Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of DOCOMO PACIFIC, INC. *Petitioner/Licensee* Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as Amended	File No. ISP-PDR-2023-____________

PETITION FOR DECLARATORY RULING

Pursuant to 47 C.F.R. § 1.5000 *et seq.*, Petitioner DOCOMO Pacific, Inc. ("DPAC"), respectfully requests that the Commission issue a declaratory ruling pursuant to Section 310(b)(4) of the Communications Act of 1934, as amended ("Communications Act"), as more fully described herein.

In December 2021, the Commission issued a declaratory ruling ("2021 Declaratory Ruling"), authorizing 100-percent aggregate foreign ownership in DOCOMO Guam Holdings, Inc. ("DGH"), the controlling U.S. parent of DPAC.[1] In addition, the 2021 Declaratory Ruling authorized the following entities to hold, directly and/or indirectly, equity and/or voting interest in DGH: NTT DOCOMO, up to and including 100-percent equity and voting interests; Nippon Telephone and Telegraph ("NTT"), up to and including 100-percent equity and voting interests; and the Japan Ministry of Finance ("JMOF"), to hold up to and including a 33.93-percent interest, with advance approval to acquire up to a non-controlling 49.99-percent indirect equity

[1] *International Authorizations Granted*, Public Notice, 36 FCC Rcd. 16,821, 16,822 (2021).

and/or voting interest in DGH. NTT is a Japanese corporation whose shares trade on the Tokyo stock exchange.

Since grant of the 2021 Declaratory Ruling, the Master Trust Bank of Japan, Ltd. ("MTB"), a trust bank that administers investment accounts for its clients, acquired additional NTT shares on behalf of multiple clients on the open market which brought the total combined interest of its clients in NTT to 11.24 percent, an unexpected increase of nearly 6 percent.[2] As MTB is a trust bank, all beneficial interest in and to the shares is held by MTB's multiple account holders. In addition, as explained below, MTB's role with respect to the shares is that of an administrative agent, with voting rights distributed among multiple account holders. DPAC advised the International Bureau of these increased holdings on December 23, 2022. MTB has no beneficial or voting interest in the NTT shares because it holds these shares as an administrator for its clients and exercises voting rights at the direction of these account holders. DPAC is nevertheless submitting this Petition for approval because NTT's 2022 Annual Report lists MTB as holding more than 10 percent of NTT's outstanding shares. Accordingly, DPAC has submitted this Petition to explain the nature of MTB's holdings and to request specific approval with respect to the 11.24 percent of NTT's shares currently held, and advance approval of up to a non-controlling 49.9-percent interest.

To the extent required, DPAC also requests that the Commission reiterate its recent approval for foreign entities to hold up to 100 percent of DGH's voting and equity interests and reiterate the specific and advance approvals of the entities previously identified and approved in the 2021 Declaratory Ruling, the information for which are restated herein. As described more

[2] Interests held in NTT stated herein are as of September 30, 2022, the date of NTT's last quarterly report.

fully below, issuance of the requested declaratory ruling will serve the public interest. These approvals are consistent with Commission policy and precedent finding that foreign investment serves the public interest by encouraging reciprocal investment opportunities for U.S. companies in countries around the world.

I. DPAC's Foreign Ownership

DPAC, a Guam corporation, is a provider of voice (including mobile) and Internet service in Guam and the Commonwealth of Northern Mariana Islands ("CNMI"). DPAC offers personal, residential, and enterprise connectivity, as well as entertainment services in Guam and the CNMI.

DPAC is wholly owned by DGH, a Guam corporation, which in turn is wholly owned by NTT DOCOMO, Inc. ("NTT DOCOMO"), itself wholly owned by NTT. NTT's largest investor is JMOF, which, as of the date of this Petition holds 33.86-percent of the capital stock of NTT. The remaining shares of the capital stock of NTT is mostly foreign-owned and held by diverse interest holders from Japan and other countries (including the United States).[3]

MTB is a trust bank headquartered in Tokyo, Japan. MTB was formed through investments from Mitsubishi UFJ Trust & Banking Corporation, Nippon Life Insurance Company, Meiji Yasuda Life Insurance Company, and the Norinchukin Trust & Banking Co., Ltd. As a trust bank, MTB provides asset administration services for a wide range of clients, with a focus on institutional investors. MTB describes its asset administration services in its 2022 Annual Report as follows: "Our asset administration services consist of safely and securely administering money and securities deposited in our custody under contracts with customers in accordance with the legal frameworks of Japan and other nations, as well as settling securities

[3] By statute, the proportion of voting rights held by foreign nationals and corporations must be less than one-third.

trades and *exercising voting rights according to the instructions of customers or their agents*."[4] NTT lists MTB as holding more than 10 percent of NTT's outstanding shares, based on the combined NTT share holdings of all MTB clients.[5] As NTT owns 100 percent of DGH and DGH owns 100 percent of DPAC, this results in the combined equity and voting interests in DPAC of MTB clients exceeding 10 percent. No individual MTB client holds a 10-percent-or-greater direct or indirect ownership interest in DPAC or holds more than a 5-percent interest and was not exempt from specific approval requirements of the Commission's rules.

