

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

In the Matter of

Vizada, Inc.

Petition for Declaratory Ruling Pursuant to  
Section 310(b)(4) of the Communications Act

FCC File No. ISP-PDR-\_\_\_\_\_

*EXPEDITED ACTION REQUESTED*

**PETITION FOR DECLARATORY RULING PURSUANT TO  
SECTION 310(B)(4) OF THE COMMUNICATIONS ACT**

Vizada, Inc. (“Vizada”), hereby requests a declaratory ruling from the Federal Communications Commission (“FCC” or “Commission”) pursuant to Section 310(b)(4) of the Communications Act of 1934, as amended,<sup>1</sup> and the Commission’s *Foreign Participation Order*,<sup>2</sup> that indirect foreign ownership of Vizada by the foreign persons and entities identified in this petition is in the public interest. Specifically, two minor changes are proposed in the ultimate ownership and control of Vizada: a majority of the shares of Vizada’s parent, MobSat Group Holdings S.à r.l. (“MobSat Group”) will be transferred to a new Luxembourg-based holding company, Chrysaor S.à r.l. (“Chrysaor”); and one of the individual shareholders of MobSat Management S.à r.l. (“MobSat Management”) plans to increase his holdings. Because the changes discussed herein are *pro forma* in nature and are highly time-sensitive, Vizada respectfully requests expedited action on this petition.

Vizada also requests that, consistent with Commission precedent, the Commission permit Vizada to accept additional indirect foreign ownership beyond the interests held by the foreign

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<sup>1</sup> 47 U.S.C. § 310(b)(4).

<sup>2</sup> *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997) (“*Foreign Participation Order*”).

persons and entities identified herein to accommodate incremental shifts in ownership that may occur as a result of minor changes in shareholdings of companies or individuals in the ownership chain.

## **I. BACKGROUND**

On March 2, 2010, the Commission's International Bureau, pursuant to delegated authority, released an order and declaratory ruling in which it granted Vizada's petition for declaratory ruling that the indirect ownership of Vizada by foreign persons and entities is in the public interest.<sup>3</sup> Specifically, the *March 2010 Ruling* permitted Vizada to be owned indirectly:

(1) by MobSat Group, MobSat Holding 2 BV, MobSat Holding 1 BV, and Mobsat Norway (individually, up to and including 100% of the equity and voting interests); (2) by Apax France (up to and including 54.3% of the equity and voting interests); (3) through Apax France, APSA (individually) and its named direct and indirect shareholders, including Maurice Tchénio (collectively) (up to and including a less than-one percent equity interest and 54.3% voting interest); (4) by the Apax France passive foreign investors identified in the record (collectively, up to and including 38.84% of the equity and 71.53% of the voting interests); (5) by Altamir Amboise (up to and including 21.12% of the equity and voting interests); (6) by APCG (individually) and its named direct and indirect shareholders, including Maurice Tchénio (collectively) (up

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<sup>3</sup> See *VIZADA Services LLC and Vizada, Inc.*, Order and Declaratory Ruling, File Nos. ISP-PDR-20060804-00010, ISP-PDR-20080501-00011, DA 10-357 (IB, rel. Mar. 2, 2010) ("*March 2010 Ruling*").

The *March 2010 Ruling* addressed ownership and control of both Vizada and its commonly-owned affiliate, VIZADA Services LLC ("VIZADA Services"). Subsequent to issuance of the *March 2010 Ruling*, VIZADA Services withdrew its pending application for a Commission earth station license and surrendered its Section 214 authorization. As a result, VIZADA Services has no current Commission authorizations and is therefore not a party to the instant petition.

