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June 23, 2010

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW,
Room TW-A325
Washington, DC 20554

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Federal Communications Commission
Office of the Secretary

RE: Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of América Móvil S.A.B. de C.V.

Dear Ms. Dortch:

América Móvil S.A.B. de C.V. ("América Móvil") hereby submits an updated Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act of 1934, requesting that the Commission find that the proposed foreign ownership of América Móvil in excess of the 25% benchmark set forth in Section 310(b)(4) is in the public interest.

If you have any questions concerning this petition, please contact the undersigned.

Respectfully submitted,



Michael G. Jones
Mia Guizzetti Hayes
Counsel for América Móvil S.A.B. de C.V.

Enclosure

cc: Alejandro Cantú Jiménez
James Ball, Chief, Policy Division, International Bureau
David Krech, Associate Division Chief, Policy Division, International Bureau

1 47 U.S.C. § 310(b)(4).

outstanding. Before the issuance, the Class L shares were held by América Móvil as treasury stock. Due to an oversight, which América Móvil regrets, América Móvil inadvertently did not seek Commission approval prior to the issuance and hereby requests such approval *nunc pro tunc*. As the parent of Puerto Rico Telephone Company, Inc. (“PRTC”), an FCC licensee, América Móvil takes its obligations under the FCC’s rules and the *TELPRI Order*² very seriously and has put in place internal measures to ensure that such an oversight does not reoccur.

In its *Foreign Participation Order*, the Commission found that “additional foreign investment can promote competition in the U.S. market,” and that “the public interest will be served by permitting more open investments by entities from World Trade Organization (“WTO”) member countries in U.S. common carrier wireless licenses.”³ In light of these findings, the Commission replaced its equivalent competitive opportunities analysis with a rebuttable presumption in favor of entry for applicants from WTO-member countries.⁴ The Commission has subsequently affirmed that policy on several occasions,⁵ including in its *TELPRI Order* granting the transfer of control of licenses and authorizations held by

² See *Application for Authority to Transfer Control of Telecomunicaciones de Puerto Rico, Inc. (TELPRI)*, Memorandum Opinion and Order and Declaratory Ruling, 22 FCC Rcd 6195 (2007) (“*TELPRI Order*”).

³ *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, 12 FCC Rcd 23891 ¶ 111 (1997) (“*Foreign Participation Order*”).

⁴ *Id.* ¶ 50.

⁵ See, e.g., *Aerial Communications, Inc.*, DA 00-730 (IB/WTB rel. Mar. 31 2000) at ¶ 9. (when analyzing proposed foreign investment in common carrier licensees, the Wireless and International Bureaus are “guided . . . by the U.S. Government’s commitment under the World Trade Organization (“WTO”) Basic Telecommunications Agreement, which seeks to promote global markets for telecommunications so that consumers may enjoy the benefits of competition”); *VoiceStream Wireless Corp.*, FCC 99-53 (rel. Feb 15, 2000) at ¶ 16 (the FCC has adopted a “strong presumption that no competitive concerns are raised by . . . indirect foreign investment[s] from WTO member countries”).

Telecomunicaciones de Puerto Rico, Inc. (“TELPRI”) through its wholly-owned subsidiary PRTC from Verizon Communications, Inc. to América Móvil.⁶

In the *TELPRI Order*, the Commission conditioned its grant of the transfer of control of the licenses held by TELPRI’s subsidiaries on, among other things, certain requirements that América Móvil obtain prior Commission approval related to changes in the ownership of the Company.⁷ In particular, the Commission required América Móvil to obtain prior approval, pursuant to Section 310(b)(4), “before the company issues, directly or indirectly, without limitation, as a result of any share repurchase, redemption or other recapitalization, securities that would represent more than five percent of its equity or voting interests.”⁸ In addition, the Commission allowed Mr. Carlos Slim Helú and certain members of his immediate family (“the Slim family”) to increase their ownership interests in América Móvil above the levels held upon closing of the merger between América Móvil and América Telecom by an aggregate three percent without prior Commission approval.⁹ At that time, the Slim family held 32.33 percent of the equity and 66.21 percent of the vote of América Móvil.

In connection with two separate but concurrent tender offers commenced by América Móvil to acquire outstanding shares of Telmex Internacional, S.A.B. de C.V. and Carso Global Telecom, S.A.B. de C.V. (the “Telmex Entities”), América Móvil issued on June 16, 2010 an amount of Class L shares equal to 42.21 percent of the Class L shares outstanding before the issuance, which represents 26.28 percent of the total equity of América Móvil before the

⁶ See *TELPRI Order* ¶¶ 65-68.

⁷ *Id.* ¶¶ 65-67.

⁸ *TELPRI Order* ¶ 65.

