

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

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In the Matter of)	File No. ITC-214-20120709-00176
)	
Moontius LLC)	
)	
Application for authorization under Section)	
214 of the Communications Act of 1934, as)	
amended)	

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

The Department of Justice (DOJ) submits this Petition to Adopt Conditions to Authorizations and Licenses (Petition), pursuant to Section 1.41 of the Federal Communications Commission (Commission) rules.¹ Through this Petition, DOJ advises the Commission that it has no objection to the Commission approving the authority sought in the above-referenced proceeding, provided that the Commission conditions its approval on the assurance of Moontius LLC (Moontius) to abide by the commitments and undertakings set forth in the July 17, 2013 Letter of Assurances (LOA), which is attached hereto. In the above-referenced proceeding, the Applicant petitioned the Commission for authority under Section 214 of the Communications Act of 1934, as amended to provide international facilities-based and resale services between the United States and permissible international points.

The Commission has long recognized that law enforcement, national security, and public safety concerns are part of its public interest analysis, and has accorded deference to the views of other U.S. government agencies with expertise in those areas. *See In the Matter of Comsat*

¹ 47 C.F.R. § 1.41.

Corporation d/b/a Comsat Mobile Communications, etc., 16 FCC Rcd. 21,661, 21707 ¶ 94 (2001).

After discussions with representatives of the Applicant in connection with the above-referenced proceedings, DOJ has concluded that the additional commitments set forth in the LOA will help ensure that DOJ and other agencies with responsibility for enforcing the law, protecting the national security, and preserving public safety, can proceed appropriately to satisfy those responsibilities. Accordingly, DOJ advises the Commission that it has no objection to the Commission granting the application in the above-referenced proceeding, provided that the Commission conditions its consent on compliance by Moontius with the LOA.

Respectfully submitted,

/S/ Richard C. Sofield
Richard C. Sofield
U.S. Department of Justice
Director - Foreign Investment Review Staff
National Security Division
600 E Street, NW Rm 10000
Washington, D.C. 20004

July 22, 2013



Moontius LLC

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July 17, 2013

Mr. John Carlin
Acting Assistant Attorney General
National Security Division
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
ttelecom@usdoj.gov

Re: Pending application by Moontius LLC for authorization under Section 214 of the Communications Act of 1934, as amended (FCC ITC-214-20120709-00176).

Dear Mr. Carlin:

This letter outlines the commitments being made by Moontius LLC ("Moontius") to the U.S. Department of Justice ("DOJ") in order to address national security, law enforcement, and public safety concerns raised with regard to the Moontius application to the Federal Communications Commission ("FCC") requesting authority to provide global or limited global resale services (47 C.F.R. §§ 63.18(e)(2)) to all international points under Section 214 of the Communications Act of 1934, as amended.

Moontius is a Delaware corporation, owned entirely by Seyed Mohammad Najafi, an Iranian national, residing in Malaysia. Moontius currently maintains a point of presence at the Coresite Datacenter, 55 South Market Street #440, San Jose, California. Moontius's headquarters will be located in California. Moontius agrees that it will timely notify DOJ of its initial business address as well as any changes to its business address and/or the location of any of Moontius's data storage facilities. Moontius will provide DOJ at least 30 days advance notice of the location where it will store any U.S. records.

Moontius agrees that it will comply with all applicable lawful interception statutes, regulations, and requirements, including the Communications Assistance for Law Enforcement Act (CALEA) and its implementing regulations, and will comply with all court orders and other legal process for lawfully authorized electronic surveillance. Moontius will provide DOJ with a report on the status of its implementation of lawful interception capabilities, including the status of its compliance with CALEA, within sixty (60) days after the grant of its authority, and every thirty (30) days thereafter. Moontius understands that its

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failure to fulfill its obligations under this paragraph could constitute a breach of its commitments to DOJ.

Moontius agrees that it will inform DOJ at least 30 days in advance in writing prior to any change in its service offerings, to include a 30 day advance notice in writing prior to the provision of interconnected VoIP services to residential users, businesses, and enterprises in the U.S. Moreover, if Moontius begins to provide interconnected VoIP/VoP in the U.S., the company agrees to maintain a point of contact ("POC") in the U.S., preferably a resident U.S. citizen, to receive service of process for U.S. records and to assist and support lawful requests for surveillance by U.S. federal, state, and local law enforcement agencies. Moontius will provide the name, place and date of birth, social security number, address and contact information for this POC, and such other information as DOJ may request, to DOJ at least 30 days prior to the date that Moontius begins to provide these services to residential end users, businesses, and enterprise customers and such proposed POC shall be subject to the approval of DOJ. Moontius also agrees to provide DOJ at least 30 days prior written notice of any change to this POC.

Moontius agrees that it will not directly or indirectly disclose or permit disclosure of or access to U.S. records or domestic communications or any information (including call content and call data) pertaining to a wiretap order, pen/trap and trace order, subpoena, or any other lawful request by a U.S. law enforcement agency for U.S. records to any person if the purpose of such disclosure or access is to respond to the legal process or request on behalf of a non-U.S. government without first satisfying all pertinent requirements of U.S. law and obtaining the express written consent of DOJ, or the authorization of a court of competent jurisdiction in the U.S. The term "non-US government" means any government, including an identified representative, agent, component or subdivision thereof, that is not a local, state, or federal government in the U.S. Any such requests for legal process submitted by a non-U.S. government to Moontius shall be referred to DOJ as soon as possible, but in no event later than five business days after such request or legal process is received by or made known to Moontius, unless disclosure of the request or legal process would be in violation of U.S. law or an order of a court of the U.S.

Moontius also agrees to ensure that U.S. records are not made subject to mandatory destruction under any foreign laws.

DOJ, and such other U.S. Government agency representatives as DOJ may request, shall have the authority to meet with or inspect, with or without advance notice, employees, books and records, equipment, servers, and facilities and premises owned or leased by (a) Moontius; (b) any owner of Moontius; or (c) where Moontius possesses the authority to permit such access to third-party employees, books and records, equipment, servers, facilities, including third-

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party offshore or outsourced facilities, and premises, any third party contractor or agent working on behalf of Moontius or any owner of Moontius.

Moontius, and any owner of Moontius, shall cooperate with DOJ for these purposes and shall provide unimpeded rights to information concerning technical, physical, management or other measures as may be requested by DOJ for such purposes. Moontius, and any owner of Moontius, shall permit DOJ, and such other U.S. Government agency representative as DOJ may request, to conduct confidential interviews of employees of Moontius concerning compliance with this LOA and any other law enforcement concerns. Such discussions may include current and planned product and network strategies, network architecture, customer lists and/or strategic directions of Moontius, among other matters.

Moontius agrees that in the event the commitments set forth in this letter are breached, in addition to any other remedy available at law or equity, DOJ may request that the FCC modify, condition, revoke, cancel, or render null and void any relevant license, permit, or other authorization granted by the FCC to Moontius or any successors-in-interest. Nothing herein shall be construed to be a waiver by Moontius of, or limitation on, its right to oppose or comment on any such request.

Nothing in this letter is intended to excuse Moontius from its obligations to comply with any and all applicable legal requirements and obligations, including any and all applicable statutes, regulations, requirements, or orders.

Moontius understands that, upon execution of this letter by an authorized representative or attorney for Moontius, DOJ shall notify the FCC that they have no objection to the FCC's grant of Moontius's application.

Sincerely,

SEYED MOHAMMAD SAHAFI NAJAFI NEZH
Moontius LLC