Similarly, Vizada Satellite, Inc. ("Vizada Satellite") is not a party to this petition. As noted in the *March 2010 Ruling*, following grant of applications for Commission consent to the *pro forma* assignment of its licenses, Vizada Satellite was merged into Vizada, Inc. in early 2008. See *March 2010 Ruling* at 2 n.4. Vizada Satellite's application for BGAN mobile earth terminals, which remains pending, has been amended to specify Vizada, Inc. as the applicant. See File Nos. SES-LFS-20050930-01352; SES-AMD-20071231-01767.

to and including 21.12% of the voting interests); (7) as limited partners of Altamir Amboise, by APSA, SNC, and French citizens who own shares of APSA, including Maurice Tchénio, and funds managed by subsidiaries of Fidelity International Limited and FMR Corp. (collectively) (up to and including 5.65% of the equity and voting interests); (8) by MobSat Management (up to and including 9.3% of the equity and voting interests); (9) through MobSat Management, by MobSat Gérance, Mr. Michael Collins, Apax France, APSA, APSA's named shareholders and their controlling interest holders, including Maurice Tchénio (collectively) (up to and including 9.3% of the voting interests); (10) by the named foreign individuals who hold shares of MobSat Management (collectively) (up to and including 5.59% of the equity and voting interests); (11) by API V and Summer Street (individually) (up to and including 15.4% of the equity and voting interests); (12) through API V, by Apax Satellite LLC (up to and including a less-than-one percent equity and 15.4% voting interest); (13) through API V and Apax Satellite LLC, by SCV (individually) and its limited partners (collectively) (up to and including a less-than-one percent equity interest); (14) through API V and Apax Satellite LLC, by APSA (individually) and its named direct and indirect shareholders, including Maurice Tchénio (collectively) (up to and including a 15.4% voting interest); (15) by the GEAM International foreign limited partners identified in the record (collectively, up to and including 5.21% of the equity and voting interests); (16) by Mr. Bruno Ducharme (up to and including 0.9% of the equity and voting interests); (17) by Mr. Michael Collins (up to and including 1.2% of the equity and voting interests); (18) by the Glenridge Trust and Mr. Michael Collins and Ms. Gwendoline Collins, as trustees (individually, up to and including 1.2% of the equity and voting interests); and (19) by the Glenridge Trust beneficiaries (individually or collectively, up to and including 1.2% of the equity interests); and (20) by Mr. Maurice Tchénio (individually, up to and including 96.7% of the voting interests).<sup>4</sup>

Vizada seeks a modification of this ruling to reflect two planned changes in Vizada's ownership as described in the *March 2010 Ruling*. Specifically, a transaction is planned that will

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<sup>4</sup> *Id.* at 8 (¶ 12).

result in transfer of a majority of the shares of MobSat Group to Chrysaor, a recently-formed Luxembourg-based holding company. In addition, a current Canadian-citizen shareholder of MobSat Group and MobSat Management, Mr. Bruno Ducharme, will soon acquire additional shares of MobSat Management. These changes involve new interests by individuals and entities from WTO member countries, and thus are consistent with the Commission's foreign ownership policies. Vizada will separately be filing all necessary applications for Commission consent to the *pro forma* transfer of control of its licenses resulting from the insertion of Chrysaor into the company's ownership chain.

## **II. REVISED OWNERSHIP STRUCTURE**

This petition requests approval of an ownership structure for Vizada that differs from that approved in the *March 2010 Ruling* in two respects. First, a new Luxembourg holding company, Chrysaor, has been formed to serve as a holding company. With the exception of shares held by MobSat Management, MobSat Gérance S.à r.l. ("MobSat Gérance"), Mr. Bertrand Pivin, Mr. Michael Collins and the Glenridge Trust, all shares of MobSat Group will be transferred to Chrysaor. Second, Mr. Bruno Ducharme, a current MobSat Group and MobSat Management shareholder and a citizen of Canada, plans to acquire additional shares of MobSat Management. Information regarding these planned changes is presented here in a consolidated form and is also reflected in the chart that is attached as Appendix A.

### **A. Chrysaor S.à r.l.**

#### **1. Creation of Chrysaor S.à r.l.**

On May 4, 2010, the new holding company Chrysaor S.à r.l. was incorporated in Luxembourg. Pursuant to agreements among the parties and upon receipt of all necessary Commission authority, all of the shares of MobSat Group Holding, except those held by MobSat

Management, MobSat Gérance, Mr. Bertrand Pivin, Mr. Michael Collins and the Glenridge Trust, are to be transferred to Chrysaor. The remaining current shareholders of Mobsat Group, Apax France VI FCPR (“Apax France”), Altamir Amboise SCA (“Altamir Amboise”), Apax Parallel Investment V, L.P. (“API V”), and Mr. Bruno Ducharme (collectively referred to herein as the “Current MobSat Group Shareholders”) will hold 97.2% of the shares and voting rights of Chrysaor upon closing of the proposed transaction. A new investor, Hutton Collins Partners LLP (“Hutton Collins”), a U.K.-based investment firm, will hold the remaining 2.8% of the shares and voting rights of Chrysaor post-closing.<sup>5</sup>

