

CERTIFICATE OF SERVICE

I, Eric Fishman, an attorney with the law firm of Holland & Knight LLP, hereby certify that on this 16<sup>th</sup> day of October 2008, a true copy of the attached letter and attached applications of Office des postes et Telecommunications de Polynesie francaise were served by first class mail, postage pre-paid (or as otherwise indicated) upon the following:

George Li\*  
International Bureau  
Federal Communications Commission  
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David Krech\*  
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Federal Communications Commission  
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U.S. Coordinator, EB/CIP\*  
U.S. Department of State  
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Office of Chief Counsel\*  
U.S. Department of Commerce  
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Washington, DC 20230

Defense Information Systems Agency  
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Arlington, Va. 22204

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Eric Fishman

ITC-214-20081008-00453

**Office des Postes et Télécommunications de Polynésie française**

Application filed by Office des postes et télécommunications de Polynésie française (“OPT”) for authority to construct, acquire, and operate capacity in a common carrier fiber-optic submarine cable system directly linking the United States and French Polynesia, the Tahiti-Hawaii Cable System (“Honotua System”) in accordance with section 63.18(e)(3). *see*

OPT is an *établissement public* (in English, “public establishment”) headquartered in Tahiti and existing under the laws of French Polynesia. French Polynesia is an overseas territory of France. OPT is wholly owned by the Government of French Polynesia, but financially autonomous from the national government. As such, OPT is subject to regulation and oversight by the *Chambre territoriale des comptes de la Polynésie française* (“CTC”) and ultimate government control. OPT is administered by a Board of eight members, all of whom are citizens of French Polynesia.

Applicant agrees to be classified as a dominant carrier to French Polynesia under Section 63.10 of the Commission’s rules, without prejudice to its right to petition for reclassification at a later date. Applicant requests, however, a waiver of section 63.10(c) which requires “any carrier classified as dominant for the provision of particular services on particular routes” to provide service along such route “as an entity that is separate from its foreign carrier affiliate...”. 47 C.F.R. § 63.10(c)(1). Amended Application at 2.

According to Applicant, OPT cannot create a separate subsidiary without exposing itself to unacceptable legal and financial risk. Applicant states that the creation of new subsidiaries by OPT is unlawful under Article 30 of *la loi organique* (French Polynesia’s constitution). *Id.* at 4. See also *id.*, n.4 (stating that the French Polynesian Government may establish an OPT subsidiary in circumstances where there is a joint venture with a private-sector entity, which is not the case with the government-owned Honotua System). With respect to financial risk, Applicant states that OPT has secured three outside sources of funding with the understanding that OPT will control and operate the Honotua System in its entirety. *Id.* at 6-7. Applicant argues that a transfer of ownership or operation would likely require renegotiation which in today’s deteriorating credit market could result in the withdrawal of funding altogether. It also states that OPT has already drawn funds from a French Polynesian government grant and a commercial loan. Applicant additionally argues that section 63.10(c)’s separate subsidiary requirement does not specifically apply to submarine cables or submarine operators. *Id.* at 7. Finally, Applicant states that OPT will voluntarily commit to comply with additional competitive safeguards as a condition to the grant of its waiver request. *Id.* at 9-11.

**JoAnn Sutton**

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**From:** Sofield, Richard [Richard.Sofield2@usdoj.gov]  
**Sent:** Wednesday, October 29, 2008 1:39 PM  
**To:** Sofield, Richard; David Krech; Francis Gutierrez; George Li; Howard Griboff; James Ball; Janeese Parker; JoAnn Sutton; Jodi Cooper; Susan OConnell; Wheaton, Mary (NSD)  
**Cc:** Ongman, Joanne  
**Subject:** RE: [TT] FCC application status for the week of October 27, 2008

Please be advised that DOJ/FBI/DHS request that the following applications referenced in EB 2008-45 be **REMOVED** from streamline:

ITC-214-20081006-00449 POP2Call, LLC  
ITC-214-20081006-00450 Global 1 Touch  
ITC-214-20081007-00451 Blue Apple Telecom Corp.  
SCL-LIC-20081008-00017 Office des postes et Telecommunications de Polynesie francaise  
ITC-214-20081008-00452 Office des postes et Telecommunications de Polynesie francaise  
ITC-214-20081008-00453 Office des postes et Telecommunications de Polynesie francaise  
ISP-PDR-20080702-00017 Choice Holdings LLC

Please let me know if you have any questions.

Thank you.

**Richard C. Sofield**  
Director  
Foreign Investment Review Staff  
National Security Division  
United States Department of Justice

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10/29/2008