



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 04-3419
October 27, 2004

INTERNATIONAL AUTHORIZATIONS GRANTED

APPLICATION OF NEW SKIES SATELLITES N.V. (TRANSFEROR) AND NEW SKIES SATELLITES B.V. (TRANSFeree) TRANSFER CONTROL OF FCC LICENSES AND AUTHORIZATIONS HELD BY NEW SKIES SATELLITES N.V. AND NEW SKIES NETWORKS, INC. AND NOTIFICATION OF CHANGE TO THE PERMITTED SPACE STATION LIST

IB Docket No. 04-247

By the Chief, International Bureau:

On June 25, 2004, New Skies Satellites B.V. (“NSBV”)¹ and New Skies Satellites N.V. (“New Skies” and together with NSBV, the “Applicants”) filed an application pursuant to section 310(d) of the Communications Act of 1934, as amended,² seeking consent to transfer control of non-common carrier fixed satellite service earth station licenses held by New Skies Networks, Inc. (“New Skies Networks”) from New Skies to NSBV (“Transfer Application”). The Applicants also filed, under section 25.137(g) of the Commission’s rules,³ an application notifying the Commission of NSBV’s proposed acquisition of New Skies’ foreign-licensed satellites that are authorized to provide service in the United States pursuant to the Commission’s Permitted Space Station List (“Permitted List”). The Applicants requested that the Commission modify the Permitted List to specify NSBV as the new owner and operator of the New Skies satellites, subject to consummation of the proposed transaction (“Notification Application”).⁴ The Transfer Application and the Notification Application were both unopposed.

¹ Subsequent to filing the applications, Munaro Holding B.V. was renamed New Skies Satellites B.V. See Letter from Counsel for Applicants to Secretary, Federal Communications Commission, IB Docket 04-247 (dated July 19, 2004) (“July 19 Letter”). We shall refer to the company as New Skies B.V. or NSBV in this Public Notice.

² 47 U.S.C. § 310(d). On July 12, 2004, the International Bureau placed the Transfer Application on public notice as acceptable for filing. See *New Skies Satellites N.V. (Transferor) and Munaro Holding B.V. (Transferee) Seek Approval to Transfer Control of FCC Licenses and Authorizations Held by New Skies Satellites N.V. and New Skies Networks, Inc., Pleading Cycle Established*, IB Docket No. 04-247, Public Notice, DA 04-2083 (Int’l Bur. July 12, 2004). On July 19, 2004, Applicants updated the information provided in the Applications. On October 1, 2004, the Applicants filed an amendment notifying the Commission of certain non-substantial changes to the proposed ownership structure of NSBV. See File Nos. SES-T/C-20040625-00886; SAT-PPL-20040625-00123.

³ 47 C.F.R. § 25.137(g).

⁴ See File No. SAT-PPL-20040625-00123.

The Department of Justice, including the Federal Bureau of Investigation, and on behalf of the Department of Homeland Security (collectively, the “Executive Branch Agencies”) together with the Applicants filed a Joint Petition to Defer on August 19, 2004.⁵ On October 15, 2004, the Executive Branch Agencies submitted a Petition to Adopt Conditions to Authorizations and Licenses (“Petition”).⁶ In the Petition, the Executive Branch Agencies advised the Commission that they do not object to the grant of the instant applications, provided that the Commission conditions such grant on compliance by NSBV with the commitments and undertakings they made in an October 13, 2004 letter to the Executive Branch Agencies (the “New Skies Commitment Letter”).⁷

NSBV, the transferee, is a Netherlands private company with limited liability that will be 100 percent indirectly owned by a Luxembourg holding company to be formed prior to closing. Applicants state that ultimate ownership and control of NSBV would be held indirectly by five private equity funds affiliated with Blackstone, a global investment and advisory firm (collectively, the “Blackstone Funds”). Two of these entities, Blackstone NSS Communications Partners (Cayman) L.P., a Cayman Islands limited partnership, and Blackstone Capital Partners (Cayman) IV L.P.,⁸ also a Cayman Islands limited partnership, would hold indirectly an aggregate of approximately 93.5 percent of the Luxembourg holding company. The three other Blackstone limited partnerships would hold the remaining indirect interests in NSBV: Blackstone Family Communications Partnership (Cayman) L.P., Blackstone Capital Partners (Cayman) IV-A L.P., and Blackstone Family Investment Partnership (Cayman) IV-A L.P.⁹ Two Blackstone executives, Peter G. Peterson and Stephen A. Schwarzman, would indirectly control all five of the Blackstone Funds through ownership interests in the general partners of the Blackstone Funds. Most of the equity in the Blackstone Funds will be contributed by over 400 limited partners, including both U.S. and non-U.S. investors.

