



PUBLIC NOTICE

Federal Communications Commission
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DA 21-449
April 20, 2021

**CONSOLIDATED COMMUNICATIONS HOLDINGS, INC. AND
SEARCHLIGHT III CVL, L.P. FILE
A PETITION FOR DECLARATORY RULING**

PLEADING CYCLE ESTABLISHED

IB Docket No. IB 21-172; IBFS File No. ISP-PDR- 20210105-00001

Comments/Petitions Due: May 20, 2021

Reply Comments/Oppositions to Petitions Due: June 4, 2021

Consolidated Communications Holdings, Inc. (Consolidated) and Searchlight III CVL, L.P. (Searchlight Aggregator) (together, Petitioners) have filed a petition for a new declaratory ruling (Petition)¹ pursuant to section 310(b)(4) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(b)(4), and section 1.5000(a)(1) of the Commission's rules, 47 CFR § 1.5000(a)(1), to permit foreign ownership of the proposed controlling U.S. parent, Consolidated Communications, Inc. (CCI), to exceed the 25% benchmark specified in section 310(b)(4) of the Act. CCI is the parent of three licensees that hold common carrier wireless licenses.² Petitioners assert that the proposed foreign ownership of the controlling U.S. parent, CCI, would serve the public interest.

¹ See Restated Petition for Declaratory Ruling, File No. ISP-PDR- 20210105-00001 (filed Jan. 5, 2021) (Petition). Petitioners filed a petition for declaratory ruling (File No. ISP-PDR-20201026-00011) on Oct. 26, 2020; withdrawn on Mar. 26, 2021. Petitioners filed a supplement on March 25, 2021 providing additional ownership information. Letter from Karen Brinkmann, Counsel for Consolidated, to Marlene H. Dortch, FCC, IBFS File No. ISP-PDR-20210105-00001 (filed Mar. 25, 2021) (March 25, 2021 Supplement). Petitioners also filed applications for the transfer of authorization associated with wireless licenses. See ULS File Nos. 0009400415, 0009396563, 0009400421, and 0009408193. Any action on this petition for declaratory ruling is without prejudice to Commission action on other related pending applications.

² Consolidated Communications of Northern New England Company, LLC, formerly Northern New England Telephone Operations LCC, and Consolidated Communications of Washington Company, LLC, formerly Ellensburg Telephone Company, provide Common Carrier Fixed Point to Point Microwave services. Consolidated Communications Enterprise Services, Inc. provides Millimeter Wave 70/80/90 GHz and Upper Microwave Flexible Use services. Petition, Exh. B at 2-3.

Searchlight Aggregator, a Delaware limited partnership, is a special purpose vehicle that, through Searchlight III CVL II, L.P. (Searchlight Aggregator II), also a Delaware limited partnership, is acting as an aggregator of a group of investment funds affiliated with Searchlight Capital Partners, L.P. (Searchlight), a Delaware limited partnership.³ According to the Petition, Searchlight is a global private equity investment company whose funds invest in companies across various sectors, including communications, media, consumer, and business services.⁴

Petitioners state that, pursuant to an investment agreement dated September 14, 2020, they agreed to a two-stage transaction that would ultimately result in Searchlight Aggregator owning 35% of Consolidated's common voting stock and up to approximately 62.4% of its equity⁵ in exchange for a total investment of \$425 million.⁶ According to the Petition, at the first stage of the transaction, which closed on October 2, 2020, Searchlight invested \$350 million in return for: (1) 8% of Consolidated's outstanding common voting stock; (2) a Contingent Payment Right (CPR) representing the right to receive either cash or, upon the receipt of certain regulatory and shareholder approvals, up to an additional 16.9% of Consolidated's outstanding common voting stock;⁷ and (3) the future right to receive a note with a principal amount of approximately \$395 million (the Note).⁸ The Petitioners state the Note, being held in escrow, may become convertible into non-voting Series A Perpetual Preferred Stock (Preferred Stock) following the grant of a declaratory ruling and consummation of the second stage of the transaction.⁹

According to the Petition, the CPR entitles Searchlight Aggregator to a cash payment upon exercise or to specified amounts of Consolidated's common voting stock based upon receipt of approval by various state public utility commission, receipt of shareholder approval, or transfers of common voting shares by Searchlight Aggregator or its affiliates.¹⁰ In addition, Petitioners state that the aggregate foreign ownership in Consolidated remains below the 25% benchmark specified in section 310(b)(4) of the Act with the CPR treated as equity.¹¹

Petitioners state that at the closing of the first stage of the transaction, the sole limited partner of Searchlight Aggregator was Searchlight Aggregator II, holding an insulated interest.¹²

³ Petition at 4.

⁴ *Id.*

⁵ According to the Petition, the exact percentage of Consolidated's total equity that Searchlight would hold at the second closing would vary based on the aggregate principal amount of the Note on the date of its conversion into the non-voting Preferred Stock and the value of Consolidated's common voting stock on that date. *Id.* at 5.

⁶ *Id.* at 4-5.

⁷ For purposes of the Petition, the CPR was treated as equity. *Id.* at 6.

