

SUPPORTING STATEMENT

A. Justification

1. The Federal Communications Commission (“Commission”) is requesting that the Office of Management and Budget (OMB) approve the revision of OMB Control No. 3060-0944 titled, “Cable Landing License Act – 47 CFR 1.767; 1.768; Executive Order 10530.” This information collection is being revised to receive OMB approval for information collection requirements that were adopted in In the Matter of Reform of Rules and Policies on Foreign Carrier Entry Into the U.S. Telecommunications Market (Report and Order), FCC 14-48, released April 22, 2014.

The Commission requests OMB approval for the following information collection requirements adopted in the Report and Order:

Section 1.767(a)(8)(iv)

For each applicant:

- (i) The place of organization and the information and certifications required in §§63.18(h) and (o) of this chapter;
- (ii) A certification as to whether or not the applicant is, or is affiliated with, a foreign carrier, including an entity that owns or controls a cable landing station, in any foreign country. The certification shall state with specificity each such country;
- (iii) A certification as to whether or not the applicant seeks to land and operate a submarine cable connecting the United States to any country for which any of the following is true. The certification shall state with specificity the foreign carriers and each country:
 - (A) The applicant is a foreign carrier in that country; or
 - (B) The applicant controls a foreign carrier in that country; or
 - (C) There exists any entity that owns more than 25 percent of the applicant, or controls the applicant, or controls a foreign carrier in that country.
 - (D) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the applicant and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of arrangements for the terms of acquisition, sale, lease, transfer and use of capacity on the cable in the United States; and

(iv) For any country that the applicant has listed in response to paragraph (a)(8)(iii) of this section that is not a member of the World Trade Organization, a demonstration as to whether the foreign carrier lacks market power with reference to the criteria in §63.10(a) of this chapter.¹

Section 1.768(g)(2)

In the case of a prior notification filed pursuant to paragraph (a) of this section, the authorized U.S. licensee must demonstrate that it continues to serve the public interest for it to retain its interest in the cable landing license for that segment of the cable that lands in the non-WTO destination market. Such a showing shall include a demonstration as to whether the foreign carrier lacks market power in the non-WTO destination market with reference to the criteria in §63.10(a) of this chapter. In addition, upon request of the Commission, the licensee shall provide the information specified in §1.767(a)(8). If the licensee is unable to make the required showing or is notified by the Commission that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules under 47 U.S.C. 34 through 39 and Executive Order No. 10530, dated May 10, 1954, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing.²

¹ NOTE TO PARAGRAPH (a)(8)(iv): Under §63.10(a), the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

NOTE TO SECTION 1.767: The terms "affiliated" and "foreign carrier," as used in this section, are defined as in § 63.09 of this chapter except that the term "foreign carrier" also shall include any entity that owns or controls a cable landing station in a foreign market. The term "country" as used in this section refers to the foreign points identified in the U.S. Department of State list of Independent States of the World and its list of Dependencies and Areas of Special Sovereignty. See <http://www.state.gov>.

² NOTE TO PARAGRAPH (g)(2): Under §63.10(a), the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

Report and Order

On April 22, 2014, the Commission released a Report and Order titled “Reform of Rules and Policies on Foreign Carrier Entry Into the U.S. Telecommunications Market,” FCC 14-48. In the Report and Order, the Commission eliminates the effective competitive opportunities (ECO) Test that applied to Commission review of cable landing license applications filed by foreign carriers or certain of their affiliates that have market power in a non-World Trade Organization (WTO) Member country where the cable would land, and to notifications filed by U.S. authorized cable landing licensees that have acquired, or seek to acquire, an affiliation (as defined in the rules) with a foreign carrier that has market power in a non-WTO Member country where the cable lands. To ensure that the Commission receives sufficient information to assess whether applications and notifications involving an affiliation with a non-WTO carrier require a closer review, the Report and Order modifies sections 1.767(a)(8) and 1.768(g)(2) of the rules to state specifically that, if an applicant or notification filer is a foreign carrier, or is affiliated with a foreign carrier (as defined in the rules) in a non-WTO Member destination country of the cable, the applicant or notification filer must demonstrate whether or not the foreign carrier has market power in that country.

As is the case under the current rules, if the applicant is itself, or is affiliated within the meaning of the rules, with a foreign carrier that may have market power in a non-WTO Member country where the cable would land, the application will not be eligible for streamlined processing and will be placed on a 28-day public notice, thus giving interested parties an opportunity to file comments as to whether there are competitive or other public interest concerns with the foreign country at issue. Notifications of affiliation with a foreign carrier that may have market power in a non-WTO Member country where the cable lands will continue to require a 45-day notification prior to consummation of the transaction. The Commission will closely analyze applications and notifications where particular issues and concerns are raised, and may request additional information from the applicant or notification filer to determine whether the public interest would be served by granting the application or notification.

The Commission has maintained its current competitive safeguards, including the “no special concessions” rule, thus continuing to protect competition and prevent anticompetitive strategies that foreign carriers can use to discriminate among U.S. carriers. The Commission coordinates these applications with the United States Trade Representative (USTR) and other Executive Branch agencies to protect national security and take into account law enforcement, foreign policy and trade policy considerations.

Impact of Information Collection Requirements on Applicants

By eliminating the ECO Test and seeking additional information only in response to concerns raised by a particular application or notification, the Commission is reducing the burden on applicants and notification filers in preparing information required under the rules as well as reducing the hour burden of Commission staff responsible for analyzing and determining whether to grant applications or, with respect to notifications, to modify the terms of, or take other action with respect to, the licensee's authorization. The ECO Test was extremely detailed and applicants, who, like other applicants, do not necessarily represent or speak on behalf of their home government market, were placed in a difficult position of having to make a showing as to whether their home market government supported an open market or not.

