

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

In the Matter of)
Searchlight II HMT, L.P.) MB Docket No. 23-2
Petition for Declaratory Ruling Under Section)
310(b)(4) of the Communications Act of 1934, as)
Amended)

DECLARATORY RULING

Adopted: August 16, 2023

Released: August 16, 2023

By the Chief, Media Bureau:

I. INTRODUCTION

1. In this Declaratory Ruling (Declaratory Ruling), the Media Bureau (Bureau) addresses an Amended & Restated Petition for Declaratory Ruling (Amended & Restated Petition),¹ as amended, filed by Searchlight II HMT, L.P. (Searchlight II HMT or Petitioner).² The Amended & Restated Petition asks the Commission to exercise its discretion to permit foreign ownership of Searchlight II HMT’s controlling U.S. parent, Hemisphere Media Group, Inc. (HMTV), to exceed the 25% benchmarks in section 310(b)(4) of the Communications Act of 1934, as amended (the Act),³ and section 1.5000 et seq. of the Commission’s rules.⁴ HMTV has an existing declaratory ruling in which the Commission previously authorized foreign ownership up to 100% of HMTV’s equity and voting interests in the

¹ See 47 CFR § 1.5000 et seq.

² Petitioner first filed a Petition for Declaratory Ruling of Searchlight II HMT, L.P., MB Docket 23-2 (filed Sept. 23, 2022) (Petition). The Petition was superseded by the Petitioner’s October 13, 2022 Amended & Restated Petition for Declaratory Ruling (Amended & Restated Petition), which was amended on November 10, 2022 (Second Amended & Restated Petition), again on June 1, 2023 (Third Amendment), and supplemented on July 28, 2023 (July 28, 2023 Supplement). The July 28, 2023 Supplement was later superseded by the requests and organization structure chart contained in Petitioner’s August 3, 2023 Supplement (August 3, 2023 Supplement). The Media Bureau herein acts on the Amended & Restated Petition, as amended and supplemented, as it supersedes the Petition.

³ Section 310(b)(4) of the Act states:

No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by . . . any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, 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.

47 U.S.C. § 310(b)(4).

⁴ Amended & Restated Petition at 2; Second Amended & Restated Petition at 2. See 47 U.S.C. § 310(b)(4); 47 CFR § 1.5000 et seq.; Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended, GN Docket No. 15-236, Report and Order, 31 FCC Rcd 11272 (2016) (2016 Foreign Ownership Order), pet. for recon. dismissed, 32 FCC Rcd 4780 (2017).

aggregate.⁵ As discussed below, the Amended & Restated Petition seeks authority for up to an aggregate 100% indirect foreign ownership of HMTV.⁶ In addition, the Petitioner requests specific approval⁷ for certain foreign individuals and entities that will hold, indirectly, more than five percent of the equity and/or voting interests of HMTV, and advance approval⁸ for these individuals and entities to increase their interests in HMTV to certain percentages at some future time. No comments or oppositions were filed on the Amended & Restated Petition, and no parties asked for conditions to be placed on the requested ruling.⁹ As discussed below, and consistent with the input we received from the National Telecommunications and Information Administration (NTIA) on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), we find that it will serve the public interest to grant the Amended & Restated Petition, subject to the routine conditions specified below.¹⁰

II. BACKGROUND

2. *Pending Transactions.* The Commission's approval is being sought in connection with two applications pending with the Commission to (1) transfer control of broadcast television licenses held by Televiscentro of Puerto Rico, LLC (Televiscentro), an indirect, wholly owned subsidiary of HMTV, from Gato Investments LP (Gato) to Searchlight II HMT¹¹ (HMTV Transaction); and (2) transfer control of WLII/WSUR Licensee Partnership, G.P. (WLII/WSUR), a subsidiary of Univision of Puerto Rico, Inc., and an indirect, wholly owned subsidiary of TelevisaUnivision, Inc., from Univision Puerto Rico Station Operating Company to InterMedia Español, Inc. (TU Transaction).¹² Based on the record, at the end of these transactions, the structure of Petitioner will be as described below.

