Attachment C, HKTP 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.

(o) As evidenced by the certification provided in Attachment C, 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, for every country for which authority is requested in this Application, either 1) HKTP has no foreign affiliate; 2) HKTP is a foreign carrier or has a foreign affiliate, but the country is a member of the WTO and the FCC has already determined that HKTP or its foreign affiliate

lacks market power; or 3) HKTPP has a foreign affiliate, but the country is a member of the WTO and HKTPP has agreed to accept dominant carrier status.

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. Permut⁴
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

⁴ Pursuant to Section 1.743(b) of the Commission's Rules, this Application is signed by HKTPP's counsel on its behalf as all HKTPP representatives that are authorized to sign the Application are absent from the U.S.

Attachment A

COUNTRIES FOR WHICH no authority IS REQUESTED

Anguilla
Ascension Island
Bermuda
British Virgin Islands
Cayman Islands
China
Diego Garcia
Falkland Islands
Jamaica
Montserrat
Russia
Seychelles
St. Helena
Tonga
Turks & Caicos
Vanuatu
Yemen
Hong Kong
St. Kitts & Nevis

HKTP FOREIGN AFFILIATIONS AND REGULATORY TREATMENT
where authority is requested

Hong Kong Telecommunications (Pacific) Limited (“HKTP”) is a foreign carrier in Canada. In addition, HKTP is affiliated with foreign carriers in the following countries for which authority is requested in this Application:

Australia	United Kingdom
Antigua	Barbados
Bulgaria	Dominica
Fiji	Grenada
Indonesia	Macao
Maldives	Pakistan
Panama	Philippines
Solomon Islands	St. Lucia
Thailand	Trinidad & Tobago
Japan	St. Vincent

All of the countries listed above are members of the World Trade Organization.

The Commission found HKTP or its foreign affiliates to lack market power in the following decisions, which accorded non-dominant treatment to a related Cable & Wireless company, Cable & Wireless, Inc. Accordingly, HKTP requests that it be classified as a non-dominant carrier on these routes:

- Australia: *Cable & Wireless, Inc.*, Memorandum Opinion, Order and Certificate, File No. TTC-93-328, DA 97-2554, released Dec. 17, 1997.
- Australia, Canada: *Cable & Wireless, Inc.*, 9 FCC Rcd 7283 (1994).
- U.K.: *Cable & Wireless, Inc.*, 11 FCC Rcd 16486 (1996).
- Japan: *Cable & Wireless, Inc.*, 11 FCC Rcd 21027 (1996)
- Philippines: *Cable & Wireless, Inc.*, Order, Authorization and Certificate, File No. I-T-C-97-335, released January 20, 1998.

- Bulgaria, Indonesia, Pakistan, and Thailand: *Cable & Wireless, Inc.*, File No. I-T-C-98-136, released April 2, 1998.

On all other routes, HKTP will accept dominant carrier treatment.

CERTIFICATION

The undersigned hereby certifies, on behalf of Hong Kong Telecommunications (Pacific) Limited ("HKTP") and with respect to the foregoing application of 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. The list of countries in which HKTP is or is affiliated with a foreign carrier and for which authority is requested is provided in Attachment B to the application. Every country for which authority is requested and in which HKTP is a foreign carrier or has a foreign affiliate is a member of the WTO.
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. Perdue
Joan M. Griffin

Date: May 28, 1999

⁵ 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 C

**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	