



U.S. Department of Justice

National Security Division

Foreign Investment Review Staff

Washington, D.C. 20004

August 3, 2018

By E-File

Ms. Marlene H. Dortch
Federal Communications Commission
445 12th St. SW, Room TW-B204
Washington, DC 20554

Re: ITC-214-20130718-00195, VTA Telecom Corp. f/k/a Viettel American Corporation

Dear Ms. Dortch:

The U.S. Department of Justice (“DOJ”), with the concurrence of the U.S. Department of Homeland Security and the U.S. Department of Defense (collectively, “the Agencies”), hereby informs the Federal Communications Commission (“Commission”) that for the reasons stated below, the Agencies are no longer conducting an active review of the pending application for VTA Telecom Corp. f/k/a Viettel American Corporation (the “Applicant”)¹, ITC-214-20130718-00195. The Agencies therefore send this application back to the Commission for further review under the Commission’s rules, regulations, and policy statements.²

On July 25, 2013, the Commission sent Cover Letter Reference EB 2013-21 to the Agencies and other Executive Branch agencies requesting comments by August 14, 2013. On August 14, 2013, DOJ, on behalf of the Agencies, requested the removal from streamline of the above-referenced application so that the Agencies could conduct a review for national security, law enforcement, and public safety issues. During the review of the application, the Agencies engaged in several discussions with the Applicant regarding its application for an international Section 214 authorization. In its response to questions from DOJ, the Applicant stated that a “Bui Quang Huy” served as its president and was responsible for the overall operation of the Applicant, including formulating and implementing the Applicant’s strategic

¹ The Applicant is indirectly owned by a Vietnamese state-owned enterprise.

² See, e.g., *Policy Regarding Character Qualifications in Broadcast Licensing; Amendment of Rules of Broadcast Practice and Procedure Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Permittees and Licensees*, Report, Order and Policy Statement, 102 FCC 2d 1179 (1986) (*Character Policy Statement*); *Policy Statement and Order*, 5 FCC Rcd 3252 (1990), as modified, and pertinent precedent; *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23915, para. 53 & n.90 (1997).

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and business plans.³ The Applicant also stated that neither the company nor its officers or directors had ever been investigated, arraigned, arrested, indicted, or convicted of, among other things, violations of the International Trade in Arms Regulations (ITAR), the Export Administration Regulations (EAR), or other U.S. laws.⁴ A “Bui Quang Huy” certified the Applicant’s responses to DOJ’s questions under penalty of perjury on August 22, 2013.⁵

On October 25, 2016, an individual named “Quang Huy Bui” was charged in a two-count indictment in the District of New Mexico with illegally attempting to export arms from the United States without first having obtained the required license or written approval in violation of 22 U.S.C. § 2778 (Arms Export Control Act) and attempting to buy, conceal, and facilitate the transportation of turbojet engines from the United States without a required export license or authorization in violation of 18 U.S.C. § 554 (Smuggling Goods from the United States).⁶ On December 20, 2016, counsel for the Applicant informed the Commission it no longer represented the Applicant, that the Applicant was still interested in pursuing its application with the Commission, and that any questions or correspondence regarding the application should be directed to a “Quang Huy.”⁷ On June 6, 2017, “Quang Huy Bui” entered into a plea agreement and pleaded guilty to one count of violating 18 U.S.C. § 554 (Smuggling Goods from the United States) and consented to removal from the United States to Vietnam.⁸ On October 5, 2017, “Quang Huy Bui” was sentenced to an imprisonment of 12 months and a day and three years of unsupervised release that would convert to supervised release if the defendant were allowed to reenter or remain in the United States.⁹

As an initial matter, the Agencies believe that the “Bui Quang Huy,” listed by the Applicant as its President in response to DOJ’s questions, and “Quang Huy Bui,” the defendant in the criminal case, are one in the same. In a June 3, 2016 Form I-129 application for an extension of an L-1A Nonimmigrant Worker Visa, the Applicant applied for the extension of a work visa for a “Huy Quang Bui” and listed the same date of birth, passport number, and foreign address as it did for a “Bui Quang Huy” in response to DOJ’s August 6, 2013 questions.¹⁰ Furthermore, in the sentencing memorandum submitted on behalf of “Quang Huy Bui,” the defendant stated, “[b]y March 2013 . . . Viettel directed Mr. Bui to form the entity now known as VTA Telecom Corporation At all relevant times from Oct. 2013, Mr. Bui served as Vice-President of [the Applicant].”¹¹

³ Response from Applicant to DOJ’s August 6, 2013 Questions (Aug. 22, 2013).

