

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

In the Matter of Application of

**Fusion Connect, Inc.,
*Licensee and Transferor***

(FRN: 0004383337)

**For Consent to a Transaction That Will Result in
a Change of Control of Companies Holding Domestic
and International Authority Pursuant to Section 214
of the Communications Act of 1934, as Amended**

**WC Docket No. _____
ITC- _____**

APPLICATION

Fusion Connect, Inc. (“Fusion”), pursuant to Section 214 of the Communications Act, as amended (the “Act”),¹ and §§ 63.04, 63.18, and 63.24 of the Federal Communications Commission’s (the “Commission’s”) rules,² respectfully requests Commission approval of a negative transfer of control of Fusion and its wholly-owned operating subsidiaries that hold domestic and international Section 214 telecommunications licenses (collectively, the “Fusion Licensees”).³ As described herein, certain holders of special warrants (the “Special Warrants”)

¹ 47 U.S.C. § 214.

² 47 C.F.R. §§ 63.04, 63.18, and 63.24.

³ The Fusion Licensees are Fusion Connect, Inc.; Fusion LLC (“Fusion LLC”); Fusion Cloud Services, LLC (“Fusion Cloud”); Fusion Communications, LLC (“Fusion Communications”); Fusion Telecom of Oklahoma, LLC (“Fusion Oklahoma”); Fusion Telecom of Missouri, LLC (“Fusion Missouri”); Fusion Telecom of Kansas, LLC (“Fusion Kansas”); and Fusion Telecom of Texas Ltd., LLP (“Fusion Texas”). The control of additional Fusion subsidiaries that do not hold Commission-issued licenses, will also be transferred as part of the transaction described herein. Fusion Cloud Company LLC f/k/a MegaPath Cloud Company LLC

issued by Fusion upon its recent emergence from bankruptcy protection intend to exchange their Special Warrants, at least in part, for shares of Fusion common stock. As a result of these exercises, the equity and voting interests held by Telecom Holdings, LLC (“Telecom Holdings”), the current owner of more than a majority of Fusion’s issued and outstanding stock, will decrease from approximately sixty five percent (65%) to significantly less than fifty percent (50%), resulting in a negative transfer of control (the “Transaction”). No holder of Fusion common stock (each a “Stockholder”) will hold a majority or controlling equity and/or voting interest in Fusion or otherwise exercise *de facto* control of Fusion following this exercise of Special Warrants.

I. THE TRANSFEROR AND LICENSEE: FUSION

Fusion (FRN: 0004383337) is a privately held Delaware corporation,⁴ with headquarters located at 210 Interstate North Parkway, Suite 300, Atlanta, GA 30339. Fusion is authorized to provide interstate telecommunications and holds Section 214 authority to provide international telecommunications services.⁵ Fusion, through its subsidiaries, provides a wide range of communications services to business customers throughout the United States, including unified communications, digital voice and data services, including hosted Voice over Internet Protocol (“VoIP”) and Session Initiated Protocol (“SIP”) trunking, broadband Internet access service, data

(“Fusion Cloud Company”), a provider of VoIP services, does not provide interstate or international Section 214 telecommunications services. Fusion Cloud Company holds intrastate telecommunications authority in Minnesota, an information services certification in Indiana, and VoIP registrations as required by other U.S. states. Fusion also owns one hundred percent of Primus Management ULC (“Primus”), a non-dominant foreign carrier authorized to provide local exchange, long distance, and Internet access services in Canada.

⁴ Fusion was formerly a publicly held corporation but went private upon emergence from chapter 11 protection.

⁵ File No. ITC-214-19971001-00592; FCC Filer ID 825160.

networks, cloud-based services, and other enhanced communications services and features, as well as traditional voice solutions.⁶

Fusion LLC, Fusion Cloud, Fusion Communications, Fusion Kansas, Fusion Missouri, Fusion Oklahoma, and Fusion Texas each hold domestic Section 214 authority to provide interstate telecommunications services⁷ and operate pursuant to Fusion's international Section 214 authority.⁸ Each of these subsidiaries also holds intrastate telecommunications authorizations issued by state public utility commissions:

- Fusion LLC is a New Jersey limited liability company that holds authority to offer intrastate telecommunications services in 47 states.
- Fusion Cloud is a Georgia limited liability company that holds authority to offer intrastate telecommunications services in 39 states.
- Fusion Communications is a Delaware limited liability company that holds authority to offer intrastate telecommunications services in 13 states.
- Fusion Kansas is a Kansas limited liability company that holds authority to offer intrastate telecommunications services in Kansas.
- Fusion Missouri is a Delaware limited liability company that holds authority to offer intrastate telecommunications services in Missouri.

