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Via Hand Delivery

October 10, 2007

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
c/o Natek, Inc.
236 Massachusetts Avenue NE
Suite 110
Washington, DC 20002

FILED/ACCEPTED
OCT 10 2007
Federal Communications Commission
Office of the Secretary

Re: TVCC One Six Holdings LLC
Petition for Declaratory Ruling

Dear Ms. Dortch:

Attached please find an original and four copies of a *Petition for Declaratory Ruling* of TVCC One Six Holdings LLC.

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,



E. Ashton Johnston
Counsel to TVCC One Six Holdings LLC

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
TVCC One Six Holdings LLC) File No. _____
)
Petition Under Section 310 of the)
Communications Act of 1934, as amended,)
For Declaratory Ruling Regarding)
Indirect Foreign Ownership)

To: The International Bureau

PETITION FOR DECLARATORY RULING

TVCC One Six Holdings LLC (“TVCC One Six”), a Delaware limited liability company, by this Petition requests a declaratory ruling that it is in the public interest for TVCC One Six to have indirect foreign ownership in excess of the 25 percent benchmark under Section 310(b)(4) of the Communications Act, 47 U.S.C. § 310(b)(4). Specifically, TVCC One Six believes that it would serve the public interest to permit up to 44.24 percent indirect foreign ownership of TVCC One Six by foreign entities and citizens, as disclosed herein. TVCC One Six also seeks approval for foreign investors disclosed in this Petition and from other foreign investors to acquire up to and including an additional, aggregate 25 percent indirect equity and/or voting interests, without seeking further approval under Section 310(b)(4).

I. INTRODUCTION

TVCC One Six, a U.S. limited liability company, has entered into a *de facto* transfer spectrum lease with OP LLC, holder of a nationwide license for the 1670-1675

MHz band. The Commission granted its approval of the lease on July 18, 2007.¹ TVCC One Six's largest single member is Columbia One Six Partners IV, Inc. ("Columbia One Six"), a Delaware corporation, which holds 44.24 percent of the voting and equity interests of TVCC One Six.

The owners of Columbia One Six and its controlling interest holders wish to restructure their interests in TVCC One Six in a manner that will result in Columbia Capital Equity Partners IV (ECI), Ltd. ("CCEP-ECI"), a Cayman Islands company, holding an indirect interest in TVCC One Six in excess of 25 percent. Because the Commission treats companies domiciled in the Cayman Islands as foreign for purposes of Section 310(b)(4), TVCC One Six requests a declaratory ruling that indirect ownership of greater than 25 percent by CCEP-ECI in TVCC One Six is in the public interest.²

Attachment 1 hereto sets forth the ownership of TVCC One Six following completion of the proposed transaction.

Indirect equity ownership in TVCC One Six by foreign entities whose country of registration or citizenship is a member of the World Trade Organization ("WTO") is expected to be 44.24 percent. Indirect voting interests in TVCC One Six by foreign entities whose country of registration or citizenship is a member of the WTO also is expected to be 44.24 percent. It is expected that there will be no foreign ownership from owners whose countries are undetermined or who are from non-WTO member countries.

¹ Public Notice, Report No. 3328 (Jul. 25, 2007).

² The same U.S. entities and individuals ultimately control both Columbia One Six, the current holder of an indirect 44.24 percent interest in TVCC One Six, and CCEP-ECI. But for the requested declaratory ruling, the restructuring of the subject interest would be *pro forma* under the Commission's rules. See 47 C.F.R. § 63.24(d).

II. PUBLIC INTEREST STATEMENT

Because the proposed transaction will result in greater than a 25% indirect foreign ownership interest in TVCC One Six, the Commission must determine “whether the public interest will be served by the refusal” of the request.³ The Commission also must consider whether the proposed transaction presents national security, law enforcement, foreign policy, or trade policy concerns.⁴

A. Section 310(b)(4) Determination

Section 310(b)(4) of the Act provides that:

No ... common carrier ... radio station license shall be granted to or held by ... any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.⁵

De facto transfer lessees are required to meet these foreign ownership eligibility requirements.⁶

An open entry policy applies to investment from countries that are WTO members.⁷ Under the open entry policy, a strong presumption exists that investment from WTO member countries is consistent with the public interest. As a consequence, up

³ See 47 U.S.C. § 310(b)(4).