⁴ *See id.*

⁵ *See id.*

⁶ *See United States v. Quang Huy Bui*, 16 Cr. 4134 (D.N.M.).

⁷ Letter from Patricia Paoletta, Harris, Wiltshire & Grannis LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 20, 2016).

⁸ *See United States v. Quang Huy Bui*, Dkt. No. 53 (June 6, 2017).

⁹ *See id.* at Dkt. No. 69 (Oct. 5, 2017).

¹⁰ *Compare United States v. Quang Huy Bui*, Dkt. No. 39, Ex. 3 (Mar. 22, 2017) with Response from Applicant to DOJ’s August 6, 2013 Questions (Aug. 22, 2013).

¹¹ *United States v. Quang Huy Bui*, Dkt. No. 62, p. 7 (Sept. 1, 2017).

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According to the defendant, “[he] was working at the direction of his employer. Viettel requested that he acquire the engine and have it sent to Vietnam.”¹² As such, it appears that the Applicant’s duties and responsibilities expanded beyond its stated goal of providing international telecommunications services to and/or from the United States to “assisting Viettel in procurement efforts for research and development projects in Vietnam. As to this facet of [the Applicant’s] business, Mr. Bui was responsible for receiving requests from Vietnam for various products, negotiating the purchase of those products from suppliers in the United States and elsewhere and arranging for shipment to Vietnam.”¹³

At no time has the Applicant updated its responses to inform DOJ or the Agencies regarding the facts cited above. Given the felony conviction of the Applicant’s most senior executive, as well as the allegations that he was acting at the direction of the Applicant and others, the Agencies believe the Commission should review the Applicant’s pending application pursuant to its rules, regulations, and policy statements.

For the foregoing reasons, DOJ, with the concurrence of the Agencies, returns this application to the Commission for further review under the Commission’s authorities.

Respectfully submitted,

SANCHITHA JAYARAM
Chief, Foreign Investment Review Staff
National Security Division
United States Department of Justice

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¹² *Id.* at p. 3; *see also* pp. 12-13.

¹³ *Id.* at p. 7.

DOJ Triage Questions**Questions for FCC Applicants Reviewed by Team Telecom**

Company Name: Viettel America Corporation **FCC Application #:** ITC-214-20130718-00195
Company Address: 1201 Hays Street
Tallahassee, FL 32301 **Place of Incorporation:** Delaware

This list of questions solicits information that Executive Branch Agencies, participating in a working group informally known as “Team Telecom” (Department of Homeland Security, Department of Justice, including the Federal Bureau of Investigation, and the Department of Defense), will use to address homeland security and law enforcement concerns on the above-referenced Federal Communications Commission licensing application. Your application to the FCC indicates that you are seeking ***Global or Limited Global Resale and Facilities-Based Authority***. In addition to seeking further details regarding your company and security-related practices, the following questions are particularly directed at identifying and assessing the complete scope of the equipment which you will be operating and the services which you will be offering should the FCC grant those authorities. Accordingly, in answering questions in Section III (Company Services) and the Services Portfolio Checklist and Reference Questions in Section IV, please be as complete as possible with particular attention to all equipment (e.g., switches, routers, gateways, servers, etc.), facilities, and all services offered to all customers.

For all sections of the triage responses, **please inform Team Telecom of any material changes to these triage responses that occur during Team Telecom’s review** of the application including, but not limited to, changes in ownership, equipment, CALEA compliance, etc.

