

**ATTACHMENT 1**

**Columbus Networks Puerto Rico, Inc. - Application for International Section 214  
Authority**

Columbus Networks Puerto Rico, Inc. (“**CN PR**” or “**Applicant**”) hereby seeks global facilities-based authority pursuant to Section 63.18(e)(1) of the Commission’s rules and global resale authority pursuant to Section 63.18(e)(2) of the rules, 47 C.F.R. §§ 63.18(e)(1) and (e)(2). Pursuant to Section 63.12 of the Commission’s rules, 47 C.F.R. § 63.12, the instant application is subject to streamlined processing.

**Part I – Response to Questions 9 though 13.**

***Response to Question 9 – Streamlined Processing***

CN PR respectfully requests streamlined processing for the instant application pursuant to Section 63.12 of the Commission’s Rules. This Application qualifies for streamlined processing since 1) CN PR is not affiliated with any dominant foreign or US carrier, and 2) any CN PR affiliated foreign carrier qualifies for presumption of non-dominance pursuant to Section 63.10(a)(3). Please see information about the lack of market power of the affiliated foreign carriers in Part II of this Attachment. The information thereby provided supports the presumption of non-dominance stated in Section 63.10 (a)(3) of the Commission’s rules.

***Response to Question 11 – Foreign Carrier Affiliation Certification***

***Certifications under Section 63.18(i)***

CN PR hereby certifies that it **is not a foreign carrier** (i.e., “any entity that is authorized within a foreign country to engage in the provision of international telecommunications services offered to the public in that country”). However, **CN PR is affiliated with non-dominant foreign carriers**. Please see the list of affiliated non-dominant carriers and details about the nature of affiliation in Part II of this Attachment.

Please note that additional information required by Section 63.18(i) and Section 63.18(k) is provided in Part II of this Attachment.

***Response to Question 12 – Certification regarding provision of services to  
destination countries where there is an affiliated  
carrier***

***Certifications under Section 63.18 (j)***

CN PR certifies that it seeks to provide international telecommunications services to destination countries for which an entity that controls and owns more than 25% of CN PR also controls a foreign carrier in those countries. (CN PR falls under the fact pattern of Section 63.18(j)(3)). The foreign affiliated carriers and corresponding destination countries are:

<b>Affiliated non-dominant foreign carrier: *</b>	<b>Destination Country:</b>
Caribbean Crossings Ltd. <sup>1</sup>	The Bahamas
Cable Bahamas, Ltd. <sup>2</sup>	The Bahamas
Columbus Networks de Colombia Limitada	Colombia
Columbus Networks Dominicana C. por A	Dominican Republic
Caribbean Crossings (D.R.) Ltd., S.A.	Dominican Republic
Columbus Networks Nicaragua y Compañía Limitada	Nicaragua
Columbus Networks Centroamerica, S. de R.L.	El Salvador
Columbus Networks Curacao N.V.	Curaçao, Netherlands Antilles
Columbus Networks Venezuela, S.A.	Venezuela
Columbus Networks de Panamá, S. de R.L.	Panama
Optynex Telecom, S.A.	Panama
Columbus Networks Servicios De Panama, S.A.	Panama
FibraLink Jamaica Ltd.	Jamaica
Columbus Communications Jamaica Limited	Jamaica
Columbus Communications Trinidad Limited	Trinidad & Tobago
Columbus Networks International (Trinidad) Ltd.	Trinidad & Tobago
Columbus Networks, Ltd.	Turks & Caicos Islands

\* For clarification purposes, there are affiliates providing information services (VOIP) in the countries of Jamaica, Trinidad and Grenada.

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<sup>1</sup> Caribbean Crossings Ltd. (“CCL”) filed an application for transfer of control pursuant to the Submarine Cable Landing Licensing Act and Section 214 of the Communications Act of 1934, as amended. CCL seeks Commission approval for the transfer of control of the submarine cable license held by it and the international section 214 authorization held by Trinity, a wholly-held subsidiary of CCL, from the current controlling shareholder of Cable Bahamas, Ltd. (“CBL”) to the other shareholders of CBL. *See DA 09-1856, released August 25, 2009, IB Docket No. 09-149.*

<sup>2</sup> Id.

Please see information in support of the lack of market power of affiliated carriers in the named countries in Part II of this Attachment. Part II of this Attachment also provides the information required by Section 63.18(k) of the Commission's rules.

***Response to Question 13 – Certification regarding provision of services to destination countries where there is any other type of affiliation with a foreign carrier.***

CN PR is not affiliated with a foreign carrier in any destination country other than those listed in Response to Question 12 above.

CN PR seeks to provide international telecommunications to all destination countries (all international points), except for those countries in the Commission's Exclusion List for International 214 Authorization, namely Cuba as of today. However, CN PR certifies that it does not have affiliation with any other foreign carriers or in any other destination country different from those listed in Response to Question 12 above.

In the spirit of providing the Commission with as much information as possible regarding the activities of the Applicant and its affiliated companies, CN PR states that its parent corporation Columbus Networks, Ltd. (please see ownership diagram in Attachment 2) has subsidiaries in Mexico, Guatemala, Honduras, and Costa Rica that might apply in the future for licenses or authorizations to provide telecommunications services and eventually could become affiliated carriers.

CN PR and other companies under the common control and/or ownership of Columbus International Inc. (the ultimate parent corporation) maintain commercial relationships with foreign entities that might qualify as foreign carriers. However, those commercial relationships do not grant CN PR or any entity part of the Columbus Group any controlling interest, directorate or official position, or equity interest of any sort; therefore those commercial relationships do not amount to "affiliation" as defined by Section 63.09(e) of the Commission's rules.

***Other Certifications Required:***

***Information required under Section 63.18(l)***

Applicant proposes to resell international switched services of unaffiliated U.S. carriers for the purpose of providing international telecommunications services to all countries covered by this Application. Since those countries include destinations countries where CN PR is affiliated with a foreign carrier (countries listed in Response to Question 12), CN PR in Part II of this Attachment provides information and evidence in satisfaction of Section 63.10(a)(3) of the Commission's rules.

***Information required under Section 63.18(m)***

Please find information and evidence to demonstrate that CN PR qualifies to be regulated as a non-dominant carrier in Part II of this Attachment.

***Certification required under Section 63.18(n)***

CN PR 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.

***Certification required under Section 63.18(o)***

Neither the Applicant nor any other party in this Application is or has been subject to forfeiture of property or denial of federal benefits by federal and/or state courts under authority granted by the Anti-Drug Abuse Act of 1998. (See 21 U.S.C. §853(a) and §862.)

**PART II – Information and evidence of lack of market power to support the presumption of non-dominance of affiliated foreign carriers.**

***The following information is provided to satisfy or supplement information required by Section 63.10(a)(3), 63.18(j), 63.18(l), 63.18(k)(2), and 63.18(m) of the Commission’s rules.***

***A. General Statement & Background:***

CN PR is a subsidiary of Columbus International Inc. (please see details in Attachment 2), which is the parent corporation of various holding companies and telecommunications network operators and service providers in the United States, Caribbean, and Latin American countries. The companies under common control and/or ownership of Columbus International Inc. will be referred to as “**the Columbus Group.**”

The Columbus Group aims to become an alternative provider of telecommunication services in the Caribbean basin and endeavors to gain market share in certain countries within or neighboring the Caribbean basin. The Columbus Group entities, foreign affiliates of CN PR, lack sufficient market power on the corresponding countries where they operate to affect competition adversely in the United States. The Columbus Group companies have been able to secure telecommunication licenses and are new entrants competing or planning to compete with the corresponding incumbents, primarily providing bulk transmission capacity through leased circuits and/or indefeasible rights of use (IRUs) in submarine fiber optic cable systems co-owned and/or operated by the Columbus Group. There is a Columbus Group entity in Trinidad, Jamaica,

and Grenada doing business as “Flow”, each providing Internet, VOIP and video (“triple play”) on cable television systems.

The liberalization processes that have allowed the Columbus Group entities to secure the licenses in the various countries specified below also allow other entrants or competitors to apply for and obtain similar authorizations and under equal conditions to those applicable to the Columbus Group. The Columbus Group entities have not enjoyed any type of privilege or special concession, and all procedural safeguards that applied to the Columbus Group are and would be applicable to any other carrier aiming to provide similar services.

