

ATTACHMENT I

Request for Special Temporary Authority to Operate Pending Approval of Section 214 Application and Submarine Cable Landing License Application for Transfer of Control

Re: ITC-STA-20100719-00297/214-20100719-00295; SCL-STA-20100719-00016/SCL-20100719-00014

Response to Question 10

Authorized carrier Tricom USA, Inc. ("Tricom USA") and its shareholders (collectively "Transferor") and AMZAK Capital Management, LLC ("AMZAK") and its members (collectively "Transferee") (Transferor and Transferee together the "Parties"), hereby request new Special Temporary Authority ("STA"), or, in the alternative, extensions of the STAs granted by the Commission staff on August 4, 2010 (international STAs) for Tricom USA to continue to provide telecommunications services pending Commission approval of the Parties' international applications for Commission consent to the transfer of control of Tricom USA's Section 214 authorizations to Transferee ("Section 214 Transfer of Control Applications") as well as the Parties' application for authority to transfer control of Tricom USA's Submarine Cable Landing Licenses ("SCL Transfer of Control Application") (Section 214 Transfer of Control Applications and SCL Transfer of Control Application collectively "Transfer of Control Applications").¹

On April 7, 2010, the Parties consummated transactions involving the assignment of Tricom USA's international and domestic Section 214 authorizations ("Section 214 Assignment Applications")² and its SCL licenses ("SCL Assignment Application")³ pursuant to a plan of

¹ To the extent necessary, the Parties also ask that these STAs cover the Parties' notification of the *pro forma* assignment of international Section 214 authorizations and SCL licenses from Transferee to Broadband Investments Limited ("Broadband"), a wholly-owned subsidiary of AMZAK ("*Pro Forma* Notifications").

² See Applications for the Assignment of Domestic and International Section 214 Authorizations from Tricom USA, Inc. Debtor-in-Possession to Tricom USA, Inc. in WC Docket No.10-16, IB Dockets: ITC-ASG-20091223-00543 and SCL-ASG-20091223-00040. The Domestic Section 214 Assignment Application was granted on February 21, 2010. See *Notice of Domestic Section 214 Authorization Granted*, Public Notice, DA 10-294, 25 FCC Rcd 1800 (2010). The International Section 214 Assignment Application was granted on January 29, 2010. See *International Authorizations Granted*, Public Notice, DA 10-232, 25 FCC Rcd 1279 (2010).

Tricom USA's International Section 214 authorizations are as follows: ITC-214-19930101-00257 (Old File No. ITC-93-246); ITC-214-19960925-00468 (Old File No. ITC-96-532); ITC-214-19970421-00220 (Old File No. ITC-97-221); ITC-214-19980430-00286 (Old File No. ITC-98-342, ITC-98-342A); ITC-214-19990325-00153; ITC-MOD-19970618-00335 (Old File No. ITC-96-532-M).

³ See File No. SCL-ASG-20091223-00040. The SCL Assignment Application was granted by the Commission on February 17, 2010. See *Actions Taken Under Cable Landing License Act*, Public Notice, DA 10-276, 25 FCC Rcd 1461 (2010).

In 1998 and 1999 the Commission authorized Tricom USA's predecessor-in-interest along with several other companies, to construct and operate the Americas II Cable System (File Nos. SCL-98-003, SCL-98-003A), the Maya-1 Cable System (File No. SCL-LIC-19990325-00006) and the Pan American Cable System (File No. SCL-97-001). See *AT&T Corp. et. al, Joint Applications for a License to Land and Operate a Digital Submarine Cable System Among Florida, Puerto Rico, the U.S. Virgin Islands, Martinique, Curacao, Trinidad, Venezuela, French Guiana and Brazil, the Americas-II Cable System*, Cable Landing License, 13 FCC Rcd 22540 (1998); *AT&T Corp. et. al, Joint Applications for a License to Land and Operate a Digital Submarine Cable System Between the United States, the Cayman Islands, Columbia, Costa Rica, Honduras, Mexico and Panama, the Maya-1 Cable Network*, Cable Landing License, 14 FCC Rcd 19456 (1999); *Americatel Corp. et. al, Joint Application for a License to Land*

reorganization ("Plan of Reorganization")⁴ under the United States bankruptcy laws and in accordance with the Commission's consent.

The exact indirect ownership of the reorganized Tricom USA could not be determined prior to the reissuance of stock pursuant to the Plan of Reorganization. Accordingly, in the Section 214 Assignment Applications and the SCL Assignment Application, the Parties provided estimates of the equity ownership percentages that would be held by each ten (10) percent or greater interest holder in Hispaniola Telecom Holdings, Ltd. ("Holding Company"), the holding company holding at least 99 percent of the ownership interests of reorganized Tricom, S.A. ("Tricom, S.A."), the direct parent company of Tricom USA. As reported in the Section 214 Assignment Applications and the SCL Assignment Application, the Parties reasonably believed that, post-consummation, AMZAK Capital Management, LLC ("AMZAK") would hold a direct ownership interest in Holding Company in excess of 18.5 percent but less than 50 percent, and that two other investors, Ellis Portafolio, S.A. ("Ellis") and MAP Private Trust Company ("MAP"), would hold 10.7 percent and 13.4 percent ownership interests in Holding Company, respectively.