⁶ The Fusion Licensees have, at most, a *de minimis* number of non-business (*i.e.*, residential) customers in the United States.

⁷ 47 C.F.R. 63.01.

⁸ See Letter to Marlene H. Dortch, Secretary of the Commission, from Denise N. Smith, Kelley Drye & Warren LLP, Counsel to Fusion Connect, Inc. (May 31, 2018) (providing notice of operations of Fusion LLC, Fusion Cloud Services, LLC, and Fusion Communications, LLC. pursuant to Commission Rule 63.21(h)).

- Fusion Oklahoma is a Delaware limited liability company that holds authority to offer intrastate telecommunications services in Oklahoma.
- Fusion Texas is a Texas limited liability partnership that holds authority to offer intrastate telecommunications services in Texas.⁹

The corporate headquarters for each of the Fusion Licensees is located at 210 Interstate North Parkway, Suite 300, Atlanta, GA 30339.

II. BACKGROUND TO THE TRANSACTION

On June 3, 2019, the Fusion Licensees commenced voluntary cases under chapter 11 of Title 11 of the United States Code with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”).¹⁰ Under Fusion’s reorganization plan, which was approved by the Bankruptcy Court on December 17, 2019,¹¹ and which went into effect on January 14, 2020 (the “Reorganization Plan”), the then-current equity interests in Fusion were cancelled, and Fusion’s first lien lenders exchanged a portion of their first lien debt for new common stock of Fusion and/or Special Warrants. Advance Commission approval was required for the

⁹ Fusion anticipates that, prior to the end of 2020, it will consolidate the regulated assets of Fusion Kansas, Fusion Missouri and Fusion Oklahoma with and into Fusion Cloud, and will also consolidate the regulated assets of Fusion Texas with and into Fusion Communications. At that time, Fusion will submit the appropriate notices of a *pro forma* assignment to the Commission to document those consolidations. Out of an abundance of caution, this Application seeks approval for the transfer of control of these entities to the extent they remain regulated entities at the time of consummation of the Transaction.

¹⁰ *In re Fusion Connect, Inc., et al.*, Debtors, Case No. 19-11811 (Bankr. S.D.N.Y. Jun. 3, 2019). Additional Fusion subsidiaries that do not hold Commission-issued licenses also commenced voluntary cases.

¹¹ *In re: Fusion Connect, Inc., et. al.*, Order (I) Confirming Third Amended Joint Chapter 11 Plan of Fusion Connect, Inc. and its Subsidiary Debtors and (II) Granting Related Relief, Case No. 19-11811 (SMB) (Bankr. S.D.N.Y. December 17, 2019).

Reorganization Plan as, upon emergence, a single party, Telecom Holdings was to assume a greater than fifty percent (50%) interest in, and would have *de jure* and *de facto* control over, Fusion.

In anticipation of the Bankruptcy Court's approval of the Reorganization Plan, Fusion accordingly filed an application for Commission approval of the transfer of control of the Fusion Licensees, each of whom held Section 214 licenses.¹² Following discussion with the Commission Staff, and out of an abundance of caution, Fusion also requested a waiver from the Commission to permit the disclosure of Fusion ownership information in the Section 214 applications not reflect the holding of Special Warrants. The Special Warrants to be issued at emergence were not to be exercisable until Fusion subsequently obtained appropriate Commission and state public utility commission approvals.¹³ The Commission approved the transfer of control applications and waiver effective January 10, 2020,¹⁴ and, as stated above, the Fusion Licensees emerged from Chapter 11 on January 14, 2020.

