

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

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| _____) | |
| In the Matter of) | |
| Telecom Italia Sparkle of) | |
| North America, Inc.) | |
|) | File No. ITC-MOD- _____ |
| Petition to Modify Regulatory Classification) | |
| From Dominant to Non-Dominant on) | |
| Specific Routes Pursuant to Section 63.13) | |
| of the Commission's Rules) | |
| _____) | |

PETITION FOR MODIFICATION OF REGULATORY CLASSIFICATION

Telecom Italia Sparkle of North America, Inc. (“TISNA”)¹, by its attorneys and pursuant to section 214 of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 214, and section 63.13 of the rules of the Federal Communication Commission (“Commission” or “FCC”), 47 C.F.R. § 63.13, hereby petitions the Commission to modify TISNA’s regulatory status on four routes from dominant to non-dominant. Specifically, TISNA requests classification as non-dominant on the U.S.-Austria, U.S.-Bolivia, U.S.-Brazil and U.S.-Cuba routes (“Petition Routes”). In support of this Petition, TISNA provides the following information showing that it is eligible for non-dominant treatment under the criteria set forth in section 63.10 of the Commission’s rules, 47 C.F.R. § 63.10.

¹ TISNA previously operated under the name Telecom Italia North America (“TINA”) and received authority to provide global facilities-based authority and global resale authority on numerous routes. See ITC-214-20000523-00313 and ITC-214-20030716-00357. See also Letter from Troy F. Tanner, counsel for TISNA to Ms. Marlene Dortch, FCC (Sep. 7, 2004) (notifying FCC of the name change from Telecom Italia North America, Inc. to Telecom Italia Sparkle of North America, Inc.).

TISNA previously agreed to accept dominant carrier classification on the Petition Routes based on the company's affiliation with certain incumbent foreign carriers who possessed market power in those countries.² Specifically, TISNA previously was affiliated, within the meaning of section 63.09(e) of the Commission's rules, 47 C.F.R. § 63.09(e), with Telekom Austria A.G. ("Telekom Austria") in Austria; Entel S.A. ("Entel") in Bolivia; Brasil Telecom Participacoes S.A. ("Brasil Telecom") in Brazil; and Empresa de Telecomunicaciones de Cuba S.A. ("ETECSA") in Cuba (collectively, the "Dominant Carriers"). TISNA now is eligible for non-dominant carrier classification on the Petition Routes because it is no longer affiliated with any dominant foreign carriers on those routes.

Section 63.09(e) defines companies as being affiliated if "one of them, or an entity that controls one of them, directly or indirectly owns more than 25 percent of the capital stock of, or controls, the other one."³ Control is defined as including "direct or indirect control, such as through intervening subsidiaries."⁴ Telecom Italia S.p.A. ("Telecom Italia") wholly owns TISNA through its subsidiary Telecom Italia Sparkle S.p.A. ("Telecom Italia Sparkle"). Telecom Italia indirectly held at least 25% of Telekom Austria and Brasil Telecom through its wholly-owned subsidiary Telecom Italia International N.V. ("Telecom Italia International") and directly held more than 25% of Entel and ETECSA.

As explained below, Telecom Italia no longer owns more than 25% of the capital shares of the Dominant Carriers, and therefore TISNA is no longer affiliated with the Dominant Carriers on the Petition Routes.

U.S. - Austria Route

² See, e.g., Telecom Italia Sparkle of North America, Inc. Foreign Carrier Affiliation Notification, FCN-NEW-20060112-00001 (filed Jan. 12, 2006).

³ 47 C.F.R. § 63.09(e).

⁴ 47 C.F.R. § 63.09(b).

TISNA and Telekom Austria previously were affiliated based on the common ownership of both by Telecom Italia. Specifically, Telecom Italia indirectly owns TISNA through its subsidiary Telecom Italia Sparkle, and Telecom Italia indirectly owned Telekom Austria through its subsidiary Telecom Italia International. Telekom Austria is an incumbent carrier in Austria and, consequently, TISNA was classified as dominant and subject to dominant carrier status on the U.S.-Austria route. In January 2004, Telecom Italia International disposed of its remaining investment in Telekom Austria.⁵ Consequently, TISNA is no longer affiliated with Telekom Austria and should be reclassified as non-dominant on the U.S.-Austria route.