Instructions for Sections I, II & III: Please complete all Sections. When a “Yes” answer is indicated, please provide further information as appropriate. Any documents or responses to Team Telecom’s triage questions that contain trade secrets or commercial or financial information that are privileged or confidential should be identified as such.

Section I: Applicant Company Details

Please answer all questions in the following sections inclusive of all close affiliates of the applicant (including subsidiaries, DBAs, operating affiliates, and parent companies) which provide, monitor, or control telecommunications-related services in the U.S. or its territories.

- 1) Does the Applicant have existing (or planned) relationships/partnerships with any foreign companies and/or any foreign government-controlled companies? **Yes** **No**
 If yes, indicate whether the relationship/partnership includes a management role by any foreign companies. Provide the name(s) of the individuals and foreign companies and explain the nature of the relationship, including whether the relationship currently exists and/or is intended to continue in the future.

Response:

REDACTD

REDACTED

- 2) Identify the total number of current employees, and planned number of employees of the company for the next 12 months.

Response:

REDACTED

- 3) Will any non-U.S. citizen have access to one or more of the following:

- a) Physical facilities and/or equipment under the company's control? **Yes** **No**
If yes, provide identity of person(s)¹ and explain the type of access that will be provided.

Response:

REDACTED

- b) Customer records, including Customer Proprietary Network Information (CPNI), billing and Call Detail Records (CDRs)? **Yes** **No**
If yes, provide identity of person(s) and explain the type of access and records that will be provided.

Response:

REDACTED

¹For each such individual, provide name (list all the names and aliases used by that person), country of citizenship (if dual citizen, list both countries), date and place of birth, U.S. alien number (if applicable), passport identifying information for all passports held (including number and country), all residence addresses, all business addresses and all phone numbers.

REDACTED

- c) Electronic interfaces that allow control and/or monitoring of the infrastructure under the company's control including, but not limited to, access to actual communications content and data? **Yes** **No**

If yes, provide identity of person(s) and explain the type of access and control that will be provided.

Response:

REDACTED

- 4) What access control/security policies are in place on the production network?

Response:

REDACTED

REDACTED

- 5) What encryption products/technologies have been installed on these production networks?

Response:

REDACTED

- 6) Does the company have any screening and/or vetting procedures which will be applied to U.S. or non-U.S persons who have access, remote or otherwise, to communications network facilities, equipment, or data?

Yes **No**

If yes, explain all such procedures.

Response:

REDACTED

- 7) Does the company currently operate or plan to operate a website? **Yes** **No**

If yes, provide all URL addresses for any current or known future company sites and describe whether the information therein is up to date.

Response:

REDACTED

- 8) Provide all addresses of the present and anticipated physical locations of company network equipment and infrastructure, whether owned or leased.

Response:

REDACTED

- 9) Identify each individual or entity, whether direct or indirect, holding or controlling greater than a 5% equity stake in the Applicant company (whether voting or non-voting), highlighting any foreign government entities. Please be sure to include the ultimate parent owner of the Applicant and any other companies/individuals owning more than a 5% equity stake in the chain of ownership.
- a) For each such individual or entity, include a clear explanation of involvement in the company, including whether they will have a management role.

Response:

REDACTED

- b) For each such individual or entity, provide all identifying information, as follows:
- i) For individuals, provide name, citizenship(s), date and place of birth, U.S. alien number (if applicable), passport(s) identifying information (including number and country), all residence addresses, all business addresses, and all phone numbers.
- ii) For entities, provide country of incorporation/main place of business, general business type (e.g. holding company, investment firm, etc.), all business addresses, and related phone numbers.

Response:

REDACTED

- 10) Has the company, any company officers/directors or any individual/company with 10% or greater ownership interest in the company, ever been investigated, arraigned, arrested, indicted or convicted of any of the following:
- a) Espionage-related acts, or criminal acts including violations of the International Trade in Arms Regulations (ITAR), the Export Administration Regulations (EAR), or other US law? Yes No
 - b) Deceptive sales practices, violations of the Consumer Fraud Act and regulations, and/or other fraud or abuse practices whether pursuant to local, state or federal law? Yes No
 - c) Violations of local, state or federal law in connection with the provision of telecommunications services, equipment and/or products and/or any other practices regulated by the Telecommunications Act of 1996 and/or by state public utility commissions? Yes No

If yes to any of the above, please describe in detail, including name(s) of individual(s) and/or companies involved, date(s), and current status or final disposition of matter, including any terms of settlement.