⁹ See *id.* ¶ 67.

issuance. The acquisition of the Telmex Entities was structured as a tender offer made by América Móvil for the outstanding shares of the Telmex Entities, in exchange for which (i) tendering shareholders of Telmex Internacional S.A.B. de C.V. would receive cash or Class L shares of América Móvil, at the option of the tendering shareholder; and (ii) tendering shareholders of Carso Global Telecom, S.A.B. de C.V. would receive Class L shares of América Móvil. The period to participate in the tender offers expired on June 10, 2010, and 92.08 percent of the acceptances were tendered on that day. Therefore, only as of June 11, 2010 did América Móvil know the number of Class L shares that it would be required to issue in response to the tender offers.

As a result of the issuance of the Class L shares, the Slim family's equity holdings in América Móvil has increased from 32.4 percent immediately prior to the issuance to 40.18 percent. The voting percentage of the Slim family in América Móvil was 65.5 percent before the issuance and remains unchanged after the issuance given that only shares with limited voting rights were issued. A meeting of the América Móvil shareholders to approve the issuance of the Class L shares will be scheduled in the coming weeks.

As noted above, due to an oversight, América Móvil inadvertently did not seek Commission approval prior to the issuance of the Class L shares and hereby requests such approval *nunc pro tunc*. As the parent of PRTC, an FCC licensee, América Móvil takes its obligations under the FCC's rules and the *TELPRI Order* very seriously and has put in place internal measures to ensure that such an oversight does not reoccur. América Móvil notes that it remains in full compliance with all other conditions in the *TELPRI Order* related to the Commission's Section 310(b)(4) ruling. Specifically, since the *TELPRI Order*, no person has acquired through one transaction or a series of transactions over time, directly or indirectly, the beneficial ownership of América Móvil securities that would represent more than five percent of

any class of equity security of the Company; and América Móvil's non-WTO equity and voting interests do not exceed 25 percent.¹⁰

Since the transfer of control of the licenses and authorizations at issue in the *TELPRI Order*, TELPRI and PRTC have continued to be held indirectly by América Móvil. América Móvil remains a publicly traded corporation that is organized and headquartered in Mexico. A majority of its directors and officers are Mexican nationals, and its businesses in Mexico account for more revenue than its businesses from any other country. The majority of the voting shares of América Móvil are held by the Slim family, all of whom are Mexican citizens. Thus, under the "principal place of business" analysis adopted by the Commission in the *Foreign Carrier Entry Order*¹¹ and affirmed in the *Foreign Participation Order*,¹² it is clear that América Móvil's "home market" is Mexico. As such, América Móvil remains entitled to the presumption in favor of entry.

Following the issuance of the Class L shares, approximately 96.66 percent of América Móvil's full voting shares are held by Mexican or U.S. citizens. As noted above, the Slim family holds 65.5 percent of the voting shares. Other Mexican investors hold approximately 7.49 percent of the voting shares, and AT&T, Inc. ("AT&T") holds 23.67 percent of the voting shares

¹⁰ *Id.* ¶¶ 65-67.

¹¹ *Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order, 11 FCC Rcd 3873 ¶¶ 199-208 (1995) ("Therefore, in determining an alien entity's home market for purposes of our public interest determination under Section 310(b)(4), we will identify: (1) the country of its incorporation, organization, or charter; (2) the nationality of all investment principals, officers, and directors; (3) the country in which its world headquarters is located; (4) the country in which the majority of its tangible property, including production, transmission, billing, information, and control facilities, is located; and (5) the country from which it derives the greatest sales and revenues from its operations. If all five of these factors indicate that the same country should be considered to be the entity's home market, it will be presumed to be so, subject only to rebuttal based on clear and convincing evidence to the contrary.").

¹² *Foreign Participation Order* ¶ 116.


through a Mexican trust which effectively neutralizes the AT&T vote. With respect to América Móvil's equity ownership, 40.18 percent of the equity is held by the Slim family following the issuance of the Class L shares, and 8.93 percent of the equity is held by AT&T. Moreover, as the Commission noted in the *TELPRI Order*, to the extent that certain foreign voting and equity interests in TELPRI are unidentified, such interests consist largely of América Móvil's Class L shareholders. The Commission further observed that:

These shareholders have the right to elect only two members (representing a minority) of América Móvil's board of directors, and have the right as a group to block only certain significant corporate actions to protect their investments. We thus find that the corporate governance of América Móvil is structured to prevent these shareholders from dominating the management of corporate affairs and to minimize their influence. While these shareholders as a group represent more than half the equity investment in América Móvil, the limits placed on their ability to influence management mitigates our concern in this case with the level of unidentified non-U.S., non-Mexican foreign ownership.¹³

The issuance of additional Class L shares to the Slim family is consistent with the public interest because such issuance will increase the number of Class L shares held by U.S. entities or identifiable individuals who are Mexican nationals.

América Móvil accordingly requests that the Commission issue expeditiously a ruling that the foreign ownership interest in TELPRI and PRTC remains in the public interest.

Respectfully submitted,



Michael G. Jones

Mia Guizzetti Hayes

Counsel for América Móvil, S.A.B. de C.V.

¹³ *TELPRI Order* ¶ 63.