The Columbus Group, through its subsidiary Columbus Networks, Ltd., is a member of the consortium that owns the submarine fiber optic cable system ARCOS-1. Columbus Networks, Ltd., through its subsidiaries ARCOS-1 USA, Inc. and A SUR NET, Inc., owns and controls the landing station of the ARCOS-1 system in the continental territory of the United States and is also the network operator responsible for maintaining the system. As referenced hereunder, Columbus subsidiaries are also the landing parties in Guatemala and Nicaragua. Other co-owners of ARCOS-1 include Alestra, S. de R.L. de C.V. (“**ALESTRA**”), AT&T Corp. (“**AT&T**”), Avantel Infraestructura, S. de R.L. de C.V. (“**AVANTEL**”), Bahamas Telecommunications Company Ltd. (“**BTC**”), Belize Telemedia Limited (“**BTL**”), Compañía Dominicana de Teléfonos, C.A. (“**CODETEL**”), Empresa Nicaragüenses de Telecomunicaciones, S.A. (“**ENITEL**”), Empresa Hondureña de Telecomunicaciones (“**HONDUTEL**”), Instituto Costarricense (“**ICE**”), Internexa, S.A. E.S.P. (“**INTERNEXA**”), Global Crossings Americas Solutions, Inc. (“**GX AMERICAS**”), Verizon Business, Inc. (“**VERIZON**”), Orbinet Overseas Ltd. (“**ORBINET**”), Radiográfica Costarricense, S.A. (“**RACSA**”) Tricom USA, Inc. (“**TRICOM USA**”), Telepuerto San Isidro S.A. (“**TRICOM DR**”), United Telecommunications Services (“**UTS**”), Compañía Anónima Nacional Teléfonos de Venezuela (“**CANTV**”), Prepa Net International (“**PREPANET**”), most of which are landing parties, among other entities (i.e., Cable & Wireless Panama and Cable & Wireless Turks & Caicos Islands), in their respective countries and therefore control the corresponding access points or landing stations.

The Columbus Group also has ownership interests in the Bahamas Internet Cable System linking the Bahamas and the United States, which is owned and operated by Caribbean Crossings, Ltd., a subsidiary of Cable Bahamas, Ltd.<sup>3</sup> The Columbus Group owns a cable system between Jamaica and the Dominican Republic known as “FibraLink” and a cable system between Curacao, Bonaire and Trinidad known as “EC Link”, and a cable system between Florida, Jamaica and Colombia known as “CFX-1”.

The Columbus Group recently licensed and built CFX-1, a submarine fiber optic cable system interconnecting Colombia, Jamaica and the United States. CFX-1 is entirely owned and operated on a non-common carrier basis by Columbus Networks USA, Inc., a subsidiary entirely owned by Columbus International Inc. See File SCL-LIC-20070516-00008. The three countries linked by CFX-1 are also served by other international telecommunications facilities offering bulk

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<sup>3</sup> See footnote 1 above referring to a pending divestiture of Columbus’ interests in Caribbean Crossings, Ltd. and Cable Bahamas, Ltd.

capacity to carrier and users in those three countries, as it is explained in great detail later in this Attachment.

The Columbus Group's primary product is transmission capacity in countries that just completed or are in the process of completing liberalizing initiatives of their telecommunication markets except for Jamaica, Trinidad and Grenada where the Flow entities provide Internet, VOIP and video ("triple play") over cable television systems. Those countries are also served by other similar international submarine fiber optic cable systems. In all countries where the Columbus Group has presence, the dominant market power of the incumbent compared with that of new entrants is evident and well known. However, there are no up-to-date market surveys available or known to the Applicant as to determine the market share of the Applicant's foreign affiliated carriers in the sub-segments in which they compete. Any reference made in this Attachment to the market participation of the most important carriers in each destination country is with respect to international switched services (international telephony), a service that none of the CN PR's affiliated carriers provide.

No entity part of the Columbus Group is a dominant carrier in the countries where they offer services. No entity that is a part of the Columbus Group has ever held a monopolistic position in any market whatsoever, or has been affiliated with a monopolistic service provider. In consequence, none of the foreign carriers affiliated with CN PR and listed below is a dominant carrier and thus qualifies for a presumption of non-dominance under Section 63.10(a)(3) of the Commission's rules.

***B. List of foreign affiliated carriers, with expression of the corresponding destination countries where they operate or aim to operate, and information in support of their lack of market power:***

CN PR hereby certifies that it is affiliated with non-dominant foreign carriers according to the definition in Section 63.09(e), since an entity that controls CN PR directly or indirectly owns 25% or more of the foreign carrier stock in the following countries: The Bahamas,<sup>4</sup> Colombia, the Dominican Republic, Nicaragua, El Salvador, Curaçao in the Netherlands Antilles, Venezuela, Panama, Jamaica, the Republic of Trinidad and Tobago, and Turks & Caicos Islands.

**1. Caribbean Crossings Ltd.**  
**Destination Country: The Bahamas**

Note Pending Divestiture: Caribbean Crossings Ltd. ("CCL") filed an application for transfer of control pursuant to the Submarine Cable Landing Licensing Act and Section 214 of the Communications Act of 1934, as amended. CCL seeks the Commission's approval for the transfer of control of its submarine cable license and the international

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<sup>4</sup> *Id.*

Section 214 authorization granted to Trinity, a wholly owned subsidiary of CCL, from Columbus Communications, Ltd. (the current controlling shareholder of Cable Bahamas, Ltd. (“**CBL**”)) to the remaining shareholders. As per the Share Purchase Agreement by and among Cable Bahamas and Columbus and Columbus Communications Inc. (“**CCI**”) the current controlling party (a Columbus Group business entity) has agreed to sell to Cable Bahamas and Cable Bahamas has agreed to purchase, 100% of the shares in Cable Bahamas. See Attachment CCL Narrative 050 filed with the Commission as part of the Application for Transfer of Control and available at file No. SCL-T/C-20090506-00009. See also FCC Public Notice DA 09-1856, released on August 25, 2009, IB Docket No. 09-149.

Immediate shareholder: Cable Bahamas, Ltd.

Percentage Held: 100%

Citizenship: The Bahamas

Principal Business: Operates the Bahamas Internet Cable System (“Bahamas Internet”) extending between the United States and the Bahamas operated on a non-common carrier basis. Caribbean Crossings Ltd. offers bulk capacity to a specific class of eligible users, including common carriers, on an original ownership, infeasible right of use (IRU), or lease of capacity basis.

CN PR is affiliated with Caribbean Crossings Ltd. (“Caribbean Crossings”), which owns and controls a submarine fiber optic cable system with cable landing stations in The Bahamas and the United States, and for that reason is deemed a “foreign carrier” under Section 1.767(a)(8) of the Commission’s Rules. Caribbean Crossings was granted a Cable Landing License on June 19, 2000.<sup>5</sup> Caribbean Crossings also holds authority issued by The Bahamas Public Utilities Commission to lease capacity of its system and to offer telecommunications services to other authorized carriers.

Caribbean Crossings only offers bulk transmission capacity to a specific class of eligible users, meaning licensed international carriers by the Bahamian government and users of private data circuits. In The Bahamas, the only telecommunications company licensed to originate voice traffic is Bahamas Telecommunications Company Ltd. (“**BTC**”), formerly known as The Bahamas Telecommunications Corporation (BATELCO) and a small voice provider, Systems Resource Group, and therefore the range of customers served or that might be served by Caribbean Crossings is reduced to Internet Service Providers, private network users, and the incumbent, BTC. The incumbent in the Bahamas has a clear dominant position, which is consistent with the telecommunications legal and regulatory framework limiting competition in the country.

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<sup>5</sup> See Cable Landing License granted to CARIBBEAN CROSSINGS LTD under the Cable Landing License Act and Executive Order No. 10530, for authority to land and operate a private fiber optic submarine cable system to be called the Bahamas Internet Cable System. Action by: Chief, Telecommunications Division. Adopted: 06/19/2000 by ORDER (DA No. 00-1349).