Because MTB operates as a Japanese trust bank, it holds and administers its clients' accounts for their benefit, and exercises voting rights at their direction, not pursuant to its own discretion. Accordingly, MTB's record title to more than 10 percent of NTT's shares does not result in any previously unapproved foreign individual or entity holding more than 10 percent of the equity and/or voting interests of DPAC. Nonetheless, as stated above, DPAC is submitting this Petition for approval because NTT lists MTB as holding more than 10 percent of NTT's outstanding shares, based on the combined NTT share holdings of all MTB clients. Accordingly, DPAC has submitted this Petition to explain the nature of MTB's holdings and to request specific approval with respect to the 11.24 percent of NTT's shares currently held, and advance approval of up to a non-controlling 49.9-percent interest.

II. INFORMATION REQUIRED BY 47 C.F.R. § 1.5001

Pursuant to 47 C.F.R. § 1.5001, Petitioner submits the following information in support of this Petition:

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4 MTB, *MTBJ Corporate Report 2022*, 2 (Sept. 2022), https://www.mastertrust.co.jp/english/pdf/discro_2022.pdf (emphasis added).

5 NTT, *Annual Report 2022*, 52 (Sept. 30, 2022), https://group.ntt/en/ir/library/annual/.

A. Name, FRN, Contact Information, Place of Organization, Type of Business Organization, and Certification Information of Petitioner[6]

The name, FRN, contact information, place of organization, type of business organization, and certification information for the Petitioner is as follows:

Licensee:	**DOCOMO Pacific, Inc.**
FRN:	0004242723
Place of Organization:	Guam
Type of Business Organization:	Corporation
Certifying Officer:	James W. Hofman, II, Chief Legal Officer
Address:	890 South Marine Corps Drive, Suite 206, Tamuning, GU 96913
Telephone:	(671) 688-2355
Email:	jhofman@docomopacific.com

B. Legal Counsel Contact Information[7]

Counsel for DOCOMO Pacific, Inc.:

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C. Type of Radio Service Authorization and Associated Applications[8]

Petitioner seeks a declaratory ruling to authorize MTB, in its role as a trust bank, administering client shares that total more than 10 percent indirect foreign ownership in DPAC, which holds the following types of radio authorizations to which Section 310(b) is applicable:

- AWS-3
- AWS-1
- Cellular (CL)
- Paging (CD)

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6 47 C.F.R. § 1.5001(a).
7 *Id.* § 1.5001(b).
8 *Id.* § 1.5001(c).

- Common Carrier Fixed Point to Point Microwave (CF)
- PCS Broadband (CW)
- 700 MHz Lower Band
- Wireless Communications Service (WS)

D. Type of Declaratory Ruling[9]

Petitioner seeks a declaratory ruling under 47 C.F.R. § 1.5000(a)(1).

E. Direct and Indirect Equity and Voting Interests of 10 Percent or More[10]

DPAC has the following 10-percent-or-greater direct and indirect equity and voting interest holders:

<u>Direct ownership in DPAC:</u>

Name: DOCOMO Guam Holdings, Inc. ("DGH")
Address: 1399 New York Avenue, NW, Suite 450, Washington, DC 20005
Place of Organization: Guam
Principal Business: Holding company
Type of Business Organization: Corporation
Interest Held: 100-percent direct equity and voting interest in DPAC
Role: DGH has no direct role in the management of operations of DPAC.

<u>Indirect ownership in DPAC:</u>

Name: NTT DOCOMO, Inc.
Address: 2-11-11 Nagata-cho, Chiyoda-ku, Tokyo, Japan 100-6150
Place of Organization: Japan
Principal Business: Telecommunications
Type of Business Organization: Corporation
Interest Held: 100-percent direct equity and voting interest in DGH
Attributable Interest: 100-percent indirect equity and voting interest in DPAC and DGH
Role: NTT DOCOMO has no direct role in the management or operations of DGH or DPAC.