¹² *In re: Fusion Connect, Inc. and Telecom Holdings LLC for Consent to a Transaction That Will Result in a Change of Control of Companies Holding Domestic and International Authority pursuant to Sections 214 of the Communications Act of 1934, as Amended*, WC Docket No. 19-262, ITC-ASG-20190724-00136 (July 24, 2019). Fusion Cloud also held wireless licenses and a separate application was filed with the Commission for the transfer of control of those licenses. *Fusion Cloud Services, LLC FCC Application for Assignments of Authorizations and Transfers of Control (Form 603)*, WTB File No. 0008738034 (Aug. 24, 2019).

¹³ *In re: Fusion Connect, Inc. and Telecom Holdings LLC for Consent to a Transaction That Will Result in a Change of Control of Companies Holding Domestic and International Authority pursuant to Sections 214 of the Communications Act of 1934, as Amended and Fusion Cloud Services, LLC FCC Application for Assignments of Authorizations and Transfers of Control (Form 603); Petition for Temporary and Limited Waiver of Sections 1.5000(a)(1), 1.2112, 63.01 and 63.18 of the Commission's Rules*, WC Docket No. 19-262, ITC-ASG-20190724-00136, WTB File No. 0008738034 (Oct. 8, 2019) (the "Waiver Request").

¹⁴ *Applications Granted for the Transfer of Control of Fusion Connect, Inc., Debtor-in-Possession, and Subsidiaries*, Public Notice, DA 20-43 (WCB/IB, Jan. 10, 2020) ("FCC Grant"). The wireless license transfer of control application was administratively approved in the Commission's Universal Licensing System on January 10, 2020.

Upon emergence, each of Fusion's former first priority lenders received a combination of Fusion common stock and Special Warrants. As a result of that transaction, at emergence, Telecom Holdings received approximately sixty five percent (65%) of Fusion's then issued and outstanding shares of common stock and exercised *de jure* and *de facto* control of the Fusion Licensees. As noted above, the Special Warrants are exercisable for Fusion common stock only after necessary Commission and state public utility commission approvals are obtained.¹⁵

III. DESCRIPTION OF THE TRANSACTION

The proposed Transaction, for which consent is now being sought, will be occasioned by the exercise and exchange of Special Warrants and issuance of Fusion common stock to the associated Special Warrant holders.¹⁶ Commission approval is necessary because Telecom

¹⁵ The FCC Grant directed Fusion to submit, within thirty (30) days of emergence, applications for approval of an anticipated subsequent transfer of control transaction and a petition for declaratory ruling ("PDR") regarding related foreign ownership of the Fusion Cloud common carrier wireless licenses. Consistent with the FCC Grant, this Application is being submitted within thirty (30) days of the Fusion Licensees' emergence from chapter 11, on January 14, 2020. However, Fusion Cloud surrendered its wireless licenses on January 28, 2020 and, consequently, Fusion will not be filing a PDR. *See* Letter to Marlene H. Dortch, Secretary, Federal Communications Commission from Denise N. Smith, Kelley Drye & Warren, LLP, Counsel to Fusion Connect, Inc. (Jan. 28, 2020).

¹⁶ Following its emergence, Fusion engaged a warrant agent to administer the distribution of ownership certifications to the Fusion Special Warrant holders. Among other purposes, the ownership certifications provided the means by which Special Warrant holders would indicate whether they elected to exercise their Special Warrants. The information in this Application is based on the responses Fusion has received, and the elections to exercise Special Warrants reflected therein. Equity percentages identified in this Application reflect the Fusion voting stock that it will issue to the Special Warrant holders, in addition to other stock that previously has been issued, not Special Warrants which will continue to be held post transaction. The Special Warrants will not confer general voting rights in Fusion as the common stock confers, although Special warrants will carry with them certain limited rights associated with fundamental investor protections. Fusion believes that the foregoing treatment of the unexercised Special Warrants, as reflected in the Application's description of the post-transaction ownership of the Fusion Licensees, is consistent with the Communications Act and the Commission's Rules. The Commission has ruled that non-voting stock that confers fundamental investment protection rights, e.g., requiring approval from the nonvoting stockholder before the company sold assets exceeding a certain percentage of book value,

Holdings will no longer control the Fusion Licensees once Special warrants are exercised and Fusion issues common stock in exchange.