3. *Corporate Structure.* The Amended & Restated Petition lays out the proposed post-closing ownership structure of HMTV, Televiscentro, and WLII/WSUR in light of the HMTV and TU

⁵ See *Hemisphere Media Group, Inc. Petition for Declaratory Ruling*, Declaratory Ruling and Memorandum Opinion and Order, 34 FCC Rcd 10504 (2019) (*Hemisphere Declaratory Ruling*). The Amended & Restated Petition made clear that Searchlight II HMT was seeking a new ruling under section 310(b)(4) of the Act and section 1.5000 *et seq.* of the Commission's rules, but to the extent necessary, requested the Commission to reissue its approval for foreign entities and/or individuals, in the aggregate, to hold up to 100% of HMTV's equity and voting interests. Amended & Restated Petition at 2 and n.4. See 47 CFR § 1.5000 *et seq.* The *Hemisphere Declaratory Ruling* granted specific approval for certain foreign investors, but the interests held by those investors were acquired by Gato Investments LP (Gato) in connection with a take-private transaction that was consummated on September 13, 2022. Upon the closing of that transaction, 100% of the outstanding common stock of HMTV became indirectly owned by Gato, and HMTV became no longer publicly traded. See LMS File No. 0000191021. See also Amended & Restated Petition at 2-3 and nn. 4 and 6.

⁶ Amended & Restated Petition at n.4; Second Amended & Restated Petition at n.4.

⁷ August 3, 2023 Supplement.

⁸ August 3, 2023 Supplement.

⁹ The Amended & Restated Petition was placed on public notice on January 4, 2023, with comments due by February 3, 2023, and replies due by February 21, 2023. *Media Bureau Announces Filing of Petition for Declaratory Ruling by Searchlight II HMT, L.P.*, MB Docket No. 23-2, Public Notice (MB 2023) (2023 *Public Notice*). On June 20, 2023, the Commission received a letter from the National Telecommunications and Information Administration (NTIA) informing the Commission that the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) has no objection to the Commission granting the Amended & Restated Petition. See Letter from Stephanie Weiner, Chief Counsel, NTIA, to Mr. Ethan Lucarelli, Chief, Office of International Affairs, FCC, MB Docket No. 23-2 (June 20, 2023) (*NTIA Letter*).

¹⁰ See *infra* at paras. 10-12 and 16.

¹¹ Amended & Restated Petition at 1; Second Amended & Restated Petition at 1.

¹² *Id.*; Third Amendment.

Transactions.¹³ Upon the closing of the wind-up of Gato, Searchlight II HMT will hold 100% of the membership interests in HWK Parent, LLC, and will indirectly hold 100% of the equity and voting interests in HMTV.¹⁴ At the same time as the closing of the HMTV Transaction, Searchlight Capital II EXU AIV, L.P., Searchlight Capital II PV, L.P., and SC II HMT, L.P., which each hold warrants in Searchlight II HMT, will exercise their respective warrants and will be issued new limited partnership interests in Searchlight II HMT.¹⁵ As a result, each of these investment fund vehicles will hold indirect equity interests in HMTV.¹⁶ Conversion of the warrants to equity interests will cause attribution of foreign ownership interests indirectly in HMTV through certain Searchlight investment fund entities organized in the Cayman Islands and that are ultimately controlled by foreign individuals, as well as through the foreign limited partners in each of the investment fund entities.¹⁷ In addition, the proposed TU Transaction will ultimately result in the transfer of control of the WLII/WSUR broadcast radio stations to HMTV.¹⁸ HMTV is the parent of InterMedia Español, Inc. (InterMedia Español), and HMTV and InterMedia Español will be indirectly ultimately controlled by Searchlight II HMT.¹⁹