Chrysaor is a *société à responsabilité limitée* (the equivalent of a limited liability company) under Luxembourg law. An affirmative vote of shareholders representing more than half of the corporate capital is required for decisions with three exceptions. The transfer of Chrysaor shares to a non-shareholder is subject to the consent of the shareholders representing at least three-quarters of the share capital. Any decision effecting a change in the Chrysaor articles of association shall be taken by a majority of shareholders representing at least three-quarters of the share capital. In addition, a decision to change the nationality of the company requires a unanimous vote of shareholders representing 100% of the company’s issued share capital.

Chrysaor is currently managed by a single manager, Mr. Bertrand Pivin, who is a citizen of France. The company may be managed by one or several managers who need not be shareholders. They are appointed or removed from office by a simple majority decision of the

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<sup>5</sup> Vizada is not seeking a Commission ruling at this time regarding the principal place of business of Hutton Collins. Hutton Collins will hold less than a 2.5% indirect ownership and voting interest in Vizada, well within the current flexibility Vizada has to take on additional foreign investment without prior Commission consent. *See March 2010 Ruling* at 8-9 (¶ 13) & n.46.

general meeting of shareholders. If multiple managers are appointed, they constitute a board of managers and make decisions by a majority vote of the managers.<sup>6</sup>

## 2. Principal Place of Business Test

Information regarding the five factors considered by the Commission in determining an entity's principal place of business is provided below for Chrysaor:

Five Factor Test: Chrysaor		
1.	Country of Organization	Luxembourg
2.	Nationality of Investment Principals, Officers and Directors:	The principal shareholders are French and U.S. entities; the sole manager is a citizen of France.
3.	Location of World Headquarters	Registered office is in Luxembourg
4.	Location of Tangible Properties	N/A (Holding Company)
5.	Location of Greatest Sales and/or Revenues	N/A (Holding company)

### B. Transfer of Shares to Bruno Ducharme

Within the coming weeks, Mr. Bruno Ducharme, a citizen of Canada and current shareholder of MobSat Management and MobSat Group, will purchase 242,572 additional shares of MobSat Management. MobSat Gérance, the sole manager of MobSat Management,<sup>7</sup> will acquire 242,573 MobSat Management shares from Apax France and Altamir Amboise. All but one of these shares will immediately be transferred to Mr. Bruno Ducharme. MobSat Gérance will retain the remaining single share of MobSat Management, which represents a de minimis interest in MobSat Management that rounds to 0.00%.

<sup>6</sup> If the shareholders elect to appoint two classes of managers (Class A and Class B), then specified decisions by the board of managers must be approved by a majority of managers, including a vote by at least one manager from each class.

<sup>7</sup> See *March 2010 Ruling* at 5 (¶ 6).

Following this transaction, the ownership of MobSat Management will be as follows:

<b>Name</b>	<b>Citizenship</b>	<b>% Interest</b>
Apax France	France	17.65
Altamir Amboise	France	6.86
Stein Anderssen	Norway	5.31
Peter Augustsson	Sweden	6.64
Bob Baker	U.S.	4.56
Erik Ceuppens	Belgium	8.58
Bruno Ducharme	Canada	15.03
Soren Einshoj	Norway	6.44
Mark Ellison	U.K.	6.44
Marck Grandpierre	France	4.29
Tore Morten Olsen	Norway	5.31
Fabien Redon	France	4.29
Freek Tempelaar	Netherlands	4.29
Stefano Vittor	Norway	4.29
MobSat Gérance	Luxembourg	0.00

Except for Mr. Bruno Ducharme, who is separately identified, the individual investors in MobSat Management and MobSat Gérance are designated in the attached ownership chart as “Other MobSat Management Shareholders.”<sup>8</sup>

### **III. THE RESULTING FOREIGN OWNERSHIP**

Vizada seeks a ruling that would approve the foreign owners identified herein.