Cable Landing License Application Forms Approved and Pending Development by the Commission

We request continued OMB approval of the Submarine Cable Landing License Application form approved under this collection.

The Commission plans to develop six new cable landing license application forms that impact this information collection. We do not know the specific time frame for the development of each application form. However, we estimate that the new projected completion date for all cable landing license application forms is December 30, 2018. The development of the application forms is contingent upon the availability of budget funds, human resources and other factors.

In March 2006, the Commission received blanket approval of all six applications listed below with the following terms of clearance: OMB approves this information collection. However, as applications contained within the supporting statement are developed, a change worksheet should be submitted to OMB. The change worksheet should include the information elements that are to be collected, as well as a copy of the proposed form. This should be submitted before the application goes "live" and OMB reserves the right to make modifications to the forms and information collected as necessary.

Currently, applicants can file letters electronically with the Commission for amendments, modifications and other filings for which there is no existing application form. These information collections are approved under OMB Control No. 3060-0944. On September 30, 2008, the Commission's International Bureau (IB) launched an e-filing module in the International Bureau Filing System (IBFS) to provide the option of electronic filing for certain

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filings in lieu of filing through the Commission’s Office of the Secretary. Interested parties have the option to file their applications, pleadings and other filings through the IBFS module or submit their filings to the Office of the Secretary. (Please reference Public Notice DA 08-2173 for additional information).

A complete list of cable landing license applications pending development is as follows:

Name of Form	Brief Description	Rule Section
1. Submarine Cable Landing License Amendment	Amendment of an application to correct information required for the processing of the original application.	§1.767(m)(1)
2. Submarine Cable Landing License Assignment	Application to assign a license, or a portion of it, from one entity to another. Following an assignment, the license will usually be held by an entity other than the one to which it was originally granted.	§1.767(a)(11)
3. Submarine Cable Landing License Landing Point Notification	Notification of specific description of the landing stations in the U.S. and the foreign countries where the cable will land.	§1.767(a)(5) §1.767(g)(8)
4. Submarine Cable Landing License Modification	Modification application requesting authority to modify the terms or conditions of a license, such as adding a new licensee or relinquishing an interest in a license; also may be used to update information required to maintain accuracy of the certifications made in the original application.	§1.767(m)(1)

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5. Submarine Cable Landing License Special Temporary Authority	Application requesting immediate authority for temporary service or for emergency service (Special Temporary Authority).	§1.767(a)
6. Submarine Cable Landing License Transfer of Control of License	Application to transfer control of a license. Following the transfer of control, the license remains held by the same entity or entities, but there is a change in the entity or entities that control a license holder.	§1.767(a)(11)

The Commission removed the Submarine Cable Landing License Other Filings and Submarine Cable Landing Notification of Operation Forms from this information collection because the applicants/respondents notify the Commission of miscellaneous items such as name changes, etc., by letter filed electronically in IBFS. Therefore, the Commission is no longer planning on developing these two forms.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

The statutory authority for this information collection is contained in the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34-39, Executive Order 10530, section 5(a), and the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)-(j), 155, 303(r), 309, and 403.

2. The information will be used by the Commission staff in carrying out its duties under the Cable Landing License Act. The information collections pertaining to Part 1 of the rules are necessary to determine whether and under what conditions the Commission should grant a license for proposed submarine cables landing in the United States. Pursuant to Executive Order No. 10530, the Commission has been delegated the President's authority under the Cable Landing License Act to grant cable landing licenses, provided that the Commission must obtain the approval of the State Department and seek advice from other government agencies as appropriate.

3. On May 11, 2005, in Report and Order, IB Docket No. 04-226, FCC 05-91, the Commission made electronic filing mandatory for international telecommunications services and other

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international filings, including submarine cable landing license applications, subject to the availability of electronic forms. As noted above, on September 30, 2008, the Commission's International Bureau (IB) launched an e-filing module in IBFS to provide applicants and other interested parties the option of electronic filing for certain filings for which forms are not available in lieu of filing through the Commission's Office of the Secretary.

4. An applicant for a common carrier (but not a non-common carrier) submarine cable landing license must file two electronic applications: (1) a cable landing license application and (2) an international Section 214 application for overseas cable construction. While the applicant may be able to use some of the same information in both applications, the applicant must file two separate applications.

5. In developing this collection, the Commission considered the impact of our information collection requirements on small businesses and other small entities. While we cannot project exactly how many foreign carriers, or affiliates of foreign carriers from non-WTO Member countries may in the future seek entry into the U.S. telecommunications market, there is nothing in the record to suggest that there will be significantly more such carriers than there have been in the past. Therefore, the Commission certifies that the requirements of this Report and Order will not have a significant economic impact on a substantial number of small entities.

6. The frequency of filing applications and notifications under Sections 1.767 and 1.768 of the rules will be determined largely by the applicants that seek authority to construct and operate a submarine cable, by licensees that seek authority to assign or transfer control of an interest in an existing cable, or by licensees acquiring an affiliation with a foreign carrier in a destination country of the cable. The exception to this general rule is the requirement in 1.767(l) that certain licensees file quarterly reports. If the collection is not conducted or is conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services and facilities, and the Commission will be unable to carry out its mandate under the Cable Landing License Act and Executive Order 10530. In addition, without the collection, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Trade Organization (WTO) Basic Telecom Agreement because certain of these information collection requirements are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies' and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy, and trade concerns.

