

Russian Sub Worries, Team Telecom Site Visits, and More FCC Reporting

Regulatory Update for PTC'16 Submarine Cable Workshop

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Overview

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New U.S. Government focus on submarine cable security

- In October 2015, press reports surfaced regarding possible Russian submarine reconnaissance activity in proximity to existing undersea cables.
- The White House responded by establishing within the National Security Council a new interagency policy committee on submarine cable security.
- A number of U.S. senators also pressed the Secretaries of State, Homeland Security, and Defense for a response plan.
- These news stories—and the apparent U.S. Government response—obscure the fact that the principal threats to submarine cables are:
 - More mundane activities like commercial fishing and anchoring, and
 - Risks that the U.S. Government can effectively address.
- This activity will likely contribute to more significant Team Telecom oversight and new FCC reporting burdens.



Team Telecom focus areas in national security reviews continue to evolve

- Team Telecom (*i.e.*, the Departments of Defense, Homeland Security, and Justice) continue to review applications for new licenses and merger consents where submarine cables either:
 - Connect beyond the United States, or
 - Have material foreign ownership.
- Location of network operations center (“NOC”) functions has proved to be the most contentious issue in many recent reviews.
- Team Telecom has shown increasing concern about:
 - Outsourcing and offshoring,
 - Use of encryption and security appliances, and
 - Third-party OSS systems and software.



Team Telecom increasingly focuses on compliance

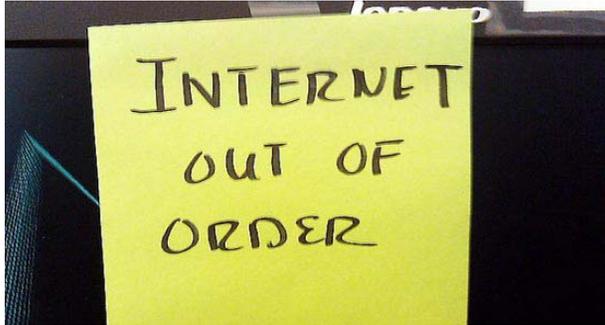
- Team Telecom has increased the number of site inspections for submarine cable operators subject to security mitigation—including visits to non-U.S. landing sites.
 - Raises cost of complying with Team Telecom mitigation, and
 - Raises concerns about extraterritoriality and sovereignty.
- Team Telecom also increasingly focuses on compliance with the U.S. digital wiretap law, the Communications Assistance for Law Enforcement Act (“CALEA”).

Recent U.S. approval times for undersea cable-related transactions

<i>Transaction</i>	<i>Date FCC Application Filed</i>	<i>Date of NSA or LOA</i>	<i>Date FCC Consent Granted</i>	<i>Total Approval Time</i>
Liberty Global/CWC	Nov. 30, 2015	pending	pending	[47 days to date]
Zayo/MTS/Allstream	Nov. 25, 2015	none	Jan. 7, 2016	42 days
ATN/KeyTech	Nov. 4, 2015	pending	pending	[74 days to date]
Telstra/Pacnet	Feb. 2, 2015	preexisting NSA	June 22, 2015	140 days
CWC/Columbus	Nov. 21, 2014	Sept. 11, 2015, LOA	Nov. 13, 2015	356 days
Hibernia/KCK	Aug. 20, 2014	Dec. 15, 2015, LOA	Jan. 12, 2015	145 days
Level 3/tw telecom	July 7, 2014	preexisting NSA	Oct. 24, 2014	108 days
Global Caribbean Fibre/Digicel	Dec. 19, 2013	Sept. 8, 2014, LOA amendment	Sept. 9, 2014	263 days
GlobeNet-Oi/BTG	Jan. 19, 2013	Dec. 11, 2013, LOA	Dec. 13, 2013	329 days