⁴ Rules and Policies on Foreign Participation in the US Telecommunications Market, *Report and Order and Order on Reconsideration*, 12 FCC Rcd 23891, 23919-21 (1997) (“*Foreign Participation Order*”), *Order on Reconsideration*, 15 FCC Rcd 18158 (2000).

⁵ 47 U.S.C. § 310(b)(4).

⁶ *Foreign Ownership Guidelines for FCC Common Carrier and Aeronautical Radio Licenses; Section 310 of the Communications Act of 1934, as amended, Initial Authorizations and Transfers of Control and Assignments of Common Carrier and Aeronautical Radio Licenses*, 19 FCC Rcd 22612 (IB 2004) (“*Foreign Ownership Guidelines*”), Section III.H.

⁷ *Foreign Participation Order*, 12 FCC Rcd at 23913.

to 100 percent foreign ownership in a U.S. parent company of a licensee may be permitted, provided no other public interest factors weigh against permitting such foreign investment.⁸ Foreign investment from countries that are not WTO members is permitted, up to the 25 percent benchmark, but the presumption does not apply to non-WTO member investment beyond that level. Instead, an applicant that proposes non-WTO member investment beyond the 25 percent threshold is required to show that the non-WTO member countries that are the source of such investment makes available “effective competitive opportunities” to U.S. carriers.⁹

The Commission has adopted policies governing the determination of the source and level of foreign investment.¹⁰ The “principal place of business” test is applied to determine the “home market” of foreign investors, then equity and voting interests are determined separately.¹¹ Because, the level of foreign equity and voting interests must factor in indirect interests, a multiplier is applied, where appropriate, to recognize such indirect interests in the vertical ownership and control chains of a licensee.¹²

In connection with this request for declaratory ruling, TVCC One Six undertook a comprehensive analysis of the foreign equity and voting interests that will result from the proposed restructuring. As a result, TVCC One Six believes the data presented herein represents a full, fair, and reasonably accurate picture of such foreign investment, taking

⁸ See *id.* at 23904, 23913, 23919.

⁹ *Id.* at 23898.

¹⁰ *Foreign Ownership Guidelines*, Section III.

¹¹ *Id.*, Section III.C.

¹² *Id.*, Section III.E; see also *In the Matter of Petition of Telcove, Inc. for a Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act of 1934, as amended*, Order and Declaratory Ruling, 21 FCC Rcd 3982, 3984-85 ¶ 8 (IB 2006) (“*Telcove Order*”).

into account applicable Commission policies. The resulting aggregate foreign equity ownership, detailed in Attachment 2 to this filing, is as follows:

- Foreign equity investment: 44.24%
- WTO member country equity investment: 44.24 %
- Assumed non-WTO member country equity investment: 0%

The resulting aggregate foreign voting interests, also detailed in Attachment 2 to this filing, are as follows:

- Foreign voting investment:
 - Considering voting interests held by and through GPs: 0%
 - Considering voting interests held by and through LPs: 44.24%
- WTO member country voting investment:
 - Considering voting interests held by and through GPs: 0%
 - Considering voting interests held by and through LPs: 44.24%
- Assumed non-WTO member country voting investment: 0%

These levels of foreign ownership and voting powers, determined in accordance with established Commission policies, fall well within standards adopted by the Commission for permissible foreign investment under Section 310(b)(4). The foreign equity ownership and voting interests from WTO member countries is above the 25 percent benchmark of Section 310(b)(4), but is subject to the strong presumption that such investment does not require denial of the request.

The requested ruling is fully consistent with applicable Commission policy and prior Commission rulings.¹³ The factual data presented in Attachment 2 in support of the

¹³ See, e.g., *Foreign Ownership Guidelines; Telcove Order*.

requested ruling also is consistent with Commission requirements and the factual bases upon which the Commission has relied in granting similar requests.¹⁴ Ownership and voting interests have been determined in accordance with Commission guidelines. The Commission thus has before it the factual and legal foundation supporting the requested ruling that the public interest would not require “refusal or revocation” of [lease approval] due to the proposed foreign ownership in TVCC One Six. For these reasons, the Commission should issue a declaratory ruling that it would not serve the public interest to prohibit the indirect foreign investment in TVCC One Six.

