

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

STAMP AND RETURN

In re Request of)
)
VISTA PCS, LLC) File No. ISP-PDR-20060202-00002 P
)
For a Declaratory Ruling under Section)
310(b)(4) of the Communications Act of 1934,)
as amended)

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To: The Commission

Federal Communications Commission
Office of Secretary

**AMENDMENT TO
REQUEST FOR DECLARATORY RULING**

Vista PCS, LLC (“Vista”)¹ hereby amends its Request for Declaratory Ruling filed November 30, 2004 (the “Request”), pursuant to Section 310(b)(4) of the Communications Act, the *Foreign Participation Order*, and the streamlined procedures set forth in the Commission’s rules.² For the reasons discussed herein, the public interest will be served by a grant of the amended Request.

I. BACKGROUND

As explained in the Request, Vista is 20% owned and controlled by Valley Communications, LLC (“Valley”), a Delaware limited liability company,³ and 80% owned by

¹ Vista is a winning bidder for broadband PCS licenses in Auction No. 58. See *Broadband PCS Spectrum Auction Closes*, 20 FCC Rcd 3703, 3711-21 (2005). Vista holds no other interests in any Commission-regulated businesses or applicants for Commission licenses.

² See 47 U.S.C. § 310(b)(4); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, 12 FCC Rcd 23891, 24033 (1997) (“*Foreign Participation Order*”); 47 C.F.R. § 63.12.

³ Valley holds a controlling interest in Vista and 20% of Vista’s membership units. Valley is majority-owned and controlled by the Dwyer Nevada Family Limited Partnership (“Dwyer LP”), a Nevada limited partnership. James A. Dwyer, Jr. is the general partner and sole limited partner of Dwyer LP. As such, Mr. Dwyer controls Valley.

Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”), a Delaware general partnership.⁴ As set forth in the Vista’s Form 601 auction application, and Vista’s letter filed with the Commission on February 10, 2006, Valley has no foreign ownership. Verizon Wireless is a partnership ultimately owned indirectly by Verizon Communications, Inc. (“Verizon”) and Vodafone Group Plc (“Vodafone”). Verizon, a Delaware corporation, owns 55% of Verizon Wireless; Vodafone, a public limited company organized under the laws of the United Kingdom, owns 45%. Pursuant to previously granted authority, the Commission concluded that “the public interest would be served” by allowing Vodafone to indirectly hold up to 65.1 percent of Verizon Wireless.⁵ Vodafone holds only a 45 percent indirect ownership interest in Verizon Wireless, well below the Commission-authorized level of 65.1 percent. Given Verizon Wireless’ interest in Vista, the Request sought a declaratory ruling on behalf of Vista for the level of foreign ownership that the Commission has already approved for Verizon Wireless.

II. AMENDMENT

Vista now amends its Request to notify the Commission that, subject to prior Commission approval, Vista will assign the licenses for which it placed winning bids in Auction No. 58 to a wholly-owned subsidiary limited liability company (“LLC”). Specifically, Vista has formed Vista License Holdings, L.L.C. (“VLH”), as a Delaware LLC. Vista is the sole member of, and controls, VLH. Within two business days of the Commission’s grant of Vista’s FCC Auction No. 58 application and the award of licenses to Vista, Vista intends to submit an application seeking the Commission’s consent to the *pro forma* assignment of Vista’s licenses to

⁴ Verizon Wireless holds a non-controlling interest in Vista and 80% of Vista’s membership units.

⁵ See *Vodafone AirTouch Plc and Bell Atlantic Corporation*, 15 FCC Rcd 16507, 16514 (WTB & IB 2000) (“Vodafone-Bell Atlantic Order”).

VLH. Vista will consummate the *pro forma* assignment of the licenses to VLH within two business days of the Commission's grant of the *pro forma* assignment application.

In connection with Vista's intent to assign the Auction No. 58 licenses to its wholly-owned subsidiary, Vista hereby requests a declaratory ruling allowing Vodafone to indirectly hold up to 65.1 percent of both Vista and VLH – the same foreign ownership that the Commission has already approved for Vista's investor, Verizon Wireless.

III. PUBLIC INTEREST STATEMENT

The public interest will be served if Vodafone's indirect ownership interest in Vista and VLH is permitted. In the *Foreign Participation Order*, the Commission concluded that allowing additional foreign investment in common carrier wireless licensees beyond the 25% benchmark of Section 310(b)(4) will promote competition in the U.S. market, thereby serving the public interest.⁶ The Commission adopted a presumption in favor of allowing investment beyond the 25% benchmark from entities organized under the laws of WTO Members.⁷ As the Commission has previously concluded, Vodafone's principal place of business is the United Kingdom, a WTO Member.⁸

The Commission has already determined that the public interest would be served by allowing Vodafone to hold up to a 65.1% interest in the common carrier licenses held by Verizon Wireless.⁹ Allowing Vodafone's indirect investment in Vista and its wholly-owned subsidiary is

⁶ *Foreign Participation Order*, 12 FCC Rcd at 23940.

⁷ *Id.* at 23913, 23940.

⁸ *Vodafone-Bell Atlantic Order*, 15 FCC Rcd at 16514.

⁹ *Id.*

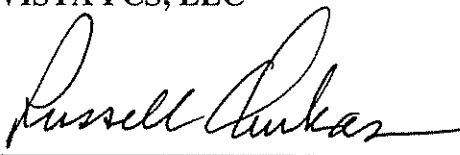
warranted for the same reasons applicable to the earlier foreign ownership grant noted above. Further, Vista has participated successfully in Auction No. 58, and is preparing to participate in the wireless marketplace through VLH, which is consistent with congressional intent and the Commission's goal of enhancing economic opportunities and access for the provision of communications services by designated entities.¹⁰ The Commission should therefore issue a declaratory ruling granting the instant Request, as amended.¹¹

IV. CONCLUSION

For the reasons stated herein, Vista respectfully requests that the Commission authorize Vodafone to hold the indirect interest in both Vista and VLH as described above.

Respectfully submitted,

VISTA PCS, LLC

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February 14, 2006

¹⁰ See generally 47 U.S.C. §§ 309(j)(3),(4); 47 C.F.R. § 1.2110.

¹¹ Vista has certified in its Form 601 application that neither it nor any party to its application is subject to a denial of federal benefits under 21 U.S.C. § 862. See File No. 0002069013, at 3.