As a result of the exercise of Special Warrants and the issuance of new Common Stock in exchange, the voting and equity interests of Telecom Holdings will decrease to non-controlling levels. Specifically, Telecom Holdings' equity interests will decline from approximately sixty five percent (65%) to less than ten percent (10%). Accordingly, the Transaction, and specifically Fusion's issuance of common stock to holders exercising their Special Warrants, will result in a negative transfer of control of Fusion under Commission rule 63.24(c). This Application seeks consent to this transfer of control.

Following the Transaction, Fusion will be widely held by numerous stockholders, nearly all of whom will hold non-disclosable interests in Fusion. The Transaction will not result in any person or entity obtaining *de jure* or *de facto* control. No Stockholder will hold a majority equity and/or voting interest in, or otherwise exercise control over, Fusion or the other Fusion Licensees. Only two groups of stockholders, the North Haven Entities and the Vector Funds, (each as defined in Schedule 1 hereto) (collectively, the "Reportable Stockholders"), each will hold in excess of ten percent (10%) of Fusion's stock upon their exercise of Special Warrants.¹⁷ Post-Transaction the North Haven Entities and the Vector Funds will hold approximately 12.94% and 33.08%, respectively, of Fusion's then issued and outstanding shares of common stock. The Reportable Stockholders are institutional investors, and will not have an active role in managing the day-to-

adopted an annual budget, issued new stock, increased board size, etc., does not confer an attributable ownership interest. *See, e.g., Shareholders of Hispanic Broadcasting Corporation and Univision Communications, Inc.*, 18 FCC Rcd 18834, 18849-18850 (2003); *Paxson Management Corporation and Lowell W. Paxson*, 22 FCC Rcd 22224, 22231-32 (2007).

¹⁷ Subsequent discussions of these Reportable Stockholders, including the particulars required pursuant to Rule 63.18(h), are based upon the information provided by each of the Funds.

day operation of the Fusion Licensees, although they will have certain rights as to the nomination of members to the Fusion Board of Directors (the “Board”), as explained below. For the foregoing reasons, there will not be a Transferee of the Fusion Licensees.

Upon completion of the Transaction, the Fusion Licensees will continue to be led by their existing highly qualified and experienced U.S.-based executive management team. Fusion’s executive management, all of whom are currently United States citizens, bring a wealth of telecommunications industry experience and knowledge. With a collective 145 years of experience in the telecommunications and technology industries, Fusion’s leadership provides strong and skilled leadership to the Fusion Licensees. Fusion’s management team will continue to be overseen by a highly-qualified Board that includes individuals with prior C-suite experience in the telecommunications industry. While the Board will provide high-level oversight over Fusion’s executive management, the Board will not be involved in day-to-day decision-making. Moreover, none of the Stockholders, alone or in combination, will have or exercise control over the Board. The Vector Funds will have the right to nominate two of the seven Board members and have such nominees elected by the Stockholders. However, these nomination rights do not confer control over the seven-person Board.

The Transaction does not involve the assignment of any telecommunications authorizations, and will be transparent to all customers of the Fusion Licensees. Accordingly, customer notice is not required under Commission rule 64.1120(e) because there will be no change in service providers for any of the customers.

IV. PUBLIC INTEREST STATEMENT

The proposed Transaction demonstrably will benefit, and will not harm, the public interest, convenience, and necessity. The Commission has, on repeated occasions, recognized the public interest benefit of allowing licensees to freely transfer control of their authorizations provided

such actions are not contrary to the public interest.¹⁸ Indeed, a competitive telecommunications market depends upon commercial flexibility. Similarly, it is well-established federal telecommunications regulatory policy that the public interest is best served by assuring the presence of numerous telecommunications competitors in the market. Accordingly, it is important to allow a company to organize its corporate structure in the manner that best supports the company's business operations provided that such actions are consistent with law and have no adverse impact on the public.

