



U.S. Department of Justice  
Federal Bureau of Investigation

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International Bureau

Office of the General Counsel

Washington, D.C. 20535

June 07, 2004

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-B204  
Washington, D.C. 20554

Info Bureau

JUN 15 2004

Front Office

**Re: *Petition to Adopt Conditions to Authorizations and Licenses In re Application of VSNL America, Inc. Application for Authority to Operate as a U.S. International Telecommunications Carrier under Section 214 of the Communications Act of 1934, Application File No. ITC-214-20030728-00376***

Dear Ms. Dortch:

Transmitted herewith, on behalf of the United States Department of Justice, including the Federal Bureau of Investigation ("FBI")(collectively, the "DOJ"), and the United States Department of Homeland Security ("DHS") is a "Petition to Adopt Conditions to Authorizations and Licenses", with attachments, in the above-referenced matter. Please accept this Petition and be advised that the DOJ and the DHS have no objection to the Commission granting the application filed in the above-referenced matter, provided that the Commission conditions its grant on compliance by Videsh Sanchar Nigam Limited and VSNL America with the terms of the Agreement reached between VSNL and VSNL America, on the one hand, and the DOJ and the DHS, on the other .

Sincerely,

Myla R. Saldivar-Trotter  
Office of the General Counsel  
935 Pennsylvania Ave., N.W., Room 7877  
Washington, D.C. 20535

Attachment  
cc: Qualex International

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
Federal Communications Commission  
Washington, DC 20554

In re

Application of

VSNL America, Inc.

Application for Authority to Operate as a U.S.  
International Telecommunications Carrier under  
Section 214 of the Communications Act of 1934

Application File No.  
ITC-214-20030728-00376

**PETITION TO ADOPT CONDITIONS TO  
AUTHORIZATIONS AND LICENSES**

The United States Department of Justice, including the Federal Bureau of Investigation (“FBI”) (collectively, the “DOJ”), and the United States Department of Homeland Security (“DHS”) respectfully submit this Petition to Adopt Conditions to Authorizations and Licenses (“Petition”), pursuant to Section 1.41 of the rules of the Federal Communications Commission (“FCC” or “Commission”).<sup>1</sup> Through this Petition, the DOJ and DHS advise the Commission that they have no objection to the Commission granting the application filed in the above-referenced docket, provided that the Commission conditions its grant on compliance by Videsh Sanchar Nigam Limited (“VSNL”) and VSNL America (“VSNL America”) with the terms of the Agreement (attached hereto as Exhibit 1) reached between VSNL and VSNL America, on the one hand, and the DOJ (including the FBI) and DHS, on the other.

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<sup>1</sup> 47 C.F.R. § 1.41.

In the captioned matter, VSNL America has filed, pursuant to Section 214 of the Communications Act of 1934 (“Act”), as amended, an application seeking Commission authority to operate as a facilities-based carrier and as a resale carrier for the provision of international switched and private line services to all international points.<sup>2</sup> VSNL America is a U.S. company, incorporated in Delaware, and is 100% owned directly by VSNL. Foreign ownership of VSNL greater than 10% includes a 45% indirect interest held by the Tata Group of Mumbai, India (a commercial conglomerate consisting of approximately 80 companies), and a 26.1% interest held directly by the Government of India.

As the Commission is aware, the DOJ and DHS maintain that their ability to satisfy their obligations to protect the national security, enforce the laws, and preserve the safety of the public could be significantly impaired by transactions in which foreign entities will own or operate a part of the U.S. communications system, or in which foreign-located facilities will be used to provide domestic communications services to U.S. customers. In such cases, the DOJ and DHS have stated that foreign involvement in the provision of U.S. communications must not be permitted to impair the U.S. government’s ability to satisfy its obligations to U.S. citizens to (1) carry out lawfully-authorized electronic surveillance of domestic U.S. calls or calls that originate or terminate in the United States; (2) prevent and detect foreign-based espionage and electronic surveillance of U.S. communications, activities which if allowed to occur undetected would jeopardize the security and privacy of U.S. communications and undermine prosecution of individuals involved in such activities; and (3) satisfy U.S. critical infrastructure protection requirements. To address these concerns, the DOJ, the FBI, and other federal agencies have entered into agreements with the appropriate parties. The agreements reached in the past have

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<sup>2</sup> 47 U.S.C. § 214.

been filed by stipulation among the parties with the Commission, and the Commission has conditioned its grants of approvals of the requested authorizations or transfers of control on compliance with the terms of the agreements.<sup>3</sup>

On May 24, 2004, the DOJ, FBI and DHS entered into the Agreement attached hereto with VSNL and VSNL America. This Agreement is intended to ensure that the DOJ, FBI, DHS and other entities with responsibility for enforcing the law, protecting the national security, and preserving public safety can proceed in a legal, secure, and confidential manner to satisfy these responsibilities.

