

November 21, 2017

By ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Notice of Oral *Ex Parte* Presentation
WC Docket No. 17-301
File Nos ITC-T/C-20171031-00201 and ITC-T/C-20171031-00202**

Dear Ms. Dortch:

On November 17, 2017, Edward A. Yorkgitis, Jr., Denise N. Smith, and Winafred Brantl of Kelley Drye & Warren, LLP, counsel for Fusion Telecommunications International, Inc. (“FTI”) and its operating subsidiaries (collectively, “Fusion”), and Chérie R. Kiser and Angela F. Collins, of Cahill Gordon & Reindel LLP, counsel for Birch Communications Holdings, Inc. (“Birch Holdings”), its operating subsidiaries (collectively, “Birch”) and BCHI Holdings, LLC (“BCHI”), participated in a telephone conference with Jodie May, Dennis Johnson, and Gregory Kwan of the Federal Communications Commission’s (“Commission”) Wireline Competition Bureau and David Krech and Sumita Mukhoty of the Commission’s International Bureau. The purpose of the call, requested by Commission staff, was to discuss the Joint Application filed on October 31, 2017, of FTI and BCHI (collectively, the “Applicants”) for approval of a transfer of control of Fusion (the “Application”). The Application was docketed in the above-referenced Docket and File numbers.

On the call, in response to staff questions, counsel for the Applicants provided an overview of the mechanics of the contemplated transaction, including the acquisition of FTI by BCHI, a holding company wholly-owned by the shareholders of Birch Holdings (the “Transaction”) and the related *pro forma* intracorporate reorganization of certain Birch subsidiaries. The Applicants explained that the Transaction will result in the current cloud-based business services of Fusion and Birch being consolidated under FTI whereas the Birch consumer-focused communications operations will remain under the control of the shareholders of Birch Holdings (the “Birch Shareholders”), albeit through a separate holding company, Lingo Communications, LLC, outside of and separate from FTI and its post-Transaction subsidiaries.

Counsel for the Applicants explained that, post-Transaction, the existing FTI shareholders will have a twenty-five percent (25%) ownership interest in Fusion and the Birch shareholders, through BCHI, will hold the remaining ownership interests in Fusion. In response to staff’s question, Fusion counsel explained that the existing FTI shareholders would have no effective control over the post-Transaction Fusion but would simply be minority investors. The representatives of the Applicants explained that BCHI would assume direct control of Fusion and that all Birch subsidiaries will retain the same ultimate controlling ownership post-Transaction. Fusion counsel also confirmed in response to staff’s query that no single FTI shareholder will

hold ten percent (10%) or more interest in Fusion or the Birch subsidiaries that would be controlled by Fusion post-Transaction.

Birch counsel described the *pro forma* pre-Transaction intracorporate reorganization to be undertaken by Birch to allocate the Birch subsidiaries' consumer and cloud-based business operations in anticipation of the Transaction, and the pre-Transaction corporate conversion of the Birch subsidiaries from corporations to limited liability companies. Counsel for Fusion explained that, pre-Transaction, Fusion also will undertake certain *pro forma* intracorporate reorganizations to streamline the Fusion operations and, in response to staff's questions, that a recent withdrawal of an application to which Fusion was a party was undertaken independently of the Transaction for unrelated business reasons.

Commission staff made an inquiry whether the Transaction would result in any concentration of fiber assets in any markets. Counsel for the Applicants responded that they would review the question with the Applicants and revert with a response, supplementing the Application filing if and as necessary.

Pursuant to Commission rule Sections 1.1206(b) and 1.1208(a), 47 C.F.R. §§1.1206(b) and 1.1208(a), a copy of this filing is being submitted electronically.

Respectfully submitted,

/s/ Chérie R. Kiser

/s/ Edward A. Yorkgitis, Jr.

Chérie R. Kiser
Angela F. Collins
Cahill Gordon & Reindel LLP
1990 K Street, NW, Suite 950
Washington, DC 20006
Tel: (202) 862-8900
Fax: 866-255-0185
Email: ckiser@cahill.com
acollins@cahill.com

Edward A. Yorkgitis, Jr.
Denise N. Smith
Kelley Drye & Warren LLP
3050 K St., NW, Suite 400
Washington, DC 20007
Tel: (202) 342-8400
Fax: (202) 342-8451
Email: cyorkgitis@kelleydrye.com
dsmith@kelleydrye.com

Counsel for Birch Communications Holdings, Inc. and its Subsidiaries; and BCHI Holdings, LLC

Counsel for Fusion Telecommunications International, Inc., and Its Subsidiaries

cc: Jodie May (via e-mail)
Dennis Johnson (via e-mail)
Gregory Kwan (via e-mail)
David Krech (via e-mail)
Sumita Mukhoty (via e-mail)