Section II: Company Operations

Please answer all questions in the following sections inclusive of all close affiliates of the applicant (including subsidiaries, DBAs, operating affiliates, and parent companies) which provide, monitor, or control telecommunications-related services in the U.S. or its territories.

- 1) Has the company been operational over the course of the current and previous year? Yes No If yes, answer the following:
- a) Provide separately for each year the Cost of Goods Sold (COGS).
 - b) What was the total amount of COGS allocated for telecommunications equipment and service types?
 - c) Describe, for all services provided to each category of customer (e.g. enterprise, residential, carrier, etc.):
 - i. Total number of subscribers;
 - ii. Total annual gross revenue for preceding fiscal year;
 - iii. Percentage of total gross revenue per category of customer for preceding fiscal year.
- 2) List all expected and actual Federal, State, and local government customers including any classified contracts, and include a description of all services to be provided, or services that are currently being provided, to such customers.

Response:

REDACTED

3) For each member of the Applicant’s senior management team, list the names (where applicable) of the CEO (Chief Executive Officer), President, CFO (Chief Financial Officer), CIO (Chief Information Officer), CTO (Chief Technical Officer), COO (Chief Operating Officer), Senior VPs, and any other positions involved in exercising day-to-day management responsibilities:

- a) Explain the nature and extent of each senior manager’s involvement in the company; and
- b) For each individual, provide name (list all the names and aliases used by that person), country of citizenship (if dual citizen, list both countries), date and place of birth, U.S. alien number (if applicable), passport identifying information for all passports held (including number and country), all residence addresses, all business addresses and all phone numbers.

Response:

Viettel America’s senior management team is as follows:

| | |
|-------------------------------------|--|
| Name: | Mr. Bui Quang Huy |
| Title: | President |
| Country of citizenship: | Vietnam |
| Date and place of birth: | [REDACTED], 1981 Namdinh, Vietnam |
| Passport Information: | Vietnam Number B363 [REDACTED] Issued October 12, 2009 Expires October 12, 2019 |
| Residence address and phone number: | [REDACTED] Tay Son Street Dong Da District, Ha Noi 10000, Vietnam [REDACTED] |
| Business address and phone number: | Viettel Group 01 Giang Van Minh Street Ba Dinh District, Hanoi 10000, Vietnam + 84 462556789 |
| Responsibilities: | Oversees the overall operation of Viettel America, including formulating and implementing the company’s strategic and business plans |

| | |
|-------------------------|------------|
| Name: | [REDACTED] |
| Title: | [REDACTED] |
| Country of citizenship: | [REDACTED] |

| | |
|-------------------------------------|----------|
| Date and place of birth: | REDACTED |
| Passport Information: | REDACTED |
| Residence address and phone number: | |
| Business address and phone number: | |
| Responsibilities: | |

| | |
|-------------------------------------|--|
| Name: | REDACTED |
| Title: | REDACTED |
| Country of citizenship: | REDACTED |
| Date and place of birth: | REDACTED |
| Passport Information: | REDACTED |
| Residence address and phone number: | |
| Business address and phone number: | Viettel Group 01 Giang Van Minh Street Ba Dinh District, Hanoi 10000, Vietnam |
| Company role: | REDACTED |

- 4) Identify a senior officer or employee (U.S. citizen or legal alien residing in the U.S. with an active security clearance or able to obtain one) who will be the Applicant’s authorized law enforcement point of contact responsible for accepting and overseeing compliance with subpoenas/court orders/search warrants including responding to official requests and/or compulsory processes from U.S. law enforcement or other U.S. government agencies.
 - a) For this individual, explain the relationship to the Applicant and provide name (list all the names and aliases used by that person), country of citizenship (if dual citizen, list both countries), date and place of birth, U.S. alien number (if applicable), passport identifying information for all

passports held (including number and country), all residence addresses, all business addresses and all phone numbers.

