

ATTACHMENT 2

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

In re Application of)
)
Cellco Partnership d/b/a Verizon Wireless)
)
Request for Declaratory Ruling Under Section)
310(b)(4) of the Communications Act of 1934,)
as Amended)

To: The Commission

REQUEST FOR DECLARATORY RULING

Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”) hereby submits this request for declaratory ruling, pursuant to Section 310(b)(4) of the Communications Act, the *Foreign Participation Order*, and the Commission’s streamlined procedures.¹ Verizon Wireless requests the Commission to confirm that it is authorized to have the same level of indirect foreign ownership interest in any licenses it may acquire in the Wireless Communications Services (“WCS”), including Advanced Wireless Service (“AWS”), as the Commission has granted for other Verizon Wireless common carrier licenses.

As the Commission is aware, Vodafone Group Plc (“Vodafone”), a company organized under the laws of the United Kingdom, holds a 45% indirect ownership interest in Verizon Wireless. The Commission previously determined that, “Because the United Kingdom is a Member of the World Trade Organization (WTO), under the Commission’s *Foreign*

¹ See 47 U.S.C. § 310(b)(4); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 24033 ¶ 323 (1997) (“*Foreign Participation Order*”); 47 C.F.R. § 63.12.

Participation Order, we presume that the public interest would be served by authorizing, under Section 310(b)(4), common carrier radio licenses held by entities indirectly owned by Vodafone and citizens of the United Kingdom.”² The Commission authorized Vodafone to hold up to a 100% indirect foreign ownership interest in U.S. common carrier radio licensees.³ Subsequently, the Commission granted the request to allow Verizon Wireless to “be indirectly owned by Vodafone in an amount up to 65.1 percent” and authorized the transfer and assignment of numerous common carrier licenses including cellular, PCS, WCS and microwave authorizations.⁴

Verizon Wireless is filing an application to participate in the upcoming AWS auction, Auction No. 66. As reported in detail in that application, there is no new or increased indirect foreign ownership in Verizon Wireless requiring additional Commission approval in connection with AWS licenses that Verizon Wireless may acquire in this auction. Furthermore, even though AWS involves spectrum that has not previously been licensed, to the extent that Verizon Wireless acquires AWS licenses, it has indicated on its auction application that it will use those licenses for radio common carrier purposes, which falls within the scope of the Commission’s previous approval of Vodafone’s indirect interest. Finally, the Commission previously authorized Verizon Wireless to hold other Part 27, WCS licenses and to be indirectly owned by

² *Applications of AirTouch Communications, Inc., Transferor, and Vodafone Group, Plc, Transferee for Consent to Transfer of Control of Licenses and Authorizations*, Memorandum Opinion and Order, 14 FCC Rcd 9430, 9434 ¶ 9 (WTB 1999).

³ *See id.*; Public Notice, Report No. TEL-00174, DA 99-3033 (Int’l Bur. rel. Dec. 30 1999).

⁴ *Applications of Vodafone AirTouch Plc and Bell Atlantic Corporation, For Consent to Transfer Control or Assignment of Licenses and Authorizations*, Memorandum Opinion and Order, 15 FCC Rcd 16507, 16514 ¶ 19 (WTB & IB 2000) (“*Vodafone-Bell Atlantic Order*”).

Vodafone, consistent with Section 310(b)(4).⁵ AWS is included in Part 27 and defined as a subset of WCS.⁶

Verizon Wireless thus submits that the Commission need not issue a declaratory ruling. Nonetheless, should the Commission determine that a declaratory ruling is necessary, Verizon Wireless hereby requests such a ruling approving the same level of indirect foreign ownership interest in any licenses it may acquire in the Wireless Communications Service, including the Advanced Wireless Service, as the Commission has granted for other Verizon Wireless common carrier licenses.

I. DESCRIPTION OF FOREIGN OWNERSHIP

Verizon Wireless is a Delaware general partnership owned indirectly by Verizon Communications, Inc. (“Verizon”) and 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%.

Vodafone previously received authorization from the Commission to hold its indirect interests in Verizon Wireless’s common carrier licenses.⁷ In conjunction with the creation of the partnership, Verizon and Vodafone sought Commission approval, pursuant to Section 310(b)(4), for Vodafone to indirectly hold up to 65.1% of Verizon Wireless. The Commission granted the parties’ request, determining that “the public interest would be served by allowing the proposed

⁵ *See id.*

⁶ Section 27.4 defines “wireless communications service” as “A radiocommunication service licensed pursuant to this part for the frequency bands specified in § 27.5.” 47 C.F.R. § 27.4. AWS is defined in Section 27.4 as “A radiocommunication service licensed pursuant to this part for the frequency bands specified in § 27.5(h).” *Id.* (emphasis added).

⁷ *See Vodafone-Bell Atlantic Order*, 15 FCC Rcd 16507.

indirect foreign ownership,” consistent with the Commission’s *Foreign Participation Order*.⁸

The instant petition seeks a declaratory ruling allowing Vodafone to hold the same indirect ownership interest of up to 65.1% in any WCS license, including any AWS licenses, that Verizon Wireless may acquire in Auction No. 66.

II. PUBLIC INTEREST STATEMENT

The public interest will be served if the Commission approves Vodafone’s indirect ownership interest in WCS licenses, including AWS licenses, acquired by Verizon Wireless. 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.⁹ The Commission, therefore, adopted a presumption in favor of allowing such investment if the investment is from entities organized under the laws of WTO Members.¹⁰ As the Commission previously concluded, Vodafone’s principal place of business is the United Kingdom, a WTO Member.¹¹

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.¹² The same public interest rationale that applied in that decision should apply with equal force for WCS licenses, including AWS licenses. The Commission should therefore issue

⁸ *Id.* at 16514 ¶ 19.

⁹ *Foreign Participation Order*, 12 FCC Rcd at 23940 ¶ 111.

¹⁰ *Id.* at 23913 ¶ 50, 23940 ¶¶ 111-12.

¹¹ *Vodafone-Bell Atlantic Order*, 15 FCC Rcd at 16514 ¶ 18.

¹² *Id.* at 16514 ¶ 19.

a declaratory ruling pursuant to its streamlined processing rules if it determines that a new declaratory ruling is needed.

III. CONCLUSION

For the reasons stated herein, and to the extent necessary, Verizon Wireless respectfully requests that the Commission approve the same level of indirect foreign ownership interest in WCS licenses, including AWS licenses, Verizon Wireless may acquire as the Commission has granted for other Verizon Wireless common carrier licenses.

VERIZON WIRELESS

By:

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style and is positioned above a horizontal line.

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