



WASHINGTON, DC

September 10, 2018

SUBMITTED VIA IBFS

Veronica Garcia-Ulloa
Telecommunications and Analysis Division
International Bureau
Federal Communications Commission
445 12th Street, S.W., Room 7-B522
Washington, DC 20554.

**Re: VTA Telecom Corporation
Information Required Concerning International Section 214
Application, FCC File No. ITC-214-20130718-00195**

Dear Ms. Garcia-Ulloa:

This letter responds on behalf of VTA Telecom Corporation (“VTA Telecom” or the “Applicant”) to the August 10, 2018 letter of inquiry (“Inquiry Letter”) concerning VTA Telecom’s above-referenced application for authority to provide international facilities-based and resale service (the “Application”) pursuant to Section 214 of the Communications Act of 1934, as amended (the “Act”), and Section 63.18(e) of the Commission’s rules. Although the Inquiry Letter is specifically addressed to Bui Quang Huy (“Mr. Bui”) as President of VTA Telecom, we are unable to respond on his behalf for reasons explained below. Mr. Bui has not functioned as an officer of the Applicant since December 2016, and his employment with the Applicant was terminated on May 17, 2017.

The facts regarding Mr. Bui’s suspension and termination as an officer of VTA Telecom are detailed in the following paragraphs as background for the responses to the Commission’s specific inquiries that follow below. The response is supported by the attached declaration under penalty of perjury of Nguyen Hoang Long (“Mr. Long”), the President of VTA Telecom.

Background

When VTA Telecom filed the Application in July 2013, it was signed by Mr. Bui as President of the Applicant. This is the same Mr. Bui who was arrested on October 26, 2016, as described in the Inquiry Letter and the Executive Branch Letter attached thereto. Mr. Bui was



nominally the Vice President of the Applicant at this time, but was the senior officer of the Applicant in the United States in charge of day-to-day operations. Immediately following Mr. Bui's arrest, VTA Telecom engaged legal counsel from McDermott Will & Emery LLP ("McDermott") to conduct a thorough review of VTA Telecom's export activity since its incorporation in 2013. Although the indictment of Mr. Bui was the precipitating event that spurred this internal investigation, the scope of the investigation was broader, encompassing significantly more than the transactions identified in Mr. Bui's criminal matter.

Less than two months later, on December 19, 2016, VTA Telecom submitted initial notifications of possible violations of U.S. export control laws to the U.S. Department of State's Directorate of Defense Trade Controls ("DDTC") and the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") in accordance with the voluntary self-disclosure provisions in the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR"). These notifications covered the period from May 2015 to October 2016.

As part of its commitment to compliance with U.S. export controls, VTA Telecom then undertook a number of remedial actions to address the prior violations. On December 12, 2016, VTA Telecom placed Mr. Bui on paid administrative leave and directed that he not engage in any further export activity. Shortly thereafter, in January 2017, Mr. Long resumed day-to-day responsibilities in his role as President of VTA Telecom. Though nominally still identified as President of the Applicant in corporate documents, Mr. Long had been outside the United States for several years prior to that time engaged in other employment within Viettel, and he had no involvement with or contemporaneous personal knowledge of VTA Telecom's U.S. operations or the export law violations at the time they occurred. During that time, Mr. Bui was in charge of day-to-day operations within the United States as Vice President of the Applicant. On May 17, 2017, prior to Mr. Bui's plea deal, VTA Telecom terminated his employment, while stipulating that he continue cooperating with the Applicant's internal investigation by providing pertinent information to allow VTA Telecom to make thorough disclosures to BIS and DDTC. As a result of the internal investigation, VTA Telecom also terminated the employment of an account manager, Phuc Nguyen, who had worked with Mr. Bui. Phuc Nguyen was not charged by the Justice Department, or otherwise subject to any legal proceedings.

Responses to Individual Inquiry Letter Questions

Inquiry 1: Is the information regarding the guilty plea and felony conviction described above and in the enclosed court filings accurate? If it is not, describe how this information is incorrect.

Response: The Applicant is unable to confirm with complete certainty all specifics of Mr. Bui's plea agreement, as it was not a party to that legal proceeding, and Mr. Bui was represented by his own counsel. Nonetheless, it is VTA Telecom's understanding that Mr. Bui pleaded guilty to a felony with respect to violation of U.S. export control law, was sentenced as described in the Inquiry Letter, and is currently serving a prison sentence in the United States.



Inquiry 2: Have you been convicted of or pled guilty to any felony other than that described above?

