

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

FILED/ACCEPTED

DEC - 5 2006

Federal Communications Commission  
Office of the Secretary

In the Matter of	)	IB File Nos.
	)	
Belgacom International Carrier Services	)	ITC-214-20060614-00315
N.V./S.A., Application for Authority to	)	
Provide Facilities-Based Service in	)	
Accordance with Section 63.18(e)(1) of the	)	
Rules, and Also to Provide Service in	)	
Accordance with Section 63.18(e)(2) of the	)	
Rules	)	
	)	
Application to Transfer Control of Swisscom	)	ITC-T/C-20060614-00316
North America, Inc., to Belgacom International	)	
Carrier Services N.V./S.A.	)	

**PETITION TO ADOPT CONDITIONS**

The United States Department of Justice (“DOJ”), including the Federal Bureau of Investigation (“FBI”), together with the United States Department of Homeland Security (“DHS”) (collectively, the “Agencies”), respectfully submit this Petition to Adopt Conditions pursuant to Section 1.41 of the rules of the Federal Communications Commission (“Commission”).<sup>1</sup> By this Petition, the Agencies advise the Commission that they have no objection to grant of the above-referenced applications, provided that the Commission conditions the authorizations on compliance with the commitments and undertakings contained in the applicants’ November 28, 2006, letter to Sigal P. Mandelker, Stewart A. Baker, and Elaine N. Lammert (the “Letter”), which is attached hereto.

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<sup>1</sup> 47 C.F.R. § 1.41.


By the above-referenced applications, Belgacom International Carrier Services N.V./S.A. ("Belgacom ICS") seeks authority to provide international telecommunications services and to acquire control of Belgacom International Carrier Services North America Inc. ("Belgacom ICS North America"), formerly known as Swisscom North America, Inc. The acquisition was part of the formation of a joint venture between Belgacom SA and Swisscom Fixnet Ltd., which was consummated on July 1, 2005.


As the Commission is aware, the Agencies have taken the position that their ability to satisfy their obligations to protect the national security, enforce the laws, and preserve the safety of the public could be impaired by transactions in which foreign entities will own or operate a part of the U.S. telecommunications system, or in which foreign-located facilities will be used to provide domestic telecommunications services to U.S. customers. After discussions with the applicants' representatives in connection with the above-referenced applications, the Agencies have concluded that the commitments set forth in the Letter will help ensure that the Agencies and other entities with responsibility for enforcing the law, protecting the national security, and preserving public safety can proceed in a legal, secure, and confidential manner to satisfy these responsibilities. Accordingly, the Agencies hereby advise the Commission that they have no objection to the Commission granting the above-referenced applications, provided that the Commission conditions its consent on compliance by the applicants with the commitments and undertakings set forth in the Letter.

The Agencies are authorized to state that the applicants do not object to the grant of this  
Petition.

Respectfully submitted,

  
\_\_\_\_\_  
Sigal P. Mandelker  
Deputy Assistant Attorney General  
Office of the Assistant Attorney General  
Criminal Division - Room 2113  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530  
(202) 305-8319

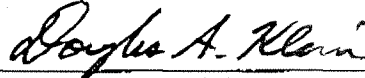
  
\_\_\_\_\_  
Elaine N. Lammert  
Deputy General Counsel  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N.W.  
Washington, DC 20535  
(202) 324-1530

  
\_\_\_\_\_  
Stewart A. Baker  
Assistant Secretary of Policy  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, N.W.  
Washington, DC 20528  
(202) 282-8030

December 5 , 2006

**Certificate of Service**

I, Douglas A. Klein, Assistant General Counsel, Federal Bureau of Investigation, hereby certify that I sent a copy of the foregoing "Petition to Adopt Conditions" regarding IB File Nos. ITC-214-20060614-00315 and ITC-T/C-20060614-00316 to Cheryl A. Tritt, counsel for Belgacom Inc. and Belgacom International Carrier Services North America Inc., on December 5, 2006, by e-mail.



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Douglas A. Klein

November 28, 2006

Ms. Sigal P. Mandelker  
Deputy Assistant Attorney General  
Criminal Division  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Mr. Stewart A. Baker  
Assistant Secretary for Policy  
United States Department of Homeland Security  
3801 Nebraska Avenue, N.W.  
Washington, D.C. 20528

Ms. Elaine N. Lammert  
Deputy General Counsel  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Re: Pending FCC Applications ITC-214-20060614-00315 (international section 214 authority for Belgacom International Carrier Services N.V./S.A.) and ITC-T/C-20060614-00316 (transfer of control of Belgacom International Carrier Services North America Inc., formerly known as Swisscom North America, Inc.)