There are other operational non-common carrier systems linking the U.S. and the Bahamas including the Bahamas I, Bahamas II, and ARCOS-1. With respect to these other cable systems, the incumbent, BTC, is the landing party and thus controls the access point at the Bahamas landing stations.<sup>6</sup> BTC has been identified by the Commission as the only entity with presumptive market power in the Bahamas.<sup>7</sup>

**2. Cable Bahamas, Ltd.**

**Destination Country: The Bahamas**

Note Pending Divestiture: Caribbean Crossings Ltd. (“CCL”) filed an application for transfer of control pursuant to the Submarine Cable Landing Licensing Act and Section 214 of the Communications Act of 1934, as amended. CCL seeks the Commission’s approval for the transfer of control of its submarine cable license and the international Section 214 authorization granted to Trinity, a wholly owned subsidiary of CCL, from Columbus Communications, Ltd. (the current controlling shareholder of Cable Bahamas, Ltd. (“CBL”)) to the remaining shareholders. As per the Share Purchase Agreement by and among Cable Bahamas and Columbus and Columbus Communications Inc. (“CCI”), the current controlling party (a Columbus Group business entity) has agreed to sell to Cable Bahamas and Cable Bahamas has agreed to purchase, 100% of the shares in Cable Bahamas. See Attachment CCL Narrative 050 filed with the Commission as part of the Application for Transfer of Control and available at file No. SCL-T/C-20090506-00009. See also FCC Public Notice DA 09-1856, released on August 25, 2009, IB Docket No. 09-149.

Immediate shareholder: Columbus Communications Ltd. owns 30%. Twenty percent is owned by the Government of the Commonwealth of the Bahamas as a beneficial owner, with nominee Bahamas Electricity Corp. responsible for 10% of Cable Bahamas shares and nominee Bahamas Telecommunications Corp. responsible

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<sup>6</sup> “In 1972, BATELCO in a joint venture with AT&T established the Bahamas I Submarine Cable between New Providence and West Palm Beach with Eight Mile Rock Grand Bahamas as a landing point. Again in 1997, BaTelCo in a joint venture with AT&T established the Bahamas II, a submarine cable with landing points in Vero Beach Florida, Eight Mile Rock Grand Bahamas and New Providence. In 2001, BTC was a founding member of the ARCOS cable, which has three landing points in The Bahamas.” For additional information, please see the transcript of the Remarks By Honorable Bradley B. Roberts, MP Minister of Works and Utilities at the Atlantic Cable Maintenance & Repair Agreement (ACMA) Conference, Monday, April 24, 2006. Available at: <http://64.233.161.104/search?q=cache:sKvtsTdRwEoJ:www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/MPWO--Welcome--ACMA%2B%2BCONFERENCE!Opendocument+%22Bahamas+II%22+Batelco&hl=en&gl=us&ct=clnk&cd=1>

<sup>7</sup> See *The International Bureau Revises and Reissues the Commission’s List of Foreign Telecommunications Carriers that Are Presumed to Possess Market Power in Foreign Telecommunications Markets, DA 07-233, (Document Released on January 26, 2007)* (Hereinafter referred to as “FCC Market Dominance Report”).

for the other 10%. The remaining shares of Cable Bahamas are publicly traded.

Percentage Held: 30%

Citizenship: The Bahamas

Principal Business: Non-dominant carrier licensed by The Bahamas Public Utilities Commission to lease capacity on the Caribbean Crossings System and to offer public Internet services to end users. As previously mentioned, Cable Bahamas holds 100% of the capital stock of Caribbean Crossings, Ltd. (details above), a non-dominant carrier licensed to provide telecommunications services in The Bahamas. Caribbean Crossings also holds authority issued by The Bahamas Public Utilities Commission, to lease capacity on its system, and to offer telecommunications services to other authorized carriers.

Please see support information on the lack of market power of Caribbean Crossings above (Part II, Literal B, Numeral 1), which is pertinent to the assessment of non-dominance of Cable Bahamas, Ltd.

Although The Bahamas is not a member of the World Trade Organization (WTO), it currently has observer status and has a pending application for full membership status<sup>8</sup> However, Cable Bahamas, Ltd. and Caribbean Crossings do not have any significant market power in The Bahamas. The incumbent carrier, BTC, has been identified by the Commission as the only entity with presumptive market power in The Bahamas,<sup>9</sup> and as new entrants, Cable Bahamas, Ltd. and Caribbean Crossings do not possess any trappings of market power in a country where the state-owned incumbent is still heavily protected by the telecommunications regulations.

### **3. Columbus Networks de Colombia Limitada** **Destination Country: Colombia.**

Immediate shareholder holder: Columbus Networks, Ltd. (“CNL”)

Percentage Held: 99%

Citizenship: Colombia

Principal Business: Non-dominant carrier licensed by the Colombian Ministry of Communications to provide domestic and international carrier services in Colombia.<sup>10</sup> The company mainly provides bulk

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<sup>8</sup> See, [http://www.wto.org/english/thewto\\_e/acc\\_e/a1\\_bahamas\\_e.htm](http://www.wto.org/english/thewto_e/acc_e/a1_bahamas_e.htm)).

<sup>9</sup> See *FCC Market Dominance Report* at footnote 7 above.

<sup>10</sup> Carrier License granted by Resolution N° 001744 and extended by Resolution N° 000969 dated June 4, 2004. Licensee is authorized to provide carrier services with national connection, and to install telecommunications

transmission capacity in the ARCOS-1, CFX-1, and MAYA subsea cable systems and IP/data services.

This affiliated foreign carrier does not have any significant market power in international long distance services in Colombia. The incumbent, Empresa Nacional de Telecomunicaciones (“**TELECOM**”), has been identified by the Commission as the only entity with presumptive market power in Colombia.<sup>11</sup> In 2003, the incumbent was liquidated and its assets transferred to a new entity, Colombia Telecomunicaciones (“**COLTEL**”), which maintained the service trademark “TELECOM,” but recently the Spanish operator Telefónica purchased 50% of its shares and took control of the most important service providers in Colombia. A recently published report on sub-segments of the telecommunication market prepared by the Colombian regulator (Comisión de Regulación de Telecomunicaciones (“**CRT**”)) revealed that ETB, UNE and COLTEL are the most important providers of international long distance services with 23%, 34% and 43% of market participation respectively,<sup>12</sup> which indicates that “Telefónica-TELECOM” (formerly COLTEL and TELECOM) continues to be the entity with the highest market participation, although the market share of their competitors evidences an important level of competition in international telecommunications services. Columbus Networks de Colombia Limitada is not affiliated in any manner with any of these three carriers, and its services are limited to bulk transmission capacity on a non-discriminatory basis.

Colombia is served by other submarine fiber optic cable systems, besides ARCOS-1 and CFX-1, including TELECOM and MAYA 1 (both co-owned by Telefónica-TELECOM), PANAMERICANO, I. S. A., and SIEMENS). In addition, other systems have been authorized, such as the South Americas Crossing (“**SAC-1**”) System (by Global Crossings), South Americas -1 (“**SAm-1**”), ALCATEL-RACAL, and OCEANIC LTDA.<sup>13</sup> CN PR does not have any significant ownership rights in any of these other fiber optic cable systems.<sup>14</sup> Columbus Networks de Colombia Limitada is not the landing party of ARCOS-1 in Colombian territory. The landing stations and therefore access points to this system in Colombia are controlled and operated by Internexa, S.A. E.S.P. (“**INTERNEXA**”). Columbus Networks de Colombia Limitada, similarly to any other co-owner and assignee of capacity in the system, has to request interconnection and co-location services to use or sell capacity in the ARCOS -1 system. Columbus Networks de

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networks to provide the authorized services to end-users. The extension granted in 2004 authorizes Licensee to provide international carrier services (lease of international circuits).

<sup>11</sup> See *FCC Market Dominance Report* at footnote 7.

<sup>12</sup> See *Informe Sectorial de Telecomunicaciones, Comisión de Regulación de Telecomunicaciones*, Bogotá D.C., Julio 2006 - No. 7. Available at: [http://www.crt.gov.co/Documentos/BibliotecaVirtual/InformeSectorial/Informe\\_sectorial\\_7.pdf](http://www.crt.gov.co/Documentos/BibliotecaVirtual/InformeSectorial/Informe_sectorial_7.pdf).

<sup>13</sup> See list of authorized submarine cable systems by the Maritime Authority of Colombia available at: <http://www.dimar.mil.co/vbecontent/newsdetail.asp?id=1304&idcompany=37>

<sup>14</sup> The Columbus Group owns a minority interest (6.96%) in the MAYA System.

Colombia Limitada is a landing party that owns and operates the landing station for the CFX-1 submarine cable system. CFX-1 is a newly built subsea cable system that only interconnects to the United States, Colombia and Jamaica.

Furthermore, Colombia is a Member of the WTO since April 30, 1995. Colombia has also been recognized by the WTO as a committed country to allow foreign-owned companies to provide facility-based international services.<sup>15</sup> Moreover, Colombia and the United States have finalized negotiations of a bilateral Free Trade Agreement that promises to elevate the protection for American investments and trade with and within Colombia.<sup>16</sup>

**4. Columbus Networks Dominicana C. por A.**  
**Destination Country: Dominican Republic**

Immediate shareholder holder: Columbus Networks, Ltd.  
Percentages Held: 99.494%  
Citizenship: Dominican Republic  
Principal Business: Non-dominant carrier licensed by Instituto Dominicano de las Telecomunicaciones (“**INDOTEL**”) to provide international carrier services through the ARCOS-1 system in the Dominican Republic.