Accordingly, the DOJ and DHS hereby advise the Commission that they have no objection to the Commission granting the application for authority filed in ITC-214-20030728-00376, provided that the Commission conditions its grant on compliance by VSNL and VSNL America with the terms of the Agreement.

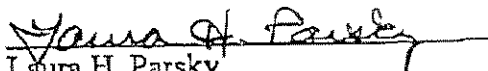
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<sup>3</sup> See, e.g., Memorandum Opinion, Order and Authorization, *Loral Satellite, Inc. and Intelsat North America, LLC*, 19 FCC Rcd. 2404, 2004 WL 253309 (F.C.C.) (2004); Memorandum Opinion, Order and Authorization, *Bell Atlantic New Zealand Holdings, Inc. and Pacific Telecom Inc.*, 18 FCC Rcd. 23,140, 2003 WL 22517694 (F.C.C.) (2003); Memorandum Opinion, Order and Authorization, *Global Crossing Ltd. and GC Acquisition Limited*, 18 FCC Rcd. 20,301, 2003 WL 22309107 (F.C.C.) (2003); Memorandum Opinion, Order and Authorization, *XO Communications, Inc.*, 17 FCC Rcd 19,212, 2002 WL 31235646 (F.C.C.) (2002) (agreement adopted by the Commission, but the transaction was not consummated); Memorandum Opinion and Order, *VoiceStream Wireless Corporation, Powertel, Inc., and Deutsche Telekom AG*, 16 FCC Rcd 9779, 2001 WL 476559 (2001).

The DOJ and DHS are authorized to state that VSNL and VSNL America do not object to the grant of this Petition.

Respectfully submitted,

UNITED STATES DEPARTMENT OF JUSTICE

  
Laura H. Parsky  
Deputy Assistant Attorney General  
Criminal Division  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 616-3928.

FEDERAL BUREAU OF INVESTIGATION

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Patrick W. Kelley  
Deputy General Counsel  
935 Pennsylvania Avenue, N.W.  
Washington, D.C. 20535  
(202) 324-8067

UNITED STATES DEPARTMENT OF HOMELAND SECURITY

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Tina W. Gabbrielli  
Director of Intelligence Coordination and Special Infrastructure  
Protection Programs  
Office of Infrastructure Protection  
Washington, D.C. 20528

June 2, 2004

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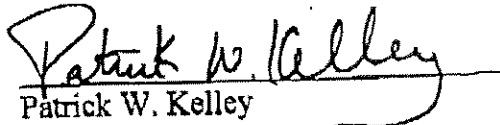
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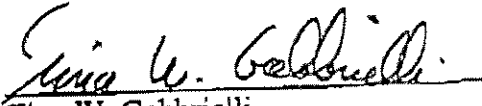
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June 2, 2004

## CERTIFICATE OF SERVICE

I, Myla R. Saldivar-Trotter, Federal Bureau of Investigation, hereby certify that on this 07<sup>th</sup> day of June, 2004, I caused true and correct copy of the foregoing "**Petition to Adopt Conditions to Authorizations and Licenses**", pertaining to Application File No. ITC-214-20030728-00376 to be served upon the following parties via Hand-Delivery (indicated by\*) or by United States Postal Service First-Class Mail:

Tom W. Davidson  
Akin Gump Strauss Hauer & Feld LLP  
1333 New Hampshire Ave., N.W.  
Washington, D.C. 20036

Robert J. Aamoth  
Kelley Drye & Warren LLP  
1200 19<sup>th</sup> Street, N.W.  
Suite 500  
Washington, D.C. 20036

James L. Ball, Chief\*  
International Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Kathleen Collins\*  
International Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Susan O'Connell\*  
International Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C.

  
Myla R. Saldivar-Trotter