

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of:)	
)	
Indirect Foreign Investments in)	File No. ISP-PDR-20160209-00002
Common Carrier Licensee,)	
Channel 51 License Co LLC)	
)	

To: International Bureau

UPDATED PETITION FOR DECLARATORY RULING

Channel 51 License Co LLC (“Channel 51 License Co”), pursuant to Section 310(b)(4) of the Communications Act of 1934, as amended, and relevant Commission rules, orders, and policies, requests that the Commission issue a Declaratory Ruling permitting Channel 51 License Co to exceed the indirect foreign ownership limits of Section 310(b)(4), primarily to accommodate an investment by Future Fund Board of Guardians (“FFBG”), an Australian entity, through its wholly-owned subsidiary Future Fund Investment Company No.5 Pty Ltd (“FFIC5”).

I. BACKGROUND

A. The Parties

1. Controlling Structure

Channel 51 License Co, a Delaware limited liability company, won licenses at Auction 1002 (the “Auction”) and filed its long-form application (FCC Form 601) on April 27, 2017. Channel 51 License Co is a wholly-owned subsidiary of Channel 51, LLC (“Channel 51”), a Delaware limited liability company.

Paul Chisholm, an experienced telecommunications executive, is the sole managing member of Channel 51 and is a United States citizen. Mr. Chisholm is vested with exclusive and

full operational control over Channel 51, and he holds 0.52% of Channel 51 in the form of Class A and Class B equity.

2. Passive Investors

Channel 51 recruited passive investors to finance the licenses it won at the Auction and created a “waterfall” investment structure with three classes of investors: Class A, Class B, and Class C. Two groups of entities indirectly hold enough equity in Channel 51 to trigger the 10% reporting threshold: the Columbia Parties and Future Fund Parties. The Telcom Parties, a Class A investor disclosed in Channel 51’s short-form application, along with several previously reported entities in the Columbia Parties’ ownership chain, fell below the 10% threshold due to the waterfall investment structure. Nonetheless, for completeness, these entities’ equity interests are described in Channel 51’s long-form application and in Exhibit B to this petition.

Columbia Capital Equity Partners VI (QP), L.P. (“CCEP”) is a Delaware limited partnership. CCEP holds a 4.38% interest in Channel 51 in the form of Class A equity.

Columbia Capital Equity Partners VI, L.P. (“CCEP VI”) is a Delaware limited partnership. CCEP VI serves as the general partner of CCEP.

Columbia Capital VI, LLC (“Columbia VI”) is a Delaware limited liability company. Columbia VI serves as the general partner of CCEP VI.

Columbia Spectrum Partners I-A, L.P. (“Columbia Spectrum I-A”) is a Delaware limited partnership. Columbia Spectrum I-A holds 11.50% of Channel 51 in the form of Class C equity.

Columbia Spectrum Partners GP, L.P. (“Columbia Spectrum Partners”) is a Delaware limited partnership. Columbia Spectrum Partners serves as the general partner of Columbia Spectrum I-A.

Columbia Spectrum, LLC (“Columbia Spectrum”) is a Delaware limited liability company. Columbia Spectrum serves as the general partner of Columbia Spectrum Partners.

Columbia VI and Columbia Spectrum (collectively with the entities they control, the “Columbia Parties”) are affiliates and are commonly controlled by Columbia Capital, a U.S. venture capital firm founded in 1989 with headquarters in Alexandria, Virginia. Columbia Capital manages approximately \$3 billion and specializes in investments in communications, media, and technology companies. Columbia Capital has two managing members: James B. Fleming, Jr. and John T. Siegel, Jr., who are both U.S. citizens.

Telcom Channel 51 LLC (“Telcom”) is a Florida limited liability company controlled by Dr. Rajendra Singh and his wife, Neera. The Singhs were instrumental in the design of the first generation of cellular systems in the United States. Telcom holds a 5.15% interest in Channel 51 in the form of Class A equity. The Singhs are United States citizens.

