PUBLIC NOTICE

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DA No. 20-347

Friday March 27, 2020

Report No. SCL-00266

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, Telecommunications and Analysis 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 applications ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules, 47 C.F.R. § 0.261. 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.

These applications have been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 C.F.R. §1.767(b), and consistent with procedures established with the Department of State. See Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Streamlined Procedures for Executive Branch Review of Submarine Cable Landing License Requests, State Department Media Note (Revised) (rel. Dec. 20, 2001) available at http://2001-2009.state.gov/r/pa/prs/ps/2001/6951.htm.

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.
Cable Design and Capacity: The Dunant cable system will consist of a single segment between Virginia Beach, VA, and Saint-Hilaire, France, with a total length of 6,600 kilometers. Dunant will consist of 12 fiber pairs, with a total design capacity of 25 Terabits per second (Tb/s) per fiber pair.

Ownership of the Cable System and Landing Points: GU Holdings and its affiliates - Google Infrastructure Bermuda Limited (GIB) and Google France Sarl (Google France) - will hold 100% of the equity and voting interests in the Dunant system. GU Holdings will own and control the system in international waters. Google France will own and control the system in French territory. GU Holdings states that under 1.767(h)(2) of the Commission's rules, 47 CFR §1.767, in connection with the license, and (3) grant of the Petition to Adopt Conditions to Authorizations and Licenses filed by DHS on March 12, 2020.

Licensee Information: GU Holdings is a Delaware corporation with its principal place of business in Mountain View, California. GU Holdings is a wholly owned subsidiary of Google International LLC. Google LLC holds an 100% interest in Google International (97% direct and 3% through its wholly owned subsidiary, YouTube, LLC). Google LLC is wholly owned by XXVI Holdings Inc., which in turn is wholly owned by Alphabet Inc. All of these entities are organized in the state of Delaware. Alphabet's shares are publicly traded on the NASDAQ stock market. According to GU Holdings, the following persons (all U.S. citizens) have a 10% or greater voting or equity interest in Alphabet Inc. as of April 22, 2019: Larry Page (42.9% of Class B common stock, giving him a 26.1% voting interest); and Sergey Brin (43.1% of Class B common stock, giving him a 25.2% voting interest). No other individual or entity has ten percent or greater direct or indirect voting or equity interest in GU Holdings.

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Regulatory Status of the Cable: GU Holdings proposes to operate the Dunant cable system on a non-common carrier basis. GU Holdings states that Dunant’s new landing point at Virginia Beach, Virginia, will provide new and replacement capacity on the U.S.-European routes and will provide geographically-diverse capacity by landing in France, as most existing trans-Atlantic systems connect the U.S. with the United Kingdom, Ireland, and other Northern European countries. Further, the GU Holdings claims that Dunant will compete directly with the existing Apollo and FLAG systems on the U.S.-France route, and compete on broader U.S.-European routes with other cable systems that have connectivity to France via other cable systems and terrestrial networks (AECOnnect, Atlantic Crossing-1, Marea, TAT-14, TGN-Atlantic, and Yellow/AC-2). GU Holdings states that it intends to use the system capacity as an input for services offered by its affiliates or by providing bulk capacity to wholesale and enterprise customers on particularized terms and conditions pursuant to individually negotiated indefeasible rights of use (IRU) and capacity leases, the terms of which will vary depending on the characteristics of the particular capacity purchase.

GU Holdings has provided information and demonstrated that the proposed operation of the cable on a non-common carrier basis satisfies the requirements set forth in National Association of Regulatory Utility Commissioners v. FCC, 525 F.2d 630, 642 (D.C. Cir. 1976) (NARUC I), cert. denied, 425 U.S. 992 (1976). See also Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22202-22203, paras. 69-70; Review of Commission Consideration or Applications under the Cable Landing License Act, IB Docket No. 00-106, Notice of Proposed Rulemaking, 15 FCC Rcd 20789, 20815-20818, paras. 62-67 (Cable Landing License Act.

Conditions and Requirements: GU Holdings Inc. will comply with the routine conditions set out in 1.767(g) of the Commission rules, 47 C.F.R. § 1.767 (g), and with the requirements of section 1.768 of the Commission's rules, § 1.768 (Notification by and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier).

We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on March 12, 2020 by the Department of Homeland Security (DHS). Accordingly, we condition grant of the application on GU Holdings Inc. abiding by the commitments and undertakings contained in the March 10, 2020, Letter of Assurances from Austin Schlick, President, GU Holdings, Inc. to the Assistant Secretary for Border, Immigration and Trade, Office of Policy, DHS (2020 LOA). A failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the cable landing license and thus grounds for declaring license terminated without further action on the part of the Commission. Failure to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission. A copy of the Petition and the 2020 LOA are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20190410-00015 and accessing "Other filings related to this application" from the Document Viewing area.