⁸ *Id.* at 5-6.

⁹ *Id.* at 6.

¹⁰ *Id.* at 6.

¹¹ *Id.* at 6-7 and Exh. B at 8-12.

¹² *Id.* at 10.

However, Searchlight Capital III CVL Co-Invest Partners, L.P. (Co-Invest Partners), a Delaware limited partnership, subsequently became an additional insulated limited partner of Searchlight Aggregator and holds approximately 42% of its equity and no voting rights, reducing Searchlight Aggregator II's equity percentage to approximately 58%.¹³ The general partner of both Searchlight Aggregator and Searchlight Aggregator II is Searchlight III CVL GP, LLC, a Delaware limited liability company, which in turn is owned by Eric Zinterhofer, a U.S. citizen.¹⁴

According to the Petition, the limited partners of Searchlight Aggregator II, all of which are insulated, are Searchlight Capital III OPT, L.P. (Main Fund AIV), Searchlight Capital III OPT PV A, L/P. (PV Fund AIV A), and SC III PV CVL, L.P. (PV Splitter).¹⁵ These limited partners are investment funds, all of which are Delaware limited partnerships, and collectively hold a 100% equity interest in Searchlight Aggregator II.¹⁶ Petitioners state that the limited partners of Main Fund, PV Fund AIV A, and Co-Invest Partners are insulated.¹⁷ The sole limited partner of PV Splitter is SC III PV Cavalier Holdings, LP (SC III Cavalier), a Cayman Islands exempted limited partnership. In turn, the sole limited partner of SC III Cavalier is Searchlight Capital III OPT PV B, L.P. (PV Fund AIV B), a Delaware limited partnership.¹⁸ The limited partners of PV FUND AIV B are insulated and none of the limited partners would hold an indirect equity or voting interest in Consolidated of more than 10%, according to Petitioners.¹⁹

The Petition states that the second stage of the transaction would be consummated following grant of a declaratory ruling and shareholder approval.²⁰ According to the Petition, at the second stage of the transaction, Searchlight Aggregator would invest in an additional \$75 million in Consolidated in exchange for: (1) shares of common voting stock and/or a CPR representing an additional 10.1% of Consolidated's outstanding common voting stock;²¹ and (2) receipt of the Note, which would become convertible into shares of non-voting Preferred Stock representing up to approximately an additional 42.1% of Consolidated's total equity.²² After the closing of the second

¹³ *Id.* at 10.

¹⁴ *Id.* at 10.

¹⁵ *Id.* at 11.

¹⁶ *Id.* at 11.

¹⁷ *Id.* at 11-13. According to the Petition, it is currently not anticipated that any such limited partner would hold an indirect equity or voting interest in Consolidated of more than 10%. *Id.*

¹⁸ *Id.* at 12.

¹⁹ *Id.* at 12-13. According to the Petition, all of the insulated limited partners of PV Fund AIV B are non-U.S.-based. The Petition provides a summary of the countries of citizenship or organization for the limited partners and approximate ranges of indirect equity and deemed voting interests. *Id.* at 13, n.23.

²⁰ *Id.* at 7.

²¹ According to the Petition, at the closing of the second stage of the transaction, the allocation between the common voting stock and the CPR to be issued would depend on the extent to which various state public utility commission and shareholder approvals have been received. *Id.* at 7.

²² Petition at 7. "The Note may be issued before this time in the event of termination of or intent to terminate the investment agreement between the parties or certain defaults under Consolidated's debt agreements, but

stage of the transaction and conversion of the CPR and the Note, the Petitioners state Searchlight Aggregator would own 35% of Consolidated's common voting stock and all of the non-voting Preferred Stock, which together would represent approximately 62.4% of the company's total equity.²³

At the closing of the second stage of the transaction, Searchlight Capital Partners III GP, L.P. (Searchlight III GP), a Cayman Islands exempted limited partnership, would become the general partner of both Searchlight Aggregator and Searchlight Aggregator II.²⁴ According to the Petition, none of the limited partners of Searchlight III GP, which are all insulated, would hold either indirect equity or voting interests in Consolidated of more than 10%.²⁵ Consolidated, in turn, wholly owns CCI, an Illinois corporation,²⁶ which is the parent company of the following three licensee subsidiaries that hold common carrier licenses subject to Section 310(b)(4): Consolidated Communications of Northern New England Company, LLC, Consolidated Communications of Washington Company, LLC, and Consolidated Communications Enterprise Services, Inc.²⁷ Searchlight III GP is controlled by its general partner, Searchlight Capital Partners III GP, LLC (Upper GP), a Delaware limited company.²⁸ Upper GP, in turn, is currently controlled by Eric Zinterhofer (33.3% equity and voting), Erol Uzumeri (33.3% equity and voting), a Canadian citizen, and Oliver Haarmann (33.3% equity and voting), a German citizen.²⁹ Petitioners state the exact equity interests that would be held by each limited partner of Searchlight Aggregators II (Main Fund AIV, PV Fund AIV A, and PV Splitter) and Co-Invest Partners upon consummation of the second stage of the transaction have not been determined as they would depend on the amount of the overall investment to be held by Co-Invest Partners at that time.³⁰ Petitioners state that one of the foreign insulated limited partners of Co-Invest Partners, IMCPE 2020 Inc (IMCPE 2020), a Canadian entity, would have a 10% or greater indirect equity interest in Consolidated.³¹ In turn, IMCPE 2020 is 93.4% owned by 2020 Private Equity Fund, a British Columbian entity, which is wholly owned by

will not become convertible into the non-voting Preferred Stock until after (1) the FCC grants a declaratory ruling permitting such conversion, and (2) Searchlight invests the additional \$75 million at the closing of the second stage of the Transaction." *Id.*

²³ *Id.* at 7.

