

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Applications Filed By LightSquared)
Subsidiary LLC, Debtor-in-Possession,)
And LightSquared Subsidiary, LLC, For) IB Docket No. 15-126
FCC Consent to Assign Licenses and)
Other Authorizations and Request for)
Declaratory Ruling on Foreign Ownership)

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ submits these comments regarding LightSquared Subsidiary, LLC's (LightSquared) Petition for Declaratory Ruling.² LightSquared asks the FCC to permit it to exceed the 25 percent foreign ownership benchmark found in Section 310(b)(4) of the Communications Act of 1934, as amended.³ NAB supports a streamlined process for approving increased foreign investment for all FCC-licensed entities, including broadcasters. While NAB takes no position on the specifics of the current petition, we observe that preventing broadcasters from obtaining investment capital on an equitable basis with other Commission regulatees, whether LightSquared or a wireless or cable company, serves no valid public interest. We urge the Commission to follow up on its stated

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

² *Pleading Cycle Established For Applications Filed By LightSquared Subsidiary LLC, Debtor-in-Possession, And LightSquared Subsidiary, LLC, For FCC Consent to Assign Licenses and Other Authorizations And Request For Declaratory Ruling on Foreign Ownership*, Public Notice, IB Docket No. 15-126 (Jun. 1, 2015).

³ 47 U.S.C. § 310(b)(4).

intention to reexamine its methodology for assessing compliance with Section 310(b)(4) in the broadcast context.⁴

I. THERE IS NO LOGICAL REASON FOR THE LACK OF REGULATORY PARITY IN FOREIGN OWNERSHIP RESTRICTIONS

Broadcasting is the only communications platform forced to operate under very strict limits on foreign ownership and investment. Google, Apple, Netflix and others offer content via their nearly ubiquitous distribution outlets without any foreign ownership limits. Additionally, all telecommunications, cable, DBS and wireless companies offer content under a relaxed standard adopted previously by the Commission.⁵ Given the reality of the current multi-platform communications ecosystem, the Commission must end its disparate treatment of broadcast entities seeking necessary investment capital from a variety of sources.

Moreover, the Commission has expressly found that “[f]oreign investment” is “an importance source of equity financing for U.S. telecommunications companies, fostering technological innovation, economic growth, and job creation.”⁶ As Commissioners Rosenworcel and Pai have recognized, permitting increased foreign investment under Section

⁴ See *Pandora Radio LLC Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as amended*, Declaratory Ruling, MB Docket 14-109, FCC 15-52, ¶ 17 (May 4, 2015) (Pandora Declaratory Ruling).

⁵ *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, ¶ 112 (1997). The FCC streamlined requests to exceed the 25 percent statutory benchmark for foreign ownership from WTO countries, finding it “cannot at this time envision a circumstance in which indirect foreign investments by entities from WTO Member countries that do not result in a transfer of control will pose a very high risk to competition.” See also, *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, 28 FCC Rcd 5741 (2013) (Foreign Ownership Second Report and Order). Additionally, several major wireless companies are majority foreign-owned.

⁶ *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*, Notice of Proposed Rulemaking, 26 FCC Rcd 11703, ¶ 2 (2011).

310(b)(4) would in all likelihood produce similar benefits for U.S. broadcasters and their viewers and listeners.⁷ The Commission should amend its rules to reflect this view.

As NAB has previously explained, allowing foreign investment in broadcasting would promote competition, diversity and innovation.⁸ Allowing the broadcast industry to access additional sources of capital would enable broadcasters to keep pace with their cable, satellite and online competitors. These competitors have “long had the benefit of access to foreign investment.”⁹ In addition, both Congress and the FCC have recognized that access to capital is a leading barrier to increased opportunities in broadcasting by small businesses, and especially women and minorities.¹⁰ Improved access to more capital sources, including foreign ones, could be an important step towards expanded diversity of broadcast ownership.

