



April 10, 2018

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

*Re: Request to Amend Cable Landing License and International Section 214
Authorization for Honotua Submarine Cable System, File Nos. SCL-LIC-
20081008-00017 and ITC-214-20081008-00453*

Dear Ms. Dortch:

Through its counsel, l'Office des Postes et Télécommunications de Polynésie Française ("OPT") requests that the Commission amend the 2010 cable landing license and international Section 214 authorization for the Honotua submarine cable system¹ in order to reflect revisions to the security mitigation arrangements negotiated with the Executive Branch. Effective March 27, 2018, OPT executed Amendment No. 1 to the December 3, 2010, Network Security Agreement ("NSA") in order to update certain substantive terms of that NSA.

As a signatory to the NSA, OPT acknowledges that it is bound by the commitments set forth in amended NSA. .OPT therefore requests that the Commission amend the Honotua Cable Landing License and Honotua 214 to require compliance with the NSA as amended by Amendment No. 1. For the convenience of the Commission, we have attached both the NSA and Amendment No. 1 thereto.

¹ *Actions Taken Under Cable Landing License Act*, Public Notice, 23 FCC Rcd. 17,049 (2010) ("Honotua Cable Landing License"); *International Authorizations Granted*, Public Notice, 23 FCC Rcd. 17,052 (2010) ("Honotua 214").

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Should you have any questions, please contact Kent Bressie by telephone at +1 202 730 1337 or by e-mail at kbressie@hwglaw.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kent Bressie".

Kent Bressie
Susannah Larson

*Counsel for l'Office des Postes et
Télécommunications de Polynésie Française*

Attachments

cc: Jodi Cooper
David Krech
Kristin Taylor (DOJ)
Glenn Kaminsky (DHS)

AMENDMENT NO. 1

This AMENDMENT NO. 1 (“**Amendment No. 1**”) is effective as of the date of the last signature affixed hereto by and between Office des Postes et Télécommunications de Polynésie Française (“**OPT**”), on the one hand, and the United States Department of Homeland Security (“**DHS**”) and the United States Department of Justice (“**DOJ**,” together with DHS, the “**U.S. Government Parties**”), on the other (referred to individually as a “**Party**” and collectively as the “**Parties**”).

WHEREAS, on October 8, 2008, OPT applied to the Federal Communications Commission (“**FCC**”) for a license to land, construct and operate a fiber-optic submarine cable system between the United States and French Polynesia (the “**Honotua Cable System**”), on a common carrier basis (FCC File No. SCL-LIC-20081008-00017 and FCC File No. ITC-214-20081008-00453 (collectively, the “**Applications**”));

WHEREAS, on December 6, 2010, the FCC conditioned the grant of the Applications (as granted, the “**Licenses**”) upon petition by the U.S. Government Parties, subject to the resolution of issues relating to national security, law enforcement and public safety, which resolution was memorialized in that certain Agreement dated December 3, 2010, by and between the Parties (the “**Agreement**”);

WHEREAS, the U.S. Government Parties have determined that certain terms of the Agreement are inadequate to address national security, law enforcement, or public safety concerns and the Parties have determined that this Amendment No. 1 is necessary to address changes in circumstances, consistent with Section 9.9 of the Agreement;

NOW THEREFORE, the Parties agree to amend the Agreement as follows:

I. Article 1, Sections 1.1, 1.8, 1.18, 1.19 and 1.24 are amended and restated in their entirety as follows:

1.1 “**Access**” or “**Accessible**” means the ability to physically or logically undertake any of the following actions:

- (a) read, copy, divert, or otherwise obtain non-public information or technology from or about software, hardware, a system or network;
- (b) add, edit, delete, modify, reconfigure, provision, or alter information or technology stored on or by software, hardware, a system or network; and
- (c) alter the physical or logical state of software, hardware, a system or network (e.g. turning it on or off, changing configuration, removing or adding components or connections).

1.8 **“Domestic Communications Infrastructure”** or **“DCI”** means: (a) any portion of the Honotua Cable System that is physically located in the United States, up to the submarine line terminating equipment, including (if any) transmission, switching, bridging, and routing equipment, and any associated software (with the exception of commercial-off-the-shelf (“COTS”) software used for common business functions, e.g., MS Office) used by or on behalf of OPT to provide, process, direct, control, supervise, or manage information carried on the Honotua Cable System; (b) facilities and equipment used by or on behalf of OPT that are physically located in the United States; and (c) Network Operations Center (“NOC”) facilities that may be used to control, provision, and activate the equipment for the Honotua Cable System. The phrase “on behalf of” as used in this section does not include entities with which OPT has contracted for peering, interconnection, roaming, long distance, or similar arrangements.