7. There are no special circumstances associated with this collection of information.

8. On October 23, 2014, the Commission published a 60-day notice in the Federal Register (79 FR 63396) seeking comments on the information collection requirements contained in this supporting statement. No comments were received from the public as a result of the published notice.
9. Respondents will not receive any payments or gifts.
10. The Commission has not granted assurances of confidentiality to those parties submitting the information. In those cases where a respondent believes information requires confidentiality, the respondent can request confidential treatment under Section 0.459 of the Commission's rules, 47 C.F.R. § 0.459. The Commission has determined, however, that maps showing the exact location of submarine cables should not be routinely available for public inspection. 47 C.F.R. § 0.457(c)(1)(i).
11. The collection of information does not include any questions of a sensitive nature.
12. The information collection requirements are summarized in the chart below. The total number of respondents, on an annualized basis, for this information collection is approximately **38**. The respondents consist of: Applicants filing for an initial cable landing license (1 respondent); Applicants filing for consent to transfer control of, or to assign, an interest in a cable landing license (13 respondents, consisting of 8 requesting prior consent to transfer control of, or to assign, an interest in a cable landing license, and 5 filing post-notification of a *pro forma* transfer or assignment); Licensees subject to reporting requirements (7 respondents); Applicants requesting special temporary authority (6 respondents); Licensees relinquishing interest in a license (1 respondent); Licensees filing an application to modify an existing cable system (2 respondents); Licensee notification that cable is operational (1 respondent); Licensees filing prior notification of proposed affiliation with certain foreign carriers (1 respondent); Licensees filing post-transaction notification of affiliation with certain foreign carriers (6 respondents).

Chart of Respondents, Responses and Annual Burden Hours

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Rule Section and Explanation of Burden Estimate ³	Number of Responses	Time Per Response (in hours)	Total Annual Hour Burden ⁴
<p>47 CFR 1.767</p> <p>CABLE LANDING LICENSES</p> <p>Applications for cable landing licenses under 47 USC 34-39 and Executive Order No. 10530 should contain:</p> <p>47 CFR 1.767(a)(1)-(a)(3): Applicant contact information and corporate organization;</p> <p>47 CFR 1.767(a)(4): Description of submarine cable, including type and capacity;</p> <p>47 CFR 1.767(a)(5): Landing Point Notification: Map providing a specific description of the cable landing stations on the shore of the U.S. and in foreign countries where the cable will land. Applicant must specify the coordinates of any beach joint where those coordinates differ from the coordinates of the cable station. This information must be filed with the Commission at least 90 days prior to construction.</p> <p>47 CFR 1.767(a)(6): Statement as to whether the cable will be operated on a common carrier or non-common carrier basis;</p> <p>47 CFR 1.767(a)(7): List of proposed owners of the cable system, including each U.S. cable landing station, and their voting and ownership interests in each U.S. cable landing</p>	1	17 Hrs.	17 Hrs.

³ For all applications, records must be maintained by respondents and the time for maintaining these records are included in the estimated time per response.

⁴ All of the information collection requirements contained in this chart including waivers have true burden impacts.

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		(3 Hrs.)	
station and each segment of the cable;		(0.5 Hr.)	
47 CFR 1.767(a)(8)(i)-(iii): ⁵ For each applicant, provide (i) citizenship and ownership information; (ii) certify whether the applicant has an affiliation with a foreign carrier in any country; and (iii) for each country where the cable would land, certify and identify any foreign carrier affiliations of the type described in paragraph (iii), including the country(ies) in which the foreign carrier is authorized to operate.		(1 Hr.)	
47 CFR 1.767(a)(9): Certification that applicant agrees to abide by routine conditions specified in 1.767(g); and			
47 CFR 1.767(a)(10): Any additional information necessary for the Commission to act on the application.			
	1	2 Hrs. (if no comments are filed) 8 Hrs. (if comments are filed). This burden includes a possible, additional	8

⁵ The Report and Order reorganizes Section 1.767(a)(8) into four subparagraphs, 1.767(a)(8)(i)-(iv). The information collection associated with 1.767(a)(8)(iv) appears in the next row of this chart.

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<p>47 CFR 1.767(a)(8)(iv)</p> <p>For any country that the applicant has listed in response to paragraph (a)(8)(iii) of this section that is not a member of the World Trade Organization, provide a demonstration as to whether the foreign carrier lacks market power with reference to the criteria in section 63.10(a).</p>		<p>information request by Commission staff in the event concerns are raised.</p>	
<p>47 CFR 1.767(a)(11)(i)-(iii) ASSIGNMENTS AND TRANSFERS OF CONTROL</p> <p>If applying for authority to assign or transfer control of an interest in a cable system, the applicant shall provide the information required in this paragraph, including a narrative of the means by which the transaction will take place; the percentage of voting and ownership interests being transferred or assigned in the cable; and, for the assignee/transferee, the information specified in 1.767(a)(8)-(9).⁶ If the transaction also requires the filing of a 1.768 notification, a cross-reference to the notification and filing date. The assignee or transferee must notify the Commission no later than 30 days after either consummation of the assignment or transfer or a decision not to consummate the assignment or transfer.</p>	8	9 Hrs.	72 Hrs.
<p>47 CFR 1.767(f) THIRD PARTY DISCLOSURE</p> <p>Applicants shall disclose to any interested member of the public, upon written request, accurate information concerning the location and timing for the construction of a submarine</p>	1	3 Hrs.	3 Hrs.

⁶ The Commission estimates that no more than one application annually will require the applicant to respond to the information request in 1.767(a)(8)(iv). The application may be for an initial cable landing license or for consent to assign or transfer an interest in a cable landing license. We have included the one response and the associated 2 hour burden in this chart only once, under 47 CFR 1.767(a)(8)(iv), in order to eliminate double counting the annual hour burden associated with the 1.767(a)(8)(iv) information requirement that is cross-referenced in 1.767(a)(11)(i).