U.S. – Bolivia Route

TISNA and Entel previously were affiliated based on the common ownership of both by Telecom Italia. Specifically, Telecom Italia indirectly owns TISNA through its subsidiary Telecom Italia Sparkle, and Telecom Italia directly held 100% ownership of Entel. Entel was an incumbent carrier in Bolivia and, consequently, TISNA was classified as dominant and subject to dominant carrier status on the U.S.-Bolivia route. Based on legislation and other actions taken by the Bolivian Government in 2007 and 2008, Telecom Italia Sparkle relinquished its entire ownership interest in Entel.⁶ Accordingly, TISNA is no longer affiliated with Entel and reclassification of TISNA's status from dominant to non-dominant on the U.S.-Bolivia route is warranted.

U.S. – Brazil Route

⁵ See Telecom Italia Annual Report 2004 at 40 at <http://www.telecomitalia.com/bilancio2004/English/Download/TI-2004-annual-report.pdf>

⁶ See, e.g., Telecom Italia S.p.A., Form 6-K at 73 (filed May 29, 2009) at http://google.brand.edgar-online.com/EFX_dII/EDGARpro.dII?FetchFilingHTML1?ID=6632217&SessionID=6mkIH6uHp0iCf17

TISNA and Brasil Telecom previously were affiliated based on the common ownership of both by Telecom Italia. Telecom Italia indirectly owns TISNA through its subsidiary Telecom Italia Sparkle, and Telecom Italia indirectly owned Brasil Telecom through Telecom Italia's subsidiary, Telecom Italia International. In December 2007, Telecom Italia International sold its 38% stake in Solpart Participacoes S.A., the holding company which controlled Brasil Telecom.⁷ Accordingly Telecom Italia no longer controls Brasil Telecom and, as a result, TISNA is no longer affiliated with Brasil Telecom. This change in affiliation justifies reclassification of TISNA's status to non-dominant on the U.S.–Brazil route.

U.S. – Cuba Route

TISNA and ETECSA previously were affiliated based on the common ownership of both by Telecom Italia. Telecom Italia indirectly owns TISNA through its subsidiary Telecom Italia Sparkle, and Telecom Italia directly held a 27% ownership of ETECSA. In January 2011, Telecom Italia sold its entire 27% ownership stake in ETECSA to Rafin, S.A., a Cuban financial company.⁸ Telecom Italia no longer controls ETECSA, and, as a result, TISNA is no longer affiliated with ETECSA. Accordingly, TISNA should be reclassified as non-dominant on the U.S.-Cuba route.

As discussed above, neither TISNA nor any affiliated entity owns 25% or more of the capital stock of any of the Dominant Carriers and, consequently, TISNA is not affiliated with any of the Dominant Carriers. Section 63.10(a)(1) of the Commission's rules states that a U.S.

⁷ See Telecom Italia S.p.A. 2007 Annual Report at 255, Note 16 - Discontinued operations/non-current assets held for sale at <http://www.telecomitalia.com/TIPortale/docs/investor/html/bilancio2007/English/Download/TI-2007-bilancio.pdf>

⁸ See Telecom Italia Annual Report 2010 at 303, "Note 49 - Events subsequent to December 31, 2010" at http://www.telecomitalia.com/content/dam/telecomitalia/en/archive/documents/investors/Annual_Reports/2010/AnnualReport2010.pdf

carrier “that has no affiliation with, and that itself is not, a foreign carrier in a particular country to which it provides service (*i.e.*, a destination country) shall presumptively be considered non-dominant for the provision of international communications services on that route.”⁹ Since TISNA has no affiliation with any of the Dominant Carriers on the Petition Routes, TISNA is entitled to non-dominant treatment pursuant to section 63.10(a)(1) of the Commission’s rules.

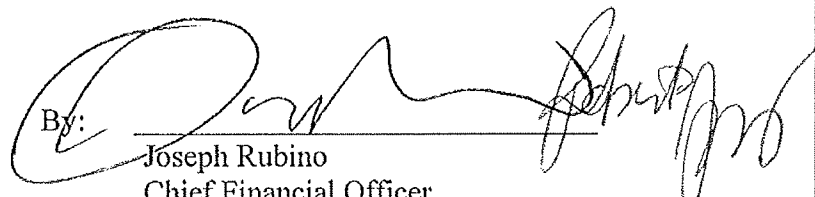
For these reasons, TISNA requests that the Commission grant this Petition for non-dominant treatment on the U.S.-Austria, U.S.-Bolivia, U.S.-Brazil and U.S.-Cuba routes.

Respectfully Submitted,

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⁹ 47 C.F.R. § 63.10(a)(1).