



PUBLIC NOTICE

Federal Communications Commission
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DA No. 19-1317

Released: December 20, 2019

MEDIA BUREAU ANNOUNCES FILING OF PETITION FOR DECLARATORY RULING BY LIBERMAN BROADCASTING, INC.

MB Docket No. 19-386

Comment Date: January 21, 2020

Reply Date: February 5, 2020

Liberman Broadcasting, Inc. (Liberman Broadcasting), the indirect parent of six subsidiaries that hold broadcast television and radio and other Commission licenses, has filed a petition for declaratory ruling¹ (Petition) asking the Federal Communications Commission to allow it to accept foreign investment in excess of the 25% benchmark set forth in section 310(b)(4) of the Communications Act of 1934, as amended (the Act).² Specifically, Liberman Broadcasting seeks Commission authorization for foreign investors to own up to 100% of its equity and voting interests, and specific approval³ for certain foreign investors that seek to directly or indirectly hold more than 10% of the company's equity, and/or hold equity interests that will cause them to be deemed to hold more than 10% of Liberman Broadcasting's voting rights.⁴

Liberman Broadcasting's Petition was prompted because of its recent bankruptcy reorganization.⁵ Prior to emerging from bankruptcy, it was granted a temporary waiver of section 1.5000(a)(1) of the Commission's rules, which requires the parties to file a petition for declaratory ruling under section 310(b)(4) of the Act, and obtain such approval, before the aggregate ownership of any controlling U.S.

¹ 47 CFR § 1.5000 *et seq.*

² 47 U.S.C. § 310(b)(4) (“No broadcast station 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”).

³ Under section 1.5001(i)(1) of the Commission's rules, petitioners 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 petitioner'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)(3).

⁴ Petition at 4. Liberman states that these investors are insulated in accordance with the Commission's broadcast ownership rules. *Id.* at n.3.

⁵ *Id.* at 3. Liberman emerged from bankruptcy on October 15, 2019. *Id.*

organized parent company's equity and/or voting interests, directly or indirectly, exceeds 25%.⁶ As a condition of the temporary waiver, Liberman Broadcasting has filed the present Petition, in which it describes how it has agreed to reorganize subsequent to its emergence from bankruptcy.⁷ The Petition also states that granting the Petition is in the public interest because it provides a unique voice to the expanding Hispanic media marketplace, encourages foreign investment, and would further U.S. trade policy.⁸

Pursuant to its reorganization plan, SLA, a Delaware limited liability company, will acquire 100% of the outstanding New Equity Interests⁹ and 100% of the outstanding Warrants of Liberman Broadcasting.¹⁰ HPS Group GP, LLC ("HPS Group GP"), a Delaware limited liability company, will be the sole non-member manager of SLA.¹¹ Scott Kapnick ("Kapnick"), a U.S. citizen, is the sole member and manager of HPS Group GP.¹² Through HPS Group GP, LLC, Kapnick will control 100% of the voting rights in SLA and, indirectly, 100% of the voting rights in Liberman Broadcasting.¹³ SLA will exercise 100% of the Warrants for New Equity Interests and SLA will be the sole shareholder of Liberman Broadcasting.¹⁴

In addition to its sole non-member manager, SLA will have nine insulated members, six of which will have an indirect equity interest of 10% or less.¹⁵ The three members that would hold an indirect equity interest in SLA are: (1) SLF 2016 JL Subsidiary I, L.P.; (2) SLF 2016 JL Subsidiary I-A, L.P.; and (3) Aiguilles Rouges Sector F Investment Fund, L.P. ("Aiguilles").¹⁶

SLF 2016 JL Subsidiary I, L.P., a Cayman Islands limited partnership, would hold a 26.45% interest in SLA.¹⁷ SLF 2016 JL Subsidiary I, L.P. has two insulated limited partners—one, Specialty Loan Fund 2016 L.P., a Cayman Islands limited partnership, has a 19.43% indirect equity interest in Liberman Broadcasting.¹⁸ HPS GP, Ltd., a Cayman Islands corporation, is a general partner of SLF 2016 JL Subsidiary I, L.P., and is owned equally by Clive Harris ("Harris") and Richard Crawshaw

⁶ *Liberman Television of Dallas License, LLC, Debtor-in-Possession*, Order, DA 19-1012 (rel. Oct. 4, 2019). Pursuant to its original court-approved reorganization plan, Liberman Broadcasting issued new capital stock ("New Equity Interests") and/or warrants to purchase New Equity Interests ("Warrants") to creditors. "New Equity Interests" refers to Liberman Broadcasting's issuance of new capital stock, and "Warrants" refers to the ability of an entity to purchase Liberman Broadcasting's New Equity Interests. *See id.* at 3. In order to allow it to proceed with its emergence from bankruptcy, Liberman Broadcasting was granted a temporary waiver of section 1.5000(a)(1) of the Commission's rules and has since reorganized, as described herein, in an effort to comply with section 1.5000(a)(1).

⁷ *See* File Nos. BTC-20191114AAY, BTCCDT-20191114ABK, BTCCDT-20191114ABY, BTC-20191114ABF, BTCCDT-20191114ABL, and BTC-20191114ABZ.

⁸ *Id.* at 15–20.

⁹ *Id.* at 3.

¹⁰ *Id.* at 6.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Chengdong Investment Corporation, a Chinese sovereign wealth fund, would acquire an insulated indirect equity interest of approximately 4.64% in Liberman Broadcasting. *Id.* at 13.

¹⁶ *Id.* at 7.