Response: The Applicant is unable to respond to this question on Mr. Bui's behalf for the reasons explained above. To the best of VTA Telecom's knowledge, Mr. Bui has never been convicted of or pled guilty to any felony other than as described in the Inquiry Letter.

Inquiry 3: State whether you have knowledge concerning any conviction or guilty plea regarding a felony involving any other officer, manager, owner, or director of the Applicant, VTA Telecom. If you answer in the affirmative, please provide the name, title, and contact information for said individual and indicate the conviction or guilty plea.

Response: No current officer, manager, owner, or director of the Applicant has been convicted of or pled guilty to any felony. Mr. Bui is the only former officer of the Applicant to have pleaded guilty to a felony, which as described above occurred after VTA Telecom terminated his employment.

Inquiry 4: With regard to each conviction or guilty plea, describe in detail the conduct that resulted in the conviction or guilty plea, including, but not limited to, the date(s), nature, and circumstances of the conduct that gave rise to the conviction or guilty plea.

Response: Not applicable. See response to Inquiry 3.

Inquiry 5: With regard to each conviction or guilty plea, provide copies of all official orders and other documentation from the sentencing court concerning the conviction or guilty plea. This includes, but is not limited to plea agreements, sentencing reports, sentencing memoranda, or judgments, the charging document, and/or any other document from the court or submitted to the court describing the conduct that resulted in the conviction or guilty plea and/or the sentence imposed.

Response: Not applicable. See response to Inquiry 3.

Inquiry 6: For each conviction or guilty plea, please address in light thereof how VTA Telecom is qualified to hold the authorization requested in the Application in light of the factors identified in the Commission's Character Policy Statement. This includes but is not limited to: "[t]he seriousness of the misconduct, the nature of the participation, if any, of managers and owners... the efforts made to remedy the wrong[,] ... [and] the applicant's record of compliance with our rules and policies, if any. . .

Response: With respect to Mr. Bui's plea agreement and felony conviction, VTA Telecom believes it remains qualified to hold an FCC authorization under the Commission's



established Character Policy.¹ Mr. Bui's conduct was clearly serious in that it resulted in a guilty plea to a single felony count; however, the actions he engaged in were outside the expected scope of his employment, as detailed more fully in response to Question 8, below. While these violations took place during Mr. Bui's service as an officer of VTA Telecom, when he was the highest-ranking officer of the company supervising day-to-day operations, VTA Telecom and its parent company, Viettel Group ("Viettel"), responded quickly and comprehensively once it learned of the possible misconduct, as detailed above. Accordingly, the other factors that the Character Policy Statement considers most probative of corporate character weigh strongly in the Applicant's favor. Viettel and VTA Telecom acted swiftly both to suspend Mr. Bui's role as an officer of the Applicant and to investigate fully all violations of the law. As a result of the investigation, it was determined that Mr. Bui was the only officer involved in the alleged violations of U.S. export law, and his employment was terminated, along with the employment of a subordinate employee who apparently assisted him. Accordingly, at no time was Mr. Bui both a party to the Application and also a person who had pleaded guilty to a felony; the felony plea came only after his employment by the Applicant had ended.² VTA Telecom also acted to self-report all abuses that its investigation uncovered and to make changes in corporate oversight to prevent any recurrence of such misconduct. Finally, the violations were limited to U.S. export law, and do not implicate any area of FCC regulation related to the provision of common carrier service, *i.e.*, there are no instances of the Applicant failing to comply with the Act or Commission regulations. Under these circumstances, it is appropriate for the Commission to continue consideration of the Application.

Inquiry 7: Identify all FCC authorizations that you or any other officer, manager, owner, or director of VTA Telecom hold or have held, by service, call sign and community (if any community is listed in the authorization). Identify all ownership, officer, director, partner, principal and/or other similar positions that you or any other officer, manager, owner, or director hold or have held in the holder of any such authorization.

Response: No officer, manager, owner, or director of the Applicant has held any FCC authorization, license or permit.

¹ The Character Policy was established with respect to Title III licenses, specifically those held by broadcast licensees, but the Commission has concluded that the same factors provide guidance in the common carrier area as well. *See, e.g., MCI Telecommunications Corporation*, 3 FCC Rcd 509, 515 (¶ 31) & n.14 (1988), *citing Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1209-10 (1986) [subsequent history omitted].

² While some felony convictions may be relevant to determinations of applicant fitness under the Commission's general Character Policy, a Section 214 application, in contrast to a Title III license application, does not require disclosure of prior felony convictions by any party to the application; it seeks only a certification under the Anti-Drug Act of 1988 that no party is subject to denial of federal benefits due to a conviction for possession or distribution of a controlled substance.