1.18 **“Network Management Information”** means: the network management operations plans, processes and procedures; descriptions of the placement of Network Operating Center(s) and linkages (for service off load or administrative activities) to other domestic and international carriers, internet service providers (“ISPs”) and other critical infrastructures; descriptions of networks and operations processes and procedures for management control and relation to the backbone infrastructure(s) including other service providers; description of any unique or proprietary control mechanisms as well as operating and administrative software; and network performance information to the Honotua Cable System.

1.19 **“Network Operations Center”** or **“NOC”** means the locations and facilities designated as such by OPT for purposes of performing network management, network performance monitoring, maintenance, or other operational functions for the Honotua Cable System.

1.24 **“Principal Equipment”** means the primary electronic components of the Honotua Cable System, which includes the Domestic Communications Infrastructure and Wet Infrastructure. Principal Equipment includes: network element servers; routers; switches; repeaters; submarine line terminal equipment (“SLTE”); system supervisory equipment (“SSE”); signal modulators and amplifiers; communications toolbox (“CTB”); power feed equipment (“PFE”); tilt and shape equalizer units (“TEQ/SEQ”); optical distribution frames (“ODF”); branching units (“BU”); synchronous optical network (“SONET”); synchronous digital hierarchy (“SDH”); wave division multiplexing (“WDM”); dense wave division multiplexing (“DWDM”); coarse wave division multiplexing (“CWDM”); or optical carrier network (“OCx”) equipment, as applicable; and any non-embedded software necessary for the proper monitoring, administration, and provisioning of the Honotua Cable System (with the exception of COTS software used for common business functions, e.g., MS Office).

II. Article 1 is amended by adding a new Section 1.31, stated in its entirety below, and the subsequent sections are accordingly renumbered as Sections 1.32 and 1.33:

1.31 **“Wet Infrastructure”** means hardware components installed and residing on the undersea portion of the Honotua Cable System, including fiber optic cables, repeaters, branching units, and routers (if any). Wet Infrastructure includes all the components used in order to define the topology of the undersea portion of the Honotua Cable System.

III. Article 2, Section 2.5 is deleted and the subsequent sections are accordingly renumbered as Sections 2.5 through 2.7. Further, Section 2.4 and Section 2.6 (as renumbered) are amended and restated in their entirety below:

2.4 Cable System Infrastructure. Upon request, OPT shall provide U.S. Government Parties with:

- (a) a complete and current list of Principal Equipment including each item's manufacturer and the model and/or version number of any hardware or software; any vendors, contractors, or subcontractors involved in installing, operating, managing, or maintaining the Principal Equipment; and a description of each Principal Equipment item and the functions supported;
- (b) a complete and current list of all contracts held by OPT for the maintenance and security of the Honotua Cable System;
- (c) a restoration plan for the Principal Equipment and the Wet Infrastructure for the Honotua Cable System, as well as interconnection mechanisms with other cable landings for restoration in the case of outages due to cable disruptions;
- (d) a logical security plan (as further described in Section 4.8 below), and any associated policies or procedures, adopted or maintained to protect and promote resiliency of the Honotua Cable System, which plan shall include measures to ensure that security patches for systems and applications are kept up to date;
- (e) a physical security plan (as further described in Section 4.2 below), and any associated policies or procedures, adopted or maintained to protect and promote resiliency of the Honotua Cable System; and
- (f) A network map that includes a physical and logical topology, Network Management Information, network and telecommunications architecture descriptions and associated descriptions of interconnection points, controlled gateways to the DCI and the Wet Infrastructure, network operational plans, processes and procedures, locations and functions of any NOCs, and descriptions of disaster recovery and administrative functions.

OPT shall provide at least ten (10) business days' advance notice prior to performing any maintenance, repair, or replacement that would result in any material modification to the Principal Equipment list for the Honotua Cable System. OPT need not comply with the advance notice requirement for any maintenance, repair, or replacement that is undertaken in response to an unforeseen or uncontrollable event and is necessary to ensure the continued operability of the Honotua Cable System; however, in such circumstances, OPT shall provide advance notice of the modifications if practicable, and if impracticable, within ten (10) business days after the material modification of the Principal Equipment. OPT may continue to utilize any Principal

Equipment repaired or replaced pursuant to the process outlined in this paragraph, provided that the U.S. Government Parties do not object within thirty (30) business days of notification.