¹⁷ *Id.*

("Crawshaw"), both citizens of the United Kingdom.¹⁹ HPS GP, Ltd. would hold no equity and would have a voting interest equal to SLF 2016 JL Subsidiary I, L.P.'s interest in SLA.²⁰

SLF 2016 JL Subsidiary I-A, L.P. has four insulated limited partners, and only one, SLF 2016 Institutional Holdings, L.P., a Cayman Islands partnership, would hold an indirect equity interest in Liberman Broadcasting greater than 10%.²¹ SLF 2016 Institutional Holdings, L.P.'s sole general partner is HPS GP, Ltd., and its sole limited partner is SLF 2016 Institutional Holdings Lux Sàrl.²² SLF 2016 Institutional Holdings Lux Sàrl's sole member is Specialty Loan Institutional Fund 2016-L, L.P., a Cayman Islands limited partnership, whose general partner is HPS GP, Ltd.²³

Aiguilles Rouges Sector F Investment Fund, L.P., a Canadian limited partnership, has one general partner, Highbridge GP III, Ltd., a Cayman Islands corporation owned equally by Harris and Crawshaw.²⁴ Aiguilles has two insulated limited partners, a Canadian limited partnership and an Irish corporation. Only the Canadian limited partnership, Aiguilles Rouges Specialty Loan Fund, L.P., would have an indirect equity interest in Liberman Broadcasting that exceeds 10%.²⁵ Both the Canadian limited partnership and the aforementioned Irish Corporation are controlled by AXA SA (AXA), a French corporation.²⁶ AXA would hold an indirect equity interest of approximately 24.25% in Liberman Broadcasting.²⁷

The Petition has been found, on initial review, to be acceptable for filing. The Commission may require Liberman Broadcasting to submit any additional documents or statements of fact that in its judgment may be necessary. The Commission also reserves the right to return the Petition if, on further examination, it is determined to be defective and not in conformance with its rules and policies.

EX PARTE STATUS OF THIS PROCEEDING

In order to assure the staff's ability to discuss and obtain information needed to resolve the issues presented by this Public Notice and pursuant to section 1.1200(a) of the rules,²⁸ we establish a docket for this proceeding and announce that the *ex parte* procedures applicable to permit-but-disclose proceedings will govern our consideration of these applications.²⁹

(Continued from previous page) _____

¹⁸ *Id.* at 8.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 9.

²² *Id.*

²³ *Id.* at 9–10.

²⁴ *Id.* at 10.

²⁵ *Id.* at 11.

²⁶ *Id.*

²⁷ *Id.* AXA would hold a 24.25% indirect equity interest in Liberman Broadcasting as a result of its ultimate control of other entities.

²⁸ 47 CFR § 1.1200(a).

²⁹ *See id.* § 1.1206.

The proceeding in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.³⁰ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, then the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.³¹ We strongly urge parties to use the Electronic Comment Filing System (ECFS) to file *ex parte* submissions. All *ex parte* filings must be clearly labeled as such and must reference MB Docket No. 19-386.

GENERAL INFORMATION

The petition for declaratory ruling referred to in this Public Notice has been accepted for filing upon initial review. The Commission reserves the right to return any filing if, upon further examination, it is determined to be defective and not in conformance with the Commission’s rules or policies. Interested persons must file comments no later than **January 21, 2020**. Replies must be filed no later than **February 5, 2020**.

To allow the Commission to fully consider all substantive issues regarding the applications in as timely and efficient a manner as possible, commenters should raise all issues in their initial filings. 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.³² 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.

All filings concerning matters referenced in this Public Notice should refer to MB Docket No.19-386, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

Submissions in this matter may be filed electronically (i.e., through ECFS) or by filing paper copies.

- Electronic Filers: Documents may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each

³⁰ *Id.* § 1.1200 *et seq.*

³¹ *Id.* § 1.1206(b)(2).

³² *See id.* §§ 1.46(a), 73.3584(e).

filing. Filings may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554.

- All hand-delivered or messenger-delivered paper filings no larger than a copier paper box for the Commission's Secretary must be delivered to the Mail and Distribution Window at FCC Headquarters at 445 12th Street, S.W., Washington, D.C. 20554. The filing hours 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 9050 Junction Drive, Annapolis Junction, MD 20701.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, S.W., Washington, DC 20554.

In addition, one copy of each submission must be sent to the following:

- David Brown, Video Division, Media Bureau, Room 2-A662, e-mail David.Brown@fcc.gov
- David Roberts, Video Division, Media Bureau, Room 2-A660, e-mail David.Roberts@fcc.gov
- Tyler Bridegan, Video Division, Media Bureau, Room 2-A827, e-mail Tyler.Bridegan@fcc.gov

Any submission that is e-mailed to David Brown, David Roberts, or Tyler Bridegan should include in the subject line of the email: (1) MB Docket No. 19-386; (2) the name of the submitting part; (3) a brief description or title identifying the type of document being submitted (e.g., MB Docket No. 19-386, Liberman Broadcasting Petition for Declaratory Ruling, *Ex Parte* Notice).

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Availability of Documents. Documents in this proceeding will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554.

The applications are also available electronically through the Commission's ECFS, which will provide hyperlinks to the applications in the Media Bureau's Consolidated Database System (CDBS). ECFS may be accessed on the Commission's Internet website at <http://www.fcc.gov>.

For further information, contact David Brown at (202) 418-1645, David Roberts at (202) 418-1618, or Tyler Bridegan at (202) 418-1087. For press inquiries, contact Janice Wise at (202) 418-8165.

By: Chief, Media Bureau