Name: Nippon Telephone and Telegraph Corporation ("NTT")
Address: 5-1 Otemachi 1-Chrome, Chiyoda-ku, Toyko, Japan 100-8116
Place of Organization: Japan
Principal Business: Telecommunications
Type of Business Organization: Corporation
Interest Held: 100-percent direct equity and voting interest in NTT DOCOMO

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9 *Id.* § 1.5001(d).
10 *Id.* § 1.5001(e), (f) & (g).

Attributable Interest: 100-percent indirect equity and voting interest in DPAC and DGH
Role: NTT has no direct role in the management or operations of DGH or DPAC.

Name: Japan Ministry of Finance ("JMOF")
Address: 3-1-1 Kasumigaseki, Chiyoda-ku, Tokyo, Japan 100-8940
Place of Organization: Japan
Principal Business: Public finance and oversight
Type of Business Organization: Government entity
Interest Held: 33.86-percent direct equity and voting interest in NTT
Attributable Interest: 33.86-percent indirect equity and voting interest in DGH and DPAC
Role: JMOF will have no direct role in the management or operations of DGH or DPAC.

As discussed above, the combined interests of all MTB clients are more than 10 percent, but no individual MTB client's interest is larger than 10 percent. Nonetheless, for the purposes of this Petition because MTB has record title to the shares held on behalf of its account holders, Petitioner also includes MTB in this section.

Name: Master Trust Bank of Japan ("MTB")
Address: MTBJ Bldg, 2-11-3 Hamamatsucho, Minato-ku, Tokyo, Japan 105-8579
Place of Organization: Japan
Principal Business: Asset administration
Type of Business Organization: Trust bank
Interest Held: The combined direct equity and voting interests of all MTB clients in NTT is 11.24 percent
Attributable Interest: The combined indirect equity and voting interests of all MTB clients in DGH and DPAC is 11.24 percent.
Role: Neither MTB nor its individual clients will have any role in the management or operations of DGH or DPAC.

No other individual or entity holds a 10-percent-or-greater direct or indirect equity or voting interest in DPAC.

F. Estimate of Aggregate Foreign Ownership; Statement of Circumstances and Public Interest[11]

Petitioner estimates that the aggregate indirect foreign ownership in DPAC remains 100 percent. This estimate is based upon direct inquiry of the entities that hold such indirect

[11] *Id.* § 1.5001(h)(1).

interests. Please see Exhibit A for a statement addressing the circumstances prompting the filing of this petition and demonstrating that the grant of the petition would serve the public interest.

G. Description of Ownership and Control Structure[12]

As described in part I and paragraph E above, DPAC is a wholly owned subsidiary of DGH, itself indirectly wholly owned by NTT. NTT's largest shareholder is JMOF, which is a government entity and holds a non-controlling 33.86-percent equity and voting interest in NTT, with Commission approval to hold up to a non-controlling 49.9-percent interest.

Please see Exhibit B for a depiction of DPAC's ownership and control structure.

H. Requests for Specific Approval[13]

In 2021 the Commission granted specific approval for interests held by NTT (100-percent indirect equity and voting interest in DPAC) and JMOF (33.93-percent indirect equity and voting interest in DPAC).[14] To avoid the need to seek further approval while ensuring that DPAC does not exceed its existing authority due to fluctuations in JMOF's direct interests in NTT, the Commission also granted advance authorization pursuant to 47 C.F.R. § 1.5001(k) for any increase in JMOF's equity and voting interest in NTT (and indirectly in DPAC), up to 49.9 percent.

I. Team Telecom Considerations

Petitioner acknowledges that it is subject to that certain Letter of Agreement dated October 20, 2021 executed by DPAC for the benefit of the U.S. Department of Justice ("2021 LOA"), which conditioned Commission approval of the 2021 Declaratory Ruling. As MTB held 5.52 percent of NTT's shares in 2021, that holding was reported to the Committee for the

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12 *Id.* § 1.5001(h)(2).
13 *Id.* § 1.5001(i), (k).
14 Calculated pursuant to 47 C.F.R. § 1.5002.

Assessment of Foreign Participation in the U.S. Telecommunications Services Sector ("Team Telecom") during the review which concluded with the execution of the 2021 LOA, Petitioner believes there is no need for a further Team Telecom review, and requests that the Commission condition its approval of this Petition on continued compliance with the 2021 LOA.

III. CONCLUSION

Petitioner respectfully requests that the Commission issue a declaratory ruling confirming its approvals granted in the 2021 Declaratory Ruling and granting specific approval for MTB, in its role as a trust bank, to hold the 11.24 percent of NTT's shares it currently holds, and advance approval of up to and including 49.9 percent.

Respectfully submitted,

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Counsel for DOCOMO Pacific, Inc.