Recent U.S. licensing times for undersea cables

<i>System</i>	<i>Date FCC Application Filed</i>	<i>Date of Security Agreement or LOA</i>	<i>Date FCC License Granted</i>	<i>Total Licensing Time</i>
Seabras-1	Jan. 15, 2016	pending	pending	[2 days to date]
NCP	Nov. 3, 2015	pending	pending	[75 days to date]
FASTER	June 26, 2015	pending	pending	[205 days to date]
SEA-US	June 26, 2015	pending	pending	[205 days to date]
Monet	Apr. 8, 2015	pending	pending	[284 days to date]
AEConnect	Feb. 5, 2014	Oct. 1, 2014, LOA	Oct. 21, 2014	258 days
PCCS	Jan. 16, 2013	Jan. 14, 2014, LOA	Jan. 24, 2014	373 days
viNGN	Dec. 21, 2012	none	Feb. 25, 2013	67 days
AMX-1	Mar. 30, 2012	Jan. 23, 2013, LOA	April 26, 2013	306 days
Honotua	Sept. 26, 2008	Dec. 3, 2010, NSA	Dec. 6, 2010	803 days
Unity	May 16, 2008	Sept. 21, 2009, NSA	Oct. 5, 2009	508 days



Flawed FCC proposals for outage reporting

- In late 2014, and with very little industry consultation, the FCC proposed new outage reporting requirements that:
 - Presume there is an undisclosed outage problem, based largely on a single data point with a Mariana-Guam cable outage in 2015;
 - Fail to account for redundancies employed by most operators;
 - Fail to address how mere reporting will improve cable protection;
 - Propose mechanisms that are practically unworkable, with significant timing, data availability, and consortium implementation issues; and
 - Grossly underestimate costs of reporting.
- Most industry interests have called for significant modification of the FCC's proposals prior to any implementation, as well as an ample transition period.
- Proposals could be adopted as soon as summer 2016.



Decrease in 2015 FCC annual regulatory fees, but uncertain prospects for further decreases

- In 2015, and following vigorous advocacy by the North American Submarine Cable Association (“NASCA”), the FCC decreased submarine cable system regulatory fees by a whopping 30 percent (following a 15-percent decrease in 2014).
- Increased FCC staffing to address submarine cable capacity reporting and cable protection initiatives means that future fee decreases are less likely, assuming that the number of systems remains static.
- BUT the increase in new FCC license applications could still result in lower fees, as the overall fee recovery amount would be shared among a larger number of systems, assuming that new systems continue to outpace retirements.



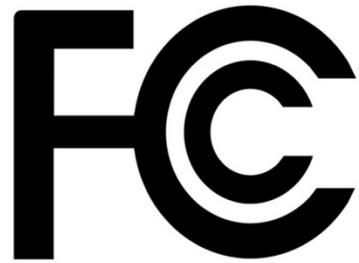
FCC submarine cable capacity reporting requirements took effect in 2015, sowing confusion

- Submarine cable operators and their customers must now file annual capacity reports with the FCC.
 - Operators must file two reports: the owner report and the holder report.
 - Customers must file a holder report for capacity held on an IRU or lease basis.
- Instructions in the FCC's reporting manual remain a work in progress.



CSRIC continues cable protection efforts

- For the 2015-2017 term, the submarine cable working group of the FCC's Communications Security, Reliability, and Interoperability Council ("CSRIC") is focusing on :
 - Intergovernmental and interjurisdictional coordination to reduce the risk that government activity will damage submarine cables through activities such as uncoordinated energy projects and sand dredging and beach replenishment activities, and
 - Increasing network resilience through diversity of routes and landings.
- The working group includes undersea cable and energy industry representatives, capacity customers, and other government regulators.



CSRIC report will influence FCC proposal for clearinghouse

- The FCC's outage reporting rulemaking contains a second set of proposals to establish a clearinghouse to improve information sharing and coordination that would:
 - Enhance submarine cable protection, and
 - Streamline permitting.
- NASCA and the CSRIC working group have long advocated for a single point of contact within the U.S. Government regarding submarine cable activities and queries.
- The FCC is keen to receive CSRIC recommendations for the establishment of a clearinghouse.

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