FFIC5 is a proprietary limited company registered in Victoria, Australia.¹ FFIC5 holds 46.60% of Channel 51 in the form of Class B equity interest. FFIC5 also has an indirect investment in an entity below the reporting threshold, giving it control over an additional 0.59%

¹ FFIC5 has appointed its custodian (The Northern Trust Company) to hold legal title to its investment assets to ensure the safekeeping of those assets. The Northern Trust Company in its capacity as custodian will hold the legal title of the assets comprising FFIC5’s interest in Channel 51. FFIC5 holds the beneficial interest in relation to the investment and FFIC5 and its parent, FFBG, make all decisions related to the investment. Following Commission precedent, in cases where record and beneficial interests are not identical, such as investment advisors holding stock in their own names for the benefit of customers, the party having the right to determine how the stock will be voted is considered to own it. 47 C.F.R. § 73.3555, Note 3. In relation to the investment in Channel 51, The Northern Trust Company functions as custodian only and has no power or authority in respect of the investment except to the extent it is specifically directed to take action by FFIC5. The Northern Trust Company is a company incorporated in the State of Illinois. Although the interest in this case is non-voting, FFIC5 has the right to order the custodian to acquire or divest investments and the custodian has no independent authority to take such actions.

of Class B equity in Channel 51. In full dilution, FFIC5 holds 47.19% of Channel 51's equity in the form of Class B equity.

FFIC5 is a wholly owned subsidiary of FFBG, a statutory body corporate established by the *Future Fund Act 2006* (Commonwealth of Australia) (the "Act").² FFBG, supported by the Future Fund Management Agency, has responsibility for investing and managing the assets of the Future Fund. While FFBG holds the Future Fund's assets for and on behalf of the Commonwealth of Australia, FFBG is responsible for specific investment decisions and any control exercised in respect of those investments within the framework of the Act is exercised by FFBG independently of the Government of Australia.³ As of March 31, 2017, Future Fund had assets of A\$129.6 billion⁴ and approximately 29% of Future Fund's physical investments were in

² The Future Fund meets the definition of a Sovereign Wealth Fund as adopted by the International Forum of Sovereign Wealth Funds ("IFSWF"), of which the Future Fund is a member (as is the Alaska Permanent Fund Corporation, a Sovereign Wealth Fund created by the United States). IFSWF defines Sovereign Wealth Funds as special purpose investment funds or arrangements, owned by the general government. Created by the general government for macroeconomic purposes, Sovereign Wealth Funds hold, manage, or administer assets to achieve financial objectives, and employ a set of investment strategies which include investing in foreign financial assets. See the "Santiago Principles" available at www.ifswf.org.

³ The investment by Future Fund Investment will not create an issue under 47 U.S.C. § 310(a). The Commission analyzes foreign interests in a U.S.-organized parent that controls the licensee, such as here, under Section 310(b)(4). See, e.g., *Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licenses under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Second Report and Order, 28 FCC Rcd 41314 ¶ 9 n.31 (2013) ("*Foreign Ownership Second R&O*"); *Application of VoiceStream Wireless Corporation and Deutsche Telekom AG*, Memorandum Opinion and Order, 16 FCC Rcd 9779, ¶ 41-42 (2001).

⁴ See, Future Fund, *Portfolio update at 31 March 2017*, <http://www.futurefund.gov.au/-/media/files/futurefund/05---portfolio-updates/portfolio-update-at-31-march-2017.pdf>.

the United States as of June 30, 2016.⁵ FFBG operates independently from the Government of Australia.⁶

Through another subsidiary, FFBG also holds a 23.35% equity portion of CCEP, giving it an additional 1.02% of Channel 51 in the form of Class A equity. FFBG holds 48.21% equity in Channel 51 in full dilution.

Because it is a wholly-owned, direct subsidiary, the indirect ownership interests of all entities in Channel 51 License Co are identical to the direct ownership interests in Channel 51. Channel 51 License Co seeks a declaratory ruling that Channel 51's foreign ownership is in the public interest.

B. The Waterfall Investment Structure

Channel 51 and Channel 51 License Co are "very small businesses," and Channel 51 License Co bid in the Auction as a designated entity. As with all designated entities, Channel 51 License Co and its parent, Channel 51, were required to raise a large and flexible amount of financing in order to participate effectively in the Auction. Accordingly, Channel 51 recruited the passive investors named above and others with interests below the reporting threshold. While the passive investors possess the majority of the non-voting equity in Channel 51, exclusive and full operational control, and 100% voting control, is vested in the Managing Member.

For previously disclosed interest holders, the equity distribution resulting from the waterfall structure is as follows:

⁵ See, Future Fund Annual Report 2015/2016 at 37, available at <http://www.futurefund.gov.au/-/media/files/futurefund/08---annual-reports/future-fund-annual-report-2015-16.pdf>.