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<p>cable system authorized under this section. The disclosure shall be made within 30 days of receipt of the request.</p>			
<p>47 CFR 1.767(g)(7) PRO FORMA ASSIGNMENTS/TRANSFERS</p> <p>A pro forma assignee or person or company that is the subject of a pro forma transfer of control must notify the Commission no later than 30 days after the assignment or transfer of control is consummated. The notification must certify that the assignment or transfer of control was pro forma, as defined in Section 63.24 of this chapter, and together with all previous pro forma transactions, does not result in a change of the licensee's ultimate control. The licensee may file a single notification for an assignment or transfer of control of multiple licenses issued in the name of the licensee if each license is identified by the file number under which it was granted.</p>	5	3 Hrs.	15 Hrs.
<p>47 CFR 1.767(g)(8) CABLE LANDING CONSTRUCTION</p> <p>Unless the licensee has notified the Commission of the precise locations of the cable landing points, as required by paragraph 1.767(a)(5), the licensee shall notify the Commission no later than 90 days prior to commencing construction at that landing location.</p>	(See 1.767(a)(5) ⁷)	0 Hrs.	0 Hrs.
<p>47 CFR 1.767(g)(9) ENVIRONMENTAL ASSESSMENT</p> <p>The Commission may require that the licensee file an environmental assessment should it determine that the landing of the cable at the specific locations and construction</p>	1	10 hours	10 hours

⁷ The burden is accounted for in the requirement under Section 1.767(a)(5).

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<p>47 CFR 1.767(g)(14) SUBMARINE CABLE LANDING LICENSE</p> <p>NOTIFICATION OF OPERATION The licensee must notify the Commission within 30 days of the date the cable is placed into service. The cable landing license shall expire 25 years from the in-service date, unless renewed or extended upon proper application. Upon expiration, all rights granted under the license shall be terminated.</p>	1	1 Hr.	1 Hr.
<p>47 CFR 1.767(j), (k)(1)-(3)</p> <p>REQUEST AND ELIGIBILITY FOR STREAMLINED PROCESSING</p> <p>An applicant that seeks streamlined processing must make a request in its application and must provide a copy of the application to the Department of State to initiate approval of the application by the Department of State. The applicant also must demonstrate eligibility in accordance with the provisions of paragraphs (k) (1)-(3).</p>	11 This number consists of requests that may be included in initial applications (1), transfer of control and assignment applications (8), and applications to modify an existing license (2).	6 Hrs.	66 Hrs.
<p>47 CFR 1.767(k)(4)</p> <p>Applications for an initial license and applications to modify an existing license shall also include a</p>	3	1 Hr.	3 Hrs.

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<p>certification that the applicant is not required to submit a consistency certification with any state pursuant to the Coastal Zone Management Act.</p>			
<p>47 CFR 1.767(l)</p> <p>REPORTING REQUIREMENTS APPLICABLE TO LICENSEES AFFILIATED WITH A CARRIER WITH MARKET POWER IN A CABLE'S WTO DESTINATION MARKET THAT REQUEST STREAMLINED PROCESSING</p> <p>Licenses must file, within 90 days from the end of each calendar quarter, (1) reports summarizing the provisioning and maintenance of all network facilities and services procured from the licensee's affiliate in that destination market; and (2) listing its active and idle circuits on the U.S.-destination route by type of transmission facility.</p>	<p>28⁸</p>	<p>4 Hrs./Report</p>	<p>112 Hrs.</p>
<p>47 CFR 1.767(m)(1)</p> <p>SUBMARINE CABLE LANDING LICENSE AMENDMENTS AND MODIFICATIONS</p>	<p>2</p>	<p>2 Hrs.</p>	<p>4 Hrs.</p>
<p>47 CFR 1.767(m)(2)</p> <p>RELINQUISH INTEREST</p> <p>Any licensee that seeks to relinquish its interest</p>	<p>1</p>	<p>2 Hrs.</p>	<p>2 Hrs.</p>

⁸ The Commission arrived at the annual number of responses of 28 based on the following calculation: 7 respondents x 4 responses (1 response per quarter x 4 quarters).

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<p>in a cable landing license shall file an application to modify the license. Such application must include a demonstration that the applicant is not required to be a licensee under paragraph (h) of this section and that the remaining licensee(s) will retain collectively de jure and de facto control of the U.S. portion of the cable system sufficient to comply with the requirements of the Commission's rules and any specific conditions of the license, and must be served on each other licensee of the cable system.</p>			
<p>47 CFR.1.767(a)</p> <p>SUBMARINE CABLE LANDING LICENSE SPECIAL TEMPORARY AUTHORITY</p> <p>Application requesting immediate authority for temporary service or for emergency service.</p>	6	2 Hrs.	12 Hrs.
<p>47 CFR 1.767; 47 CFR 63.18 INTERNATIONAL SECTION 214 APPLICATION FOR OVERSEAS CABLE CONSTRUCTION (FCC FORM 214)</p>	0	9 Hrs.	0 Hrs.
<p>47 CFR 1.768(a), (e)</p> <p>NOTIFICATION BY AND PRIOR APPROVAL FOR SUBMARINE CABLE LANDING LICENSEES THAT ARE OR PROPOSE TO BECOME AFFILIATED WITH A FOREIGN CARRIER</p> <p>Affiliations Requiring Prior Notification: A cable licensee must notify the Commission 45 days before consummating a transaction that results in the licensee, or certain of its affiliates as described in the rule, acquiring a controlling interest in a foreign carrier that is authorized to operate in a non-WTO market where the cable lands, or that results in the acquisition of greater</p>	1	9 Hrs.	9 Hrs.

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than 25% of the capital stock, or a controlling interest, in the licensee by a foreign carrier authorized to operate in a non-WTO market where the cable lands, unless the licensee is able to make one of the showings in paragraph (b) of this section. The licensee must provide in its prior notification the information specified in paragraph (e) of this section.