This affiliated foreign carrier does not have market power in the Dominican Republic. The only service provided by this company is bulk transmission capacity in the ARCOS-1 system that lands in the Dominican Republic. The dominant seller of international leased circuits and international long distance services in the Dominican Republic is Compañía Dominicana de Teléfonos, C.A. (“**CODETEL**”),<sup>17</sup> which owns and controls the landing station and terrestrial segment of the ARCOS-1 cable system in the territory of the Dominican Republic. CODETEL is also a member of the consortium that owns the system ARCOS-1 and dominates all segments of the telecommunications market in the Dominican Republic.

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<sup>15</sup> See [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-01-117A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-01-117A1.pdf)

<sup>16</sup> The United States-Colombia Trade Protection Agreement, sometimes called the Colombia Free Trade Agreement or FTA, was signed November 22, 2006. Colombia’s Congress approved the Agreement and a Protocol of Amendment in 2007. Colombia’s Constitutional Court completed its review in July 2008, and concluded that the Agreement conforms to Colombia’s Constitution. The Agreement is pending US Congressional approval. See <http://www.ustr.gov/trade-agreements/free-trade-agreements/colombia-fta>

<sup>17</sup> On April 3, 2006, Verizon Communications, Inc. reached a definitive agreements to sell its interests in its Caribbean and Latin American telecommunications operations in three separate transactions to América Móvil, S.A. de C.V. (América Móvil), a wireless service provider throughout Latin America, and a company owned jointly by Teléfonos de México, S.A. de C.V. (Telmex) and América Móvil. In those transactions, Verizon Communications agreed to sell its 100% interest in Verizon Dominicana to América Móvil. See additional details at: [http://investor.verizon.com/sec/sec\\_frame.aspx?FilingID=4403741](http://investor.verizon.com/sec/sec_frame.aspx?FilingID=4403741)

Another important telecommunications service provider in the Dominican Republic is Trilogy Dominicana (Viva) (“**Trilogy**”) (formerly Centennial Republica Dominicana and All America Cable & Radio (“**AACR**”).<sup>18</sup> Trilogy provides long distance services and offers international transmission capacity, PCS mobile, broadband Internet and data services over its CDMA network and launched a GSM network. AACR was the company that participated in the construction of the first submarine cable system that landed in the country. In addition, in 1997 the system Antillas-1 was placed into service to connect the Dominican Republic with Puerto Rico. The Dominican Republic is also served by the TCS-Trans Caribbean System built by AT&T to connect the United States Virgin Islands, the Dominican Republic, Colombia and Jamaica, although the system has been under decommission plans for several years. The Dominican Republic not only has a liberalized market, but also alternative and open international telecommunications infrastructure.

The incumbent carrier, CODETEL (formerly known as Verizon Dominicana and a unit of America Movil), is the international carrier with the highest market share and has been identified by the Commission as the only entity with presumptive market power in the Dominican Republic.<sup>19</sup> CN PR’s affiliated company in the Dominican Republic does not possess any significant market power. In addition, The Dominican Republic has been a member of the WTO since March 9, 1995 and is a signatory to the U.S. – Central America-Dominican Republic Free Trade Agreement (DR-CAFTA), which among other benefits ensures access to and use of public telecommunications networks and services on a non-discriminatory basis. This allows U.S. businesses the ability to compete on a level playing field, and includes the implicit agreement of its signatories to join the World Trade Organization’s Information Technology Agreement, which guarantees that nearly all information technology products will be permitted duty-free entry among the participating parties.<sup>20</sup>

**5. Caribbean Crossings (D.R.) Limited, S.A.**  
**Destination Country: Dominican Republic.**

Immediate shareholder holder: Fibralink Barbados (Holdings) Limited  
Percentage Held: 100%

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<sup>18</sup> Trilogy acquired established network operator Centennial Dominicana in March 2007 and since then has restructured the operations, overlaid the legacy CDMA network with GSM technology, and expanded its coverage footprint. In January 2000, Centennial Corp. purchased 70% of All América Cable & Radio, Inc., sole owner of All América Cable and Radio Dominican Republic (AACR), a company authorized in the Dominican Republic to provide all telecommunications services. See brief corporate history of Trilogy Dominicana at <<http://www.bnaamericas.com/company-profiles/en/All America Cable& Radio Inc.-Trilogy Dominicana, Viva>>

<sup>19</sup> See *FCC Market Dominance Report* at footnote 7.

<sup>20</sup> See some of the benefits of DR-CAFTA for the telecommunication sector as highlighted by the Telecommunications Industry Association (TIA), available at: [http://www.tiaonline.org/policy/initiatives/trade/documents/US-DR-CAFTABenefitstoTelecom\\_000.pdf](http://www.tiaonline.org/policy/initiatives/trade/documents/US-DR-CAFTABenefitstoTelecom_000.pdf)

Citizenship: Dominican Republic  
Principal Business: Non-dominant carrier licensed by Instituto Dominicano de las Telecomunicaciones (“**INDOTEL**”) to provide carrier services including international carrier services. Caribbean Crossings (D.R.) Limited, S.A. (“**Caribbean Crossings DR**”) is also licensed to land a submarine fiber optic cable linking Jamaica and the Dominican Republic.

This affiliated foreign carrier was licensed to provide carrier services by INDOTEL on December 21, 2005 and its operation began in 2006. The company aims to offer bulk telecommunications capacity in the “FibraLink” subsea cable system connecting Jamaica and the Dominican Republic. This affiliated foreign carrier does not have any significant market power. As previously mentioned, the incumbent carrier, CODETEL, is the international carrier with the highest market share and has been identified by the Commission as the only entity with presumptive market power in the Dominican Republic. Moreover, the Dominican Republic has been a member of the WTO since March 9, 1995 and is a signatory to DR-CAFTA.

**6. Columbus Networks Nicaragua y Compañía Limitada (“CN Nicaragua”)**  
**Destination Country: Nicaragua.**

Immediate shareholder holder: Columbus Networks, Ltd.  
Percentage Held: 99%  
Citizenship: Nicaragua  
Principal Business: Non-dominant carrier licensed by Instituto Nicaragüense de Telecomunicaciones y Correos (“**TELCOR**”) to provide domestic and international carrier services in Nicaragua.<sup>21</sup> This entity also owns the landing station and wet segment of the submarine fiber optic cable system ARCOS-1 in Nicaraguan territorial waters and serves as the ARCOS-1 landing party. Services provided are mostly bulk transmission capacity in the system ARCOS-1.

This affiliated foreign carrier does not have market power in Nicaragua. The incumbent carrier, Empresa Nicaraguense de Telecomunicaciones (“**ENITEL**”), a subsidiary of the Mexican telecommunications operator, America Movil, is the provider of international telecommunications services with the highest market share and has been identified by the Commission as the only entity with presumptive market power in Nicaragua.<sup>22</sup> ENITEL enjoyed an exclusivity period to provide domestic and international long distance

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<sup>21</sup> Carrier services license issued by TELCOR on December 13, 2001, LIC-2001-SP-002. License to commercialize carrier services issued by TELCOR on December 13, 2001, LIC-2001-CSP-001 and Registration for providing Internet Access Services issued by TELCOR on March 30, 2004, REG-2004-AI-001.

<sup>22</sup> See *FCC Market Dominance Report* at footnote 7.

services until April 2005. The first competitors to enter the international long distance market were mobile telephony operators.

CN PR's affiliated carrier in Nicaragua does not possess any significant market power. CN Nicaragua mainly sells bulk transmission capacity in the ARCOS-1 system and does not provide any telecommunications service directly to the public in that country. Although the ENITEL is not the landing party for the system ARCOS-1 in Nicaragua, the company has an original ownership interest with the right to use a certain percentage of transmission capacity in the system ARCOS-1. In addition, as per an agreement with CN Nicaragua, ENITEL also provides operation and maintenance services to the access points of ARCOS-1 in this country. Other members of the consortium that own ARCOS-1 with originally assigned transmission capacity are also able to use or re-sell transmission capacity on this system.