Inquiry 7(a): For each, provide the name of the authorization holder, service, call sign and community, if any, and your role or the roles of any other officer, manager, owner, or director in the operations of each such authorization holder.

Response: Not applicable. See response to Inquiry 7.

Inquiry 7(b): With regard to each of these interests and positions, describe your or any other officer's, manager's, owner's, or director's, and the authorization holder's past record of compliance with Commission rules and policies while involved with its operations.

Response: Not applicable. See response to Inquiry 7.

Inquiry 8: Provide any other information and supporting documentation that you wish to bring to our attention as to whether we can expect that you or any other officer, manager, owner, or director of VTA Telecom will be candid in its dealings with the Commission and will comply with our rules and policies notwithstanding the conviction(s) and/or guilty plea(s).

In addition to seeking opportunities to provide service in the U.S. communications marketplace, VTA Telecom was asked by Viettel beginning around May 2015 to conduct research and development on telecommunications equipment on the parent company's behalf. In conducting these efforts, Viettel's corporate policy has always been to comply with all applicable rules, regulations and laws, and Viettel in no way directed Mr. Bui or any other employee to violate any rule, regulation, or law in carrying out the requested activities. However, VTA Telecom did not have any formally established export compliance policies or procedures in place during the period prior to October 2016. VTA Telecom's former employees, Mr. Bui and Phuc Nguyen, did not seek advice from outside legal counsel about whether their proposed shipments of products from the United States would comply with U.S. export laws and regulations.

VTA Telecom's internal investigation concluded that Mr. Bui and Phuc Nguyen, as native Vietnamese speakers, had difficulty fully understanding the nature and scope of legal requirements written in English, and that these language issues hampered VTA Telecom's ability to comply with the nuances of U.S. trade laws and regulations. VTA Telecom's employees frequently requested help from vendors to determine how to comply with U.S. export control regulations, but on several occasions, they received incomplete or inaccurate information from these manufacturers regarding the applicability of U.S. law to those manufacturers' products. In fact, VTA Telecom even received conflicting answers from BIS itself on whether certain products required an export license. This conflicting advice, coupled with the lack of training and language issues, increased the difficulty in achieving an accurate understanding the requirements of U.S. export laws.



Under Mr. Long's leadership, VTA Telecom has demonstrated a renewed commitment to compliance with all U.S. export control laws and has taken significant steps to remedy its past deficiencies in training and oversight. The Applicant has hired in-house counsel, who is a U.S. citizen based in the United States, implemented comprehensive export compliance policies and procedures, and now requires all employees to complete export compliance training with outside counsel.

* * * * *

To the extent that Mr. Bui's name appeared in two places in the Application, both as the Applicant's contact person and the officer signing the Application, it is not clear that either instance required an affirmative update to the Application upon change in Mr. Bui's status. The signature was a mere ministerial act, fully effective and complete at the time of filing, and evidencing the Applicant's authorization of the filing and certification of the facts contained therein. The contact information, providing a name and address for future FCC communications, was not a substantive part of the Application upon which any decision regarding grant of authority might be premised, and remained effective as a means of reaching the Applicant despite the changes in Mr. Bui's relationship to the company. Nonetheless, the Applicant is filing contemporaneously with this letter a Section 1.65 statement updating its contact information to reflect the fact that Mr. Long is the President of VTA Telecom, a change that was effective as of October 2013. To the extent necessary, the Applicant requests therein a waiver of the requirement under Section 1.65 of the Commission's Rules that applicants provide "corrected information" within 30 days of any event that renders "the information furnished in the pending application ... no longer substantially accurate and complete in all significant respects." 47 C.F.R. § 1.65(a).

Respectfully submitted,

Stephen E. Coran

David S. Keir

Counsel to VTA Telecom Corporation

cc: Sanchitha Jayaram (DOJ)
Loyaan A. Egal (DOJ)
Glenn Kaminsky (DHS)
Denise Coca (FCC)

DECLARATION OF NGUYEN HOANG LONG

I, Nguyen Hoang Long, declare under penalty of perjury as follows:

1. I am President of VTA Telecom Corporation (“VTA Telecom”), and I have reviewed the letter sent to VTA Telecom by the Telecommunications and Analysis Division of the International Bureau of the Federal Communications Commission on August 10, 2018 (the “Inquiry Letter”).

2. I have reviewed the foregoing response to the Inquiry Letter and hereby certify that the facts set forth therein are true, complete and accurate.



Nguyen Hoang Long
President
VTA Telecom Corporation

Dated: September 10, 2018