Specifically, upon closing of the transactions described above, the direct shareholders of MobSat Group will be: Chrysaor S.à r.l. (88.3%), MobSat Management (9.3%), Michael Collins (1.2%), and the Glenridge Trust (1.2%). Mr. Bertrand Pivin, a French citizen, and MobSat Gérance will each continue to own one share of MobSat Group, representing a *de minimis* interest that rounds down to 0.00% of the share capital.<sup>9</sup> On the attached ownership chart, the collective holdings of

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<sup>8</sup> All of the individuals listed are involved in the management of Vizada and its affiliates.

<sup>9</sup> See Vizada, Inc., Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act, ISP-PDR-20080501-00011 (filed May 1, 2008) at 11 n.19.

Michael Collins, the Glenridge Trust, Bertrand Pivin and MobSat Gérance are designated as “Other MobSat Group Shareholders.”

In addition, subsequent to the closing of the transactions described herein, the direct shareholders of Chrysaor S.à r.l. will be: Apax France (57.1%), Altamir Amboise (22.2%), API V (16.9%), Bruno Ducharme (1.0%), and a new investor, Hutton Collins (2.8%). As noted above, Vizada is not seeking a Commission determination of Hutton Collins’ principal place of business at this time.

Once the transfer of additional MobSat Management shares to Bruno Ducharme takes place, the holders of interests in MobSat Management will be Apax France (17.7%), Altamir Amboise (6.9%), Bruno Ducharme (15.0%), other individuals involved in the management of MobSat who are from WTO member countries (60.4%), and MobSat Gérance (0.00%). Except for Mr. Bruno Ducharme, who is separately identified, the individual shareholders in MobSat Management and MobSat Gérance are designated on the attached ownership chart as “Other MobSat Management Shareholders.”

Following these changes, the significant shareholders of MobSat Group will hold the following ultimate interests in the company: Apax France (52.1%); Altamir Amboise (20.3%); API V (14.9%); Hutton Collins (2.5%); Bruno Ducharme (2.3%); Michael Collins (1.2%); the Glenridge Trust (1.2%); and Other MobSat Management Shareholders (5.6%).

#### **IV. PUBLIC INTEREST STATEMENT**

Indirect foreign ownership of a common carrier radio licensee is governed by the benchmark limits contained in Section 310(b)(4) of the Act. Section 310(b)(4) states:

(b) no broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by . . . (4) 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 a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.<sup>10</sup>

In the *Foreign Participation Order*, the Commission determined that an open entry policy will apply to investment in common carrier licensees when such investment is from countries that are members of the WTO.<sup>11</sup> Under the open entry policy, a strong presumption exists that investment from WTO member countries is consistent with the public interest.<sup>12</sup>

The instant petition seeks approval of indirect investment in Vizada by individuals and entities from WTO member countries as set forth herein, as well as authority to accept additional foreign investment beyond that identified herein, in order to accommodate shifts in ownership in its publicly-traded investors. This investment is consistent with the Commission's open entry policy and should be presumed to be in the public interest.

Vizada and its immediate parent companies are already parties to an agreement with the Department of Justice ("DOJ"), Department of Homeland Security, ("DHS") and Federal Bureau of Investigation ("FBI") which addresses national security and law enforcement concerns regarding Vizada's operations.<sup>13</sup> No change is proposed in the operation of Vizada's licensed

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<sup>10</sup> 47 U.S.C. § 310(b)(4).

<sup>11</sup> *Foreign Participation Order*, 12 FCC Rcd 23891, 23896 ¶ 9.

<sup>12</sup> *Id.* at 23913 ("We therefore adopt, as a factor in our public interest analysis, a rebuttable presumption that applications for Section 214 authority from carriers from WTO Members do not pose concerns that would justify denial of an application on competition grounds. We also adopt a rebuttable presumption that such competitive concerns are not raised by applications to land and operate submarine cables from WTO Members or by indirect ownership by entities from WTO members of common carrier and aeronautical radio licensees under Section 310(b)(4) of the Act.").

<sup>13</sup> See *March 2010 Ruling* at Appendix C.

facilities. No substantive changes in the ultimate ownership and control of the licenses is proposed, and service to customers will continue without interruption.