Response:

REDACTED

b) Confirm that the Applicant will report to the appropriate law enforcement agencies, immediately upon discovery:

i) Any act of compromise of a lawful interception of communications or access to call-identifying information to unauthorized persons or entities? **Yes**

ii) Any act of unlawful electronic surveillance that occurred on its premises or via electronic systems under its control? **Yes**

5) Will the Applicant store and/or maintain any U.S. communications content, transactional data, call-associated data, billing records or other subscriber information? **Yes** **No**

If yes, please answer the following:

a) Describe what types of records will be stored.

Response:

REDACTED

b) Provide all addresses of locations where such records will be stored and/or remotely accessed/managed via electronic systems.

Response:

REDACTED

c) If any storage location differs from the Applicant's address, explain the general purpose of the location and its function within the Applicant's business.

Response:

REDACTED

- d) Describe all physical/electronic security measures utilized for all locations/systems to protect the confidentiality of records.

Response:

REDACTED

- e) Confirm that the Applicant will inform the National Security Division (NSD) of the U.S. Department of Justice if, in the future, any record storage/access location is transferred and/or newly established outside of the U.S. Yes
- f) Can the Applicant agree to make any and all records not stored in the U.S. electronically available in the U.S. within five business days of law enforcement serving legal process through the Applicant's U.S. based point of contact (identified in question 4 above)?
Yes No **Not Applicable**

Response:

REDACTED

- 6) Describe the Applicant's lawful intercept solution(s). Include all lawful intercept capabilities of the Applicant company to include whether the Applicant uses (or intends to use) a Trusted Third Party (TTP) provider. If so, please provide the name of that TPP and whether the Applicant has a signed agreement with that TPP. If the Applicant will use its own equipment, please specify the equipment and describe the functions supported.

Response:

REDACTED

- 7) Describe the customer base of the Applicant (business, residential, carrier, enterprise, etc.). Please identify the top 10 business customers, and provide their billing address and contact person.

Response:

REDACTED

- 8) What, if any, outside capabilities via remote access will exist within the Applicant company to control operations over the network (e.g., audit mechanisms, record access monitoring)?

Response:

REDACTED

Section III: Company Services

Please answer all questions in the following sections inclusive of all close affiliates of the applicant (including subsidiaries, DBAs, operating affiliates, and parent companies) which provide, monitor, or control telecommunications-related services in the U.S. or its territories.

- 1) Provide a general summary of the nature of the company's current and planned services and operations, to include an explanation of the intended overall business model and its relationship with any sister and/or partner companies.

Response:

REDACTED

- 2) Describe company's carrier transport facilities (T1, DS3, Optical Carrier) that will enable customer data flow into and out of owned and/or leased equipment.

Response:

REDACTED

- 3) Will the company be operating any physical telecommunications switching platforms (TDM and/or VoIP switches)? **Yes** **No**

- a) If yes, provide a network architecture diagram that shows all switches and connection points.

Response:

REDACTED

- 4) Provide a description of any other intended network equipment and/or proposed infrastructure (e.g., routers, media gateways, multiplexing/cross-connect facilities, signaling devices, other equipment).

Response:

REDACTED

- 5) Provide network architecture diagram(s) and/or topology map(s) that shows the company's Points of Presence (POPs), Network Operations Centers (NOCs), datacenters, colocation facilities (if any), and geographic footprint.

REDACTED

- 6) Will the company use interconnecting carriers and/or peering relationships?

Yes No

- a) If yes, provide details, including the name of the carrier, the carrier's address, and a contact person at the carrier.

Response:

REDACTED

- 7) Will the company rely on underlying carrier(s) to furnish services to its customers and/or resell any services?

Yes No

- a) If yes, provide details and list whose services will be resold, including the name of the carrier, the carrier's address, and a contact person at the carrier.

Response:

REDACTED

- 8) Will the applicant or its affiliates be able to control operations at any POP and/or Network Operations Center (NOC) from any overseas locations? **Yes** **No**
- a) If yes, what is the nature of the foreign-based control?
- 9) What services will be delivered to customers, and how will the services be delivered?