B. Law Enforcement and National Security

TVCC One Six has contacted the U.S. Department of Justice, including the Federal Bureau of Investigation and the Department of Homeland Security (collectively the “Executive Branch Agencies”) regarding this Petition. TVCC One Six will provide the Executive Branch Agencies assurances that this new ownership structure will have no impact on its ability to satisfy any obligations and commitments it may have to preserve national security. TVCC One Six does not expect any issues to arise, but will promptly address any questions the Executive Branch Agencies may have regarding the proposed transaction.

II. CONCLUSION


For the foregoing reasons, TVCC One Six respectfully requests a ruling that it is permitted to have a total of 44.24 percent indirect foreign ownership, as disclosed herein. In addition, TVCC One Six seeks approval to acquire up to and including an additional, aggregate 25 percent indirect equity and/or voting interests from the foreign investors

¹⁴ See, e.g., *Telcove Order; Intelsat, Ltd. and Zeus Holdings Limited Consolidated Application for Consent to Transfers of Control*, Order and Authorization, 19 FCC Rcd 24820 (IB/OET 2004).

disclosed in this Petition and from other foreign investors without seeking further approval under Section 310(b)(4).

Respectfully submitted,

TVCC One Six Holdings LLC

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Its Attorney

October 10, 2007

ATTACHMENT 1

Proposed Ownership of TVCC One Six Holdings LLC

Following is information regarding the ten percent or greater direct and indirect interest holders of TVCC One Six Holdings LLC as contemplated following the transaction described in the Petition for Declaratory Ruling.

- (1) Name: Rajendra Singh
Ownership: 12.5%
Type of Interest: Direct holder of 12.5% voting and equity interest in TVCC One Six Holdings LLC
Citizenship: U.S.
- (2) Name: Neera Singh
Ownership: 12.5%
Type of Interest: Direct holder of 12.5% voting and equity interest in TVCC One Six Holdings LLC
Citizenship: U.S.
- (3) Name: The Hersh Raj Singh Education Trust
Ownership: 12.5%
Type of Interest: Direct holder of 12.5% voting and equity interest in TVCC One Six Holdings LLC
Place of Formation: U.S.
- (4) Name: The Samir Raj Singh Education Trust
Ownership: 12.5%
Type of Interest: Direct holder of 12.5% voting and equity interest in TVCC One Six Holdings LLC
Place of Formation: U.S.
- (5) Name: Columbia One Six Partners IV, LLC
Ownership: 44.24%
Type of Interest: Direct holder of 44.24% voting and equity interest in TVCC One Six Holdings LLC
Place of Formation: U.S.
- (6) Name: Columbia Capital Equity Partners IV (ECI), Ltd.
Ownership: 44.24%
Type of Interest: Indirect (holder of 44.24% voting and equity interest in Columbia One Six Partners IV, LLC)
Place of Formation: Cayman Islands
Principal Place of Business: U.S.
Headquarters: U.S.

(7) Name: Columbia Capital Equity Partners IV (QP), L.P.
Ownership: 44.24%
Type of Interest: Indirect (holder of 100% voting and equity interest
in Columbia Capital Equity Partners IV (ECI), Ltd.)
Place of Formation: U.S.
Principal Place of Business: U.S.
Headquarters: U.S.

ATTACHMENT 2

Foreign Ownership

For each of the following entities that have, or will have following approval, a direct or indirect interest in TVCC One Six Holdings LLC, the following information is being provided: (a) interest; (b) country of formation; (c) nationality of investment principals (entities or individuals having a 10 percent or greater interest), officers and directors; (d) country in which the headquarters are located; (e) country in which the majority of tangible property is located; (f) the country from which the company derives the greatest sales and revenues from its operations; and (g) foreign ownership. As set forth in the information below, the principal place of business for each entity is the United States or a country that is a WTO member.