OPT shall provide at least thirty (30) business days' advance notice prior to making any modifications to the list of vendors, contractors, or subcontractors involved in providing, installing, operating, managing, or maintaining the Principal Equipment. In addition, OPT shall provide at least thirty (30) business days' advance notice prior to changing the service offerings or support from a previously-listed vendor, contractor, subcontractor (i.e., where a previously-listed provider will be offering support in a previously unidentified way). The U.S. Government Parties shall approve or disapprove any modification or change proposed pursuant to this paragraph within thirty (30) business days of receipt. Failure by the U.S. Government Parties to respond within the required timeframe shall be deemed to constitute a non-objection to proposed modification or change.

OPT shall provide at least five (5) business days' advance notice prior to making any material modifications to their contracts for Honotua Cable System maintenance and security. OPT may continue to utilize any contractor providing maintenance or security for the Honotua Cable System, provided that the U.S. Government Parties do not object within thirty (30) business days of notification.

2.6 Annual Report. On or before the anniversary of the date of execution of this Agreement, OPT will submit to the U.S. Government Parties a report assessing OPT's compliance with the terms of the Agreement for the preceding year. To assist the U.S. Government Parties in assessing compliance, the report shall include:

- (a) an updated Principal Equipment list containing all information described in paragraph 2.4(a) of this Agreement and identifying any material modifications since the list most recently was provided to the U.S. Government Parties;
- (b) a detailed network description and map reporting any changes, if any, to the Honotua Cable System's physical and logical topology during the reporting period, including the addition of new NOCs or cable landing stations;
- (c) the names and contact information of the then-current point(s) of contact;
- (d) a summary of any changes, if any, to services provided using the Honotua Cable System;
- (e) a summary of any events, if any, that occurred during the reporting period that, to the knowledge of OPT, will or reasonably could impact the effectiveness of or compliance with this Agreement, such as participation in any aspect of day-to-day management by a foreign government or foreign-government controlled entity;
- (f) a summary of any known acts of noncompliance with the terms of this Agreement, if any, that occurred during the reporting period, whether inadvertent or intentional, with a discussion of what steps have been or will be taken to prevent such acts from occurring in the future; and

- (g) a copy of the then-current plans, policies and procedures – including the restoration, physical security, and logical security plans – adopted to comply with this Agreement, and a summary of any changes to these plans, policies, or procedures, and the reasons therefore.

IV. Article 4 is amended by adding new Sections 4.2 and 4.3, stated in their entirety below, and the subsequent sections (Sections 4.2 through 4.11) are correspondingly renumbered as Sections 4.4 through 4.13:

4.2 Physical Security Measures. OPT agrees to take all reasonable measures to physically secure the Honotua Cable System, including the DCI. OPT will screen appropriate personnel, and it will require that all visitors who physically access the U.S. Termination Point or the U.S. NOC are escorted at all times by Screened Personnel (as defined in Section 4.12). OPT shall provide its physical security plan, and any policies and procedures regarding physical security measures, to the U.S. Government Parties upon request. OPT agrees to meet and confer with the U.S. Government Parties and to consider any concerns the U.S. Government Parties may raise about such plan, policies or procedures.

4.3 Report of Unauthorized Disruption. OPT agrees to report to the U.S. Government Parties if it learns of information that it believes reasonably indicates unauthorized third party disruption of the Honotua Cable System or any Domestic Communications being carried on the Honotua Cable System. Any such reports should be provided in writing to the U.S. Government Parties within ten (10) business days of discovery of the relevant information. OPT further agrees to confer with, and reasonably consider any recommendations by the U.S. Government Parties with respect to how to remediate such events. OPT will provide notice within ten (10) business days of the receipt of any such recommendation whether OPT has adopted the recommendation. The notice will include an explanation of why OPT has not adopted any recommendation that it does not adopt and a description of the actions taken to implement any recommendation that it does adopt.