Given the notorious dominance of ENITEL in international telecommunications services and the fact that ENITEL has an ownership interest in the ARCOS-1 system as an original member of the consortium that owns the system, coupled with its ability to acquire additional capacity on the system if needed, it is possible to presume that ENITEL is the only entity with a significant market share that might afford the company sufficient market power to remain dominant. Nonetheless, TELCOR, the telecommunications regulator, has not released any recent statistics about the market participation of new entrants after the liberalization of this segment in 2005.

Nicaragua has been a member of the WTO since September 3, 1995 and maintains its commitment to allow foreign investment and establish fair competition rules. Nicaragua is also a signatory to DR-CAFTA, which includes additional safeguards for new entrants in the telecommunication sector. For instance, TELCOR prepared a cost reference model to facilitate the establishment of interconnection fees based on costs.<sup>23</sup>

## **7. Columbus Networks Centroamérica, S. de R.L.**

**Destination Country: El Salvador**

Immediate shareholder holder: Columbus Networks, Ltd.  
Percentage Held: 99%  
Citizenship: Panama with authorization to do business in El Salvador.  
Principal Business: Non-dominant carrier registered before the Superintendencia General de Electricidad y Telecomunicaciones (“**SIGET**”) to resell telecommunications services,<sup>24</sup> which also allows this entity to

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<sup>23</sup> See TELCOR's press release at: [http://www.telcor.gob.ni/Noticias.asp?Accion=VerNoticia&NOT\\_ID=160](http://www.telcor.gob.ni/Noticias.asp?Accion=VerNoticia&NOT_ID=160)

<sup>24</sup> Registration as reseller of telecommunication services before the SIGET, inscription No. 5002-T1-806/2004 dated March 19, 2004.

lease transmission capacity, provide data circuits, offer Internet and value added services.

Columbus Networks Centroamérica, S. de R.L. (“**CN Central America**”) has a branch authorized to do business in El Salvador and is registered before the Salvadorian regulator, SIGET, to resell telecommunication services. The provision of transmission capacity, Internet and value added services (“information services”) on third party or self-provisioned facilities do not require a license, authorization, or concession. Therefore the aforementioned registration is sufficient to engage in the referenced commercial activities.

Nonetheless, this company does not own any telecommunications infrastructure in El Salvador and mostly resells capacity and Internet backhaul services with a very small market participation in these two sub-segments. The provision of long distance telephony (domestic and international) requires a license, which has not been granted to this subsidiary.<sup>25</sup> Although the provision of international long distance services in El Salvador has been liberalized and there are more than ten (10) licensed carriers authorized to provide these services,<sup>26</sup> the leading provider continues to be Compañía de Telecomunicaciones de El Salvador, S.A. de C.V.,<sup>27</sup> which is also listed by the Commission as the only carrier with presumptive market power in this destination country.<sup>28</sup>

El Salvador has been a member of the WTO since May 7, 1995. El Salvador is also a signatory to DR-CAFTA, which includes additional safeguards for new entrants in the telecommunication sector.<sup>29</sup>

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<sup>25</sup> The list of licensees or concessionaries in El Salvador, authorized to provide telephony and/or long distance services, is available at:  
[http://www.siget.gob.sv/documentos/telecomunicaciones/recursos\\_de\\_telecomunicaciones/concesionarios\\_del\\_servicio\\_publico\\_de\\_telefonia\\_operando0.pdf](http://www.siget.gob.sv/documentos/telecomunicaciones/recursos_de_telecomunicaciones/concesionarios_del_servicio_publico_de_telefonia_operando0.pdf)

<sup>26</sup> See the number of operators of long distance services in El Salvador by 2005 in the report published by the consulting firm Telecommunications Management Group, Inc. available at:  
[http://www.mincomunicaciones.gov.co/mincom/src/user\\_docs/Archivos/Sectorial/Largadistancia.pdf](http://www.mincomunicaciones.gov.co/mincom/src/user_docs/Archivos/Sectorial/Largadistancia.pdf)

<sup>27</sup> See company profile of Compañía de Telecomunicaciones de El Salvador published by Fitch Ratings and available at: [http://www.fitchca.com/reporte\\_de\\_compania\\_de\\_telecom.html](http://www.fitchca.com/reporte_de_compania_de_telecom.html)

<sup>28</sup> See *FCC Market Dominance Report* at footnote 7.

<sup>29</sup> The United States Trade Commission remarked in a news letter issued to highlights trade facts with Central America the following:

“**Access to Services:** The Central American countries will accord substantial market access across their entire services regime, offering new access in sectors such as telecommunications, express delivery, computer and related services, tourism, energy, transport, construction and engineering, financial services, insurance, audio/visual and entertainment, professional, environmental, and other sectors. Central American countries have agreed to change “dealer protection regimes” and loosen restrictions that lock U.S. firms into exclusive or inefficient distributor arrangements.”

Available at: [http://www.ustr.gov/assets/Document\\_Library/Fact\\_Sheets/2004/asset\\_upload\\_file582\\_5688.pdf](http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2004/asset_upload_file582_5688.pdf)

**8. Columbus Networks Curacao, N.V.**  
**Destination Country: Curaçao, the Netherlands Antilles.**

Immediate shareholder holder: Columbus Networks, Ltd.  
Percentage Held: 100%  
Citizenship: Curaçao.  
Principal Business: Licensed to operate a submarine fiber optic cable facility and provide long distance services in Curaçao.

On September 29, 2006, the Minister of Transport of Traffic and Transport of the Netherlands Antilles granted a license to Columbus Networks Netherlands Antilles N.V. to land and construct a submarine fiber optic cable facility in Curaçao. The subsea fiber optic network is called EC Link and connects the countries of Curacao, Bonaire and Trinidad. On June 1, 2009, the Minister of Traffic and Transport of the Netherlands Antilles granted a concession to Columbus Networks Curacao, N.V. to operate a submarine fiber optic cable facility and to provide long distance services in Curacao. Columbus Networks Curacao, N.V. is the landing party to Columbus Networks Netherlands Antilles, N.V. that was authorized to land the EC Link cable in Curacao.

The ARCOS-1 system, in which the Columbus Group has ownership interests, has a landing point in Curaçao. The landing station of ARCOS-1 in Curaçao is owned and operated by United Telecommunications Services (“**UTS**”), which is also a member of the consortium that owns ARCOS-1. The Columbus Group sells bulk transmission capacity in the ARCOS-1 system, but does not offer co-location or interconnection to the system, which is offered by the gatekeeper of the system on the island, UTS. Columbus Networks Curacao, N.V. is authorized to sell bulk transmission capacity through EC Link.

Columbus Networks Curacao, N.V. recently commenced provision of competitive wholesale capacity in Curacao to authorized users. UTS prides itself on being the leading telecommunications carrier in Curaçao and the Netherlands Antilles.<sup>30</sup> It was formed in March 1999 by the merger of Antelecom N.V. and Setel N.V. in Curaçao.<sup>31</sup> UTS offers fixed telephony, long distance services, mobile telephony, dial-up, broadband and wireless Internet services to its residential and business customers. Antelecom N.V.

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<sup>30</sup> See company profile of UTS at: <http://www.uts.an/company/organization.htm>

“United Telecommunication Services is the leader in long distance and Internet services as well as in transaction-based services such as collect calling, lease lines, pre-paid cards and in mobile telephony in the Netherlands Antilles.”

<sup>31</sup> In 1996 the state owned 'Landsradio' was transformed into a corporation in preparation for its privatization. This new corporation was named Antelecom N.V and in 1999 the company started its integration or merging process with SETEL N.V. for which a parent holding company was formed, United Telecommunication Services (UTS).

continues being the UTS business entity offering international long distance services. KPN Telecom N.V. is also a major player in the telecommunication sector of the Netherlands Antilles (considered all together).<sup>32</sup> However, the Commission has identified Antelecom N.V., the UTS subsidiary, as the entity with presumptive market power in the Netherlands Antilles.<sup>33</sup>

In conclusion, no affiliated carrier of CN PR has any significant market participation or control of international telecommunication facilities in the Netherlands Antilles as to presume that it has market power. In addition, the Netherlands (Kingdom in Europe and the Netherlands Antilles) has been a WTO member since January 1, 1995.

**9. Columbus Networks Venezuela, S.A.**  
**Destination Country: Venezuela.**

Immediate shareholder holder: Columbus Networks, Ltd.  
Percentage Held: 99%  
Citizenship: Venezuela  
Principal Business: Non-dominant carrier licensed by Comisión Nacional de Telecomunicaciones (“CONATEL”) to install telecommunications networks and to provide transport services in Venezuela. This entity mostly provides bulk transmission capacity in the ARCOS-1 system.