January 23, 2023

EXHIBIT A:

**STATEMENT OF CIRCUMSTANCES
AND
PUBLIC INTEREST**

1. STATEMENT OF CIRCUMSTANCES

This Petition is submitted in connection with the acquisition of shares of Nippon Telegraph and Telephone Corporation (“NTT”) by Master Trust Bank of Japan, Ltd. (“MTB”) on behalf of multiple MTB account holders, which brought MTB’s total holding of NTT shares to a percentage in excess of 10 percent. NTT is a publicly traded Japanese company that is the 100-percent owner of NTT DOCOMO, Inc. (“NTT DOCOMO”). NTT DOCOMO is the 100-percent owner of DOCOMO Guam Holdings, Inc. (“DGH”), a Guam corporation. DGH is the 100-percent owner of DOCOMO Pacific (“DPAC”), a Guam corporation and a Commission licensee. While the combined investments of MTB’s customers now represent more than a 10 percent voting and economic indirect ownership interest in DGH and DPAC, neither MTB for its own account, nor any individual MTB client holds an equity or voting interest of more than 10 percent in DGC or DPAC. MTB administers the NTT shares held of record in its role as a trust bank, but the individual shareholders retain equity and voting ownership interests. Nevertheless, DPAC submits this Petition for approval because NTT lists MTB as holding more than 10 percent of NTT’s outstanding shares in its 2022 Annual Report, based on the combined NTT share holdings of all MTB clients. Accordingly, DPAC has submitted this Petition to explain the nature of MTB’s holdings and to request specific approval with respect to the 11.24-percent of NTT’s shares currently held, and advance approval of up to a non-controlling 49.9-percent interest.

2. GRANT OF THIS PETITION WOULD SERVE THE PUBLIC INTEREST

The Commission has previously determined that allowing indirect foreign investment in a common carrier radio license serves the public interest, by promoting competition in the U.S. market, thereby promoting the U.S. public interest,[15] a policy reflected in the 2021 Declaratory Ruling in which the Commission authorized NTT and NTT DOCOMO to hold up to and including 100-percent equity and voting interests in DGH and authorized the Japan Ministry of Finance ("JMOF"), to hold up to and including a 33.93-percent interest, with advance approval to acquire up to a non-controlling 49.99-percent indirect equity and/or voting interest in DGH.[16]

Commission rules require specific approval for foreign entities or persons to hold indirect interests of more than 5 percent (or 10 percent, if, like MTB, exempt from the 5-percent requirement)[17] of the equity and/or voting interests of a wireless licensee. While MTB holds 11.24 percent of NTT shares, it holds those shares in its administrative capacity on behalf its multiple account holders, which retain the economic and voting rights associated with those shares. As MTB explains clearly in its 2022 Annual Report: "Our asset administration services consist of safely and securely administering money and securities deposited in our custody under contracts with customers in accordance with the legal frameworks of Japan and other nations, as well as settling securities trades and *exercising voting rights according to the instructions of*

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[15] *Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Second Report and Order, 28 FCC Rcd. 5741 (2013).

[16] *International Authorizations Granted*, Public Notice, 36 FCC Rcd. 16,821, 16,822 (2021) ("2021 Declaratory Ruling").

[17] Exempt foreign individuals or entities are those that do not hold, and would not hold, a controlling interest in the licensee or any controlling parent company, do not plan or intend to change or influence control of the licensee or any controlling parent company, does not possess or develop any such purpose, and do not take any action having such purpose or effect. 47 C.F.R. § 1.5001(i)(3).

customers or their agents."[18] Accordingly, MTB does not hold a greater than 10-percent equity or voting interest in DGH or DPAC, nor does any individual account holder. DPAC is nevertheless submitting this Petition for approval because NTT lists MTB as holding more than 10 percent of NTT's outstanding shares in its 2022 Annual Report, based on the combined NTT share holdings of all MTB clients. Accordingly, DPAC has submitted this Petition to explain the nature of MTB's holdings and to request specific approval with respect to the 11.24 percent of NTT's shares currently held, and advance approval of up to a non-controlling 49.9-percent interest.

