



PUBLIC NOTICE

Federal Communications Commission
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PANDORA RADIO LLC SEEKS FOREIGN OWNERSHIP RULING PURSUANT TO SECTION 310(b)(4) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

PLEADING CYCLE ESTABLISHED

MB Docket No. 14-109

Comment Date: August 28, 2014
Reply Comment Date: September 29, 2014

I. INTRODUCTION

Pandora Radio LLC (“Pandora Radio”) has filed a petition for declaratory ruling (“Petition”) with the Commission requesting that the Commission find, pursuant to section 310(b)(4) of the Communications Act of 1934, as amended,¹ that it would not serve the public interest to prohibit its shareholders from holding aggregate foreign ownership in Pandora’s controlling parent company, Pandora Media, Inc. (“Pandora”), in excess of the 25 percent benchmark in section 310(b)(4).

The Petition is filed in connection with a pending application to assign FM broadcast station KXMZ(FM), Box Elder, South Dakota, from Connoisseur Media Licenses, LLC to Pandora Radio.² Pandora Radio states that although it has reasonable grounds to believe that it complies with the statutory 25 percent foreign ownership benchmark, it is unable to demonstrate such compliance under the guidelines for publicly traded companies set out by the Audio Division in this proceeding, primarily due to the fact that the identity, and therefore the citizenship of more than half of the beneficial owners of outstanding Pandora shares cannot be ascertained due to Securities and Exchange Commission (“SEC”) shareholder privacy regulations.³ Therefore, Pandora Radio seeks a declaratory ruling to allow foreign investors to hold up to a 49.99 percent voting interest and 100 percent equity interest in Pandora, its parent company, without additional Commission approval. Under this requested ruling, Pandora would be required to obtain prior Commission approval for the aggregate voting authority of foreign investors to exceed 49.99 percent, or if any change in the Board of Directors is proposed that would result in the majority of the Board no longer being comprised of U.S. citizens.⁴ Pandora Radio requests that the ruling

¹ 47 U.S.C. § 310(b)(4); *see also Commission Policies and Procedures Under Section 310(b)(4) of the Communications Act, Foreign Investment in Broadcast Licensees*, Declaratory Ruling, 28 FCC Rcd 16244 (2013).

² *See* File No. BALH-20130620ABJ (“Assignment Application”).

³ Petition at 9. These unidentified beneficial shareholders that object to the disclosure of their identity are known as “objecting beneficial owners,” or OBOs. Their shares are typically held and registered in “street name” by broker or bank intermediaries. *Id.* at 9-10.

⁴ Petition at 29.

be prospectively applied to any of Pandora's affiliates that are wholly owned and controlled by Pandora or have common control with Pandora.⁵

Alternatively, Pandora Radio requests that the Commission issue a declaratory ruling following its general common carrier policy, *i.e.*, to permit 100 percent foreign equity and voting control without prior Commission approval, provided that no foreign investor that is not named in the Petition increases its equity or voting interest in Pandora to five percent (or 10 percent for certain institutional investors).⁶

In support of its Petition, Pandora Radio states that Pandora is a publicly traded United States company, incorporated in Delaware, and that the majority of its executive officers and directors, as well as its customers, are U.S. citizens.⁷ Pandora also asserts that the majority of its outstanding shares are voted by a widely dispersed group of U.S. citizens.⁸ Pandora Radio asserts that granting its request would be in the public interest because it would be a new entrant to the broadcast market that would "bring an innovative new programming model to, and to commit new capital to, the radio sector."⁹ Pandora Radio further states that grant of its request would "enhance both the localism and diversity of voices in the Rapid City radio market."¹⁰

Pandora Radio proposes to monitor its foreign voting control levels using SEC Schedules 13D and 13G, which must be filed with the SEC whenever a shareholder acquires a five percent or greater voting share in Pandora's outstanding stock.¹¹ Using such reports, Pandora Radio claims that it can "ensure that neither a single foreign entity nor any combination of foreign entities will be able to obtain voting control over the company without prior Commission approval and an opportunity for the Executive Branch to evaluate the matter."¹²

II. *EX PARTE* STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,¹³ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.¹⁴

⁵ Petition at 27. Pandora contends that this will avoid the need for Pandora and its affiliates to file further petitions for declaratory ruling under section 310(b)(4) in the future, prior to acquiring any additional broadcast licenses.