The instant Transaction is entirely consistent with federal telecommunications laws. The Transaction will reallocate stockholder equity in Fusion and, at the same time, implement Fusion's commitment under the Reorganization Plan to provide its first priority lenders with economic and voting interests in Fusion in exchange for the reduction in the amount of debt held by those lenders. (The first lien lenders are able to obtain these interests only upon the exercise of their Special Warrants, none of which may occur until Fusion receives any necessary regulatory approvals.) Consummating the Transaction will enable Fusion to meet its obligations under its court-approved Reorganization Plan.¹⁹

Moreover, the Transaction will have no adverse effects upon the operations of the Fusion Licensees, their customers or the telecommunications markets:

Following consummation of the Transaction, Fusion will continue to provide its comprehensive suite of advanced and quality services to existing and future customers, without

¹⁸ See, e.g., *In re: Applications Filed for the transfer of control of Certain Subsidiaries of Frontier Communications Corporation to Northwest Fiber, LLC*, DA 19-1302, ¶10 (WCB/IB/WTB Dec. 19, 2019) ("Notably, the Commission has long recognized the clear public interest benefits in a license or authorization holder being able to assign or transfer control of its license or authorization freely.").

¹⁹ The Transaction will foster Fusion's corporate efficiency with associated benefits for Fusion and the Fusion Licensees and those benefits ultimately will inure to consumers.

diminishment or interruption. Consequently, the Transaction will not reduce the range or quality of service options available to consumers.

Similarly, the Transaction presents no anti-competitive concerns and will have no adverse impact on the U.S. domestic or international telecommunications markets. The Fusion Licensees currently have a less than ten percent (10%) share of the interstate interexchange market, and the presence of many other interexchange carriers operating on a nationwide basis ensures the competitiveness of this market segment. The Transaction, which changes the equity and voting interest percentages held by Fusion's existing stockholders, will not increase Fusion's share of the domestic or international markets or otherwise impact competition in these markets. The Fusion Licensees will not acquire any new affiliations with domestic or international telecommunications providers. No market concentration will result from the Transaction. Rather, the competitive nature of the market for the Fusion Licensees' services will remain undiminished, thereby encouraging service providers to continue offering innovative and cost-competitive services to consumers.

Finally, the proposed Transaction will not raise any foreign control issues implicating U.S. national security concerns. The Reportable Stockholders, are institutional investors and will not have any role in the Fusion Licensee's daily operations. Rather, as explained above, post-Transaction, the Fusion Licensees will continue to be led by Fusion's highly skilled and experienced U.S.-based management team, which will control the Fusion Licensees' daily operations. Several of these institutional investors are domiciled in the Cayman Islands, but this fact does not raise any cognizable foreign control concerns. In addition, the Reportable Stockholders are not under the control of any foreign governments. In short, the proposed Transaction will not result in any foreign person, entity, or government holding a majority or

controlling interest in, or exercising control over, the Fusion Licensees.

V. REQUEST FOR STREAMLINED TREATMENT OF APPLICATION

Fusion is filing a combined domestic and international Section 214 application pursuant to Section 63.04(b) of the Commission's rules and respectfully requests streamlined treatment of both components of the Application pursuant to Sections 63.03 and 63.12 of the Commission's rules.

With respect to domestic Section 214 authorizations, the Application is eligible for streamlined processing pursuant to Commission rule 63.03(b)(1)(ii) because the Reportable Stockholders are not telecommunications providers. Moreover, the Application also qualifies for streamlined processing pursuant to Commission rule 63.03(b)(2) because, immediately following the Transaction, (i) the Fusion Licensees will continue to have a less than ten percent (10%) market share of the interstate interexchange market; (2) post-close, the Fusion Licensees will provide competitive telephone exchange services exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the Transaction; and (3) neither Fusion nor any of its affiliates or subsidiaries are regulated as dominant with respect to any service.

This Application further qualifies for streamlined treatment, with respect to Fusion's international Section 214 authorizations, under Commission rule 63.12 because neither Fusion nor any of its affiliates is affiliated with a dominant foreign carrier. The Fusion Licensees currently are affiliated with Primus, a non-dominant foreign carrier operating in Canada. Primus (i) operates in a World Trade Organization ("WTO") Member country (Canada); (ii) is not a monopoly provider of telecommunications services in Canada; (iii) holds less than 50% market share in the Canada market; and (iv) lacks market power in Canada to affect competition adversely in the U.S. market. Consequently, the Fusion Licensees' affiliation with Primus does not preclude

streamlined processing of the Application. In addition, the Fusion Licensees will not, as a result of the Transaction, become affiliated with any dominant foreign carrier.

