

Commission of future name changes that may occur as a result of divestiture of national incumbent operators into regional operators or for other reasons. This Public Notice also summarizes the relevant rule sections that incorporate this list by reference, including, most recently, Commission rules that govern the licensing of submarine cable systems. *See Review of Commission Consideration of Applications under the Cable Landing License Act*, IB Docket No. 00-106, 16 FCC Rcd 22167 (2001) (*Submarine Cable Landing License Order*), 67 FR 1615 (January 14, 2002).)

The revised list set forth below shall apply for purposes of implementing § 1.767(g)(5) of the rules adopted in 2001. This list shall also continue to apply for purposes of implementing the following Commission rules: § 43.51(b) (involving reporting contracts and concessions), § 63.14 (involving the prohibition on agreeing to accept special concessions), § 63.22(e) (involving the provision of switched basic services over authorized facilities-based private lines), and § 63.23(d) (involving the provision of switched basic services over authorized resold private lines).

Among the rule changes the Commission adopted in the *Submarine Cable Landing License Order* is a “no special concessions” rule tailored to submarine cables and applicable to all cable landing licensees authorized after the effective date of the rules. (*See Submarine Cable Landing License Order*, Appendix B (Final Rules), § 1.767(g)(5). For cable landing licenses granted prior to March 15, 2002, all licensees on a cable may jointly file an application with the Commission seeking a modification of the license to substitute the new “no special concessions” safeguard for the broader prohibition against exclusive arrangements traditionally imposed on cable landing licensees. (*See Submarine Cable Landing License Order*, 16 FCC Rcd at 22184, para. 33.)

New rule 1.767(g)(5) prohibits these licensees from accepting directly or indirectly from a foreign carrier with market power in one or more of the cable’s destination markets a “special concession” as specified in the rule. Under new § 1.767(g)(5), a foreign carrier is defined as in § 63.09(d) of the Commission’s rules, except that the term also is defined to include any entity that owns or controls a cable landing station in a foreign market. (*See Submarine Cable Landing License Order*, 16 FCC Rcd at 22221, Appendix

B (Final Rules), Note to § 1.767 (the terms “affiliated” and “foreign carrier,” as used in this section, are defined as in § 63.09 except that the term “foreign carrier” also shall include any entity that owns or controls a cable landing station in a foreign market).)

For purposes of determining which foreign carriers are the subject of the requirements of § 1.767(g)(5), the new rule provides that licensees may rely on the Commission’s “List of Foreign Telecommunications Carriers that Are Presumed to Possess Market Power in Foreign Telecommunications Markets.” (*See Submarine Cable Landing License Order*, 16 FCC Rcd at 22215, Appendix B (Final Rules), Note to § 1.767(g)(5).)

The Commission first adopted its list of foreign carriers that are presumed to possess market power in the *ISP Reform Order*. (*See 1998 Biennial Regulatory Review—Reform of the International Settlements Policy and Associated Filing Requirements*, IB Docket No. 98-148 and CC Docket No. 90-337, Report and Order and Order on Reconsideration, 14 FCC Rcd 7963 (1999) (*ISP Reform Order*), 64 FR 34734 (September 28, 1999).) In that proceeding, the Commission modified its rules to remove its requirement that agreements between U.S. telecommunications carriers and foreign carriers that lack market power in the foreign telecommunications market conform to the Commission’s international settlements policy (ISP). The Commission’s rules include a presumption that a foreign carrier does not possess market power on the foreign end of a U.S. international route if it possesses less than 50 percent market share in each of three relevant foreign product markets: international transport facilities, including cable landing station access and backhaul facilities; intercity facilities and services; and local access facilities and services on the foreign end.

The Commission stated that it would issue a list of carriers that do not qualify for this presumption. U.S. international carriers would be precluded from exchanging traffic outside of the ISP with carriers on the list unless otherwise allowed. (*See List of Foreign Telecommunications Carriers that Are Presumed to Possess Market Power in Foreign Telecommunications Markets*, Public Notice, 14 FCC Rcd 7038 (1999), 64 FR 34799 (June 29, 1999), Public Notice issuing initial list of foreign carriers presumed to possess market power.) U.S.-authorized carriers would

also be precluded from agreeing to accept special concessions (as defined in § 63.14 of the Commission’s rules) from carriers on the list unless otherwise allowed under the Commission’s rules. The Commission found that this approach best advances the policy of allowing U.S. carriers to enter into arrangements with foreign carriers that lack market power with a minimum of regulatory oversight, while maintaining the ISP for certain arrangements with foreign carriers that possess market power in the foreign market.

The following list specifies particular foreign carriers that do not qualify for the presumption that a foreign carrier does not possess market power on the foreign end of a U.S. international route if it possesses less than 50 percent market share in each of three relevant foreign product markets: international transport facilities, including cable landing station access and backhaul facilities; intercity facilities and services; and local access facilities and services on the foreign end. The list is based on publicly available information, compiled from official sources, including the International Telecommunication Union. The list of “Dominant Operators” does not specifically identify all incumbent local exchange carriers that may operate in the destination markets listed below. However, all incumbent local exchange carriers that may operate in the markets are incorporated by reference on the list. (*See infra* “Additional carriers included on this list.”)

Interested parties may challenge the inclusion or exclusion of any carrier on the list by submitting a petition for declaratory ruling and the appropriate supporting documentation to demonstrate that a carrier included on the list lacks market power or that a carrier not included does not lack market power. This list applies only for purposes of determining those foreign carriers that are subject to our ISP, our rules on providing switched services over private lines, and the No Special Concessions rules for U.S. international common carriers and cable landing licensees. It does not apply for purposes of market power determination under § 63.10 (Regulatory classification of international carriers) or § 63.18 (Contents of applications for international common carriers). The list below will be posted on the International Bureau’s World Wide Web site. (<http://www.fcc.gov/ib>).