Response:

REDACTED

- 10) Does the company serve any sectors of U.S. infrastructure? **Yes** **No**
If yes, check all that apply:

- a. Defense Industrial Base
- b. U.S. Intelligence Community
- c. Emergency Services
- d. Government Facilities
- e. Banking and Finance
- f. Nuclear Reactors, Materials, or Waste
- g. Drinking Water and Water Supply
- h. Energy
- i. Information Technology
- j. Chemical
- k. Commercial Facilities
- l. Agriculture and Food Supply
- m. Health Care
- n. National Monuments
- o. Transportation
- p. Postal Shipping
- q. Dams
- r. Other (Please explain)

Section IV: Services Portfolio Checklist

*Instructions: Please check all applicable boxes that reflect the types of telecommunication services the Applicant intends to provide **in the U.S. only**. **Do not select any services that will be provided outside the U.S.** For each checked box, please provide a **separate** and full explanation at the end of this questionnaire, as well as answer the Reference Questions below the table as they pertain to the services you have indicated in the checklist.*

| Services Proposed | |
|---|--|
| VOICE SERVICES | |
| VoIP (Voice over Internet Protocol) | |
| POTS (Plain Old Telephone Service) | |
| TDM (Time Division Multiplexing) | |
| Voicemail | |
| PBX (Private Branch Exchange) | |
| Centrex (Hosted/Managed PBX) | |
| Callback Service | |
| Calling Card | |
| Dial Tone Service | |
| Issue DID (Direct Inward Dial) Local Telephone Numbers | |
| Local Exchange Service | |
| Local Toll Service | |
| Domestic/International Long Distance (Interexchange Service) | |
| Tollfree Service | |
| IVR (Interactive Voice Response) | |
| Conference Calling | |
| Operator Service | |
| Directory Assistance | |
| Dial Around Service (1010XXX Casual Calling) | |
| Switched Access | |
| Special Access (Dedicated Line) | |
| Other | |
| | |
| INTERNET AND DATA SERVICES | |
| ISP (Internet Service Provider) | |
| Data/Private Line | |
| VPN (Virtual Private Network) | |
| Web Hosting | |
| LAN (Local Area Network) | |
| WAN (Wide Area Network) | |
| ISDN (Integrated Services Digital Network) BRI (Basic Rate Interface) | |
| ISDN PRI (Primary Rate Interface) | |
| DSL (Digital Subscriber Line) | |
| Frame Relay | |
| Email | |
| International Voice/Data Service | |
| Wireless/Mobile Voice/Data Services | |
| Satellite Services | |

| | |
|---------------------------------|--|
| RF (Radio Frequency), Microwave | |
| Video | |
| Other | |

| CARRIER / ENTERPRISE WHOLESALE | |
|---------------------------------------|--|
| Routing, Signaling Services | |
| Transport Facilities | |
| Leased Lines | |
| Collocation Services | |
| Other | |

Reference Questions

For each service checked in Section IV, answer the following questions.

- 1) In what manner will the service(s) be delivered to your customers?
(Please describe typical customer transactions. For example: How do you acquire customers? How do customers contract services? What are your terms of sale? What are the products and services you provide? How do you deliver them?)
- 2) What kind of network infrastructure will be utilized to deliver the service(s)?
- 3) Describe the Applicant’s network, operation, and services in detail. Provide a detailed explanation of current and planned services.
- 4) What equipment (make and model) will be utilized to provide the service(s)?
- 5) Will the service(s) be facilities based, resold or both?
Describe.

If more than one service was checked above, then answer Questions 1-4 above again for each of those services.

Response:

REDACTED

REDACTED

The following diagram also describes the equipment for the calling card services:

REDACTED

REDACTED

REDACTED

Making false, fictitious, or fraudulent certification may render the Applicant subject to criminal prosecution under Title 18, United State Code, Section 1001, civil penalties.

Pursuant to Title 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 22 day of August , year of 2013 .



X _____
Bui Quang Huy