47 CFR 1.768(b)-(c), (e)

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POST-CONSUMMATION NOTIFICATIONS BY SUBMARINE CABLE LANDING LICENSEES THAT HAVE ACQUIRED AN AFFILIATION WITH A FOREIGN CARRIER

Any licensee that becomes affiliated with a foreign carrier and has not previously notified the Commission pursuant to this section shall notify the Commission within 30 days after consummation. The licensee must provide in its post-notification the information specified in paragraph (e) of this section.

47 CFR 1.768(d)

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0.5

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If the transaction requiring the notification involves a transfer of control or assignment application under 1.767(a)(11), the notification shall reference the transfer/assignment application and the filing date.

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<p>47 CFR 1.768(f)</p> <p>If the licensee seeks to be excepted from the reporting requirements in 1.787(l) for a newly affiliated route, the notification must include a showing that the licensee is eligible as a non-dominant provider on the route pursuant to the criteria described in 63.10.</p>	5	2	10
<p>47 CFR 1.768(g)(2)</p> <p>In the case of a prior notification filed under 1.768(a), the notification must include a showing that it continues to serve the public interest for the licensee to retain its interest in the license for that segment of the cable that lands in the non-WTO destination market. Such a showing shall include a demonstration as to whether the foreign carrier lacks market power in the non-WTO destination market with reference to the criteria in §63.10(a). In addition, upon request of the Commission, the licensee shall provide the information specified in 1.767(a)(8).</p>	1	2 Hrs (if no comments are filed) 8 Hrs (if comments are filed). This burden includes a possible, additional information request by Commission staff in the event concerns are raised.	8
<p>47 CFR 1.768(h)</p> <p>Accuracy of contents of notification. Licensees are responsible for continuing accuracy of information in the notification for a period of 45 days after filing. During this period, if information is no longer accurate, the licensee shall file, as promptly as possible and in any event within 10 days, unless good cause is shown, a corrected notification referencing the FCC File No. of the original notification.</p>	7	1	7
<p>47 CFR 1.768(i)</p> <p>A licensee filing a prior notification under 1.768(a) may request confidential treatment under 47 CFR 0.459 for 20 days after filing.</p>	1	6	6

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Totals:	94 Number of Responses	0.5 – 17 Hours	421 Total Annual Burden Hours

In-House Costs – We estimate that in-house staff is paid at an estimated rate of \$40 per hour.

421 hours X \$40 per hour = **\$16,840 Total In-House Costs to Respondents**

13. Annual Burden Cost:

(a) Capital and Start-up Costs: 0

(b) Operation and Maintenance Costs

Outside Legal/Engineering Assistance: We estimate that the respondent will require outside legal and engineering assistance for 50% of the responses (47).⁹ The cost of outside legal and engineering assistance is estimated at \$300 per hour. The figure is based on a small survey of local firms in the D.C. area and is considered a conservative estimate.

47 responses x 4 hours per response x \$300 = **\$56,400 Total Outside Legal/Engineering Costs**

Application Filing Fees:

As shown on the chart below, the total of application filing fees is **\$32,105**.

Cable Landing License Application Filing Fees	Number of Applicants	Application Fees	Total Costs
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⁹ The rules and requirements in this collection will not require respondents to maintain any special equipment.

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Cable Landing License (Non-common Carrier)	1	\$17,405	\$17,405
Cable Landing License (Common Carrier)	0	\$1,760	\$0
Overseas Cable Construction (Common Carrier)	0	\$15,645	\$0
Special Temporary Authority	6	\$1,050	\$6,300
Prior Consent to Assignments and Transfers of Control	8	\$1,050	\$8,400
Totals:	15		\$32,105

(c). Total Annual Cost Burden

Description of Estimated Costs to Respondents	Total Costs
Outside Legal/Engineering Assistance	\$56,400
Application Filing Fees	\$32,105
Total Cost to Respondents	\$88,505

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14. Estimates of Annualized Cost to the Federal Government:

The estimates of annualized cost to the Federal government are summarized in the chart below. As shown in the chart, the annualized costs to the Federal government are **\$49,302**.

Federal Government Staff	Number of Staff	Salary Per Hour	Annual Burden Hours	Annualized Costs
GS-15/Step 5 Attorney	1	\$67.88	250	\$16,970
GS-14/Step 5 Attorney	1	\$57.70	250	\$14,425
GS-15/Step 5 Engineers	1	\$67.88	125	\$8,485
GS-11/Step 5 Administrative Assistant	1	\$34.26	275	\$9,422 ¹⁰
	4			\$49,302

15. Adjustments and Program Changes:

This section explains the adjustments and program changes to the currently approved collection, OMB Control No. 3060-0944, as reported in the 2013 Supporting Statement (approved by OMB on November 26, 2013 (extension of currently approved collection)). This 2014 revision of OMB Control No. 3060-0944 is undertaken in connection with the Commission’s amendments to Sections 1.767(a)(8) and 1.768(g)(2) of the rules, adopted in Report and Order, FCC 14-48. The revisions to the hour and cost burdens associated with these two rules are discussed in the Program Changes section below. The Commission is also making adjustments to the hour and cost burdens associated with other rules covered by this information collection, as discussed in the Adjustments section below. Overall, as compared to the currently approved 2013 Statement, the 2014 Statement reduces: the number of respondents from 255 to 38 (an overall reduction of 217 respondents); the number of responses from 255 to 94 (an overall reduction of 161 responses); the total annual hour burden from 534 to 421 (an overall reduction of 113 hours); and the total annual cost burden from \$275,205 to \$88,505 (an overall reduction of \$186,700).

¹⁰ This figure was rounded up from \$9,421.50.