4. Pursuant to section 1.5001(h) of the Commission's rules, the Petitioner requests approval of up to an aggregate 100% indirect foreign ownership of the controlling U.S. parent, HMTV.²⁰ Petitioner requests specific approval²¹ for certain foreign individuals and entities that will hold, indirectly, more than five percent of the equity and/or voting interests of HMTV and advance approval²² for each individual and entity to increase their interests in HMTV to certain percentages at some future time.²³ Specifically, Petitioner makes the following requests for advance approval: Erol Uzumeri (Canada) to hold up to 49.99% equity and 49.99% voting; Oliver Haarmann (Germany) to hold up to 49.99% equity and 49.99% voting; Searchlight Capital II PV, L.P. (Cayman Islands) to hold up to 49.99% equity and 49.99% voting; SC II HMT Holdings, Ltd. (Cayman Islands) to hold up to 49.99% equity and 49.99% voting; Searchlight Capital II UNR AIV, L.P. (Cayman Islands) to hold up to 49.99% equity and 49.99% voting; and Searchlight Capital Partners II GP, L.P. (Cayman Islands) to hold up to 49.99% and 100% voting.²⁴

5. According to the Second Amended & Restated Petition, Searchlight Capital Partners, L.P. (Searchlight) provides management and other advisory services to Searchlight-affiliated investment funds in return for a fee.²⁵ Nonetheless, the Second Amended & Restated Petition asserts that Searchlight has no economic ownership interest in the investment funds and has no decision-making authority with respect to their operations.²⁶ The Second Amended & Restated Petition asserts that all management and

¹³ Amended & Restated Petition at 6-8, Exhibit A; Second Amended & Restated Petition at 6-8; Exhibit.

¹⁴ Amended & Restated Petition at 6; Second Amended & Restated Petition at 6.

¹⁵ Amended & Restated Petition at 6; Second Amended & Restated Petition at 6-7.

¹⁶ Amended & Restated Petition at 6; Second Amended & Restated Petition at 7.

¹⁷ Amended & Restated Petition at 6-7; Second Amended & Restated Petition at 7.

¹⁸ Third Amendment at Revised Description of Proposed Transaction (Section I.B. – *Acquisition of Radio Stations*).

¹⁹ *Id.*

²⁰ Amended & Restated Petition n.4; Second Amended & Restated Petition at n.4.

²¹ August 3, 2023 Supplement.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Second Amended & Restated Petition at n.10.

²⁶ *Id.*

decision-making authority with respect to the funds rest with the general partners of the funds.²⁷ Petitioner states that Searchlight is controlled by its general partner, Searchlight Capital Partners, LLC (Delaware), which is controlled by its three members, Messrs. Eric Zinterhofer (United States), Erol Uzumeri (Canada), and Oliver Haarmann (Germany).²⁸ These same three individuals are also the only limited partners of Searchlight.²⁹ All other funds that Searchlight manages are also controlled by Messrs. Zinterhofer, Uzumeri, and Haarmann.³⁰ Petitioner asserts that aside from Mr. Zinterhofer, neither Searchlight, nor any of its employees have any active or direct role at HMTV or its subsidiaries.³¹

6. *Public Interest Showing.* Searchlight II HMT contends that granting the Amended & Restated Petition is in the public interest because it would, *inter alia*, further the Commission's goals of encouraging foreign investment in the broadcast industry and promoting regulatory transparency.³² Searchlight II HMT also asserts that approval of the Amended & Restated Petition would serve the public interest by "allowing Searchlight to expand beyond its current advisory role in HMTV and bring to bear its full managerial expertise and extensive industry relationships in implementing a strategic plan for HMTV's continued expansion, including the acquisition of the Puerto Rico radio stations."³³ Furthermore, Petitioner states that a grant would not pose any national security, trade policy, or law enforcement concerns, noting that "Searchlight and its management team—including Searchlight's foreign ownership through Cayman Island fund structures and its non-U.S. principals—are well known to the Commission and have already been vetted and approved by the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the 'Committee') in other connection with broadcast licensees and telecommunications providers."³⁴