Chairman Wheeler also has urged the broadcast industry to innovate, and broadcasters are prepared to meet his challenge.¹¹ But, the research and development necessary to innovate is expensive. Broadcasters should be permitted to obtain more of the necessary innovation investment from sources outside the United States, just as a number of the nation’s leading wireless providers have done.¹² As Commissioner Clyburn has correctly

⁷ See *Statements of Commissioner Jessica Rosenworcel and Commissioner Ajit Pai*, Foreign Ownership Second Report and Order.

⁸ See Comments of the National Association of Broadcasters, MB Docket 13-50 at 4-6 (Apr. 15, 2013) (NAB Comments).

⁹ *Statement of Commissioner Mignon Clyburn, Commission Policies and Procedures Under Section 310(b)(4) of the Communications Act, Foreign Investment in Broadcast Licensees*, Declaratory Ruling, 28 FCC Rcd 16244 (2013) (Foreign Investment in Broadcast Licensees Declaratory Ruling).

¹⁰ See NAB Comments at n. 13.

¹¹ See Megan Guss, *FCC Chairman Tells Broadcasters to Innovate, Not Wait for Regulation*, Arstechnica (Apr. 8, 2014), <http://arstechnica.com/tech-policy/2014/04/fcc-chairman-tells-broadcasters-to-innovate-not-wait-for-regulation/>.

¹² German-based Deutsche Telekom AG maintains approximately 66% ownership in T-Mobile. *About: T-Mobile*, T-Mobile, http://www.t-mobile.com/Company/CompanyInfo.aspx?tp=Abt_Tab_CompanyOverview. Softbank Corp., based in Japan, maintains approximately 78% ownership in Sprint. *Applications of Softbank Corp., Starburst II*,

observed, “[c]ompetition and innovation in media in the 21st century move at warp speed, and in order to keep pace, broadcasters need new and increased sources of capital.”¹³

II. THE COMMISSION SHOULD ACT EXPEDITIOUSLY TO REFORM THE RULES THAT UNDULY LIMIT FOREIGN INVESTMENT IN BROADCASTING

In prepared remarks to broadcasters at the NAB Show in April 2015, Chairman Wheeler asserted that relaxing rules limiting foreign ownership interests in broadcast stations to 25 percent or less is “a goal worth pursuing.”¹⁴ NAB wholeheartedly agrees. In May, the FCC stated its intention to examine “in the near future whether it would be appropriate for the Commission to revise its methodology for assessing compliance with Section 310(b)(4) in the broadcast context.”¹⁵ NAB believes that the time is now and that this reexamination would have broad support.¹⁶

As the Commission considers yet another request from a non-broadcast licensee to exceed the 25% benchmark for foreign ownership, NAB urges the Commission to end the disparate regulation that restricts broadcasters from obtaining investment capital from foreign sources. The 2013 *Clarification Order* was a welcome first step. NAB and the broadcast industry look forward to the prompt initiation of a rulemaking to reform the application of Section 310(b)(4) to broadcasters, as recently promised.

Inc., Sprint Nextel Corporation, and Clearwire Corporation For Consent to Transfer Control of Licenses and Authorizations, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd 9642, ¶ 12 (2013).

¹³ *Statement of Commissioner Mignon Clyburn*, Foreign Investment in Broadcast Licensees Declaratory Ruling.

¹⁴ Todd Shields and Lucas Shaw, *U.S. FCC May Ease Limit on Foreign Ownership of Broadcasters*, Bloomberg Business (Apr. 15, 2015), <http://www.bloomberg.com/news/articles/2015-04-15/u-s-exploring-easing-limit-on-foreign-ownership-of-broadcasters>.

¹⁵ Pandora Declaratory Ruling, ¶ 17.

¹⁶ *Supra* n.7; see also *Statement of Commissioner Mignon Clyburn*, Foreign Investment in Broadcast Licensees Declaratory Ruling; *Statement of Commissioner Michael O’Rielly*, Pandora Declaratory Ruling.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal line extending to the right from the end of the signature.

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July 1, 2015