Adjustments:

Question 12 Hour Burden Adjustments. The total hour burden reported in the 2014 Supporting Statement for the rules covered by this collection, other than Sections 1.767(a)(8) and 1.768(g)(2), is 402 and the corresponding total hour burden reported in the 2013 Supporting Statement is 522, a decrease of 120 hours (**an adjustment of -120 hours**). A comparison of the 2014 and 2013 Supporting Statements reveals that the decrease in total hour burden is due to the difference in the number of responses reported in the charts to Question 12 of each statement. The total number of responses reported in the 2014 statement for the rules covered by this collection, other than Sections 1.767(a)(8) and 1.768(g)(2), is 91¹¹ and the corresponding number of responses reported in the 2013 statement is 249,¹² a difference of **158 responses**. IB staff has concluded that the higher number of responses in the 2013 statement is due to over counting of responses primarily by (1) including rule sections that are merely informative and counting responses for those rule sections; and (2) not relying on filings, or responses, actually recorded in the IBFS database. We also note that the 2013 statement takes the approach of counting responses for a single application or notification multiple times. That is, the Question 12 chart in the 2013 statement lists each rule section separately, including the sections that apply routinely to all applicants and licensees, and ascribes to each rule section the total number of applications and notifications the staff estimated would be filed. The 2013 statement also treated each such response as a separate respondent, which over counted the number of respondents. The 2014 revision takes a different approach, which we believe better reflects the number of filings with the Commission, the hour and cost burdens of such filings, and the actual number of applicants and licensees that are subject to the information collection requirements in Sections 1.767 and 1.768.

The 2014 revisions correct for over-counting by, first, eliminating informative rule sections

¹¹ As explained in the Program Changes section, we estimate that 3 of the 94 total annual responses will be filed under Sections 1.767(a)(8) and 1.768(g)(2).

¹² As explained in the Program Changes section, 6 of the 255 total annual responses in the 2013 Supporting Statement were reported under Section 1.767(a)(8) and no responses were reported under Section 1.768(g)(2).

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contained in the 2013 Statement.¹³ IB staff then examined the remaining rule sections in the Question 12 chart of the 2013 Statement to identify those rules that apply routinely to an applicant or licensee, and grouped those rule sections together in the 2014 Statement. Non-routine rule sections were listed separately. Finally, IB staff calculated the number of responses for each group of rules that applied on a routine basis, and for each non-routine rule listed separately, based on the number of applications and notifications reported in the IBFS database which were subject to each group of routine rules and to each non-routine rule.¹⁴ For filings not recorded in the IBFS database, such as quarterly reports filed by certain licensees, the number of respondents and responses was obtained by interviewing IB staff responsible for processing filings associated with those rule categories.

We have also made adjustments to the estimated hour burden for certain of the rules based on our reevaluation of the time required to review the rules, and to prepare and file the responses. For example, the 2013 Statement allocated 2 hours generally for cable landing license applications filed under 1.767(a) and various other per-response hour burdens associated with paragraphs (a)(5), (a)(7), and (a)(8)-(9) for a total of 13 hours for each cable application and 78 hours for all such applications. The 2014 Statement provides a more granular breakdown of hour burdens associated with each paragraph in 1.767(a) that contains a paperwork requirement. We have adjusted the total hour burden per response/application to 17 from the 13 hours estimated in the 2013 Statement. As another example, we are also adjusting this collection to reduce the hours per response under Section 1.767(k)(4) from 2 hours in the 2013 Statement to 1 hour based on our reevaluation of the time required to prepare the required certification.¹⁵

¹³ For example, we are adjusting this collection to eliminate the 6 responses and 2 hour burden per response allocated generally for 1.767(g). While the 2013 Statement included the 6 responses and 2 hour burden per response generally for 1.767(g), in addition to responses and hour burdens associated specifically with paragraphs (g)(7)-(9) and (14), the staff has determined that there are no burdens associated with paragraphs (g)(1)-(6), or (g)(10)-(13).

¹⁴ For example, the IBFS database shows that approximately 59 applications were filed during fiscal years 2011, 2012 and 2013. The application types and number of filings were: Common Carrier Cable Landing License Applications (0); Non-Common Carrier Cable Landing License Applications (3); Overseas Cable Construction (0); Applications for Special Temporary Authority (17); and Applications or Notifications for Consent to Assign or Transfer Control (39). Annualizing those numbers, we've made the following adjustments: For Section 1.767 (cable landing license applications), the 2013 Statement listed 6 for the number of responses, when it is actually only 1, on an annualized basis, as corrected in this information collection. For applications seeking special temporary authority, the 2013 Statement listed 3 as the number of responses, while the 2014 Statement has increased the number to 6 annual responses. For Section 1.767(a)(11)(i)-(iii) (applications for prior consent to assign/transfer), the 2013 Statement listed 12 responses, which we have adjusted to 8 responses. For Section 1.767(g)(7) (post- consummation notifications of pro forma assignments/transfers), the 2013 Statement listed 6 responses, which we have reduced to 5 responses.

¹⁵ This certification must be included in cable landing license applications, which we estimate in this 2014

Question 13 Cost Burden Adjustments. The total annual cost burden to respondents is calculated by adding the annualized cost estimate for outside legal and engineering assistance to the annualized application fees. The Commission determines outside legal and engineering costs by taking 50% of the total number of responses and multiplying that number by the estimated average time per response. That number is then multiplied by \$300 per hour to determine the total outside legal and engineering costs.

The total annual cost burden reported in the 2014 Supporting Statement for the rules covered by this collection, other than Sections 1.767(a)(8) and 1.768(g)(2), is \$86,705¹⁶ and the corresponding total cost burden reported in the 2013 Supporting Statement is \$273,405,¹⁷ a decrease of \$186,700 in the total annual cost burden (**an adjustment of -\$186,700**). The cost difference is due to the difference in the number of responses reported in the 2013 and 2014 Supporting Statements. See discussion in *Question 12 Hour Burden Adjustments* above. The Commission considers the changes in the 2014 Supporting Statement to be a one-time adjustment, with future supporting statements that more accurately reflect annualized costs.

