



PUBLIC NOTICE

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DA No. 03-335
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ACTIONS TAKEN UNDER CABLE LANDING LICENSE ACT

Section 1.767(a) Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Cable Landing Licenses (47 C.F.R. § 1.767(a))

By the Chief, Policy Division, International Bureau:

Pursuant to An Act Relating to the Landing and Operation of Submarine Cables in the United States, 47 U.S.C. §§ 34-39 (Cable Landing License Act), Executive Order No. 10530, Exec. Ord. No. 10530 *reprinted as amended in* 3 U.S.C. § 301, and section 1.767 of the Commission's rules, 47 C.F.R. § 1.767, the following application ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, and are effective upon release of this public notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of this public notice.

This public notice serves as each cable landing licensee's Cable Landing License, or modification thereto, pursuant to the Cable Landing License Act and sections 1.767 and 1.768 of the Commission's rules. Cable landing licensees should review carefully the terms and conditions of their licenses. Failure to comply with these terms and conditions or relevant Commission rules and policies could result in fines or forfeitures.

The Commission most recently amended its rules applicable to submarine cable landing licenses in *Review of Commission Consideration of Applications under the Cable Landing License Act*, IB Docket No. 00-106, FCC 01-332 (rel. Dec. 14, 2001), 67 Fed. Reg. 1615 (Jan. 14, 2002). An updated version of sections 1.767 and 1.768 of the rules is available at <http://www.fcc.gov/ib/pd/pf/telecomrules.html>. See also http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-02-598A1.pdf for a March 13, 2002 Public Notice; http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-01-332A1.pdf for the December 14, 2001 Report and Order.

SCL-T/C-20021213-00104

360atlantic (USA) inc. (Licensee)
360networks inc. (Transferor)
360networks Corporation (Transferee)

TRANSFER OF CONTROL AND
ASSIGNMENT

Action Taken: Grant of authority to transfer control of the submarine cable landing license held by 360atlantic (USA) inc. (File No. SCL-LIC-19990804-00012) for the 360atlantic Cable Network, extending between the United States, Canada, the United Kingdom and Ireland, from 360networks inc. to 360networks Corporation; and grant of authority to assign the 360atlantic cable landing license held by 360atlantic (USA) inc. to Columbia Ventures U.S. Acquisition LLC.

Conditions and Requirements: *See Worldwide Telecom (USA) Inc. Application for a License to Land and Operate in the United States a Private Fiber Optic Submarine Cable System Extending Between the United States, Canada, Ireland and the United Kingdom, File No. SCL-LIC-19990804-00012, 15 FCC Rcd 765 (2000); see also Letter from Sophie Keefer to Magalie Roman Salas, Secretary, Federal Communications Commission (May 18, 2000) (notifying the Commission of name change of Worldwide Telecom (USA) Inc. to 360atlantic (USA) inc.).*

Licensee shall comply with the requirements of Section 1.768 (notifications and prior approval for submarine cable landing licenses that are or propose to become affiliated with a foreign carrier), 47 C.F.R. § 1.768. See also 47 C.F.R. § 1.767(g) (1) (14).

Licensee Information: 360atlantic (USA) inc. ("360atlantic") is a corporation organized under the laws of the state of Nevada and is a wholly-owned subsidiary of 360networks Corporation. Formerly, 360atlantic was a wholly-owned subsidiary of 360networks inc., a Canadian corporation that, in June 2001, filed for protection from creditors under the Companies' Creditors Arrangement Act ("CCAA") in the Supreme Court of British Columbia. Columbia Ventures U.S. Acquisition LLC ("CVC USA") is a limited liability company organized under the laws of the State of Washington. CVC USA is wholly owned by Columbia Ventures Corporation ("CVC"), a privately held Washington corporation that is 100 percent owned by Kenneth D. Peterson, Jr., a U.S. citizen.

The transfer of control application was filed in connection with a plan of arrangement and compromise approved under the CCAA, pursuant to which 360networks Corporation emerged from CCAA protection. The ten percent or greater shareholders of 360networks Corporation are WLR Recovery Fund II, L.P. and its general partner WLR Recovery Fund II, LLC, both of which are organized in the United States. According to the applicants, 360networks Corporation has foreign carrier affiliates in Canada but none possesses market power. Applicants state that the transfer of control of the license to 360networks Corporation will be temporary, pending the proposed sale of the 360atlantic Cable Network to CVC USA and its affiliates.

Following consummation of the proposed sale, CVC USA will own the U.S. assets of the 360atlantic Cable Network, including the U.S. landing station and portion of the cable in U.S. territorial waters. Affiliates of CVC USA will own the remaining cable system assets: CVC Acquisition Company (Canada) Ltd., a Canadian company, will own the Canadian assets (landing station and portion of the cable in Canadian territorial waters); CVC Acquisition Corporation (CI) Limited, organized in the Cayman Islands, will own the cable in international waters; CVC Acquisition Company (UK) Limited, organized in the United Kingdom, will own the U.K. assets (landing station and portion of the cable in U.K. territorial waters); and CVC Acquisition Company (Ireland) Limited, an Irish company, will own the Irish assets (landing station and portion of the cable in Irish territorial waters). Each of these affiliates

is wholly owned by CVC Iceland Holding ehf, a company organized in Iceland and wholly owned by CVC.

CVC USA certifies that it is not a foreign carrier, but it is affiliated with the following foreign carriers: CVC Acquisition Company (Canada) Ltd. (Canada); CVC Acquisition Company (UK) Limited (United Kingdom); CVC Acquisition Company (Ireland) Limited (Ireland); and Islandssimi hf (Iceland, United Kingdom). CVC USA asserts that none of these foreign carrier affiliates possesses market power.

Regulatory Status of Cable: The 360atlantic Cable Network is operated on a non-common carrier basis. *See* File No. SCL-LIC-19990804-00012, 15 FCC Rcd 765 (2000).

Cable Design and Capacity: *See* File No. SCL-LIC-19990804-00012, 15 FCC Rcd 765 (2000).