

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re Petition of)
)
Truphone, Inc.)
)
And)
)
Truphone Limited)
)
To Modify Declaratory Ruling)
ISP-PDR-20111020-00011 to)
Permit Additional Foreign Investment)
)
To: The International Bureau)

PETITION TO MODIFY DECLARATORY RULING ISP-PDR-20111020-00011

Truphone, Inc. (“TI”) and its parent company, Truphone Limited (“Truphone”) (collectively, “Petitioners”), through their undersigned counsel, hereby respectfully request that the FCC modify Declaratory Ruling ISP-PDR-20111020-00011, DA 12-1445 (rel. Sept. 6, 2012) (“Declaratory Ruling”) to permit Truphone to accept certain additional foreign investment to be completed on March 14, 2013, as described below.

The Declaratory Ruling found that it would not serve the public interest to prohibit the indirect ownership of SmartCall, LLC (“SmartCall”) and its wholly-owned subsidiary, iSmart Mobile, LLC (“iSmart”), in excess of the 25 percent benchmark set forth in 47 U.S.C. §310(b)(4). The Declaratory Ruling expressly permitted the following foreign ownership in SmartCall and iSmart:

[T]his ruling permits SmartCall and iSmart to be owned indirectly, through their controlling U.S. parent, TI, by Truphone (individually, up to and including 100% of the equity and voting interests); Vollin and Whiteclif (individually and

collectively, up to and including 75.39% of the equity and voting interests)¹; and Alexander Abramov and Alexander Frolov (collectively, up to and including 75.39% of the equity and voting interests through their respective interests in Whiteclif). This ruling also authorizes SmartCall and iSmart to have up to and including an additional, aggregate 25 percent indirect equity and/or voting interests from other foreign investors without seeking prior Commission approval under section 310(b)(4) subject to the requirements that SmartCall and iSmart obtain Commission approval before any such foreign investor acquires individually an indirect equity and/or voting interest in excess of 25 percent and before aggregate indirect foreign investment from non-WTO Member countries exceeds 25 percent. SmartCall and iSmart shall also obtain Commission approval before either Mr. Abramov or Mr. Frolov increases his existing equity and/or voting interest in SmartCall or iSmart.

This is to respectfully request that the FCC modify the Declaratory Ruling to permit SmartCall and iSmart to accept three additional rounds of funding from Vollin which are scheduled to be completed on September 14, 2012, January 2, 2013 and March 14, 2013. Upon completion of these funding rounds, Vollin will hold the following ownership interests in Truphone:

- September 14, 2012—80.59 percent
- January 2, 2013—82.27 percent
- March 14, 2013—82.66 percent.

Information regarding Vollin is a matter of record in this declaratory ruling proceeding and Petitioners respectfully incorporate such information herein.

PUBLIC INTEREST SHOWING

The Petitioners recognize the Declaratory Ruling's requirement to obtain FCC approval before "either Mr. Abramov or Mr. Frolov increases his existing equity and/or voting interest in SmartCall or iSmart." Petitioners moved expeditiously to contact International Bureau staff

¹ Vollin Holdings Limited ("Vollin") currently holds a 75.39 percent direct ownership interest in Truphone. Taking into account the *pro rata* fee that Vollin received in connection with the acquisition of this interest, Vollin holds a 77.45 interest in Truphone.

to apprise staff of these additional funding rounds and then to submit this filing following release of the Declaratory Ruling containing the prior approval requirement. The Petitioners respectfully submit that they are providing ample notice of the January 2, 2013 and March 14, 2013 funding rounds.

The FCC has recognized that foreign investment is an important source of equity financing for U.S. telecommunications companies, fostering technical innovation, economic growth and job creation. *See Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act, as Amended*, 26 FCC Rcd. 11703 (2011), at ¶2. The additional funding rounds described herein will support iSmart's operations in the U.S, thereby ultimately benefiting U.S. consumers. Thus, the Petitioners respectfully submit that the additional funding by Vollin will serve the public interest.

CONCLUSION

The Petitioners respectfully request that the FCC modify the Declaratory Ruling to permit the additional indirect foreign investment in SmartCall and iSmart set forth above.

September 13, 2012.

Respectfully submitted,

Truphone, Inc. and
Truphone Limited

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