⁵ See Joint Petition to Defer in the Matter of New Skies Satellites N.V., Transferor, and Munaro Holding B.V., Transferee, Application for Transfer of Control for Six (6) Fixed Earth Stations and Change of Ownership of Permitted List Satellites NSS-5, NSS-7 and NSS-806, IB Docket No. 04-247, File Nos. SES-T/C-20040625-00886 and SAT-PPL-20040625-00123 (filed August 19, 2004).

⁶ Department of Justice, Federal Bureau of Investigation, and Department of Homeland Security, Petition to Adopt Conditions to Authorizations and Licenses, IB Docket No. 04-247 (dated Oct. 13, 2004).

⁷ Letter from Philip L. Verveer, Willkie, Farr & Gallagher, Counsel to New Skies Satellites N.V. and John B. Reynolds, III, Wiley, Rein, & Fielding, LLP, Counsel to New Skies Satellites B.V. and the Blackstone Group, to Laura H. Parsky, Deputy Assistant Attorney General, United States Department of Justice, Tina W. Gabrielli, Director of Intelligence Coordination and Special Infrastructure Protection Programs, United States Department of Homeland Security, and Patrick W. Kelley, Deputy General Counsel, Federal Bureau of Investigation (dated Oct. 13, 2004). This letter is attached to this Public Notice as Appendix B.

⁸ Instead of Blackstone Capital Partners (Cayman) IV L.P. (“BCP IV”), it is possible the acquiring entity will be Blackstone NSS Capital Partners (Cayman) IV L.P. (“BCP NSS IV”). In that case, Applicants state that the acquiring entity would have substantially the same terms and conditions as the existing funds, to the maximum extent applicable. The general partner of BCP NSS IV would be the existing general partner of BCP IV. The limited partners of BCP NSS IV would be the same as the limited partners of BCP IV, unless excluded from the investment by the General Partner in order to ensure, among other things, that the investment would be in compliance with laws and regulations.

⁹ Instead of Blackstone Capital Partners (Cayman) IV-A L.P. (“BCP IV-A”), it is possible the acquiring entity will be Blackstone NSS Capital Partners (Cayman) IV-A L.P. (“BCP NSS IV-A”). In that case, Applicants state that the acquiring entity would have substantially the same terms and conditions as the existing funds, to the maximum extent applicable. The general partner of BCP NSS IV-A would be the existing general partner of BCP IV-A. The limited partners of BCP NSS IV-A would be the same as the limited partners of BCP IV-A, unless excluded from the investment by the General Partner in order to ensure, among other things, that the investment would be in compliance with laws and regulations.

Applicants state that, under the limited partnership agreement for each of the Blackstone Funds, the limited partners will have no material involvement in the control and management of the operation of the limited partnership, and therefore no power to control the day-to-day operations of the Blackstone Funds, NSBV, or the licensee, New Skies Networks. Applicants further represent that no single limited partner will indirectly own a 10 percent or greater interest in NSBV.

The International Bureau finds, upon consideration of the record, that grant of the Applications, subject to the conditions set forth in this Public Notice and attachments,¹⁰ will serve the public interest, convenience, and necessity.¹¹ Based on our review of the record, we find no evidence to suggest that NSBV lacks the basic qualifications to control New Skies Networks. Further, the record contains no evidence that the proposed transfer would harm competition in any relevant product or geographic market.¹² NSBV has no ownership investments in any other satellite operator, and the other communications investments held by the private equity funds associated with NSBV and the Blackstone Funds do not present competitive concerns.¹³

Consistent with Commission precedent, the Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.¹⁴ According to the Petition submitted by the Executive Branch Agencies, the New Skies Commitment Letter addresses the Executive Branch Agencies' stated concerns regarding national security, law enforcement, and public safety.¹⁵ Accordingly, we grant the Petition filed by the Executive Branch Agencies.