⁶ *Id.* at 2.

1. Paul Chisholm, Managing Member: 0.52% (from Class A and Class B)
2. Future Fund Board of Guardians: 48.60% (47.60% from Class B and 1% from Class A)
3. Future Fund Investment Company No. 5 Pty Ltd: 47.60% (from Class B)
4. James B. Fleming, Jr.: 19.79% (7.72% from Class A; 2.58% from Class B, and 12.07% from Class C)
5. John T. Siegel, Jr.: 19.79% (7.72% from Class A, 2.58% from Class B, and 12.07% from Class C)
6. Columbia Capital VI, LLC: 7.72% (5.14% from Class A and 2.58% from Class B)
7. Columbia Capital Equity Partners VI L.P.: 5.11% (from Class A)
8. Columbia Capital Equity Partners VI (Q.P.), L.P.: 4.38% (from Class A)
9. Columbia Spectrum LLC: 12.07% (from Class C)
10. Columbia Spectrum Partners GP, L.P.: 12.07% (from Class C)
11. Columbia Spectrum Partners I-A, L.P.: 11.50% (from Class C)
12. Telcom entities: 5.15% (from Class A)

To provide maximum disclosure, Channel 51's short-form application indicated all possible interest holders with greater than 10% interest and identified each disclosable interest holder's maximum possible equity under the waterfall structure. Channel 51's long-form application disclosed these investors' actual equity positions in Channel 51.

The waterfall structure did not affect control over Channel 51 License Co, which will hold the licenses won in the Auction. Channel 51 License Co remains wholly owned by Channel 51, which is managed and controlled by its sole managing member, Paul Chisholm.

II. INFORMATION REQUIRED BY SECTION 1.5001

Pursuant to Section 1.5001 of the Commission rules,⁷ Channel 51 License Co submits the following information in support of the instant Petition for Declaratory Ruling ("Petition"):

- (a) Name, FRN, Contact Information, Place of Organization, Type of Business, and Certification Information of Applicant**

⁷ 47. C.F.R. § 1.5001.

Name: Channel 51 License Co LLC
FRN: 0025259565
Place of Organization: Delaware, United States
Type of Organization: Corporation
Certifying Officer: Paul Chisholm, Managing Member of Channel 51
Mailing Address: Channel 51 License Co LLC
c/o Alexander Maltas
Hogan Lovells US LLP
555 13th St., NW
Washington, DC 20004
Phone: 781-526-2005
Email: paul@pchisholmco.com

(b) Contact Information for Applicant's Legal Counsel

Name: Alexander Maltas
Firm: Hogan Lovells US LLP
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555 13th St., NW
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Email: alexander.maltas@hoganlovells.com

(c) Type of Radio Service Authorization and Associated Application

Channel 51 License Co won licenses at the Auction and files this Updated Petition for Declaratory Ruling at the request of Commission staff. Channel 51 License Co filed its original

Petition for Declaratory Ruling on February 9, 2016, in anticipation of its short-form application (FCC Form 175) and pursuant to the auction application procedures.⁸

(d) Type of Declaratory Ruling

Channel 51 License Co seeks a declaratory ruling under Section 1.5000(a)(1) of the Commission's rules.⁹

(e)/(g) Information About Holders of Controlling Interests or Direct Interests of 10% or More in Channel 51 (Controlling U.S. Parent of Applicant)

The interests disclosed here and in the next section are the entities' current voting and equity interests in Channel 51.

(1) Name: Paul Chisholm

Interests Held: 100% voting interest in Channel 51
0.52% equity in Channel 51

Citizenship: USA

(2) Name: Future Fund Investment Company No.5 Pty Ltd

Interests Held: 0% voting interest in Channel 51
47.19% equity in Channel 51

Place of Organization: Australia

Type of Organization: Proprietary Limited Company

(3) Name: Columbia Spectrum Partners I-A, L.P.

Interests Held: 0% voting interest in Channel 51
11.50% equity in Channel 51

Place of Organization: Delaware, USA

Type of Organization: Limited Partnership

⁸ *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016*, Public Notice, 30 FCC Rcd 11034 ¶ 116 (WTB 2015) (“*Application Procedures PN*”). Channel 51 License Co filed a corrected petition on May 20, 2016, in order to correct minor numerical errors.

⁹ 47 C.F.R. §1.5000(a)(1).