## **V. CONCLUSION**

For the reasons discussed above, Vizada hereby requests that the Commission issue a declaratory ruling that indirect foreign investment as outlined herein is consistent with the public interest under Section 310(b)(4) of the Communications Act.

Respectfully submitted,

**VIZADA, INC.**

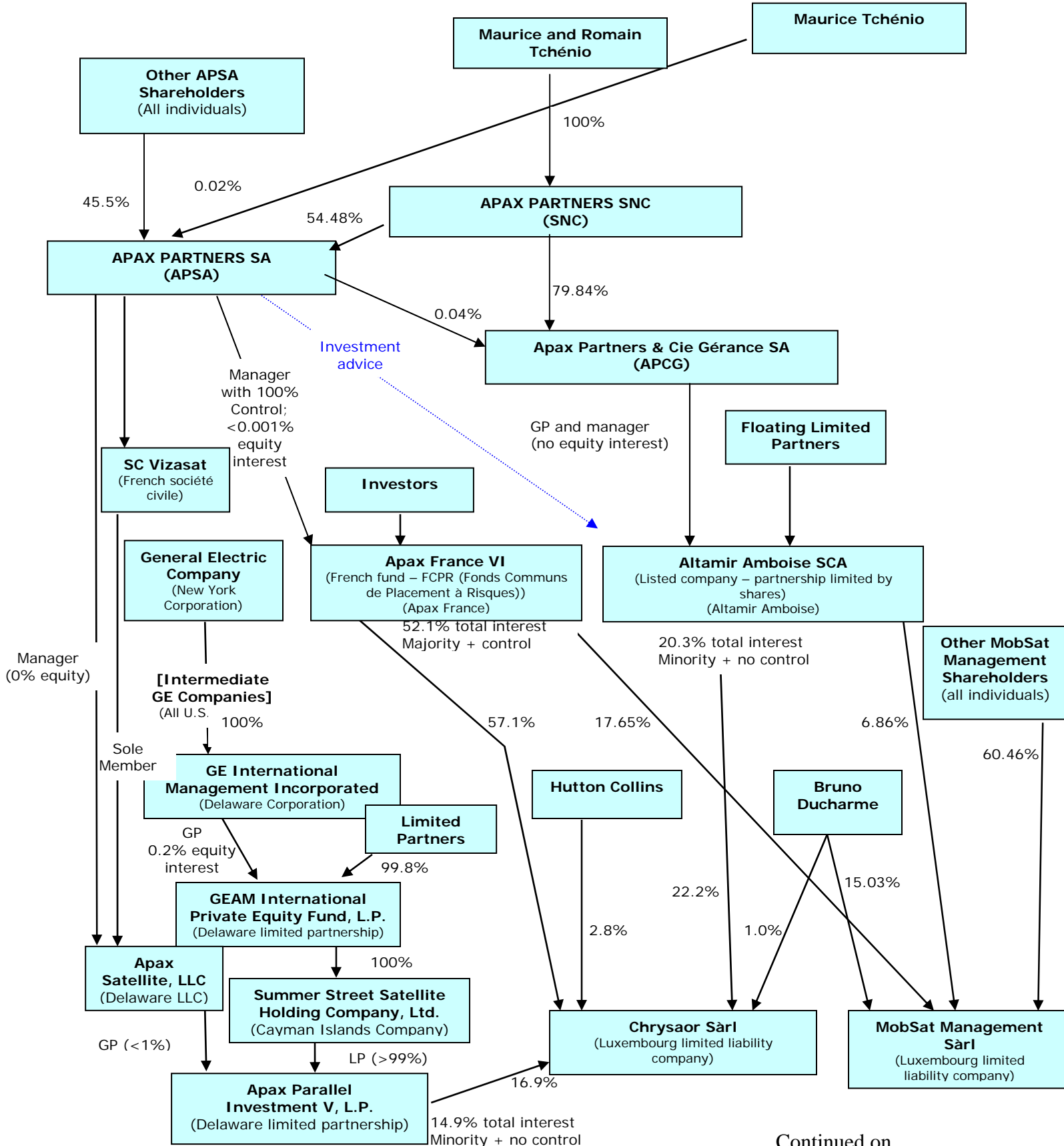
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/s/

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# Appendix A:



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Appendix A (continued):

