

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

In the Matter of)
)
BAAZ Broadcasting Corporation) MB Docket No. 23-356
)
Petition for Declaratory Ruling Under Section)
310(b)(4) of the Communications Act of 1934, as)
Amended)

DECLARATORY RULING

Adopted: August 2, 2024

Released: August 2, 2024

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Declaratory Ruling (Declaratory Ruling), the Media Bureau (Bureau) grants a petition for a declaratory ruling (Petition) filed by BAAZ Broadcasting Corporation (BAAZ or Petitioner).¹ BAAZ is the licensee of KNTS(AM), Seattle, Washington (Facility ID No. 87153). The Petition asks the Commission to exercise its discretion to permit indirect foreign ownership of Amar Broadcasting, Inc. (Amar Broadcasting), the proposed controlling U.S. parent of BAAZ, to exceed the 25% benchmarks established in section 310(b)(4) of the Communications Act of 1934, as amended, (the Act)² and sections 1.5000 et seq. of the Commission’s rules.³ As discussed below, the Petition seeks authority for up to 100% aggregate foreign investment (voting and equity) in Amar Broadcasting, the

¹ Petition for Declaratory Ruling of BAAZ Broadcasting Corporation, Application File No. 0000219514 (filed Aug. 17, 2023); Amendment to Petition for Declaratory Ruling, Application File No. 0000219514 (filed Aug. 25, 2023) (Amended Petition). The Amended Petition was filed in conjunction with an application submitted by BAAZ seeking Commission consent to the transfer of control of the company, the licensee of KNTS(AM), Seattle, Washington, (Facility ID No. 87153). See Application BAAZ Broadcasting Corporation for Consent to Transfer Control, Application File No. 0000219514 (filed Aug. 17, 2023) (Application).

² 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).

³ 47 CFR §§ 1.5000 et seq. See 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).

proposed controlling U.S. parent of BAAZ, and specific approval⁴ for Sukhdev S. Dhillon, a citizen of Canada, to hold 100% of the equity and voting ownership in Amar Broadcasting.⁵ No comments or oppositions were filed in response to the Petition.⁶ As discussed below, and consistent with the input 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 Petition, subject to the conditions specified below.⁷

II. BACKGROUND

2. *Pending Transaction and Corporate Structure.* The Commission's approval of the Petition is being sought in connection with the proposed transfer of control of BAAZ, a U.S. corporation registered in the state of Washington, to a newly formed corporation, Amar Broadcasting, a U.S. corporation registered in the state of Washington. Presently, BAAZ is owned 80% by Mohan Cheema, a U.S. citizen, and 20% by Sukhdev S. Dhillon, a Canadian citizen. As a result of the proposed transaction, Amar Broadcasting would acquire 100% of the voting and equity interests in BAAZ and, in turn, would be 100% owned by Sukhdev S. Dhillon.⁸

3. Pursuant to section 1.5001(h) of the Commission's rules,⁹ the Petitioner requests approval of up to an aggregate 100% foreign ownership of the proposed controlling U.S. parent, Amar Broadcasting.¹⁰ In addition, Petitioner requests specific approval for Sukhdev S. Dhillon to hold 100% of the equity and voting of Amar Broadcasting, and indirectly, of BAAZ.¹¹

4. *Public Interest Showing.* Petitioner contends that grant of the Petition is in the public interest because it would, among other things, further the Commission's stated goals of encouraging foreign investment and ownership diversity in U.S. broadcast stations and the continuation of operations by such stations.¹² Petitioner also asserts that it "will remain, a minority-owned broadcaster of Punjabi-language radio programming to the Southeast Asian community in Seattle, Washington," and that the infusion of additional capital resulting from the proposed transaction would allow BAAZ to continue and enhance its provision of both locally-produced and internationally-sourced Punjabi-language programming to Seattle listeners.¹³

⁴ Under section 1.5001(i)(1) of the Commission's rules, petitions for a declaratory ruling are required to identify and seek specific approval for any foreign individual, entity, or group that holds or would hold, directly and/or indirectly, more than 5% of equity and/or voting interests, or a controlling interest, in the licensee's controlling U.S. parent, subject to certain exemptions, including an exemption that increases the specific approval threshold to 10% for certain institutional investors. 47 CFR § 1.5001(i)(1).

⁵ Amended Petition at 1-5; Application.

⁶ The Petition was placed on public notice on October 20, 2023, with comments due November 20, 2023, and replies due December 5, 2023. *Media Bureau Announces Filing of Petition for Declaratory Ruling by BAAZ Broadcasting Corporation*, Public Notice, MB Docket No. 23-356, DA 23-1001 (Oct. 20, 2023) (*Public Notice*).

⁷ See *infra* at para. 11.

⁸ Amended Petition at 1-5; Application.

⁹ 47 CFR § 1.5001(h).

¹⁰ Amended Petition at 1-7.

¹¹ *Id.*

¹² *Id.* at 5-6.

¹³ *Id.* at 6-7.

