



NEWS

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COMMISSION GRANTS LICENSE FOR JAPAN-US UNDERSEA CABLE NETWORK

The Commission has granted the application of the Japan-US Cable Network (JUS) to land and operate a non-common carrier submarine fiber optic cable between the United States and Japan. The Commission granted the license under the Cable Landing License Act following the submission by JUS of amendments to its joint venture agreement, the Construction and Maintenance Agreement (C&MA).

The Commission found that these amendments, as well as recent pro-competitive commitments by the government of Japan and the Commission's own regulatory safeguards, reduced the ability of JUS to facilitate the exercise of market power by some or all of its owners. In view of the need for increased capacity on the transpacific route, it concluded that granting the JUS license would, on balance, serve the public interest. However, the Commission did not dismiss claims made by Global Crossing Ltd. that consortium cable systems may impede competition in this market, and indicated that it would commence a proceeding to examine how its submarine cable policies might best promote competition.

The members of JUS are a consortium of large and small U.S.- and Japanese-licensed telecommunications carriers that jointly fund the construction and operation of the cable system and are allocated portions of its capacity according to the terms of the C&MA. Global Crossing challenged the application, alleging that its consortium structure facilitates the exercise of market power by its members and slows the growth of competition in international telecommunications.

In response to the Commission's examination of issues raised by Global Crossing, the applicants amended their C&MA to provide for a more pro-competitive balance among the parties to that agreement. One amendment will help ensure that the market for backhaul services (transit between cable landing stations and the public network) is competitive by granting every member of the consortium the right to collocate equipment on either end of the cable and provide backhaul services. The second amendment provides that a simple majority, rather than a super-majority, can decide to increase capacity on the cable. These two amendments address the major carriers' ability to earn supracompetitive profits, which ultimately would result in higher prices for consumers, by controlling backhaul and the timing of the final capacity upgrade of the cable system.

The Commission found that those amendments, together with recent pro-competitive commitments by the government of Japan and the Commission's "no special concessions" rule, lessened the potential competitive harms of the consortium structure. The Commission therefore found that, given those amendments and safeguards, and given the need for more capacity on the transpacific route, the benefits of licensing this cable system would outweigh the risk that doing so would have anticompetitive effects. The Commission intends to commence a broader proceeding in the near future to examine how its policies regarding submarine cable systems might best promote competition and benefit consumers.

Action by the Commission July 8, 1999, by Cable Landing License (FCC 99-167). Chairman Kennard, Commissioners Ness, Powell, and Tristani with Commissioner Furchtgott-Roth not participating.

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