VI. INFORMATION REQUIRED BY SECTION 63.24(E) OF THE COMMISSION'S RULES AND INTERNATIONAL SECTION 214 MAIN FORM

In support of this Application Fusion includes below responses to, and certifications for, the International Section 214 Main Form and 47 C.F.R. § 63.24 (e) of the Commission's rules, which is the information requested in paragraphs (a)-(d), (h)-(n) and (o)-(p) of the Commission rule Section 63.18.

**(a) Name, address, telephone number
(Answer to Main Form Question 10 and 63.18(a))**

Fusion Connect, Inc.
210 Interstate North Parkway, Suite 300
Atlanta, GA 30339
Tel: (212) 201-2425

(b) Citizenship

Fusion is a Delaware corporation

(c) Contact information for Correspondence

Correspondence concerning this Application should be sent to:

Fusion

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

With a Copy to:

James P. Prenetta, Jr.
Executive Vice President and General
Counsel
Fusion Connect, Inc.
210 Interstate North Parkway, Suite 300
Atlanta, GA 30339
jprenetta@fusionconnect.com

(d) International 214 Authorizations:

Fusion holds international Section 214 authority and rule-based domestic Section 214 authority to provide facilities-based and resold telecommunications services. Filer ID 825160; IB File No. ITC-214-19971001-00592. As detailed in Section I of the Application, several of Fusion's wholly-owned subsidiaries hold rule-based domestic 214 authority and operate internationally pursuant to Fusion's international 214 authority.

**(h) Ten Percent or Greater Interest Holders/Interlocking Directorates
(Answer to IBFS Main Form Questions 11 – 12)**

Due to the details required to describe the organizational complexity of the Reportable Stockholders that will own a ten percent (10%) or greater direct or indirect ownership interest in the Fusion Licensees after the Transaction, this information is included in Attachment 1.

**(i) Foreign Carrier Affiliation Certification
(Answer to IBFS Main Form Questions 14-17)**

Fusion will not acquire any new foreign carrier affiliates as a result of the Transaction. After the Transaction, Fusion will continue to be affiliated with Primus which is a non-dominant foreign carrier providing telecommunications and Internet access services within Canada.

**(j) Foreign Carrier and Destination Countries
(Answer to IBFS Main Form Questions 14-17)**

After consummation of the Transaction Fusion will continue to be affiliated with Primus, which is a non-dominant foreign carrier providing telecommunications and Internet access services within Canada. Primus is not a monopoly provider of telecommunications or Internet access services in Canada, holds less than fifty percent

(50%) market share in the Canada market, and lacks market power in Canada to affect competition adversely in the U.S. market.

Fusion certifies that, upon consummation of the Transaction, the Fusion Licensees will not provide international telecommunications services to any destination country in which: (1) the Reportable Stockholders are foreign carriers in the destination market; (2) the Reportable Stockholders control a foreign carrier in the destination market; (3) any entity that owns more than twenty five percent (25%) of or that controls the Reportable Stockholders, controls a foreign carrier in that country; and (4) two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than twenty-five percent (25%) of the Reportable Stockholders and are parties to, or the beneficiaries of, a contractual relationship affecting the provision or marketing of international basic telecommunications services in the United States.

(k) WTO Membership of Destination Countries
(Answer to IBFS Main Form Questions 14-17)

Canada is a member of the WTO.

(l) International Telecommunications Services
(Answer to IBFS Main Form Questions 14-17, 19)

In the event that the Commission classifies the Fusion Licensees as dominant on a foreign route, which they should not, the Fusion Licensees agree that they will not resell the international switched services of an affiliated, facilities-based U.S. carrier to such foreign point except in accordance with Commission rules.

(m) Non-Dominant Regulatory Classification
(Answer to IBFS Main Form Questions 14-17)

As set forth in Section V of this Application, after consummation of the Transaction, the Fusion Licensees will be entitled to a presumption of non-dominant status

regardless of their affiliation with Primus because: (1) Canada is a member of the WTO; (2) Primus is not a monopoly provider of telecommunications services in Canada; (3) Primus holds less than fifty percent (50%) market share in the Canada market; and (4) Primus lacks market power in Canada to affect competition adversely in the U.S. market.

(n) Special Concessions Certification
(Answer to IBFS Main Form Question 21)

Fusion certifies that the Fusion Licensees have not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to adversely affect competition in the U.S. market, and, further, that they will not enter into such agreements in the future.