V. Article 4, Sections 4.8, 4.10, 4.12 and 4.13 (as renumbered) are amended and restated in their entirety as follows:

4.8 Logical Security Plan.

- (a) OPT agrees to maintain a logical security plan to prevent any unlawful use or disclosure of information carried on the same. Such measures shall include a National Institute of Standards and Technology (“NIST”)-compliant cyber-security plan, to include items such as configuration management, security audits, and system interconnection documentation, as well as contractual safeguards and screening procedures for personnel with logical access to the DCI. In addition, OPT will take other appropriate measures to protect and promote resiliency of the Honotua Cable System, including measures to ensure that security patches for systems and applications are kept up to date. In addition, OPT will maintain or exceed security standards and best practices utilized within the U.S.

telecommunications industry for maintenance of password systems and firewalls, non-destructive access logs, and periodic internal network security and switch audits. OPT shall provide its logical security plan, and any policies or procedures created to comply with this provision, to the U.S. Government Parties upon request. OPT further agrees to meet and confer with the U.S. Government Parties and to consider any concerns the U.S. Government Parties may raise about such plans, policies, or procedures.

- (b) OPT agrees to take appropriate measures to prevent unauthorized Access to or disclosure of Classified, Controlled Unclassified, or Sensitive Information and to address proper handling and storage of such information.
- (c) OPT agrees to assign only Screened Personnel to positions that regularly deal with or are responsible for maintaining the confidentiality of Controlled Unclassified and Sensitive Information.
- (d) OPT agrees, upon request from the U.S. Government Parties, to provide the name, date of birth, and other relevant requested identifier information of each person who regularly handles or deals with Controlled Unclassified and/or Sensitive Information.
- (e) OPT shall require that personnel handling Classified Information shall have been granted appropriate security clearances pursuant to Executive Order 12968.
- (f) OPT shall provide that the points of contact described in Section 2.5 of this Agreement shall have sufficient authority over any person who may handle Classified, Controlled Unclassified, or Sensitive Information to maintain the confidentiality and security of such information in accordance with applicable U.S. legal authority and the terms of this Agreement;
- (g) OPT agrees to maintain appropriately secure facilities (e.g. offices) for the handling and storage of any Classified, Controlled Unclassified, or Sensitive Information.

4.10 Instruction of Obligations. Within forty five (45) days of the Effective Date, OPT shall instruct appropriate officials, employees, contractors, and agents as to OPT's obligations under this Agreement, including the individuals' duty to report any violation of this Agreement and the reporting requirements in Article 6 of this Agreement, and shall issue periodic reminders to them of such obligations.

4.12 Screening of Personnel. OPT shall implement a screening process to ensure compliance with all personnel screening process requirements agreed to by OPT and the U.S. Government Parties pursuant to the Agreement. OPT's screening process shall include any existing or newly hired OPT personnel or any personnel performing under an agreement with OPT in at least the following circumstances:

- (a) any person whose position could involve Access to the Domestic Communications Infrastructure;

- (b) all persons who have Access to Classified, Controlled Unclassified, and Sensitive Information; and
- (c) all personnel charged with securing the DCI.

Upon satisfactory completion of the screening process requirements set forth in this Agreement, such persons shall be considered “**Screened Personnel.**” In addition OPT will cooperate with any reasonable notice by a U.S. Government Authority to provide additional information necessary for an enhanced background investigation to be conducted by such U.S. Government Authority with respect to Screened Personnel.

4.13 Screening Process Requirements. The screening process undertaken pursuant to this Section shall be reflected in a written policy and shall specifically include a background and financial investigation, in addition to a public criminal records check. In addition, OPT assumes the following obligations:

- (a) OPT shall consult with the U.S. Government Parties regarding the screening procedures to be used. OPT shall reasonably address any concerns the U.S. Government Parties may raise with respect to such screening procedures. OPT shall use the criteria identified in Section 4.12 of this Agreement to identify the personnel to be screened.
- (b) OPT shall cooperate with reasonable requests by a U.S. Government Party, or any U.S. Government Authority desiring to conduct any further background checks.
- (c) OPT shall not permit individuals who are rejected pursuant to such further background checks by a U.S. Government Authority to perform functions that would require screening under this Section. OPT shall notify the U.S. Government Parties of the job modification of any individual rejected because of the screening conducted pursuant to this Agreement within ten (10) business days of such modification, and shall provide the U.S. Government Parties upon request with the name, date of birth and any other requested identifier information of such individual.
- (d) OPT shall provide training programs to instruct Screened Personnel as to their obligations under the Agreement. OPT shall monitor, on a regular basis the status of Screened Personnel, and shall remove personnel who no longer meet the Screened Personnel requirements;
- (e) OPT shall maintain records relating to the status of Screened Personnel, and shall provide these records, upon request, to any or all of the U.S. Government Parties.
- (f) OPT shall maintain any records or other information relating to individual persons provided to or obtained by the U.S. Government Parties in connection with this Agreement, including implementation and results of screening requirements, in a secure and confidential manner strictly in accordance with applicable law.