Question 14 Adjustments: This revision also makes adjustments to the Supporting Statement, Question 14, to reflect estimates of annualized costs to the FCC based on the number and type of IB staff required to review and process applications, notifications and reports filed by respondents. The 2013 Supporting Statement estimated the annualized cost to the Federal Government to be \$346,976. The estimate of annualized cost to the Federal Government in the 2014 Supporting Statement is revised to \$49,302. Based on conversations with management, the number of full time staff attorneys was reduced from ten to two, the engineering staff was reduced from two to one, and an administrative support staff position was added to account for

Statement to be 1 such application annually, and in applications to modify an existing license, which we estimate in this 2014 Statement to be 2 such applications annually. See chart to Question 12. Thus, we are also adjusting the number of responses under Section 1.767(k)(4), from 9 responses in the 2013 Statement to 3 responses. *Id.*

¹⁶ The outside legal and engineering cost in the 2014 statement for all rules and requirements in the collection, other than Sections 1.767(a)(8) and 1.768(g)(2), is \$54,600 (45.5 responses (50% of 91 responses) x \$300/burden hour x 4 average burden hours/response). The application fee cost based on the number of annualized applications (15) is \$32,105. Thus, the total annual cost burden for all rules and requirements in the 2014 collection, other than Sections 63.18(k) and 63.11(g)(2), is \$86,705 (\$54,600 + \$32,105 = \$86,705). The 4 hour average burden per response was calculated by dividing total burden hours by total number of responses in the 2014 collection (421/94 = 4.38 hours) and then rounding that number (4.38) down to 4.

¹⁷ The outside legal and engineering cost estimated in the 2013 statement for all rules and requirements in the 2013 collection, other than Sections 63.18(k) and 63.11(g)(2), is \$75,000 (125 responses (approximately 50% of 249 responses) x \$300/burden hour x 2 average burden hours/response). The application fee cost in the 2013 statement is \$198,405. Thus, the total annual cost burden for all rules and requirements in the 2013 collection, other than Sections 63.18(k) and 63.11(g)(2), is \$ 273,405 (\$75,000 + \$198,405 = \$273,405).

processing applications and preparing public notices associated with the applications and notifications filed by respondents.

Program changes:

This section addresses changes to the collection of information under OMB Control Number 3060-0944 as a result of a Commission order that eliminated the effective competitive opportunities test (ECO Test) from, and revised, Sections 1.767(a)(8) and 1.768(g)(2) of the Commission's rules that apply to cable landing license applications and foreign carrier affiliation notifications. Specifically, we address in this section the changes to information collection requirements for rule sections 1.767(a)(8) and 1.768(g)(2). The annual hour and cost burdens associated with these rule sections in the 2014 Supporting Statement are lower than those reported in the 2013 Supporting Statement. IB staff that prepared this information collection relied on data contained in the IBFS database, and supplemented that data, when necessary, with conversations with IB staff that reviews filings under Sections 1.767(a)(8) and 1.768(g)(2), to ensure that accurate filing and cost support data is being used for purposes of this supporting statement.

Question 12 Hour Burden Changes for 1.767(a)(8) and 1.768(g)(2): As explained below, the total annual hour burden reported in the 2013 Supporting Statement for Sections 1.767(a)(8) and 1.768(g)(2) is 12 hours and the total annual hour burden reported in the 2014 Statement for these rules is 19 hours, an increase of 7 hours (**a program change of +7**). This program change results from two factors: first, as reported in the chart to Question 12, there is a decrease in the number of responses under Sections 1.767(a)(8) and 1.768(g)(2) (3 fewer responses as compared to the 2013 statement);¹⁸ and, at the same time, there is an increase in the amount of time it will take an applicant to review and respond to these rules (an aggregate of 19 hours as compared to 12 hours in the 2013 statement).

The number of annual responses reported in Question 12 of the 2014 Supporting Statement for these rules is as follows: Section 1.767(a)(8)(i)-(iii) (one (1) response), Section 1.767(a)(8)(iv) (one (1) response),¹⁹ and Section 1.768(g)(2) (one (1) response) for a total of three (3) responses.

¹⁸ As detailed below, the 2014 statement estimates that a total of 3 responses will be filed under these two rules as compared to the 6 responses reported in the 2013 statement. Thus, the overall reduction (-161) in the number of responses reported in the 2014 statement for all rules in this collection consists of 3 fewer responses under Sections 1.767(a)(8) and 1.768(g)(2) and 158 fewer responses under the other rules in the collection.

¹⁹ The Report and Order reorganizes former Section 1.767(a)(8) into four subparagraphs, 1.767(a)(8)(i)-(iv). The

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The estimated number of responses under Sections 1.767(a)(8)(i)-(iii), 1.767(a)(8)(iv), and 1.768(g)(2) is based on, first, our review of cable landing license applications and foreign carrier affiliation notifications received in IBFS in fiscal years 2011, 2012 and 2013 (on an annualized basis, no more than one application and 7 notifications). Second, over the past 15 years, we have only received less than one application or notification per year requiring an ECO Test determination (and that would, under the new rules, require a market power showing instead). While we cannot project exactly how many applications or notifications may be filed by, or involve, a foreign carrier from a non-WTO destination country of the cable, there is nothing in the record to suggest that there will be significantly more such filings than there have been in the past. On this basis we estimate that no more than one application will be filed annually that requires a response to Section 1.767(a)(i)-(iii), no more than one application will be filed annually that requires a response to Section 1.767(a)(iv), and no more than one notification will be filed annually that requires a response to Section 1.768(g)(2).