- (1) Columbia One Six Partners IV, LLC
 - (a) Interest: 44.24% direct voting and equity interest in TVCC One Holdings LLC
 - (b) Country of Formation: U.S.
 - (c) Nationality of investment principals, officers and directors: U.S.
 - (d) Headquarters location: U.S.
 - (e) Country in which majority of tangible property is located: U.S.
 - (f) Country from which the company derives the greatest sales and revenues from its operations: U.S.
 - (g) Foreign ownership: *See* discussion of Columbia Capital Equity Partners IV (ECI), Ltd. in (2) below.

- (2) Columbia Capital Equity Partners IV (ECI), Ltd.
 - (a) Interest: 100% direct interest in Columbia One Six Partners IV, LLC; 44.24% indirect voting and equity interest in TVCC One Six Holdings LLC
 - (b) Country of Formation: Cayman Islands
 - (c) Nationality of investment principals, officers and directors: U.S.
 - (d) Headquarters location: U.S.
 - (e) Country in which majority of tangible property is located: U.S.

(f) Country from which the company derives the greatest sales and revenues from its operations: U.S.

(g) Foreign Ownership: 44.24%. *See also* discussion of Limited Partners of Columbia Capital Equity Partners IV (QP), L.P., in (5) below.

(3) Columbia Capital Equity Partners IV (QP), L.P.

(a) Interest: Sole partner of Columbia Capital Equity Partners IV (ECI), Ltd.; 44.24% indirect interest in TVCC One Six Holdings LLC

(b) Country of Formation: U.S.

(c) Nationality of investment principals, officers and directors: U.S.

(d) Headquarters location: U.S.

(e) Country in which majority of tangible property is located: U.S.

(f) Country from which the company derives the greatest sales and revenues from its operations: U.S.

(g) Foreign Ownership: *See* discussion of Limited Partners of Columbia Capital Equity Partners IV (QP), L.P., in (5) below.

(4) Columbia Capital Equity Partners IV, L.P.

(a) Interest: Sole general partner (and 100% voting interests) of Columbia Capital Equity Partners IV (QP), L.P. (*see* (3) above) and of Columbia Capital Equity Partners IV (QPCO), L.P. (*see* (7) below). Indirect 48.68 percent voting interest (44.24% through Columbia Capital Equity Partners IV (QP), L.P. and Columbia Capital Equity Partners IV (ECI), Ltd., and 4.44% through Columbia Capital Equity Partners IV (QPCO), L.P. and Columbia FMS Spectrum Partners IV, L.P. (*see* (6) below)); and indirect 3.12% equity interest (3.12% through Columbia Capital Equity Partners IV (QP), L.P. and Columbia Capital Equity Partners IV (ECI), Ltd., and less than .01 percent through Columbia Capital Equity Partners IV (QPCO), L.P. and Columbia FMS Spectrum Partners IV, L.P.) in TVCC One Six Holdings LLC.

(b) Country of Formation: U.S.

(c) Nationality of investment principals, officers and directors: U.S.

(d) Headquarters location: U.S.

(e) Country in which majority of tangible property is located: U.S.

(f) Country from which the company derives the greatest sales and revenues from its operations: U.S.

(g) Foreign Ownership: None. The sole general partner of Columbia Capital Equity Partners IV, L.P., Columbia Capital IV, LLC (discussed in (9) below), and all of the limited partners, are U.S. citizens.

(5) Limited Partners of Columbia Capital Equity Partners IV (QP), L.P.

(a) Interest: 92.95 equity interests in Columbia Capital Equity Partners IV (QP), L.P.; indirect 0% voting interest and indirect 41.12 equity interest in TVCC One Six Holdings LLC

(b) Country of Formation: U.S.

(c) Nationality of investment principals, officers and directors: U.S.

(d) Headquarters location: U.S.

(e) Country in which majority of tangible property is located: U.S.

(f) Country from which the company derives the greatest sales and revenues from its operations: U.S.

