

**Before the
Federal COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Request for Clarification of the Commission's)	MB Docket No. 13-50
Policies and Procedures Under)	
47 U.S.C. § 310(b)(4))	

**REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (“NAB”)¹ hereby replies to certain comments submitted in response to the Public Notice² in the above-captioned proceeding. As discussed below, the record in this proceeding supports the Coalition for Broadcast Investment’s (“CBI”) request that the Commission clarify and affirm that it will substantively evaluate proposals for foreign investment in the parent companies of broadcast licensees that exceed Section 310(b)(4)’s benchmark to determine if those proposals serve the public interest.³ Commenters urge the Commission to grant CBI’s request, agreeing with NAB that it would help inject vital investment capital into the

¹ NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² *Media Bureau Announces Filing of Request for Clarification of the Commission’s Policies and Procedures Under 47 U.S.C. § 310(b)(4)*, Public Notice, MB Docket No. 13-50 (Feb. 26, 2013).

³ See Letter from Mace Rosenstein and Gerard J. Waldron, Counsel for CBI, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 31, 2012), at 1 (“CBI Letter”).

broadcast industry, thereby promoting a more competitive, innovative and diverse industry.

I. The Record in This Proceeding and Recent Commission Actions Support Approval of CBI's Request

On April 18, the Commission adopted an order to “facilitate investment” in common carrier licensees “from new sources of capital,” and reiterated that “foreign investment has been and will continue to be an important source of financing for U.S. telecommunications companies, fostering technical innovation, economic growth, and job creation.”⁴ In their separate statements, Commissioners Rosenworcel and Pai both recognized that broadcasters would similarly benefit from increased foreign investment and urged swift action on CBI's request.⁵

Beyond this recent express support from two Commissioners, the record in this proceeding “overwhelming[ly]” supports “permitting additional foreign investment” in broadcasting.⁶ For example, commenters agree with NAB that broadcasters suffer from “a serious disadvantage in competing against distribution platforms” that are not subject to the same strict (or, indeed, any) limitations on accessing capital from sources outside

⁴ *Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Second Report and Order in IB Docket No. 11-133, FCC 13-50 (Apr. 18, 2013), at ¶¶ 1, 3 (“*Foreign Ownership Second Report and Order*”).

⁵ Statements of Commissioner Jessica Rosenworcel and Commissioner Ajit Pai on *Foreign Ownership Second Report and Order*.

⁶ Statement of Commissioner Ajit Pai on *Foreign Ownership Second Report and Order*.

the United States.⁷ Lessening this regulatory disparity would not only promote more robust competition in the communications marketplace, but also would allow broadcasters to invest more in their existing program services and “finance new offerings using digital technology.”⁸ Commenters specifically note that additional capital from global sources will help support the specialized broadcasters that create programming aimed at foreign-language speaking and bilingual audiences.⁹ The viewing and listening public, including diverse niche audiences, thus will ultimately benefit from increased foreign investment in broadcast licensees.

Numerous commenters also agree with NAB that lack of access to capital is a significant reason why new entrants generally, and women and minorities specifically, struggle to participate, particularly as owners, in the broadcast industry.¹⁰ Enhancing access to global capital sources will accordingly promote the Commission’s long-standing goal of increasing participation in the U.S. radio and television industries by new and diverse entrants, including smaller and minority- and female-owned entities.¹¹ Moreover, a number of commenters, including over 30 national minority and civil rights

⁷ Comments of Adelante Media Group in MB Docket No. 13-50 (Apr. 15, 2013), at 2. *Accord* Comments of NAB in MB Docket No. 13-50 (Apr. 15, 2013), at 5; Comments of Nexstar Broadcasting, Inc. in MB Docket No. 13-50 (Apr. 15, 2013), at 2-3; Comments of National Association of Media Brokers (“NAMB”) in MB Docket No. 13-50 (Apr. 15, 2013), at 2-3.

⁸ Adelante Media Comments at 2. *Accord* NAB Comments at 4.

⁹ NAMB Comments at 4; Adelante Media Comments at 2.

¹⁰ Comments of the Asian American Justice Center in MB Docket No. 13-50 (Apr. 15, 2013), at 1; Comments of the Minority Media and Telecommunications Council (“MMTC”) in MB Docket No. 13-50 (Apr. 15, 2013) at 1; NAB Comments at 5-6.

¹¹ Adelante Media Comments at 2; NAB Comments at 5-6; NAMB Comments at 4; MMTC Comments at 1.

organizations, stress that one of the significant potential benefits of modernizing the United States' approach to broadcast foreign ownership is to help foster "reciprocal opportunities for American broadcasters to expand their footprints into radio and television markets" overseas.¹² Just as it has for common carriers, the Commission should ensure that its ultimate approach encourages market-opening broadcast investment and opportunity both here and abroad.¹³

II. The Record Shows No Basis for Declining to Grant CBI's Request

The record in this proceeding presents no basis for the Commission to disapprove CBI's request. This lack of opposition underscores the modest nature of the requested relief for a more flexible case-by-case review of foreign investment and ownership in broadcast properties.¹⁴ NAMB correctly observes that the FCC will retain its ability to "evaluate each proposed investment on its own merits, deciding if any pose a risk to national security or reciprocal trade principles that could be caused by rewarding citizens of a country that does not allow US citizens to invest in media properties in their country."¹⁵

Given the limited scope of CBI's request, and the Commission's unrestricted ability to reject foreign investment proposals that do not serve the public interest, there can be

¹² MMTC Comments at 1. *Accord* Asian American Justice Center Comments at 1.

¹³ *See, e.g., Market Entry and Regulation of Foreign-affiliated Entities*, Report and Order, 11 FCC Rcd 3873, ¶ 2 (1995).

¹⁴ *See* NAB Comments at 7 (observing that "CBI's request is quite modest."). *Accord* Adelante Media Comments at 2 (CBI's "requested clarification does not ask for much – only that the Commission *consider* a proposed equity investment above the 25% benchmark in a particular broadcaster, based on the facts and circumstances of that particular investment") (emphasis in original).

¹⁵ NAMB Comments at 4.

no security-based or other reason for failing to grant the requested clarification and affirmation. Indeed, even a commenter opposing “relaxation of the foreign ownership rules” on security and other grounds apparently would have his concerns allayed by the Commission’s continued authority to review each proposed foreign ownership proposal exceeding the statutory benchmark.¹⁶

III. Conclusion

As Commissioner Pai stated less than two weeks ago, “[b]y ending our anachronistic approach to foreign ownership,” the Commission can “bring new vitality to the broadcasting industry,” “increase access to capital” and “help boost minority ownership.”¹⁷ For these reasons, NAB encourages the Commission to grant CBI’s request as expeditiously as possible.

Respectfully submitted,

NATIONAL ASSOCIATION OF BROADCASTERS



Jane E. Mago
Jerianne Timmerman
1771 N Street, NW
Washington, DC 20036
(202) 429-5430

April 30, 2013

¹⁶ Comments of David A. Schum in MB Docket No. 13-50 (Apr. 15, 2013) at 1-2 (stating that the FCC “could adopt a policy that they will review the foreign ownership on a license-by-license basis” with disclosure of the foreign investors).

¹⁷ Statement of Commissioner Ajit Pai on *Foreign Ownership Second Report and Order*.