7. *National Security, Law Enforcement, Foreign Policy and Trade Policy Review.* Pursuant to Commission practice, we referred the Amended & Restated Petition to the relevant Executive Branch agencies for their review of any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of Searchlight II HMT.³⁵ On January 6, 2023, the Committee notified the Commission that it was reviewing the Amended & Restated Petition for any national security and law enforcement concerns that may be raised by foreign participation in the United States telecommunications services sector and requested that the Commission defer action on the Amended & Restated Petition.³⁶ Subsequently, on March 23, 2023, the Committee notified the Commission that Searchlight II HMT provided complete responses to the Committee's initial questions and that it was

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Amended & Restated Petition at 16-18; *see also* Second Amended & Restated Petition at 16-18; *see also* *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Report and Order, 31 FCC Rcd 11272, 11273, 11280, paras. 2 and 12 (2016) (*2016 Foreign Ownership Order*).

³³ Amended & Restated Petition at 17.

³⁴ *Id.* at 18.

³⁵ *2023 Public Notice* at 3, n.26 (*citing* *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927 (2020) (*2020 Process Reform Order*) (setting rules and procedures for referring applications for Executive Branch review consistent with Executive Order No. 13913)).

³⁶ Letter from Makenzie Briglia Skopowski, Attorney Advisor, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 23-2 (filed Jan. 6, 2023).

conducting its review to assess whether granting the Amended & Restated Petition would pose a risk to the national security or law enforcement interests of the United States.³⁷ On June 20, 2023, the NTIA submitted a letter in which the Committee advised the Commission that it has no objection to grant of this Amended & Restated Petition.³⁸

8. *Standard of Review.* We review the Amended & Restated Petition under section 310(b)(4) of the Act, which states that “[n]o broadcast . . . license shall be granted to or held by . . . any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, 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.”³⁹ This section of the Act grants the Commission discretion to allow foreign investment in a licensee’s controlling U.S.-organized parent above 25% unless the Commission finds that the public interest would be served by refusing to permit such foreign investment.⁴⁰ In evaluating petitions relating to foreign ownership, the Commission affords appropriate deference to the expertise of the Executive Branch agencies on issues related to national security, law enforcement, foreign policy, and trade policy.⁴¹

9. In the *2016 Foreign Ownership Order*, the Commission modified the broadcast licensee foreign ownership review process by extending the streamlined rules and procedures developed for review of foreign ownership of common carrier and certain aeronautical licensees under section 310(b)(4) to the broadcast context, with certain limited exceptions.⁴² The *2016 Foreign Ownership Order* expressly provides for processing of petitions requesting approval for up to and including 100% aggregate foreign voting and/or equity investment by unnamed and future foreign investors in the controlling U.S. parent of a broadcast licensee.⁴³ To exercise in a meaningful way the discretion conferred by statute, the Commission must receive detailed information from the applicant sufficient for the Commission to make the public interest finding the statute requires.⁴⁴

III. DISCUSSION

10. We find that the public interest is served by permitting foreign ownership of HMTV in excess of the 25% benchmarks in section 310(b)(4) of the Act and grant the Amended & Restated Petition. We also find that it is in the public interest to grant Petitioner’s request for approval of up to an aggregate 100% indirect foreign ownership of HMTV. In addition, we grant the requests for specific and advance approval under the Commission’s rules.

11. *Section 310(b)(4) Determination and Public Interest Analysis.* Pursuant to section 310(b)(4) of the Act, as well as sections 1.5001 through 1.5004 of the Commission’s rules, we find that the public interest is served by permitting foreign ownership of HMTV in excess of the 25% benchmarks in section 310(b)(4) of the Act and grant the Amended & Restated Petition. We also find that it is in the

³⁷ Letter from Makenzie Briglia Skopowski, Attorney Advisor, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 23-2 (filed Mar. 23, 2023).

³⁸ *NTIA Letter*.