(g) Foreign Ownership: Columbia Capital Equity Partners IV (QP), L.P. has 61 limited partners, all of whom are insulated in accordance with Commission criteria.¹ Of these 61 limited partners,

(i) Eight (8), representing 22.68% of the 41.12% indirect equity in TVCC One Six Holdings LLC collectively held by the Limited Partners of Columbia Capital Equity Partners IV (QP), L.P., have their country of formation or incorporation, headquarters location, and/or principal place of business in a WTO member country outside of the U.S. Four (4) of these 8 limited partners have a 1% or greater interest.

(ii) Fifty-three (53), representing 77.32% of the 41.12% indirect equity in TVCC One Six Holdings LLC collectively held by the Limited Partners of Columbia Capital Equity Partners IV (QP), L.P., have their country of formation or incorporation, headquarters location, and principal place of business in the U.S. Twenty-one (21) of these 53 limited partners have a 1% or greater interest. A number

¹ See *Foreign Carrier Guidelines*, Section III.D.

of these limited partners are institutional investors and other entities that may have foreign owners.

(6) Columbia FMS Spectrum Partners IV, L.P.

(a) Interest: 4.44% direct voting and equity interest in TVCC One Six Holdings LLC

(b) Country of Formation: U.S.

(c) Nationality of investment principals, officers and directors: U.S.

(d) Headquarters location: U.S.

(e) Country in which majority of tangible property is located: U.S.

(f) Country from which the company derives the greatest sales and revenues from its operations: U.S.

(g) Foreign Ownership: *See* discussion of Columbia Capital Equity Partners IV (QPCO), L.P. in (7) below.

(7) Columbia Capital Equity Partners IV (QPCO), L.P.

(a) Interest: Sole partner of Columbia FMS Spectrum Partners IV, L.P.; 4.44% indirect voting and equity interest in TVCC One Six Holdings LLC.

(b) Country of Formation: U.S.

(c) Nationality of investment principals, officers and directors: U.S.

(d) Headquarters location: U.S.

(e) Country in which majority of tangible property is located: U.S.

(f) Country from which the company derives the greatest sales and revenues from its operations: U.S.

(g) Foreign Ownership: Columbia Capital Equity Partners IV (QPCO), L.P. has three limited partners. Each limited partner has its country of formation or incorporation, headquarters, and principal place of business in the U.S., and is insulated in accordance with Commission criteria.

- (8) Columbia Capital Employee Investors IV, L.P.
- (a) Interest: 1.32% direct voting and equity interest in TVCC One Six Holdings LLC
 - (b) Country of Formation: U.S.
 - (c) Nationality of investment principals, officers and directors: U.S.
 - (d) Headquarters location: U.S.
 - (e) Country in which majority of tangible property is located: U.S.
 - (f) Country from which the company derives the greatest sales and revenues from its operations: U.S.
 - (g) Foreign Ownership: None. Sole general partner is Columbia Capital IV, LLC (see discussion in (9) below); limited partners are all U.S. citizens.

- (9) Columbia Capital IV, LLC
- (a) Interest: Sole general partner of Columbia Capital Equity Partners IV, L.P. (see (4) above) and of Columbia Capital Employee Investors IV, L.P. (see (8) above); indirect 50% voting interest in TVCC One Six Holdings LLC (44.24% through Columbia Capital Equity Partners IV (ECI), Ltd. and Columbia One Six Partners IV, LLC), 4.44% through Columbia FMS Spectrum Partners IV, L.P., and 1.32% through Columbia Capital Employee Investors IV, L.P.) and an indirect equity interest of less than 1% in TVCC One Six Holdings LLC (through Columbia Capital Equity Partners IV (ECI), Ltd., Columbia FMS Spectrum Partners IV, L.P., and Columbia Capital Employee Investors IV, L.P. collectively).
 - (b) Country of Formation: U.S.
 - (c) Nationality of investment principals, officers and directors: U.S.
 - (d) Headquarters location: U.S.
 - (e) Country in which majority of tangible property is located: U.S.
 - (f) Country from which the company derives the greatest sales and revenues from its operations: U.S.
 - (g) Foreign Ownership: None; all members are U.S. citizens