Therefore, pursuant to section 310(d) of the Communications Act of 1934, as amended, and section 0.261 of the Commission's rules,¹⁶ the International Bureau hereby grants, subject to compliance by New Skies B.V. with the terms of the New Skies Commitment Letter, the Applications listed in Appendix A to this Public Notice, effective upon release of this Public Notice.

¹⁰ Specifically, the applicants must comply with all aspects of the New Skies Commitment Letter dated October 13, 2004. Said agreement is attached as Appendix B to this Public Notice.

¹¹ See 47 U.S.C. § 310(d).

¹² Neither NSBV nor its affiliates own interests in existing satellite providers.

¹³ Other funds affiliated with Blackstone hold a 10 percent or greater interest in the following entities: Centennial Communications Corp., Crowley Wireless Broadband LLC, FiberNet Telecom Group, Inc., Freedom Communications Inc., PaeTec Communications, Inc., and Utilicom Networks LLC.

¹⁴ The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing a transfer of control or assignment application in which foreign ownership is an issue. See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170-72, ¶¶ 178-182 (1997) ("*DISCO II Order*"); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-921, ¶¶ 61-66 (1997), Order on Reconsideration, 15 FCC Rcd 18158 (2000) ("*Foreign Participation Order*"). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. See *Foreign Participation Order*, 12 FCC Rcd at 23919-921, ¶¶ 61-66.

¹⁵ See Department of Justice, Federal Bureau of Investigation, and Department of Homeland Security, Petition to Adopt Conditions to Authorizations and Licenses, IB Docket No. 04-247 (dated Oct. 13, 2004).

¹⁶ 47 C.F.R. § 0.261.

The transfers of control shall be completed within 60 days from the date of authorization.¹⁷ Following consummation of the transaction, Applicants shall update any pending applications to reflect the transaction approved by this Public Notice.¹⁸ Within 30 days of consummation, the Commission shall be notified by letter of the date of consummation and the file numbers of the applications involved in the transaction.¹⁹ Failure to comply with all relevant Commission rules, policies, or any specific condition to the grant of these Applications will result in automatic rescission of the Commission's approval, dismissal of the underlying application, and could subject the applications to enforcement action, including but not limited to the imposition of forfeitures.

Pursuant to section 25.137(g) of the Commission's rules, the Commission will allow a change of ownership of the non-U.S. licensed satellites NSS-5, NSS-7 and NSS-806; and the permitted list will be updated to reflect the transfer of control of the New Skies satellites upon receipt of the notice of consummation.²⁰

Pursuant to section 1.103 of the Commission's rules, the grant is effective upon release of this Public Notice.²¹ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules may be filed within 30 days of the date of this Public Notice.²²

– FCC –

¹⁷ See 47 C.F.R. § 25.119(f).

¹⁸ See 47 C.F.R. § 1.65.

¹⁹ See 47 C.F.R. § 25.119(f).

²⁰ See 47 C.F.R. § 25.137(g).

²¹ See 47 C.F.R. § 1.103.

²² See 47 C.F.R. §§ 1.106, 1.115.

Appendix A

The following applications seeking consent to transfer control of earth station licenses and to transfer Permitted List authorizations from New Skies Satellites N.V. to New Skies B.V. are granted:

Satellite Space Stations on the Commission's Permitted Space Station List:

File Number	Licensee/Call Signs
SAT-PPL-20040625-00123	New Skies Satellites N.V. <i>Call Sign(s):</i> NSS-5; NSS-7 and NSS-806

Satellite Earth Stations:

File Number	Licensee/Call Signs
SES-T/C-20040625-00886	New Skies Networks, Inc. <i>Call Sign(s):</i> E000102; E020071; E980076; E000726; E000696; E000152

Appendix B

New Skies Commitment Letter