This affiliated foreign carrier does not have any significant market power in Venezuela. The incumbent carrier, Compañía Anónima Nacional Teléfonos de Venezuela (“CANTV”), continues being the dominant provider of telecommunication services, except for mobile telephony. CANTV is the largest telecom carrier in Venezuela. It controls 82% of the fixed telephone market and 68% of the broadband market, which covers approximately 3.1 million fixed-network users, 5.2 million mobile users, and 300,000 broadband users.<sup>34</sup>

CANTV is the dominant carrier in all segments, except for mobile telephony, which is led by MOVISTAR, a subsidiary of Telefónica de España (44%).<sup>35</sup> CANTV is the entity with the highest market share in the international transmission capacity sub-segment

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<sup>32</sup> See <<http://www.answers.com/topic/vogd-kpn-n-v>. See also, *Cover Story--In-Depth Analysis of KPN's Blue Ocean Strategy*, Issue 24. Article by By Xiang Shaoxia, Xue Hua, and Xu Peng published online by Huawei Technologies. Available at: <http://www.huawei.com/publications/view.do?id=962&cid=1202&pid=61>

<sup>33</sup> See *The FCC Market Dominance Report* at footnote 7.

<sup>34</sup> See <http://www.huawei.com/publications/view.do?id=1879&cid=4262&pid=61> (2007)

<sup>35</sup> See *Estadísticas de Telecomunicaciones al cierre del III trimestre de 2006* available at [http://www.conatel.gov.ve/indicadores/Indicadores2006/Presentacion\\_III\\_TRIMESTRE\\_2006.pdf](http://www.conatel.gov.ve/indicadores/Indicadores2006/Presentacion_III_TRIMESTRE_2006.pdf)

(carrier to carrier services). CANTV has ownership interests in the following submarine cable systems landing in Venezuela: Américas I, Américas II, PANAMERICANO, and ARCOS-1.<sup>36</sup> In fact, the landing station of ARCOS-1 in Venezuelan territory is controlled and operated by CANTV. Therefore, Columbus Networks Venezuela, S.A. or its customers in most cases has to request interconnection, co-location and backhaul services to use or sell capacity in the system in similar conditions to any other member of the consortium and assignee of capacity in the system.

Venezuela is also served by other submarine cable systems in which the incumbent, CANTV, does not have participation, such as the South American Crossing (SAC-1) and PAC System (both operated by Global Crossing), and the 360Americas (operated by 360networks).

CANTV has been identified by the Commission as the only carrier with presumptive market power in Venezuela,<sup>37</sup> and appears to be a valid presumption for many years to come given the recent nationalization of the company by the current Venezuelan government. Nonetheless, during the past decade, sufficient competition was developed and telecommunication infrastructure built to support international telecommunication services, which could contribute to maintain this sub-segment open to private participation and free competition. In any case, the applicant, CN PR, is not affiliated in any manner with CANTV or with the Venezuelan government. It is important to highlight that Venezuela has been a member of the WTO since January 1, 1995.

**10. Columbus Networks de Panamá S. de R.L.<sup>38</sup>**  
**Destination Country: Panama.**

Immediate interest holder:	Columbus Networks, Ltd.
Percentage Held:	99%
Citizenship:	Panama
Principal Business:	Non-dominant carrier licensed to provide Internet and Data Services, including bulk international transmission capacity.

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<sup>36</sup> See additional details about CANTV's participation in fiber optic cable systems worldwide at <http://www.cantv.com.ve/seccion.asp?pid=1&sid=158>

<sup>37</sup> See *FCC Market Dominance Report* at footnote 7. See also, in the application proceeding for Section 214 Authority initiated by GTE Telecom, former controlling corporation of CANTV, the FCC discussed the market power of CANTV and its presumptive dominance. *Grant of Application for Authority Pursuant to Section 214 of the Communications Act of 1934, as amended, and Section 63.01 of the Commission's Rules and Regulations for International Resale Switched Service and Facilities-based Service to Various Countries*. ORDER, AUTHORIZATION AND CERTIFICATE, Adopted: September 16, 1996 GTE Telecom Incorporated -. ITC-95-443

<sup>38</sup> Note that Columbus Networks de Panamá, S. de R.L. is a result of a merger with Columbus Networks Comunicaciones de Panamá S.R.L. The surviving entity is Columbus Networks de Panamá, S. de R.L.

Columbus Networks de Panamá, S de R.L. is licensed to provide data and Internet services. The company is not licensed to provide international long distance services. The company offers transmission capacity in the ARCOS-1 submarine cable system, although it does not control the access point or the landing stations of the system in Panama. Co-location services for interconnection equipment are provided by the gatekeeper and dominant incumbent operator, Cable & Wireless Panama (“C&WP”). Despite competition in the international telecommunications services market in Panama, C&WP is still the leading provider of domestic and international long distance services.<sup>39</sup> The second company with an important market share appears to be CLAROCOM, followed by Telecarrier.<sup>40</sup>

C&WP is a company with mixed share capital structure. The Republic of Panama owns 49% of C&WP, Cable & Wireless Plc from the United Kingdom owns 49% of the shares and the company’s employees own the remaining 2%. The international service market was opened to competition in Panama only in 2003. Although many licenses have been issued to provide international long distance services since the liberalization, C&WP is still the dominant carrier.<sup>41</sup> The second company with an important market share appears to be CLAROCOM, followed by Telecarrier.<sup>42</sup> No statistics have been published by the regulator regarding the specific composition of the international service market after the liberalization.<sup>43</sup> The incumbent carrier, C&WP, has been identified by the Commission as the only entity with presumptive market power in Panama.<sup>44</sup>

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<sup>39</sup> See *Panama – Telecoms, Mobile, Broadband and Forecasts*, <http://www.budde.com.au/Research/Panama-Telecoms-Mobile-Broadband-and-Forecasts.html> In basic telephony, competition has been slower to develop and the incumbent, C&WP, still controls around 86% of the country’s fixed lines in service. Long distance services in Panama are competitive.

<sup>40</sup> “Forty-seven new licenses have been issued to new operators of ILD. This used to be the most profitable market segment, requiring a lower infrastructure investment... Most of the new players are relying on third party network infrastructure and carriers to transport voice traffic. Interconnection agreements, service level agreements and local loop availability are the most important issues being faced by new entrants in this segment, and the dominant operator is trying very hard not to facilitate the entry of new competitors. The market winner is CLAROCOM who is taking away a large chunk of the market from Cable & Wireless and making an alliance with TRICOM and Net2Phone with an as yet unclear status but with a huge quantity of traffic and customers, no data is yet available from Telecarrier or other challengers.” See Nils Petterson. *Panama - The New Digital Frontier*, The American Chamber of Commerce (AMCHAM) and Dell Inc., published by FENIX Panama (business consultants) and available at <http://www.fenixpanama.com/panama-internet-business.html> <<http://www.fenixpanama.com/panama-internet-business.html>>

<sup>41</sup> Christopher Hetherington, as President and General Manager for the Asociación Hispanoamericana de Centros de Investigación y Empresas de Telecomunicaciones (AHCJET), expressed in an interview that C&WP, despite the competition in the international telecommunications segment, was still the leading provider of domestic and international long distance services. See the full ext of the interview at <http://www.ahciet.net/actualidad/entrevistas/default.asp?idm=10006&id=10456&pg=1>

<sup>42</sup> See footnote 41 above and <http://www.fenixpanama.com/panama-internet-business.html>.

<sup>43</sup> Statistics are not published by ASEP regarding the composition of the international service market (i.e. which companies serve it and what their market share is), however, there are fairly recent statistics on telecommunications penetration generally in Panama. See [http://www.asep.gob.pa/telecom/n\\_estadisticas\\_telecom.asp](http://www.asep.gob.pa/telecom/n_estadisticas_telecom.asp)

As with respect to the international transmission facilities, Cable & Wireless Panama S.A. is the landing party for the submarine fiber optic cable system ARCOS-1 and consequently owns and controls the two landing stations of the system in Panamanian territory. In addition, Panama is served by other submarine cable systems in which the Columbus Group does not have any ownership interest except for a minority interest in MAYA 1, such as the Pan American Crossing cable system (PAC), Pan American, MAC, and MAYA 1. Panama, when compared to other Central American countries, enjoys one of the best international telecommunications infrastructures, which might help facilitate and foster market participation of new entrants and thus promote competition. Furthermore, Panama has also been a member of the WTO since September 6, 1997.

