

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

In the Matter of)	
)	
Glentel Corp.)	
)	File No. SES-LIC-19990813-01431
For Blanket Authorization to operate up to)	
50,000 mobile satellite earth terminals (E990349))	
through Canadian-licensed satellite MSAT-1 at)	
106.5 degrees W.L. in frequency bands 1530-1559)	
MHz and 1631.5 – 1660.5 MHz throughout the)	
Continental United States, United States)	
Territories, Alaska, and Hawaii)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: June 27, 2002

Released: June 28, 2002

By the Deputy Chief, Satellite Division:

I. Introduction

1. By this Order, we dismiss, without prejudice, the referenced application filed by Glentel Corp. (Glentel) for blanket authority to operate up to 50,000 mobile earth terminals (METs) to provide mobile satellite service (MSS), on a common carrier basis, in the United States via a Canadian-licensed satellite operating in portions of the L-band spectrum.¹ Based on the record before us, Glentel failed to comply with the direct ownership restrictions of Section 310 (b) (3) the Communications Act of 1934, as amended.²

II. Background

2. On August 13, 1999, Glentel, a Canadian-owned, U.S. corporation filed an application requesting blanket authority to operate up to 50,000 full-duplex³ METs throughout the United States using the Canadian-licensed MSAT-1 satellite at 106.5° W.L.. MSAT-1 operates in the frequency bands 1626.5-1660.5 MHz (transmit) and 1525-1559 MHz (receive). The METs are to be used to provide circuit-switched mobile telephone service and packet-switched data service to land vehicles, maritime and aeronautical

¹The “L-band” is a general designation for frequencies from 1 to 2 GHz. In this *Order and Authorization*, however, the term “L-band” denotes only the 1545-1559 MHz and 1646.5-1660.5 MHz frequency band (“upper L-band”) and the 1525-1530 MHz, 1530-1544 MHz, and 1626.5-1645.5 MHz frequency bands (“lower L-band”). The United States is the only country that distinguishes between the “upper” and “lower” L-band.

² 47 U.S.C. § 310 (b)(3).

³ A full-duplex MET can receive a data message while transmitting one. Conversely, a half-duplex cannot receive and transmit data messages simultaneously. It must finish transmitting before it can receive an incoming message.

vessels, and temporary fixed stations on a common carrier basis. The proposed METs would transmit in the frequency bands 1631.5-1660.5 MHz and receive in the frequency bands 1530-1559 MHz. According to Glentel, a mobile terminal consists of an antenna, radio transceiver and one or more user interface devices such as mobile telephone handsets, facsimile equipment, or data terminal devices.⁴ Globalstar L.P. (Globalstar) filed a petition to dismiss or deny, in part, Glentel's application.

III. Discussion

3. Glentel has not demonstrated that it is eligible to be a Commission licensee. Glentel fails to meet the requirements to hold a radio license under Title III of the Communications Act of 1934, as amended (Act). Specifically, Section 310 of the Act places restrictions on the foreign ownership of radio station licensees. According to its application, Glentel states that it intends to provide service as a common carrier, via terminals located in the United States.⁵ Glentel also states that it is a wholly-owned subsidiary of a Canadian corporation that is Canadian-owned.⁶ As such, it is prohibited from holding a U.S. radio station license.

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

(b) No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by –

(3) any corporation organization of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives of by a foreign government or representatives thereof or by any corporation organized under the laws of a foreign country[.]⁷

5. Thus, Section 310(b) (3) establishes an absolute prohibition on direct foreign interests exceeding the 20 percent limit.⁸ Based on the record before us, Glentel has not demonstrated that its direct foreign ownership is 20 percent or less as required by Section 310(b) (3) of the Act. Consequently, for this reason, we dismiss Glentel's application.⁹

⁴ See Glentel Application Exhibit A.

⁵ See Glentel Application at 2.

⁶ Glentel is organized under the laws of the state of Washington. It is a wholly owned subsidiary of Glentel Inc., a Canadian corporation that is Canadian-owned. See Glentel application Exhibit C.

⁷ 47 U.S.C. § 310(b) (3).

⁸ See *Applications of VoiceStream Wireless Corporation, Powertel, Inc. Transferors, and Deutsche Telekom AG, Transferee, for Consent to Transfer Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and for Declaratory Ruling pursuant to Section 310 of the Communications Act*, IB Docket No. 00-187, Memorandum Opinion and Order, 16 FCC Rcd 9779 at ¶ 35 (2001) (*VoiceStream/Deutsche Telekom Order*).

⁹ Our ruling applies to the direct ownership presented in this case. The United States' World Trade Organization (WTO) commitments specifically recognizes the limitations in Section 310(b)(3) of the Act. Indirect foreign ownership, on the other hand, is governed by Section 310(b)(4) of the Act, 47 U.S.C. § 310(b)(4). That provision extends the foreign ownership prohibition to any corporation that is directly or indirectly controlled by another (continued....)

6. We take this opportunity to deny Globalstar's petition because the issues it raises have been addressed in other L-band proceedings and were found to be without merit.¹⁰

IV. Conclusion and Ordering Clauses

7. For the foregoing reasons, we find that it would not be in the public interest to grant Glentel blanket authority to operate up to 50,000 METs via MSAT-1 for the provision of MSS in the United States.

8. Accordingly, IT IS ORDERED that Application File No.SES-LIC-19990813-01431 IS DISMISSED, without prejudice.

9. IT IS FURTHER ORDERED that the Petition to Dismiss or Deny in Part of Globalstar, L.P. IS DENIED.

10. This Order is issued pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Cassandra C. Thomas
Deputy Chief, Satellite Division

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corporation that is more than 25 percent owned by foreign individuals or entities, if the Commission finds that the public interest will be served by not granting a license. See *VoiceStream/Deutsche Telekom Order*, 16 FCC Rcd at ¶ 34. In *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB Docket Nos. 97-142, 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997) (*Foreign Participation Order*); Order on Reconsideration, 15 FCC Rcd 18158 (2001), the Commission concluded that the public interest would be served by permitting greater investment in U.S. common carrier and aeronautical fixed and en route radio licensees by entities from WTO Member countries, such as Canada. With respect to indirect foreign investment from WTO Member countries there is a rebuttable presumption that such investment generally raises no competitive concerns. The Commission uses a "principal place of business" test to determine the nationality or "home market" of foreign investors. See *Foreign Participation Order*, 12 FCC Rcd at 23941.

¹⁰ Globalstar contends that Glentel's application can not be granted because there are no licensing policies for MSS in the lower L-band. Subsequent to Globalstar's petition, the Commission released *In the Matter of Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the Upper and Lower L-Band*, Report and Order, 17 FCC Rcd 2704 (2002), which established the Commission's licensing policy and technical requirements governing use of the lower L-band frequencies. Consequently, the issues raised by Globalstar are now moot.