³⁹ 47 U.S.C. § 310(b)(4).

⁴⁰ *See id.*; *2016 Foreign Ownership Order*, 31 FCC Rcd at 11276, para. 5.

⁴¹ *2016 Foreign Ownership Order*, 31 FCC Rcd at 11277, para. 6.

⁴² *See generally id.*

⁴³ *Id.* at 11282, para. 15.

⁴⁴ *See, e.g., id.* at 11282, 11283-84, paras. 15, 20 (noting that the requirements adopted in the streamlined foreign ownership rules ensure that the Commission has the information necessary to evaluate and understand a licensee’s ownership structure and to fulfill its obligations under section 310(b) of the Act).

public interest to grant Petitioner's request for approval of up to an aggregate 100% indirect foreign ownership of HMTV. We further find that it is in the public interest to grant specific and advance approval for the percentages set out to the individuals and entities specified in Section IV below. Specifically, we conclude that grant of the Amended & Restated Petition is in the public interest because it, *inter alia*, provides the company with greater access to foreign capital and thereby contributes to the strengthening of the broadcast industry.⁴⁵

12. *National Security and Law Enforcement Review.* As stated, as part of its public interest analysis, the Commission coordinates petitions for section 310(b) foreign ownership rulings with the relevant Executive Branch agencies for national security, law enforcement, foreign policy and trade policy issues.⁴⁶ The Executive Branch agencies with expertise on issues pertaining to national security, law enforcement, foreign policy, and trade policy concerns, have reviewed the Amended & Restated Petition and did not file any objection to issuance of a declaratory ruling or request that we impose conditions on the grant.⁴⁷ We also note that no pleadings have been filed opposing the Amended & Restated Petition.

IV. DECLARATORY RULING

13. Under these circumstances, pursuant to section 310(b) of the Act and sections 1.5001 through 1.5004 of the Commission's rules, we find that the public interest would be served by permitting foreign ownership of Searchlight II HMT's controlling U.S. parent, HMTV, to exceed the 25% benchmarks in section 310(b)(4) of the Act, as amended. We also find that it is in the public interest to permit up to an aggregate 100% indirect foreign ownership of HMTV.

14. *Specific Approval.* We also find no grounds to object to the requests for specific approvals. Therefore, pursuant to section 1.5001(i) of the Commission's rules,⁴⁸ this Declaratory Ruling grants specific approval for the following individuals and entities to hold, indirectly, more than five percent of the equity and/or voting interests of HMTV:

- Erol Uzumeri (<1% Equity and 33.3% Voting) (Canada);
- Oliver Haarmann (<1% Equity and 33.3% Voting) (Germany);
- Searchlight Capital II PV, L.P. (49.23% Equity and 49.23% Voting) (Cayman Islands);
- SC II HMT Holdings, Ltd. (5.49% Equity and 5.49% Voting) (Cayman Islands);
- Searchlight Capital II UNR AIV, L.P. (5.49% Equity and 5.49% Voting) (Cayman Islands); and
- Searchlight Capital Partners II GP, L.P. (<2% Equity and 61.70% Voting) (Cayman Islands).

15. *Advance Approval.* Pursuant to section 1.5001(k) of the Commission's rules,⁴⁹ this Declaratory Ruling also grants advance approval for each of the following individuals or entities to increase their interests in HMTV to the percentages noted below at some future time:

⁴⁵ See Amended & Restated Petition at 16-18; Second Amended & Restated Petition at 16-18 (describing public interest benefits related to this Declaratory Ruling).

⁴⁶ See *2016 Foreign Ownership Order*, 31 FCC Rcd at 11282, para. 15. See also *2020 Process Reform Order* at 10934-36, paras. 17, 24 (2020).

⁴⁷ See *NTIA Letter*.

⁴⁸ 47 CFR § 1.5001(i).

⁴⁹ 47 CFR § 1.5001(k).