²⁴ *Id.* at 10.

²⁵ *Id.*

²⁶ See March 25, 2021 Supplement.

²⁷ *Id.*

²⁸ Petition at 10.

²⁹ *Id.*

³⁰ *Id.* at 11. The Petitioners state upon consummation of the second stage of the transaction, it is anticipated that the total indirect equity and voting interests in Consolidated held by each fund would fall within the following ranges: (1) Main Fund AIV (19.4-31.1% equity, 10.9% voting); (2) PV Fund AIV A (6.0-9.6% equity, 3.4% voting); (3) PV Splitter (9.1-14.5% equity, 5.1% voting); and (4) Co-Invest Partners (44.7% equity, 15.6% voting). *Id.* at 11.

³¹ *Id.* at 13.

British Columbia Investment Management Corporation, also British Columbian entity, as its trustee.³²

Pursuant to section 1.5001(i) of the Commission's rules, Petitioners request that the Commission specifically approve the equity and/or voting interests that would be held in CCI, the controlling U.S. parent, upon completion of the proposed second stage of the transaction by foreign entities and foreign individuals at the percentages specified below.³³

Searchlight Capital Partners III GP, L.P. (1.2-1.96% equity; 35.0% voting) (Cayman Islands);
Erol Uzumeri (<1.0% equity, 35.0% voting) (Canada);
Oliver Haarmann (<1.0% equity, 35.0% voting) (Germany);
SC III PV Cavalier Holdings, LP (8.9-14.3% equity, 5.1% voting) (Cayman Islands);
IMPCE 2020 Inc. (14.7-23.5% equity, 8.2% voting) (Canada);
2020 Private Equity Fund (13.8-22.2% equity, 7.8% voting) (British Columbia); and
British Columbia Investment Management Corporation (16.0-25.7% equity, 9.0% voting) (British Columbia).

As Petitioners seek approval for CCI, the controlling U.S. parent, to be up to and including 100% foreign-owned in the aggregate,³⁴ Petitioners also request, pursuant to section 1.5001(k) of the Commission's rules, advance approval for each of the foregoing entities and individuals to increase their indirect equity and/or voting interests in CCI up to a non-controlling 49.99%.³⁵

Referral to Executive Branch Agencies. Through this Public Notice, pursuant to Commission practice, this Petition for Declaratory Ruling and the associated wireless applications, ULS File Nos. 0009400415, 0009396563, 0009400421, and 0009408193, are being referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy or trade policy concerns related to the foreign ownership of the Applicants.³⁶

GENERAL INFORMATION

The petition identified herein has been found, upon initial review, to be acceptable for filing. The Commission 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 and policies.

³² *Id.* at 14.

³³ Petitioners state that equity and voting interests held indirectly have been calculated in accordance with §§ 1.5002 and 1.5003 of the Commission's Rules. Petition, Exh. B at 12 n.10.

³⁴ Petition at 1.

³⁵ *Id.* at 2.

³⁶ See *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-19, paras. 61-63 (1997) (*Foreign Participation Order*), recon. denied, 15 FCC Rcd 18158 (2000). See also *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).

Interested parties may file comments and petitions **on or before May 20, 2021**, and reply comments or oppositions to petitions **on or before June 4, 2021**. All filings concerning matters referenced in this Public Notice should refer to **IB Docket No. 21-172 and ISP-PDR- 20210105-00001**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Electronic Filers: Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit one additional copy for each additional docket or rulemaking number.
 - Filings can be sent 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.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis, MD, 20701.
 - Currently, the Commission does not accept any hand delivered or messenger delivered filings as a temporary measure taken to help protect health and safety of individuals, and to mitigate the transmission of COVID-19. In the event the Commission announces the lifting of COVID-19 restrictions, a filing window will be opened at the Commission's office located at 9050 Junction Drive, Annapolis, Maryland 20701.

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 and Governmental Affairs Bureau at 202-418-0530 (voice), 1-888-835-5322 (tty).

In addition, e-mail one copy of each pleading to each of the following:

- 1) Leah Kim, Telecommunications and Analysis Division, International Bureau, at leah.kim@fcc.gov; and
- 2) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 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 the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, 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.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.³⁷ 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.

For further information, please contact Leah Kim, International Bureau, (202) 418-0722.

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³⁷ See 47 CFR § 1.45(c).