

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of)
)
)
ITC GLOBAL USA, LLC)
)
Request for Declaratory Ruling Under Section) File No. ISP-PDR-_____
310(b)(4) of the Communications Act of 1934,)
as amended)
)
)

To: The International Bureau

REQUEST FOR DECLARATORY RULING

ITC Global USA, LLC (“ITC”) hereby submits this request for declaratory ruling, pursuant to Section 310(b)(4) of the Communications Act and the *Foreign Participation Order*, to permit ITC to hold non-controlling foreign ownership interests up to 30.3%.¹

For the reasons set forth below, the Commission should grant the requested declaratory ruling.

I. PROPOSED FOREIGN OWNERSHIP

ITC is a Florida limited liability company that is owned 100 percent by ITC Global, Inc. (“ITC Global”), a Delaware corporation. Both ITC and ITC Global are privately held entities. The non-controlling foreign ownership in ITC is indirectly held through ITC Global. Three

¹ ITC currently does not hold any FCC Licenses. It has simultaneously filed applications requesting assignment of the global resale authorization and a certain common carrier satellite authorization currently held by Broadpoint License Co., LLC (“Broadpoint”). See Application Submission ID’s: IB-2011001655 and IB-2011001656.

individuals, citizens of either the United Kingdom or Australia, ultimately own an indirect interest in ITC that comprises 30.3% of ITC Global. Both Seaspin Pty., Aprhodite Trust A/C and CRH Telnet, the Australian entities that own a direct interest in ITC Global, are privately held entities. Exhibit A attached herewith provides a complete overview of the non-controlling indirect foreign ownership held in ITC.

II. PUBLIC INTEREST STATEMENT

Indirect foreign ownership of a common carrier radio licensee is governed by the benchmark limits contained in Section 310(b) of the Act. Specifically, Section 310(b)(4) of the Act 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 by record or voted by aliens, their representative, 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.²

In the *Foreign Participation Order*,³ the Commission determined that allowing indirect foreign investment in a common carrier radio licensee beyond the 25 percent benchmark established by Section 310(b)(4) of the Act would promote competition in the U.S. market, thereby promoting the public interest. The Commission adopted a “strong presumption that no competitive concerns are raised by...indirect foreign ownership” from entities from WTO

² 47 U.S.C. § 301(b)(4).

³ 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*”).

member countries,⁴ unless granting the application would pose a “very high risk to competition” in a U.S. market that cannot be addressed by existing conditions the Commission places on U.S. international carriers considered dominant under its rules.⁵ The Commission determined that this open entry standard also applies to foreign investment in entities that hold authority pursuant to Section 214 of the Act.⁶ Since the adoption of the *Foreign Participation Order*, the Commission has repeatedly permitted WTO foreign interests in FCC License and authorization holders, including 100 percent foreign ownership.⁷

ITC’s indirect foreign ownership will consist of interests from Australia and the United Kingdom. Both of these countries are WTO members. Further, ITC will continue to be majority owned by U.S. interests, and is ultimately controlled by Joseph A. Spytek, a U.S. citizen. The foreign individuals that hold an indirect interest in ITC will not have any involvement in the management of ITC, nor hold and officer positions or serve on the board of directors.

IV. CONCLUSION

For the reasons stated herein, and to the extent necessary, ITC respectfully requests that the Commission extend its current Section 310(b)(4) authority to hold an interest in a common

⁴ *Voicestream Wireless Corp. or Omnipoint Corp., Transferors, and Voicestream Wireless Holding Company, Cook Inlet/VS GSM II PCS, LLC, or Cook Inlet/VS GSM III PCS, LLC, Transferees, and Various Subsidiaries and Affiliates of Omnipoint Corp., Assignor, and Cook Inlet/VS GSM II PCS, LLC or Cook Inlet/VS GSM III PCS, LLC, Assignees, For Consent to Transfer of Control and Assignment of Licenses and Authorizations*, Memorandum Opinion & Order, 15 FCC Rcd 3341, 3348 (2000).

⁵ *Foreign Participation Order* at ¶¶ 50-52.

⁶ *Id.* at ¶ 29.

⁷ See, e.g., *Intelsat, Ltd., Transferor, and Zeus Holdings Limited, Transferee, Consolidated Application for Consent to Transfers of Control of Holders of Title II and Title III Authorizations and Petition for Declaratory Ruling Under Section 310 of the Communications Act of 1934, as amended*, IB Docket No. 04-366, Order and Authorization, DA No. 04-4034, 19 FCC Rcd 24820 (2004); *Applications of Comsat General Corporation, Lockheed Martin Global Telecommunications LLC, Comsat New Services, Inc. Intelsat LLC, and Intelsat MTC LLC to Assign Licenses and Authorizations and Request for a Declaratory Ruling on Foreign Ownership*, Authorizations Granted, IB Docket No. 04-235, Public Notice, DA 04-3418 (rel. Oct. 26, 2004).

carrier licenses and authorizations to encompass the proposed transaction pursuant to the applicable streamlined processing rules.

ITC GLOBAL USA, LLC

By: 

Dennis C. Brown, Esq.
8124 Cooke Court, Suite 201
Manassas, VA 20109
(703) 365-9437

Counsel for ITC Global USA, LLC
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EXHIBIT A – INDIRECT FOREIGN OWNERSHIP