- Erol Uzumeri (Up to 49.99% Equity and 49.99% Voting) (Canada);
- Oliver Haarmann (Up to 49.99% Equity and 49.99% Voting) (Germany);
- Searchlight Capital II PV, L.P. (Up to 49.99% Equity and 49.99% Voting) (Cayman Islands);
- SC II HMT Holdings, Ltd. (Up to 49.99% Equity and 49.99% Voting) (Cayman Islands);
- Searchlight Capital II UNR AIV, L.P. (Up to 49.99% Equity and 49.99% Voting) (Cayman Islands); and
- Searchlight Capital Partners II GP, L.P. (Up to 49.99% Equity and 100% Voting) (Cayman Islands).

16. *Additional Terms and Conditions.* This Declaratory Ruling is subject to the terms and conditions set forth in section 1.5004 of the Commission's rules, including the requirement to obtain Commission approval before foreign ownership of HMTV exceeds the terms and conditions of this ruling.⁵⁰ This includes the requirement that HMTV obtain Commission approval for any new or additional foreign individual, entity, or group of such individuals or entities to hold, directly and/or indirectly, more than 5% (or more than 10% for certain investors) of the equity and/or voting interests, or a controlling interest, in the company.⁵¹ If, at any time, HMTV knows, or has reason to know, that it is no longer in compliance with this Declaratory Ruling, section 310(b) of the Act, or the Commission's foreign ownership rules, HMTV shall file a statement with the Commission explaining the circumstances within 30 days of the date that it knew, or had reason to know, that it was no longer in compliance.⁵² HMTV may be subject to enforcement action by the Commission for such non-compliance, including an order requiring divestiture of the foreign investment.⁵³

V. ORDERING CLAUSES

17. Accordingly, **IT IS ORDERED** that, pursuant to section 310(b)(4) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(b)(4), and sections 1.5001 through 1.5004 of the Commission's rules, 47 C.F.R. §§ 1.5001-04, and pursuant to authority delegated to the Media Bureau in sections 0.61 and 0.283 of the Commission's rules, 47 CFR §§ 0.61, 0.283, the Amended & Restated Petition for Declaratory Ruling filed by Searchlight II HMT, L.P., **IS GRANTED** to the extent specified in this Declaratory Ruling and subject to the conditions specified herein.

⁵⁰ See generally 47 CFR § 1.5004. Section 1.5004, *inter alia*, specifies that licensees have an ongoing, proactive obligation to monitor their foreign ownership compliance and to take preemptive action to remain in compliance with the Commission's foreign ownership rules and any declaratory ruling they have received. 47 CFR § 1.5004(a). It sets out the requirements for when a licensee must seek Commission approval prior for any new, not previously approved foreign individuals, entities, or groups acquiring an interest in excess of the specific approval threshold. 47 CFR § 1.5004(a). It sets out a licensee's obligations regarding subsidiaries and affiliates and the insertion of new controlling or non-controlling foreign-organized companies. 47 CFR § 1.5004(b)-(d). It also specifies when a new petition for declaratory ruling must be filed and the obligations for continuing compliance, including how to report inadvertent non-compliance, and how to file a remedial petition for declaratory ruling, as well as the consequences of trying to evade the foreign ownership rules. 47 CFR § 1.5004(e)-(f).

⁵¹ 47 CFR § 1.5004(a)(1).

⁵² See 47 CFR § 1.5004(f)(1). If, for example, a foreign individual or entity should invest in HMTV above the specific approval threshold without Commission approval, HMTV, as licensee, is obligated to follow the steps set out in 47 CFR § 1.5004(f). Subsequent actions taken by or on behalf of HMTV to remedy non-compliance shall not relieve it of the obligation to notify the Commission of the circumstances (including duration) of non-compliance.

⁵³ *Id.*

18. **IT IS FURTHER ORDERED** that this Declaratory Ruling **SHALL BE EFFECTIVE** upon release.

FEDERAL COMMUNICATIONS COMMISSION

Holly Saurer
Chief, Media Bureau