5. *National Security, Law Enforcement, Foreign Policy and Trade Policy Review.* Pursuant to Commission practice, we referred the 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 proposed foreign ownership of BAAZ's proposed controlling U.S. parent, Amar Broadcasting.¹⁴ On December 13, 2023, the Committee notified the Commission that it was reviewing the 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 Petition.¹⁵ Subsequently, on February 8, 2024, the Committee notified the Commission that Petitioner had provided complete responses to the Committee's initial questions and that it was conducting its review to assess whether granting the Petition would pose a risk to the national security or law enforcement interests of the United States.¹⁶ On May 30, 2024, the NTIA submitted a letter to the Commission in which the Committee advised the Commission that it has no recommendation to the Commission at this time and no objection to the Commission granting the Petition.¹⁷

6. *Standard of Review.* We review the 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."¹⁸ 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.¹⁹ 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.²⁰

7. 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.²¹ 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.²² To exercise in a meaningful way the discretion conferred by statute, the

¹⁴ *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)).

¹⁵ Letter from, Mark Goldberg, Attorney Advisor, National Security Division, Department of Justice (DOJ), to Marlene H. Dortch, Secretary, FCC, MB Docket No. 23-356 (filed Dec. 13, 2023).

¹⁶ Letter from Mark Goldberg, Attorney Advisor, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 23-356 (filed Feb. 8, 2024).

¹⁷ Letter from Stephanie Weiner, Chief Counsel, NTIA, to Thomas M. Sullivan, Deputy Chief, Office of International Affairs, FCC, MB Docket No. 23-356 (dated May 30, 2024).

¹⁸ 47 U.S.C. § 310(b)(4).

¹⁹ *See id.*; *2016 Foreign Ownership Order*, 31 FCC Rcd at 11276, para. 5.

²⁰ *2016 Foreign Ownership Order*, 31 FCC Rcd at 11277, para. 6.

²¹ *See generally id.*

²² *Id.* at 11282, para. 15.

Commission must receive detailed information from the applicant sufficient for the Commission to make the public interest finding the statute requires.²³

III. DISCUSSION

10. *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 would be served by permitting foreign ownership of Amar Broadcasting, BAAZ's proposed controlling U.S. parent, in excess of the 25% benchmarks in section 310(b)(4) of the Act and, consequently, we grant the Petition subject to the conditions described below. 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 BAAZ. We further find that it is in the public interest to grant specific approval for the percentages set out to the individual specified in Section IV below. Specifically, we conclude that grant of the Petition is in the public interest because it, among other things, provides the licensee with greater access to foreign capital and thereby contributes to the strengthening of the broadcast industry.²⁴

11. *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.²⁵ The Executive Branch agencies with expertise on issues pertaining to national security, law enforcement, foreign policy, and trade policy concerns, have reviewed the Petition and do not object to the Commission granting it, nor do they request the imposition of any conditions on the grant.²⁶ We also note that no pleadings were filed opposing the Petition.

IV. DECLARATORY RULING

12. Under these circumstances, pursuant to section 310(b) of 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 BAAZ's proposed controlling U.S. parent, Amar Broadcasting, 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% foreign ownership of Amar Broadcasting.

13. *Specific Approval.* We also find no grounds to deny the request for specific approval. Therefore, pursuant to section 1.5001(i) of the Commission's rules,²⁷ this Declaratory Ruling grants specific approval for Sukhdev S. Dhillon, a citizen of Canada, to hold 100% of the equity and voting interests in Amar Broadcasting.

16. *Additional Terms and Conditions.* Under this Declaratory Ruling, the Petitioner has an affirmative duty to monitor its foreign equity and voting interests, calculate those interests consistent with the principles enunciated by the Commission, including the standards and criteria set forth in sections 1.5002 through 1.5003 of the Commission's rules,²⁸ and otherwise ensure continuing compliance with the

²³ 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).

²⁴ See Amended Petition at 5-7 (describing public interest benefits arising from approval of the Petition and the related transaction).

²⁵ 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).

²⁶ See Letter from Stephanie Weiner, Chief Counsel, NTIA, to Thomas M. Sullivan, Deputy Chief, Office of International Affairs, FCC, MB Docket No. 23-356 (dated May 30, 2024).

²⁷ 47 CFR § 1.5001(i).

²⁸ 47 CFR §§ 1.5002-1.5003.

provisions of section 310(b) of the Act.²⁹ 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 Petitioner exceeds the terms and conditions of this Declaratory Ruling.³⁰ This includes the requirement that Petitioner 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 for any foreign individual, entity, or group to hold a controlling interest, in the company.³¹ If, at any time, Petitioner 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, Petitioner 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.³² Petitioner may be subject to enforcement action by the Commission for such non-compliance, including an order requiring divestiture of the foreign investment.³³

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 CFR §§ 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 Petition for Declaratory Ruling filed by BAAZ Broadcasting Corporation **IS GRANTED** subject to the conditions specified herein.

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

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

²⁹ 47 CFR § 1.5004, note to paragraph (a).

³⁰ 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). This rule section sets out the requirements for when a licensee must seek prior Commission approval 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).

³¹ 47 CFR § 1.5004(a)(1).

³² See 47 CFR § 1.5004(f)(1). If, for example, a foreign individual or entity should invest in BAAZ above the specific approval threshold without Commission approval, BAAZ, as licensee, is obligated to follow the steps set out in 47 CFR § 1.5004(f). Subsequent actions taken by or on behalf of BAAZ to remedy non-compliance shall not relieve it of the obligation to notify the Commission of the circumstances (including duration) of non-compliance.

³³ *Id.*