VI. Article 6, Sections 6.6 and 6.9 are amended and restated in their entirety as follows:

6.6 Reporting of Incidents. OPT shall report to the U.S. Government Parties if it learns of any information that reasonably indicates:

- (a) a material breach of this Agreement;
- (b) Access or disclosure of Domestic Communications, or the conduct of Electronic Surveillance on Domestic OPT Infrastructure, in violation of federal, state, or local law or regulation;
- (c) improper Access to or disclosure of Classified or Sensitive Information; or
- (d) unauthorized physical access to any U.S. cable landing station or the U.S. NOC.

This report shall be promptly made in writing by an appropriate officer of OPT to DHS and DOJ no later than ten (10) business days after OPT learns of any information that reasonably indicates a matter described in this Section. OPT shall lawfully cooperate in investigating the matters described in this Section. OPT need not report information where disclosure of such information would be in violation of applicable law.

6.9 Notices. Following the Effective Date, all notices and other communications relating to this Agreement shall be in writing delivered through one of the following methods, deemed given as of the date of receipt: (a) personal delivery; (b) documented overnight courier service; (c) registered or certified mail, postage prepaid; or (d) electronic mail. Notices and other communications shall be addressed to the Parties' designated representatives at the addresses shown below, or to such other representatives at such addresses as the Parties may designate in the future:

Department of Homeland Security
Assistant Secretary for Policy
3801 Nebraska Avenue, N.W.
Washington, D.C. 20528
Email: IP-FCC@hq.dhs.gov

Department of Justice
National Security Division
Foreign Intelligence Review Staff
600 E Street, N.W.
Washington, D.C. 20004
Email: TTelecom@usdoj.gov

Mr. Tehina Thuret
General Manager
8 rue de la reine Pomare
98713 Papeete, Tahiti
French Polynesia
Fax: +689 43 67 67
Email: tehina.thuret@opt.pf

With a copy to:

Mr. Kent Bressie
Harris, Wiltshire & Grannis LLP
1919 M. Street, N.W., Suite 800
Washington, D.C. 20036
Email: kbressie@hwglaw.com

VII. FCC Approval

Upon execution of this Amendment No. 1 by all the Parties, OPT shall file a petition with the FCC requesting the amendment of the condition on the Licenses to include compliance with this Amendment No. 1. This Amendment No. 1 is effective upon the date of the last signature affixed hereto.

VII. Ratification

Office des Postes et Télécommunications de Polynésie Française

Printed Name: Tehina THURET
Title: Acting Chief Executive Officer,
Executive Manager of Telecommunications



20 MAR 2018

Date

United States Department of Justice

Printed Name: Richard C. Sofield
Title: Director, Foreign Investment Review Staff

Date


U.S. Department of Homeland Security

Printed Name: Michael Daugherty
Title: Assistant Secretary for Border Immigration and Trade

Date

VII. Ratification


Office des Postes et Télécommunications de Polynésie Française


Printed Name: Tehina THURET
Title: Acting Chief Executive Officer,
Executive Manager of Telecommunications



20 MAR 2018
Date

United States Department of Justice


Printed Name: Richard C. Sofield
Title: Director, Foreign Investment Review Staff

3/27/18
Date

U.S. Department of Homeland Security

Printed Name: Michael Daugherty
Title: Assistant Secretary for Border Immigration and Trade

Date

VII. Ratification

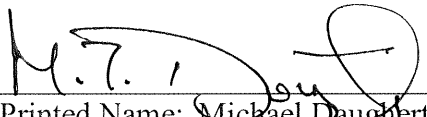
Office des Postes et Télécommunications de Polynésie Française

Printed Name: Tehina Thuret Date _____
Title: Executive Manager, Telecommunications Business Unit

U.S. Department of Justice

Printed Name: Richard C. Sofield Date _____
Title: Director, Foreign Investment Review Staff

U.S. Department of Homeland Security



Printed Name: Michael Daugherty Date 3/15/18
Title: Assistant Secretary for Border, Immigration, and Trade