During the time period following the Section 214 Assignment Application and prior to the date of consummation, April 7, 2010, AMZAK acquired further unsecured claims for borrowed money against Tricom, S.A. and its subsidiaries. As a result, as of the date of consummation, AMZAK, held a 57.2 percent ownership interest in Holding Company. Ellis and MAP respectively held 12.5 percent and 19.0 percent ownership interests in Holding Company.⁵

Further, the following transactions occurred. On or about April 7, 2010, AMZAK transferred its interest in Holding Company to its wholly-owned subsidiary, Broadband. On April 15, 2010, Ellis and MAP transferred their ownership interests in Holding Company to Broadband. On or about June 7, 2010, Broadband transferred a portion of its ownership interest in Holding Company to PTY Capital Partners Ltd. ("PTY Capital Partners"), a British Virgin Islands company. As a result of these transactions, Broadband now holds a 55.9 percent ownership

and Operate a Digital Submarine Cable System Between the U.S. Virgin Islands, Chile, Peru, Ecuador, Panama, Columbia, Venezuela, and Aruba, the Pan American Cable System, Cable Landing License, 13 FCC Red 850 (1998). At the time the Commission granted the license for the Pan American Cable System, Old Tricom USA was known as Domtel Communications, Inc.

⁴ Prior to the consummation of the Plan of Reorganization, all authorizations held by Tricom USA (referred to in the Section 214 Assignment Applications and SCL Assignment Application as "New Tricom USA") were previously held by Tricom USA, Inc. Debtor-in-Possession. Tricom USA, Inc., Debtor-in-Possession previously notified the Commission of the *pro forma* assignment of the Section 214 authorizations and SCL licenses identified herein from Tricom USA, Inc. (referred to in the Section 214 Assignment Applications and SCL Assignment Application as "Old Tricom USA") to Tricom USA, Inc. Debtor-in-Possession. See Letter from Cheryl A. Tritt, counsel to Tricom USA, Inc. Debtor-in-Possession, to Marlene Dortch, Secretary, Federal Communications Commission (filed March 27, 2008); Notification of the *Pro Forma* Assignment of International Section 214 Authorizations from Tricom USA, Inc. to Tricom USA, Inc. as Debtor-in-Possession, File No. ITC-ASG-20080327-00158; Tricom USA, Inc., Application for the *Pro Forma* Assignment of Interests in Submarine Cable Landing Licenses, File No. SCL-ASG-20080328-00009.

⁵ Applicants informed the Commission of these post-transfer of control ownership percentages in a consummation notice filed on May 7, 2010 via ECFS and IBFS. See Letter to Ms. Marlene Dortch, Secretary, from Michelle W. Cohen, dated May 7, 2010, WC Docket No. 10-16, IB Dockets: ITC-ASG-2009-1223-00543 and SCL-ASG-20091223-00040.

interest in Holding Company and PTY Capital Partners now holds a 20.5 percent ownership interest in Holding Company.⁶

Based on the transfer of majority control to AMZAK, and the *pro forma* transfer to Broadband, the Parties filed Transfer of Control Applications, the *Pro Forma* Notifications and the STA requests (which were promptly granted by Commission staff) in order to comply fully with the Commission's Rules.

The international and cable landing license STAs are set to expire on October 3, 2010. The Parties respectfully request new STAs, or in the alternative, further extensions of the existing above-captioned STAs. The Parties submit that good cause exists on the basis that additional time is needed because the underlying Transfer of Control applications were removed from streamlined treatment by the Commission while the 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), review the Transfer of Control Applications. That review remains ongoing. The Parties are in the process of submitting responses to Team Telecom's questionnaire. Team Telecom will then need time to review the submissions.

Grant of the instant STA request will serve the public interest as it will ensure no interruption of service, no inconvenience to customers, and no diminution in the availability of competitive local services. The transfer of control transaction was transparent and did not result in a reduction or impairment of service to Tricom USA's customers. Broadband and its affiliates continue to have the technical, financial and managerial capabilities to ensure the continuing provision of quality service to Tricom USA's customers.

The Parties acknowledge that grant of the requested STA will not prejudice any action the Commission may take on the Transfer of Control Applications and that, once granted, the STA may be revoked on the Commission's own notice, without hearing. Applicants further acknowledge that grant of an STA and the Transfer of Control Applications will not preclude enforcement action.

Response to Question 12

Tricom USA, AMZAK and Broadband are affiliated with Tricom, S.A., which operates in the Dominican Republic. Pursuant to Section 63.10 of the Commission's Rules, Tricom USA requests "non-dominant" status on all U.S.-international routes. Tricom USA is not affiliated with any foreign carriers other than Tricom, S.A., the Dominican Republic foreign affiliate identified in response to Questions 14 and 15 above. The Dominican Republic is a member of the World Trade Organization ("WTO"). Tricom, S.A. is not a monopoly provider of communications services in the Dominican Republic, and it lacks 50 percent market share in the

⁶ Contemporary Investments Ltd. ("Contemporary Investments"), a Bahamas company, holds 100 percent of the ownership interests of PTY Capital Partners. Alberto C. Motta, Jr. and Stanley A. Motta, citizens of Panama, each hold a 50 percent ownership interest in Contemporary Investments.

international transport and local access markets on the foreign end of its respective U.S.-international route. Accordingly, Tricom USA is presumptively classified as non-dominant on all U.S.-international routes.