This Petition meets all of the requirements of 47 U.S.C. §310(b)(4) and the Commission's rules and policies. Therefore, Petitioner respectfully requests that the Commission grant this Petition and issue a declaratory ruling confirming its approvals granted in the 2021 Declaratory Ruling and granting approval for MTB to hold indirect non-controlling equity and/or voting interests in DGH and DPAC of up to and including 49.9 percent

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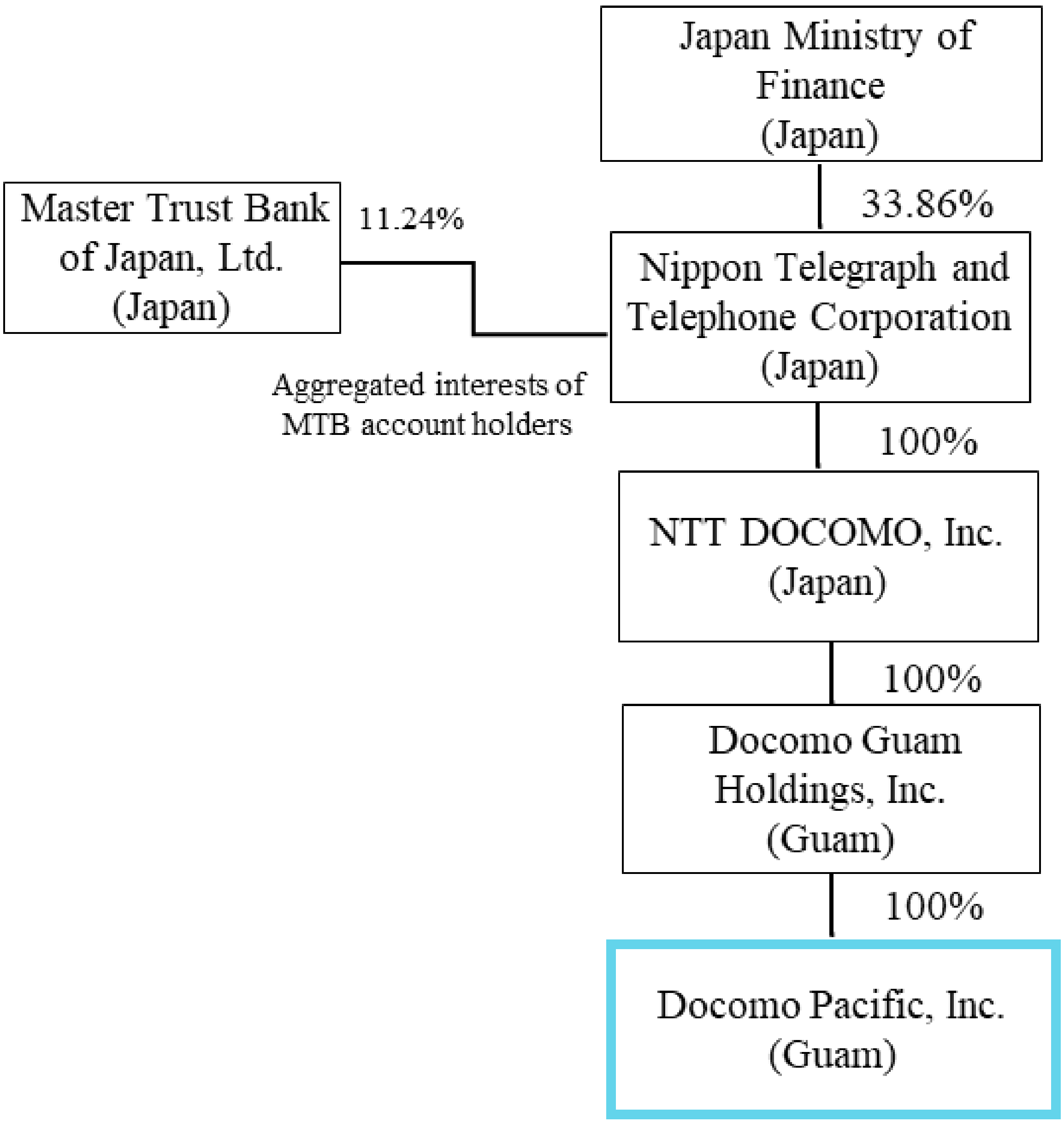
[18] MTB, *MTBJ Corporate Report 2022*, 2 (Sept. 2022), https://www.mastertrust.co.jp/english/pdf/discro_2022.pdf (emphasis added).

EXHIBIT B:

DOCOMO PACIFIC
OWNERSHP AND CONTROL STRUCTURE



DECLARATION OF DOCOMO PACIFIC, INC.

I, James W. Hofman, II, state that I am Chief Legal Officer of DOCOMO Pacific, Inc. ("DPAC"), and that I am authorized to make this declaration on behalf of DPAC. I certify that to the best of my knowledge and belief the information contained in the foregoing Petition for Declaratory Ruling is true and correct and that the disclosures satisfy each of the pertinent standards and criteria set forth in the Commission's rules at 47 C.F.R. § 1.5001 *et seq*.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

James W. Hofman, II
Chief Legal Officer
DOCOMO Pacific, Inc.

Dated: January 23, 2023