(o) Federal Benefits/Anti-Drug Act of 1988 Certification
(Answer to IBFS Main Form Question 25)

Fusion certifies, pursuant to §§ 1.2001 through 1.2003 of the Commission's rules, that it is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

(p) Eligibility for Streamlined Processing
(Answer to IBFS Main Form Question 20)

Fusion requests streamlined processing of this Application pursuant to § 63.12 of the Commission's rules, 47 C.F.R. § 63.12, for the reasons set forth in Section V of this Application.

VII. INFORMATION REQUIRED BY SECTION 63.04(B) OF THE COMMISSION'S RULES FOR TRANSFER OF CONTROL OF ASSETS

The additional information required by § 63.04(b) of the Commission's rules is provided in Attachment 2.

WHEREFORE, for the foregoing reasons, Fusion respectfully requests that the Commission expeditiously act to approve the Transaction described herein.

Respectfully submitted,

FUSION CONNECT, INC.

By: /s/ James P. Prenetta, Jr.

James P. Prenetta, Jr.
Executive Vice President and General Counsel
Fusion Connect, Inc.
210 Interstate North Parkway, Suite 300
Atlanta, GA 30339

Edward A. Yorkgitis, Jr.
Denise N. Smith
Kelley Drye & Warren LLP
3050 K Street, N.W., Suite 400
Washington, D.C. 20007
Tel. (202) 342-8614
Email: Cyorkgitis@kelleydrye.com
Email: DSmith@kelleydrye.com

Its Attorneys

February 13, 2020

LIST OF ATTACHMENTS

Attachment 1 – Identification of Ten Percent or Greater Equity/Voting Interest Holders

Attachment 2 – Information required by 47 C.F.R. §63.04

ATTACHMENT 1

Ten Percent or Greater Interest Holders/Interlocking Director (Answer to IBFS Main Form Question 11 and Question 12)

Using the information available to Fusion as of the date of this filing, which includes responses received from Reportable Stockholders, Fusion has calculated that, after consummation of the Transaction, the following entities and/or individuals will own a ten percent (10%) or greater direct or indirect ownership interest in the Fusion Licensees:

A. Morgan Stanley, North Haven Credit Partners II L.P., and North Haven Senior Loan Fund L.P.

As explained below, Morgan Stanley, a Delaware corporation, with corporate headquarters located at 1585 Broadway, New York, NY 10036, indirectly, wholly owns or controls two entities that will hold, post-transaction and collectively, approximately 12.94% of Fusion's equity.

North Haven Credit Partners II L.P. ("North Haven II"), a Delaware limited partnership, will hold, directly, an approximate 10.61% equity interest in Fusion. North Haven II is managed by MS Capital Partners Adviser, Inc. ("MS Capital Partners"), a Delaware corporation. North Haven II's general partner is MS Credit Partners II GP LP, ("MS Credit Partners II") a Delaware limited partnership.

MS Capital Partners is also the manager of North Haven Senior Loan Fund L.P. ("North Haven Senior") a Delaware limited partnership that will hold, directly, an approximate 2.33% equity interest in Fusion. North Haven Senior's general partner is MS Senior Loan Fund LP GP, a Delaware limited partnership.

Through its management of both North Haven II and North Haven Senior (collectively, the “North Haven Entities”), MS Capital Partners, indirectly will control the approximately 12.94% in Fusion equity held by the North Haven Entities.

MS Capital Partners is a wholly owned sub of MS Holdings Incorporated (“MS Holdings”), a Delaware corporation with corporate headquarters located at 1585 Broadway, New York, NY 10036. MS Holdings is thereby deemed to hold an indirect, approximate 12.94% interest in Fusion Connect pursuant to the Commission’s ownership attribution rule. MS Holdings is a wholly-owned subsidiary of Morgan Stanley.

The North Haven Entities have a principal business of investment activities and a corporate headquarters located at 1585 Broadway, 39th Floor, New York, NY 10036. MS Capital Partners has a principal business of investment activities and a corporate headquarters located at 1585 Broadway, New York, NY 10036. MS Credit Partners II has a principal business of investment activities and a corporate headquarters located at 1585 Broadway, 39th Floor, New York, NY 10036.