**11. Optynex Telecom, S.A.**

**Destination Country: Panama**

Immediate Shareholder:	<b>Columbus Networks de Panamá S. de R.L</b>
Percentage Held:	100%
Citizenship:	Panama
Principal Business:	Non-dominant carrier with a terrestrial fiber network licensed to provide data, Internet, and transport services.

Optynex Telecom, S.A. (“**Optynex**”) provides high speed Internet access and data services to businesses, other telecommunications providers, application services providers, and Internet Service Providers (“ISP”) in large commercial buildings and in business districts of major metropolitan areas such as throughout Panama City and Colon. Optynex is not licensed to provide international long distance services. The company provides transport services and interconnection services to other carriers.

Please see support information on the lack of market power of Optynex above in reference to Columbus Networks de Panama, S. de R.L. and the market dominated by C&WP, which is pertinent to the assessment of non-dominance of Optynex. Optynex does not have any significant market power in Panama and is clearly a non-dominant carrier in the Panamanian market.

**12. Columbus Networks Servicios de Panamá, S.A.**

**Destination Country: Panama**

Immediate Shareholder:	<b>Columbus Networks de Panamá S. de R.L</b>
Percentage Held:	100%
Citizenship:	Panama

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<sup>44</sup> See *FCC Market Dominance Report* at footnote 7.

Principal Business: Non-dominant carrier licensed to provide data, Internet, and telecommunications transport services.

Columbus Networks Servicios de Panamá, S.A. (“**CN Servicios**”) was recently constituted through a series of small acquisitions that included infrastructure and license holdings.<sup>45</sup> CN Servicios provides high speed Internet access, data services and leased circuits or telecommunications transport services to businesses, other telecommunications providers, application services providers, and Internet Service Providers (“ISP”) in large metropolitan areas of Panama. CN Servicios is not licensed to provide international long distance services.

Please see support information on the lack of market power of CN Servicios above in reference to Columbus Networks de Panama, S. de R.L. and the market dominated by C&WP, which is pertinent to the assessment of non-dominance of CN Servicios. Columbus Networks de Panama, S. de R.L., Optynex Telecom, S.A., and CN Servicios do not have any significant market power in Panama. The incumbent dominant carrier, C&WP, has been identified by the Commission as the only entity with presumptive market power in Panama<sup>46</sup> and as small newly structured service entrants, Columbus Networks de Panama, S. de R.L., Optynex and CN Servicios are clearly non-dominant carriers in the Panamanian market.

**13. FibrLink Jamaica Ltd.**  
**Destination Country: Jamaica**

Immediate Shareholder: FibrLink (Barbados) Holdings Limited  
Percentage Held: 100%  
Citizenship: Jamaica  
Principal Business: Non-dominant carrier recently licensed by the Office of Utilities Regulation for the country of Jamaica. FibrLink provides transmission capacity, private lines, IP services, and co-location services.

The liberalization process in Jamaica is ongoing and competition is not yet present in most segments. The Jamaican Telecommunications Act came into effect on March 1, 2000. This Act empowered the Office of Utilities Regulations (OUR) to regulate interconnection, including accessing Reference Interconnection Offers (RIOs) developed

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<sup>45</sup> Two SkyOnline Panamá entities were acquired by Columbus Networks de Panamá S. de R. L., one being Sol de Panamá International S.A., (company name subsequently changed to Columbus Networks Servicios Internacionales de Panamá, S.A.), the second being SkyOnline de Panamá, S.A., (company name changed to Columbus Network Servicios de Panama, S.A.) Both entities were merged effective January 2009 and the surviving entity after the merger is Columbus Networks Servicios de Panamá, S.A.

<sup>46</sup> See *FCC Market Dominance Report* at footnote 7 above.

by the incumbent and dominant carrier, Cable & Wireless Jamaica, Limited (“C&WJ”). In February 2001, Jamaica’s Office of Utilities Regulation (OUR) approved C&WJ’s first Reference Interconnection Offer (RIO).<sup>47</sup> The last phase (third phase) of the liberalization process was to open the international service segment to competition starting in 2003. Between 2003 and 2004, the OUR granted 68 licenses for International Carriers, but C&WJ continues to be the only carrier with market power in the country.<sup>48</sup> FibraLink was awarded a license in January 2005, which makes this affiliated foreign carrier one of the most recent licensees and newest entrants in the Jamaican market. The only segment led by a competitor of the incumbent C&WJ is mobile telephony, with DIGICEL possessing the largest market share.

FibraLink Jamaica Ltd. is a telecommunications company that owns and operates a sub-sea fiber optic network that links Jamaica with the Dominican Republic. The construction of this system, with four landing stations in Jamaica, was completed in early 2006. C&WJ operates a fiber ring around the island consisting of the Cayman Jamaica Fiber System (CJFS) and the South Coast Fiber System (SCFS). This fiber ring around the island has been supplemented by an enhanced digital microwave network allowing the necessary redundancy. The FibraLink submarine fiber optic system offers alternative access and transmission capability to Jamaica. The other submarine cable systems connecting Jamaica are the Cayman-Jamaica Fibre System installed in 1997, the Trans-Caribbean Cable System (TCS-1), one of the first submarine fiber optic cables in the region, which has been under plans of decommission for several years,<sup>49</sup> and the CFX-1 Cable Network recently landed in Jamaica under a cable landing authorization granted to FibraLink. The CFX-1 is a recently built subsea cable network connecting the United States, Jamaica and Colombia. In addition, the Office of Utilities Regulations granted on December 20, 2004, a cable-landing license to Trans-Caribbean Cable Company to land the Trans-Caribbean Cable Network (TCCN)<sup>50</sup> in Jamaica. On August 28, 2006 the parties involved in the project reached Phase 1 of the TCCN Agreement. The attendees to this round of negotiations included representatives of AT&T, C&W, CANTV, CONVERGENT, DIGICEL, JNAP, RELIANT, SETAR, TCCC, and UTS.<sup>51</sup> As

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<sup>47</sup> See “*Readiness for the Networked World: Jamaica Assessment*,” The Berkman Center for Internet & Society. Harvard School of Law. Research Publication No. 2002-015/2002. Available at: <http://cyber.law.harvard.edu/home/uploads/191/2002-01.pdf>

<sup>48</sup> See “*When an Ex-Monopoly Stays a Monopoly: The Jamaican Example*,” T SOJA & ASSOCIATES, INC., Volume 2, Issue 3 May/June. 2003. Available at <http://www.our.org.jm/PDF-FILES/CPT200303.pdf>

<sup>49</sup> See *Analysis of the Caribbean Submarine Cable Market*, presentation prepared by Michael Ruddy, Managing Director of Terabit Consulting, Inc., June 2006. Available at <http://www.canto.org/doc/CANTO2006/20/20060620%20CANTO%20Punta%20Cana%20Presentation%20Michael%20Ruddy.ppt#37>

<sup>50</sup> See additional information about the projected Trans-Caribbean Cable Network (TCCN) at <http://www.trans-caribbeancable.com/>

<sup>51</sup> See press note releases regarding progress of TCCN negotiations available at <http://www.trans-caribbeancable.com/page2html>

evidenced by the rapid and effective promotion of the telecommunication market by the attraction of investors in new telecommunications projects, Jamaica is served by competing and diverse international telecommunications facilities.

The dominant incumbent carrier, C&WJ, has been identified by the Commission as the only entity with presumptive market power in Jamaica.<sup>52</sup> In addition, Jamaica has been a member of the WTO since March 9, 1995.

**14. Columbus Communications Jamaica Limited**  
**Destination Country: Jamaica**

Immediate Shareholder: Columbus Capital (Barbados) Limited  
Percentage Held: 100%  
Citizenship: Jamaica  
Principal Business: Columbus Communications Jamaica Limited offers Cable TV, domestic and international voice services, broadband Internet access, and domestic and international circuits under the service trademark “FLOW.”

Columbus Communications Jamaica Limited, formerly Merit Communications Ltd. and initially named Jamaica Prepaid, Ltd., entered the Jamaican market with Internet and Cable TV services. In February 2005, Columbus Communications Inc., the then-ultimate parent company of the Columbus Group, acquired Merit Communications Ltd. The company also offers domestic and international voice telephony. Merit Communications Ltd. was licensed to provide international carrier services during the third phase of the liberalization process and is therefore a new entrant in this segment dominated by C&WJ. Please see details on C&WJ’s dominance above. Columbus Communications Jamaica Limited does not have any significant market power in the provision of international services in Jamaica. Please see statement above under non-dominant operations of FibraLink Jamaica Ltd. regarding international telecommunications facilities serving Jamaica.

