

The name, address, citizenship and principal businesses of any person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest one percent). The applicant shall also identify any interlocking directorates with a foreign carrier.

**Note to paragraph (h):** Ownership and other interests in U.S. and foreign carriers will be attributed to their holders and deemed cognizable pursuant to the following criteria: Attribution of ownership interests in a carrier that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain that is equal to or exceeds 50 percent or represents actual control, it shall be treated as if it were a 100% percent interest. For example, if A owns 30 percent of company X, which owns 60 percent of company Y, which owns 26 percent of "carrier," then X's interest in "carrier" would be 26 percent (the same as Y's interest because X's interest in Y exceeds 50 percent), and A's interest in "carrier" would be 7.8 percent ( $0.30 \times 0.26$  because A's interest in X is less than 50 percent). Under the 25 percent benchmark, X's interest in "carrier" would be cognizable, while A's interest would not be cognizable.

(i) A certification as to whether or not the applicant is, or is affiliated with, a foreign carrier. The certification shall state with specificity each foreign country in which the applicant is, or is affiliated with, a foreign carrier.

(j) A certification as to whether or not the applicant seeks to provide international telecommunications services to any destination country for which any of the following is true. The certification shall state with specificity the foreign carriers and destination countries:

(1) The applicant is a [foreign carrier](#) in that country; or

(2) The applicant [controls](#) a foreign carrier in that country; or

(3) Any entity that owns more than 25 percent of the applicant, or that controls the applicant, controls a foreign carrier in that country.

(4) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the applicant and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of international basic telecommunications services in the United States.

(k) For any destination country listed by the applicant in response to paragraph (j), the applicant shall make one of the following showings:

(1) The named foreign country (i.e., the destination foreign country) is a Member of the World Trade Organization; or

(2) The applicant's affiliated foreign carrier lacks [market power](#) in the named foreign country; or

(3) The named foreign country provides effective competitive opportunities to U.S. carriers to compete in that country's market for the service that the applicant seeks to provide (facilities-based, resold switched, or resold non-interconnected private line services). An

effective competitive opportunities demonstration should address the following factors:

A statement as to whether the applicant has previously received authority under Section 214 of the Act and, if so, a general description of the categories of facilities and services authorized (i.e., authorized to provide international switched services on a facilities basis);

(e) One or more of the following statements, as pertinent:

(1) Global Facilities-Based Authority. If applying for authority to become a facilities-based international common carrier subject to [§ 63.22](#) , the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a facilities-based carrier pursuant to [§ 63.18](#) (e)(1) of the Commission's rules;

(ii) List any countries for which the applicant does not request authorization under this paragraph (see [§ 63.22](#) (a)); and

(iii) Certify that it will comply with the terms and conditions contained in §§ [63.21](#) and [63.22](#) .

(2) Global Resale Authority. If applying for authority to resell the international services of authorized U.S. common carriers subject to [§ 63.23](#) , the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a resale carrier pursuant to [§ 63.18](#) (e)(2) of the Commission's rules;

(ii) List any countries for which the applicant does not request authorization under this paragraph (see [§ 63.23](#) (a)); and

(iii) Certify that it will comply with the terms and conditions contained in §§ [63.21](#) and [63.23](#).

) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the applicant and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of international basic telecommunications services in the United States.

(k) For any destination country listed by the applicant in response to paragraph (j), the applicant shall make one of the following showings:

(1) The named foreign country (i.e., the destination foreign country) is a Member of the World Trade Organization; or

(2) The applicant's affiliated foreign carrier lacks [market power](#) in the named foreign country; or

(3) The named foreign country provides effective competitive opportunities to U.S. carriers to compete in that country's market for the service that the applicant seeks to provide (facilities-based, resold switched, or resold non-interconnected private line services). An effective competitive opportunities demonstration should address the following factors:

(i) If the applicant seeks to provide facilities-based international services, the legal ability of U.S. carriers to enter the foreign market and provide facilities-based international services, in particular international message telephone service (IMTS);

(ii) If the applicant seeks to provide resold services, the legal ability of U.S. carriers to enter the foreign market and provide resold international switched services (for switched resale applications) or non-interconnected private line services (for non-interconnected private line resale applications);

(iii) Whether there exist reasonable and nondiscriminatory charges, terms and conditions for interconnection to a foreign carrier's domestic facilities for termination and origination of international services or the provision of the relevant resale service;

(iv) Whether competitive safeguards exist in the foreign country to protect against anticompetitive practices, including safeguards such as:

(A) Existence of cost-allocation rules in the foreign country to prevent cross-subsidization;

(B) Timely and nondiscriminatory disclosure of technical information needed to use, or interconnect with, carriers' facilities; and

(C) Protection of carrier and customer proprietary information;

(v) Whether there is an effective regulatory framework in the foreign country to develop, implement and enforce legal requirements, interconnection arrangements and other safeguards; and

(vi) Any other factors the applicant deems relevant to its demonstration.

(l) Any applicant that proposes to resell the international switched services of an unaffiliated U.S. carrier for the purpose of providing international telecommunications services to a country where it is a [foreign carrier](#) or is [affiliated](#) with a foreign carrier shall either provide a showing that would satisfy § 63.10(a)(3) or state that it will file the quarterly traffic reports required by § 43.61(c) of this chapter.

(m) With respect to regulatory classification under [§ 63.10](#) , any applicant that is or is affiliated with a foreign carrier in a country listed in response to paragraph (i) and that desires to be regulated as non-dominant for the provision of particular international telecommunications services to that country should provide information in its application to demonstrate that it qualifies for non-dominant classification pursuant to [§ 63.10](#) .

(n) A certification that the applicant 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 market power on the foreign end of the route and will not enter into such agreements in the future.

(o) A certification pursuant to §§ 1.2001 through 1.2003 of this chapter that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. 853a.

(p) If the applicant desires streamlined processing pursuant to [§ 63.12](#), a statement of how the application qualifies for streamlined processing.

(q) Subject to the availability of electronic forms, all applications described in this section must be filed electronically through the International Bureau Filing System (IBFS). A list of forms that are available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, §§ 1.1000-1.10018 and the IBFS homepage at <http://www.fcc.gov/ibfs>. See also §§ 63.20 and 63.53.

**Note 1 to paragraph (h):** The word "control" as used in this section is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

**Note 2 to paragraph (h):** The term "facilities-based carrier" as used in this section means one that holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in an international facility, regardless of whether the underlying facility is a common or non-common carrier submarine cable, or an INTELSAT or separate satellite system.

**Note 3 to paragraph (h):** The assessment of "capital stock" ownership will be made under the standards developed in Commission case law for determining such ownership. See, e.g., *Fox Television Stations, Inc.*, 10 FCC Rcd 8452 (1995). "Capital stock" includes all forms of equity ownership, including partnership interests.

**Note 4 to paragraph (h):** Ownership and other interests in U.S. and foreign carriers will be attributed to their holders and deemed cognizable pursuant to the following criteria: Attribution of ownership interests in a carrier that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50 percent, it shall not be included for purposes of this multiplication. For example, if A owns 30 percent of company X, which owns 60 percent of company Y, which owns 26 percent of "carrier," then X's interest in "carrier" would be 26 percent (the same as Y's interest because X's interest in Y exceeds 50 percent), and A's interest in "carrier" would be 7.8 percent ( $0.30 \times 0.26$ ). Under the 25 percent attribution benchmark, X's interest in "carrier" would be cognizable, while A's interest would not be cognizable.