Dear Ms. Mandelker, Mr. Baker, and Ms. Lammert:

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This letter outlines the commitments made by Belgacom International Carrier Services N.V./S.A. ("Belgacom ICS"), and its subsidiaries, including Belgacom International Carrier Services North America Inc. ("Belgacom ICS North America") (collectively, "the Companies"), to the U.S. Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), and to the U.S. Department of Homeland Security ("DHS"), in order to assist government agencies in addressing any national security, law enforcement, or public safety

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related matters pertaining to the Companies' services as described in their applications to the Federal Communications Commission ("FCC").

By these applications, Belgacom ICS seeks authority from the FCC pursuant to section 214 of the Communications Act of 1934 to provide international telecommunications services and to acquire control of Belgacom ICS North America, formerly known as Swisscom North America, Inc. The acquisition was part of the formation of a joint venture between Belgacom SA and Swisscom Fixnet Ltd., which was consummated on July 1, 2005.

Belgacom ICS and its subsidiaries provide only wholesale services to other telecommunications operators, ISP/ASP service providers, and resellers. The services that they provide in the United States are only U.S.-international services and do not include U.S. domestic services. Following formation of the joint venture, Belgacom ICS is 72 percent owned by Belgacom SA and 28 percent owned by Swisscom Fixnet Ltd. Belgacom SA is majority-owned by the Belgian state, with the remaining shares (except for less than 1 percent of the shares that are held by Belgacom employees) publicly traded on the Euronext exchange. Swisscom Fixnet Ltd. is a wholly owned subsidiary of Swisscom Ltd., which is majority-owned by the Swiss Confederation, with the remaining shares publicly traded.

The Companies agree that, for all customer billing records, subscriber information, and any other related information used, processed, or maintained in the ordinary course of business relating to communications services offered in the United States ("U.S. Records"), the Companies will make such U.S. Records available in the United States such that they may be obtained in response to lawful U.S. process. For these purposes, U.S. Records shall include information subject to disclosure to a U.S. Federal or state governmental entity under the procedures specified in Sections 2703(c) and (d) and Section 2709 of Title 18 of the United States Code. The Companies agree to ensure that U.S. Records are not made subject to mandatory destruction under any foreign laws. The Companies agree to take all practicable measures to prevent unauthorized access to, or disclosure of the content of, communications or U.S. Records, in violation of any U.S. Federal, state, or local laws or of the commitments set forth in this letter.

~~The Companies agree that they will not, directly or indirectly, disclose or permit disclosure of or access to U.S. Records or domestic communications, or to any information (including the content of communications) pertaining to a wiretap order, pen/trap order, subpoena or other lawful demand by a U.S. law enforcement agency for U.S. Records, to any person if the purpose of such disclosure or access is to respond to the legal process or request issued by or on behalf of a non-U.S. government without first satisfying all pertinent requirements of U.S. law and obtaining the express written consent of the DOJ and DHS or the authorization of a court of competent jurisdiction in the United States. The term "non-U.S. government" means any government, including an identified representative, agent, component or~~

subdivision thereof, that is not a local, state or Federal government in the United States. Any such requests or legal process submitted by a non-U.S. government to the Companies shall be referred to the DOJ and DHS as soon as possible, and in no event later than five (5) business days after such request or legal process is received by or known to the Companies, unless the disclosure of the request or legal process would be in violation of U.S. law or an order of a court in the United States.

The Companies have designated Brian Troesch, Regional Director, Americas, a U.S. citizen resident in New York City, and Kathelijne Winderickx, Strategy Business Development & Legal Director, a Belgian citizen resident in Brussels, as its points of contact with the authority and responsibility for accepting and overseeing compliance with a wiretap order, pen/trap order, subpoena or other lawful demand by U.S. law enforcement authorities for the content of communications or U.S. Records. The Companies shall promptly notify the FBI, DOJ and DHS of any change in its designated points of contact. The Companies shall ensure that at least one point of contact is a resident U.S. citizen, and the Companies shall cooperate with any request by a U.S. government authority that a background check or security clearance process be completed for a designated point of contact.

The Companies agree that they will notify the FBI, DOJ, and DHS promptly if there are material changes in any of the facts as represented in this letter. All notices to be provided to the FBI, DOJ, or DHS shall be directed to the named addressees of this letter.