**15. Columbus Communications Trinidad Limited**  
**Destination Country: Trinidad and Tobago.**

Immediate shareholder holder: Columbus Trinidad (Barbados), Inc.  
Percentage Held: 100%  
Citizenship: Republic of Trinidad & Tobago  
Principal Business: Non-dominant carrier recently licensed by the Trinidad and Tobago Telecommunications Authority (“TATT”) for

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<sup>52</sup> See *FCC Market Dominance Report* at footnote 7.

the provision of domestic and international telecommunications services in Trinidad.

Telecommunications services in Trinidad & Tobago are provided by Telecommunications Services of Trinidad and Tobago Limited (“TSTT”). The company is a partnership between Cable and Wireless of the UK and the Government of Trinidad and Tobago. The country’s international communications are primarily supported by the submarine fiber optic cable systems Americas I and Americas II.<sup>53</sup> The incumbent carrier, TSTT, has been identified by the Commission as the only entity with presumptive market power in Trinidad & Tobago.<sup>54</sup>

In addition, the Republic of Trinidad and Tobago has been a member of the WTO since March 1, 1995. Columbus Communications Trinidad Limited recently received its license and its commercial operations recently commenced. Consequently, it does not have any significant market power in the Republic of Trinidad and Tobago. Please see below under non-dominant operations of Columbus Networks International (Trinidad) Limited, a statement regarding the relevant market in Trinidad and international facilities serving the country.

**16. Columbus Networks International (Trinidad) Limited**  
**Destination Country: Trinidad and Tobago**

Immediate shareholder:	Columbus Networks, Ltd.
Percentage:	100%
Citizenship:	Trinidad
Principal Business:	Non-dominant carrier recently licensed by the TATT for the operation of a public telecommunications network and provision of any telecommunications service on a public international telecommunications network. Columbus Networks International (Trinidad) Limited provides interconnection services and bulk transmission capacity services.

Telecommunications services in Trinidad & Tobago are provided by Telecommunications Services of Trinidad and Tobago Limited (“TSTT”). The company is a partnership between Cable and Wireless of the UK and the Government of Trinidad and Tobago. The country’s international communications are primarily supported by the submarine fiber optic cable systems

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<sup>53</sup> Americas I & II fiber-optic cable account for 76% of TSTT international capacity. See “*Trinidad and Tobago Competitive Advantages*” published by the Tourism and Industrial Development Company of Trinidad and Tobago. Available at: [http://www.investtnt.com/competitiveadv/ICT\\_CallCenter\\_opportunities.pdf](http://www.investtnt.com/competitiveadv/ICT_CallCenter_opportunities.pdf)

<sup>54</sup> See *FCC Market Dominance Report* at footnote 7.

Americas I and Americas II.<sup>55</sup> The dominant incumbent carrier, TSTT, has been identified by the Commission as the only entity with presumptive market power in Trinidad & Tobago.<sup>56</sup>

The Columbus Group has invested and placed in operation a new submarine fiber optic link, CFX-1, interconnecting Trinidad and Tobago. CFX-1 was installed in late 2007 and directly links the island of Trinidad with Curacao and Bonaire. This competitive international facility has fostered the availability of international capacity and diversified the alternatives for international carriers.

In addition, the Republic of Trinidad and Tobago has been a member of the WTO since March 1, 1995. CN PR's affiliated carriers in Trinidad were recently licensed and their commercial operations recently commenced. Consequently, they do not have any significant market power in the Republic of Trinidad and Tobago.

### **17. Columbus Networks, Ltd.**

#### **Destination Country: Turks & Caicos Islands**

Immediate Shareholder: Columbus International Inc.  
Percentage Held: 100%  
Citizenship: Barbados  
Principal Business: Columbus Networks, Ltd. is a holding company of Columbus Networks subsea fiber optic operations and provision of competitive wholesale capacity in the Pan Caribbean region.

Columbus Networks, Ltd. is a non-dominant carrier recently licensed by the Minister of Communications, Works and Utilities and the Turks & Caicos Islands ("TCI") Telecommunications Commission<sup>57</sup> for an international submarine cable landing and voice, data and transit carrier license. The authorization allows Columbus Networks, Ltd. to provide competitive wholesale capacity directly to authorized users on Turks & Caicos Islands without

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<sup>55</sup> Americas I & II fiber-optic cable account for 76% of TSTT international capacity. See "*Trinidad and Tobago Competitive Advantages*" published by the Tourism and Industrial Development Company of Trinidad and Tobago. Available at: [http://www.investtnt.com/competitiveadv/ICT\\_CallCenter\\_opportunities.pdf](http://www.investtnt.com/competitiveadv/ICT_CallCenter_opportunities.pdf)

<sup>56</sup> See *FCC Market Dominance Report* at footnote 7.

<sup>57</sup> In 2004 the government formed a TCI Telecommunications Commission as part of a drive to implement and oversee changes in the modernizing of the telecommunications industry including the introduction of competition in the domestic market. The Telecommunications Commission carries out the functions conferred on it by the Telecommunications Ordinance 12 of 2004. It serves to advise the Minister on telecommunications; regulate telecommunications in the Islands; promote effective and sustainable competition in telecommunications; set standards for the quality of telecommunications services; promote the interests of consumers and to encourage licensees to operate efficiently; publish information, reports or other documents; carry out investigations and hold enquiries; and police anti-competitive practice or behavior. See also <http://www.telecommission.tc/>

going through the former monopoly and still dominant incumbent Cable & Wireless West Indies Ltd. (Turks & Caicos) (“**C&W (TCI)**”). C&W (TCI) operates and controls the ARCOS-1 landing station located in that jurisdiction, and hence remains the dominant gatekeeper of access to both the facility and transmission capacity.

In January 2006, C&W (TCI), now doing business under the brand name LIME, entered into an agreement to end its 40 plus year monopoly<sup>58</sup> on the Islands and signed a new 15-year license agreement under the Telecommunications Ordinance 2004 and the Telecommunications and Frequency Licensing Regulations 2005. This action allowed the TCI government to commence liberalizing the market and allowing some form of competitive access to communications services.<sup>59</sup> The first of the new entrants in the mobile services market was Digicel, a Pan-Caribbean mobile telecommunications firm, which announced in April 2006 that it had been granted a license to establish a GSM cellular network in the jurisdiction. Mobile communications licenses have also been granted to Andrews Communications Ltd. and Islandcom. Competition in the provision of high speed Internet providers also commenced against C&W (TCI) including such providers as TC Express and ComptTCI, among others.

C&W (TCI) is a wholly owned subsidiary of British-based provider company Cable & Wireless plc. C&W (TCI) is the dominant incumbent in the TCI market and is the only full service telecommunications provider on the Islands providing bulk capacity transmission, fixed, mobile, Internet, data and other services. The Commission has designated C&W (TCI) as the dominant carrier in the Turks & Caicos Islands market. As Columbus Networks, Ltd. has just recently entered the wholesale capacity market in TCI; it has no significant market power and is clearly a non-dominant carrier in the provision of authorized services.

## CONCLUSION

Based on the foregoing, CN PR must be categorized as a non-dominant common carrier, thus this Application is eligible for streamline processing. CN PR’s affiliated foreign carriers are recent entrants in the corresponding destination countries and do not have market power in any relevant geographic or product market. The international market is led by incumbents that, in the majority of these countries, until recently enjoyed monopolistic positions or periods of exclusivity. Therefore, there is no risk of anticompetitive effects in the U.S. telecommunications market from CN PR’s entry as a global facilities-based and resale carrier on routes between the United States and those destination countries. Moreover, if any such risk would exist, which is not the case, it is readily controlled by the Commission’s rules and the nondiscrimination safeguards implemented by liberalization legislation and regulations enacted in those destination countries to promote competition in the telecommunications sector, as well as by international

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<sup>58</sup> C&W celebrated 110 years in the TCI on January 31, 2008. *See* <http://countrycodes.boomja.com/index.php?ITEM=13784>

<sup>59</sup> See news release at <http://www.caribbeanetnews.com/cgi-script/csArticles/articles/000002/000244.htm>.

agreements including those under the World Trade Organization, bilateral trade agreements, and the DR-CAFTA.

The undersigned hereby certifies, on behalf of Columbus Networks Puerto Rico, Inc. (the Applicant), with respect to the foregoing application for authority to provide global facilities-based and international resale services, that all statements and information above are truthful to the best of his knowledge, information and belief.



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Paul Scott, President and COO  
Columbus Networks Puerto Rico, Inc.  
Date: November 17, 2009