⁶ Petition at 32-33. Under this alternative proposal, any foreign investor named in the Petition (as amended) may increase its equity and/or voting interest in Pandora to 49.99 percent at some future time without additional Commission approval. *Id.*

⁷ Petition at 5-6.

⁸ Petition at 24 (relying on data obtained from SEC Forms 13F) ; *see also* Assignment Application, Exhibit 14, "Parties to the Application."

⁹ Petition at 14-16.

¹⁰ Petition at 15.

¹¹ Petition at 3, 31-32. These Schedules also require disclosure of any plan or proposal to influence the management or operation of the company. *Id.*

¹² Petition at 32.

¹³ 47 C.F.R. § 1.1200(a).

¹⁴ 47 C.F.R. § 1.1206.

Parties making oral *ex parte* presentations are directed to the Commission's *ex parte* rules. Parties are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.¹⁵ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁶ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.¹⁷

III. GENERAL INFORMATION

The Petition has been found, upon initial review, to be acceptable for filing. The Commission may, of course, require Pandora to submit any additional documents or statements of fact that in its judgment may be necessary, or to amend the underlying application so as to make it "more definite and certain."¹⁸ The Commission also reserves the right to return the Petition if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies.

Interested parties must file comments no later than August 28, 2014. Persons and entities that file comments become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts. Replies to such pleadings must be filed no later than September 27, 2014. All filings concerning matters referenced in this Public Notice should refer to MB Docket No. 14-109.

To allow the Commission to consider fully all substantive issues regarding the applications in as timely and efficient a manner as possible, commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹⁹ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Under the Commission's current procedures for the submission of filings and other documents,²⁰ submissions in this matter may be filed electronically through the Commission's Electronic Comment Filing System ("ECFS") or by hand delivery to the Commission.

- **If filed by ECFS,**²¹ comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail.

¹⁵ See 47 C.F.R. § 1.1206(b)(1).

¹⁶ See *id.*

¹⁷ 47 C.F.R. § 1.1206(b).

¹⁸ 47 C.F.R. § 73.3514(b); see also *BBC License Subsidiary, L.P.*, Order, 10 FCC Rcd 2458, 2461 (MMB 1994).

¹⁹ See 47 C.F.R. § 1.45(c).

²⁰ See *FCC Announces Change in Filing Location for Paper Documents*, Public Notice, 24 FCC Rcd 14312 (2009).

²¹ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

- **If filed by paper**, the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, D.C. 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at FCC@BCPIWEB.COM or (202) 488-5563 (facsimile); Peter Doyle, Audio Division, Media Bureau, at peter.doyle@fcc.gov or (202) 418-1410 (facsimile); Lisa Scanlan, Audio Division, Media Bureau, at lisa.scanlan@fcc.gov (202) 418-1410 (facsimile); and (3) Christine Goepf, Audio Division, Media Bureau, at christine.goepf@fcc.gov or (202) 418-1410 (facsimile). Any submission that is e-mailed to Best Copy and Printing, Peter Doyle, Lisa Scanlan, and Christine Goepf should include in the subject line of the e-mail: (1) MB Docket No. 14-109; (2) the name of the submitting party; and (3) a brief description or title identifying the type of document being submitted (*e.g.*, MB Docket No. 14-109, [name of submitting party], Comments).

Copies of the Petition and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc. in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via email at FCC@BCPIWEB.COM. The Petition and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. In addition, the Petition is available electronically through the Media Bureau's Consolidated Database System ("CDBS"), which may be accessed on the Commission's Internet website.²²

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov; phone: (202) 418-0530 or TTY: (202) 418-0432.

²² On July 27, 2014, Pandora Radio amended the underlying assignment application, attaching the Petition as new Exhibit 24. *See* File No. BALH-20130620ABJ in CDBS Public Access.

For further information, contact Christine Goepp, Audio Division, Media Bureau, at (202) 418-7834, or Lisa Scanlan, Audio Division, Media Bureau, at (202) 418-2700. Press inquiries should be directed to Janice Wise, Media Bureau, (202) 418-2555 or (888) 835-5322.

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