Morgan Stanley, MS Holdings, MS Capital Partners, MS Credit Partners II and the North Haven Entities do not operate as telecommunications carriers, nor do they hold Section 214 authorizations or interests in other telecommunications providers. Morgan Stanley, MS Holdings, MS Capital Partners, MS Credit Partners II and the North Haven Entities are not foreign carriers nor are they affiliated with a foreign carrier. Morgan Stanley, MS Holdings, MS Capital Partners, MS Credit Partners II and the North Haven Entities are not under the control of any foreign government.

No other Morgan Stanley-related entity or individual will own a ten percent (10%) or greater direct or indirect equity or voting interest in Fusion Connect.

B. The Vector Funds

Vector Fusion Holdings (Cayman), LTD (“Vector Fusion”), a Cayman Islands corporation, will be the largest direct interest holder in Fusion and will hold, directly, approximately 25.08% of the equity interests in Fusion.

Vector Fusion is managed by Vector Capital Management, L.P., a Delaware Limited Partnership (“Vector Capital”).

Vector Capital will manage a total of 33.08% of the voting and equity interests in Fusion, post transaction. Vector Capital V, L.P., a Cayman Islands limited partnership with corporate headquarters located at 190 Elgin Avenue, George Town, CJ KY1-9005, holds a 99.4% direct interest in Vector Fusion and is thereby deemed to hold an indirect 25.08% interest in Fusion Connect pursuant to the Commission’s ownership attribution rule. Vector Capital Partners V, L.P., a Cayman Islands limited partnership with corporate headquarters located at 190 Elgin Avenue, George Town, CJ KY1-9005 is the general partner of Vector Capital V, L.P. and is deemed to hold an indirect 25.08% interest in Fusion Connect pursuant to the Commission’s ownership attribution rule. Vector Capital Partners V, Ltd., a Cayman Islands corporation with corporate headquarters located at 190 Elgin Avenue, George Town, CJ KY1-9005, is the general partner of Vector Capital Partners V, L.P. and is deemed to hold an indirect 25.08% interest in Fusion Connect pursuant to the Commission’s ownership attribution rule.

In addition to managing Vector Fusion, Vector Capital manages the following three funds (together with Vector Fusion, the “Vector Funds”) that, collectively, will hold direct interests of approximately 8.0% in Fusion:

- VC4 Debt Investments (U.S.), L.L.C., a Delaware limited liability company, will hold, directly, approximately 2.92%;
- VC5 Debt Investments (Cayman), Ltd., a Cayman Islands corporation, will hold, directly, approximately 2.16%; and
- Vector Trading (Cayman), L.P., a Cayman Islands limited partnership, will hold, directly, approximately 2.92%.

No other individual or entity has a direct or indirect ownership or management interest by which it would be deemed to hold, manage, or control, indirectly, a ten percent (10%) or greater equity or voting interest in Fusion Connect.

Each of the Vector Funds has a principal business of investment activities and a corporate headquarters at One Market Street, Steuart Tower, 23rd Floor, San Francisco, CA 94105. The Vector Funds do not operate as telecommunications carriers nor do they hold FCC Section 214 authorizations or interests in other telecommunications providers. The Vector Funds are not foreign carriers nor are they affiliated with a foreign carrier. The Vector Funds are not under the control of any foreign government.

ATTACHMENT 2

INFORMATION REQUIRED BY 63.04(b)

In accordance with the requirements of § 63.04(b) of the Commission's rules, Fusion provides the following information:

63.04(a)(6): Description of the Transaction

The Transaction is described in Section III of the Application.

63.04(a)(7): Description of Geographic Service Area and Services in Each Area

A description of the geographic service areas and services provided in each area is described in Section I of the Application.

63.04(a)(8): Presumption of Non-Dominance and Qualification for Streamlining

This Application is eligible for streamlined processing for the reasons described in Section V of the Application.

63.04(a)(9): Other Pending Commission Applications Concerning the Proposed Transaction

There are no other pending Commission applications concerning the proposed Transaction.

63.04(a)(10): Special Considerations

Not Applicable.

63.04(a)(11): Waiver Requests (If Any)

None.

63.04(a)(12): Public Interest Statement

The Transaction is in the public interest for the reasons detailed in Section IV of the Application.