IB staff estimates that it will take an applicant/respondent approximately three (3) hours to prepare a response under Section 1.767(a)(8)(i)-(iii) and approximately eight (8) hours to prepare a response under Section 1.767(a)(8)(iv) (if the applicant is, in fact, required to provide a response), for a total hour burden of 11 hours. IB estimates that it will also take a notification filer/respondent approximately eight (8) hours to prepare a response under 63.11(g)(2) (if the filer is, in fact, required to provide a response). Thus, the 2014 statement estimates a total annual hour burden of 19 hours for Sections 1.767(a)(8) and 1.768(g)(2) (11 hours + 8 hours = 19 hours).

By contrast, Question 12 of the 2013 Supporting Statement reports a total annual hour burden of 12 hours for these rules. In the 2013 statement, the total number of responses for Section

information collections associated with paragraphs (a)(8)(i)-(iii) apply routinely to all applicants. (The information requirements in these three paragraphs were previously incorporated in 1.767(a)(8) by reference to the similar provisions in Sections 63.18(h) through (j) and (o) of the Commission's rules, 47 C.F.R. §§ 63.18(h)-(j), (o)). All cable landing license applicants must provide a response to paragraphs (a)(8)(i)-(iii). By contrast, the information requirement in paragraph (a)(8)(iv) applies only if the application is filed by a foreign carrier or an affiliate (as defined in 1.767(a)(8)(iii)) from a non-WTO Member country. As reflected in the chart to Question 12, we estimate that no more than one cable landing license application will be filed annually, and the Commission cannot be certain whether such application will require a response to the information requirement in Section 1.767(a)(8)(iv). In order to accommodate future revisions of this collection (*e.g.*, in the event the Commission experiences a general increase in the filing of cable landing license applications), we have unbundled in the chart to Question 12 the routine provisions of Section 1.767(a) (including 1.767(a)(8)(i)-(iii)) from the non-routine provision in Section 1.767(a)(8)(iv). Thus, we have counted one response/application for the routine provisions of Section 1.767(a)(1)-(10) (including paragraphs (a)(8)(i)-(iii)) and one additional response for the non-routine provision in paragraph (a)(8)(iv). In fact, the Commission may not, in any given fiscal year, receive an application for which a response is required under paragraph (a)(8)(iv).

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1.767(a)(8) is 6, with an hour burden of 2 hours per response, for a total hour burden of 12 hours. The 2013 Supporting Statement inadvertently omitted an annual hour burden (and cost burden) for Section 1.768(g)(2). Thus, as compared to the 2013 statement, the 2014 statement reports a 7 hour increase in the total annual hour burden for Sections 1.767(a)(8) and 1.768(g)(2) (19 hours – 12 hours = 7 hours).

We note that the 11 burden hour estimate for Section 1.767(a)(8) (3 hours per response for paragraphs (a)(8)(i)-(iii) and 8 hours per response for paragraph (a)(8)(iv)) represents an increase from the 2 hours per response for Section 1.767(a)(8) in the 2013 statement. This increase in hour burden is due to the staff's reevaluation of the amount of time it will take an applicant to review and respond to paragraphs (a)(8)(i)-(iii) and paragraph (a)(8)(iv), including the possible request for additional information in the event the Commission or interested parties raise questions or concerns with respect to an initial response to paragraph (a)(8)(iv).

Question 13 Cost Burden Changes for 1.767(a)(8) and 1.768(g)(2): As explained below, the total annual cost burden reported in the 2014 Supporting Statement for Sections 1.767(a)(8) and 1.768(g)(2) is \$1,800 and the total annual cost burden reported in the 2013 statement for these rules is also \$1,800.

In the 2014 Supporting Statement, the annual cost burden to the respondent in preparing a response under revised rule sections 1.767(a)(8)(i)-(iii), 1.767(a)(8)(iv), and 1.768(g)(2) is the cost of outside legal and engineering assistance. The calculation of the annual cost burden associated with each of these rule sections in the 2014 statement is the same, because we estimate that no more than one response will be filed annually under each of these rule sections. The annual cost burden for each of the three responses is \$600: (.5 (50% of 1 response) x 4 average hrs./response x \$300 per hour).²⁰ The cable landing license application fee is not included as part of the calculation of the annual cost burden for 1.767(a)(8) because the applicant has already remitted that fee to the Commission as part of the cable landing license application filing. Thus, the total annual cost burden for these three rule sections is an aggregate \$1,800 (\$600 x 3).

The total annual cost burden reported in the 2013 Supporting Statement for Section 1.767(a)(8) is \$1,800.²¹ As discussed above, the 2013 Supporting Statement inadvertently omitted an annual

²⁰ The average hours per response is revised from 2 hours in the 2013 Statement to 4 hours in the 2014 Statement due in part to an adjustment in the number of responses (as discussed in the adjustments section above). In addition, as discussed in this section and in the adjustments section above, the staff has reevaluated the hour burden associated with certain of the rules, including Sections 1.767(a)(8) and 1.768(g)(2).

²¹ The estimated annual cost burden to respondents in the 2013 Statement for 1.767(a)(8) is outside legal and engineering assistance calculated by multiplying 50% of the number of responses by the time and hourly rate per

hour burden and cost burden for Section 1.768(g)(2). Thus, for purposes of comparison with the 2014 statement, the total annual cost burden for both rule sections in the 2013 Supporting Statement is an aggregate \$1,800 (**no net program change**).

16. The Commission does not plan to publish the information for statistical use.
17. A waiver of the OMB expiration date is necessary.
18. There are no exceptions to the certification statement.

Part B. Collections of Information Employing Statistical Methods:

This collection of information does not anticipate the use of statistical methods.

response (3 responses (50% of 6 responses) x 2 average burden hours/response x \$300/hr. = \$1,800).