(f)/(g) Information About Holders of Indirect Interests of 10% or More in Channel 51 (Controlling U.S. Parent of Applicant)

(1) Name: Columbia Capital VI, LLC

Interests Held: General Partner of Columbia Capital Equity Partners VI, L.P.
Manager of Columbia C51 II, LLC
0% voting interest in Channel 51
7.72% equity in Channel 51

Place of Organization: Delaware, USA

Type of Organization: Limited Partnership

(2) Name: Future Fund Board of Guardians

Interests Held: Sole beneficial member of FFIC5
23% indirect equity in CCEP
0% voting interest in Channel 51
48.21% equity in Channel 51

Place of Organization: Australia

Type of Organization: Statutory Body Corporate

(3) Name: Columbia Spectrum Partners GP, L.P.

Interests Held: General partner of Columbia Spectrum I-A
General partner of interests below the reporting threshold
0% voting interest in Channel 51
12.07% equity in Channel 51

Place of Organization: Delaware, USA

Type of Organization: Limited Partnership

(4) Name: Columbia Spectrum, LLC

Interests Held: General partner of Columbia Spectrum Partners
0% voting interest in Channel 51
12.07% equity in Channel 51

Place of Organization: Delaware, USA

Type of Organization: Limited Liability Company

(5) Name: James B. Fleming, Jr.

Interests Held: Managing member of Columbia VI and Columbia Spectrum
0% voting interest in Channel 51
19.79% equity in Channel 51

Citizenship: USA

(6) Name: John T. Siegel, Jr.

Interests Held: Managing member of Columbia VI and Columbia Spectrum
0% voting interest in Channel 51
19.79% equity in Channel 51

Citizenship: USA

(h)(1) Estimate of Aggregate Foreign Ownership

Exhibit D provides a percentage estimate of the aggregate indirect foreign equity interests in Channel 51, as required by Section 1.5001(h)(1) of the Commission's rules.¹⁰ Exhibit D also describes the methods used to determine the percentage of foreign interests.

Exhibit A explains the circumstances that prompted this petition and demonstrates that granting it would serve the public interest.

(h)(2) Narrative Description of Ownership and Control Structure

Exhibit B provides a narrative description of the control and ownership of Channel 51, as required by Section 1.5001(h)(2) of the Commission's rules.¹¹

Exhibit C provides organizational charts to illustrate Channel 51's control and ownership.

(i)/(j) Requests for Specific Approval

(1) Name: Future Fund Investment Company No.5 Pty Ltd

Interests Held: 0% voting interest in Channel 51
47.19% equity in Channel 51

Place of Organization: Australia

¹⁰ 47 C.F.R. § 1.5001(h)(1).

¹¹ 47 C.F.R. § 1.5001(h)(2).

Type of Organization: Proprietary Limited Company

Principal Business: Investment Company

(2) Name: Future Fund Board of Guardians

Interests Held: Sole beneficial member of FFIC5
23% indirect equity in CCEP
0% voting interest in Channel 51
48.21% equity in Channel 51

Place of Organization: Australia

Type of Organization: Statutory Body Corporate

Principal Business: Investment fund

III. CONCLUSION

Channel 51 License Co respectfully requests that the Commission issue a declaratory ruling finding that it is in the public interest for Channel 51 License Co to have indirect foreign ownership in excess of the 25% benchmark under 47 U.S.C. 310(b)(4).

Respectfully submitted,

/s/

/s/

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September 12, 2017

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of:)
)
)
Indirect Foreign Investments in) File No. ISP-PDR-20160209-00002
Common Carrier Licensee,)
Channel 51 License Co LLC)
)
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**UPDATED PETITION FOR DECLARATORY RULING
CERTIFICATION OF
CHANNEL 51 LICENSE CO LLC**

I, Paul Chisholm, Authorized Signatory for Channel 51, LLC, the sole member of Channel 51 License Co LLC, certify under penalties of perjury that the facts contained in the foregoing Petition are true and correct. Channel 51 License Co LLC has calculated the ownership interests disclosed in this Petition based upon its review of the Commission's rules. These disclosures satisfy each of the pertinent standards and criteria set forth in the rules.

Channel 51 License Co LLC further certifies that neither it nor any party to this application is subject to denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862.

By: Channel 51 LLC, its Managing Member

/s/ Paul Chisholm

Paul Chisholm, Authorized Signatory

Executed on September 12, 2017