The Companies agree that, in the event the commitments set forth in this letter are breached, in addition to any other remedy available at law or equity, the DOJ, FBI, or DHS may request that the FCC modify, condition, revoke, cancel, or render null and void any relevant license, permit, or other authorization granted by the FCC to the Companies or any successor-in-interest to the Companies.

Nothing in this letter is intended to excuse the Companies or their subsidiaries from any obligation they may have to comply with U.S. legal requirements for the retention, preservation, or production of information, records or data, or from any applicable requirements of the Communications Assistance for Law Enforcement Act, 47 U.S.C. 1001, et seq., nor shall it constitute a waiver of (a) any obligation imposed by any U.S. Federal, state or local laws on the Company or its subsidiaries, (b) any enforcement authority available under any U.S. or state laws, (c) the sovereign immunity of the United States, or (d) any authority the U.S. government may possess (including without limitation authority pursuant to International Emergency Economic Powers Act) over the activities of the Company or its subsidiaries located within or outside the United States. Nothing in this letter is intended to or is to be interpreted to require the parties to violate any applicable U.S. law. Likewise, nothing in this letter limits the right of the United States Government to pursue criminal sanctions or charges against the Companies or

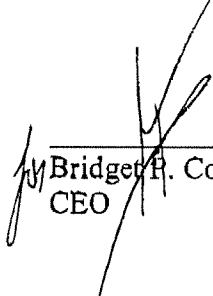
its subsidiaries, and nothing in this letter provides the Companies or its subsidiaries with any relief from civil liability.

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We understand that, upon execution of this letter by an authorized representative or attorney for the Companies, the DOJ, FBI, and DHS shall notify the FCC that the DOJ, FBI, and DHS have no objection to the FCC's grant of the applications referenced above.

Sincerely,

**Belgacom International Carrier Services**  
**N.V./S.A.**

  
for Bridget R. Cosgrave *absent*  
CEO

DATED: November 28, 2006

Cc: Douglas Klein, FBI  
Michael Stawasz, DOJ CCIPS  
Greg Pinto, DHS



## DELEGATIONS OF POWERS

I, undersigned, **Bridget Patricia Cosgrave**, CEO of Belgacom International carrier Services SA, a company duly organised under the laws of Belgium, having its registered address at rue Lebeau 4, 1000 Brussels (hereafter "Belgacom ICS"), hereby delegate the day-to-day operational matters of Belgacom ICS, including the power to sign commercial contracts and other official documents to the following person:

- Daniel Kurgan, Vice-President Commercial
- Patrick Verdingh, Finance Director
- Kathelijne Winderickx, Strategy and Business Development & Legal Director, as alternate to Daniel Kurgan and Patrick Verdingh.

These delegations of powers shall be effective as from 01<sup>st</sup> June 2006 and shall remain in force until such time as expressly revoked.

The above-mentioned persons who officially act as my deputy shall use the following formula when signing documents on my behalf:

"For the CEO, absent, the ("position of the concerned person")

The other sub-delegations already in place within Belgacom ICS shall remain applicable.

Dated this 12th June 2006

  
Bridget Cosgrave  
CEO  
Belgacom International Carrier Services



U.S. Department of Justice

Federal Bureau of Investigation

Office of the General Counsel

Washington, D.C. 20535  
December 05, 2006

By Hand-Delivery

Ms. Marlene H. Dortch  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-B204  
Washington, D.C. 20554

Re: *Petition to Adopt Conditions In the Matter of Belgacom International  
Carrier Services N.V./S.A., IB File No. ITC-214-20060614-00315, and  
Swisscom North America, Inc., IB File No. ITC-214-20060614-00316*

Dear Ms. Dortch:

Transmitted herewith by the Federal Bureau of Investigation ("FBI"), on behalf of itself, the United States Department of Justice ("DOJ"), and the United States Department of Homeland Security ("DHS"), are an original and four (4) copies of a "Petition to Adopt Conditions", with attached Letter dated November 28, 2006, in the above-referenced matter. Please accept this Petition and its attachments and be advised that the FBI, the DOJ, and the DHS have no objection to the FCC granting the applications provided that the Commission conditions the authorizations on compliance by the applicants with the commitments set forth in the Petition and its attachments.

Sincerely,

Myla R. Saldivar-Trotter  
Office of the General Counsel  
935 Pennsylvania Ave., N.W., Room 7877  
Washington, D.C. 20535

Attachments

cc: Natek, Inc.  
Cheryl A. Tritt

office