



PUBLIC NOTICE

Federal Communications Commission
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DA 22-142

Released: February 11, 2022

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

MB Docket No. 22-61

Comment Date: March 14, 2022

Reply Date: March 29, 2022

Spanish Broadcasting System, Inc. (SBS), a Delaware corporation that owns certain broadcast television and radio licenses, has filed a petition for declaratory ruling (Petition) requesting that the Federal Communications Commission (Commission) issue a declaratory ruling pursuant to section 310(b)(4) of the Communications Act of 1934, as amended (the Act).¹ The Petition seeks authority for foreign investors to indirectly own up to 49.99% of SBS's *equity* in the aggregate.² Specifically, as part of a litigation settlement certain investors would receive a combination of cash and new shares of SBS's Class A Common Stock.³ The issuance of the total number of shares required to implement the settlement could cause the aggregate equity foreign ownership of SBS to exceed section 310(b)(4)'s 25% benchmark because some of these parties are foreign entities and/or individuals.⁴ Following the completion of the transactions contemplated by the settlement and this Petition, SBS would have three classes of stock outstanding — Class A Common Stock, Class B Common Stock, and Series C Convertible Preferred Stock (collectively, SBS's Stock).⁵ Raúl Alarcón, a United States Citizen, is the only individual or entity that would hold an attributable interest in SBS.⁶ He would hold an approximately 80% voting interest in SBS and a 34% equity interest in SBS based on his interests in SBS's Stock.⁷ The remainder of SBS's stock would be held by various domestic and foreign investors.⁸

¹ 47 U.S.C. § 310(b)(4). *See also* 47 CFR § 1.5000 *et seq.*

² Petition at 2-3, 9. SBS only seeks approval for foreign investors to hold up to 49.99% of the company's total *equity* interests. It does not seek approval for foreign investors to exceed section 310(b)(4)'s limit with respect to SBS's *voting* interests. *Id.*

³ *Id.* at 2-3.

⁴ *Id.* *See also* 47 CFR § 1.5000(a)(1) (a broadcast licensee shall “obtain such approval, *before* the aggregate foreign ownership of any controlling, U.S.-organized parent company exceeds, directly and/or indirectly, 25 percent of the U.S. parent's equity interests and/or 25 percent of its voting interests . . .”) (emphasis added).

⁵ Petition at 4-5.

⁶ Only Alarcón would have a 5% or greater voting interest in SBS, thus no other individual or entity would hold an attributable interest in SBS. *See* 47 CFR § 1.5000(e)-(f); 47 CFR § 73.3555, Note 2(a); Petition at 7-8.

⁷ Petition at 4-5, 8, Exhibit B.

⁸ *See id.* at Exhibits B, C.

No foreign investor would have more than a 5% voting or equity interest in SBS.⁹ The Petition does not seek specific or advance approval for any individual or entity.¹⁰ SBS contends that granting this Petition is in the public interest because it, *inter alia*, raises no national security, trade policy, or law enforcement concerns and will further the Commission's goal of encouraging foreign investment in the broadcast industry.¹¹

The Petition has been found, on initial review, to be acceptable for filing. The Commission may require SBS to submit additional documents or statements of fact that in the Commission's 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. In addition, pursuant to Commission practice, the Petition will be referred to 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 SBS.¹²

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,¹³ 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 this Petition.¹⁴

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.¹⁵ 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.¹⁶ 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 section 1.1206(b) of the Rules.¹⁷ Participants in this

⁹ See *id.* at 9, Exhibits B-C. In total, the proposed investment would result foreign entities and/or individuals holding approximately a 6.5% voting interest in SBS and a 21.3% equity interest in SBS via ownership of SBS's Stock. *Id.* at Exhibit C. These foreign shareholders have been identified as organized in, or citizens of, Belgium, Brazil, the British Virgin Islands, Canada, the Cayman Islands, Colombia, France, India, Israel, Italy, Latvia, Mexico, the Netherlands, Singapore, the United Kingdom, and Venezuela. *Id.*

¹⁰ *Id.* at 9.

¹¹ *Id.* at 9-11.

¹² See *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). See also *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).

¹³ 47 CFR § 1.1200(a).

¹⁴ See 47 CFR § 1.1206.

¹⁵ 47 CFR § 1.1206(b)(1).

¹⁶ *Id.*

¹⁷ 47 CFR § 1.1206(b).

proceeding should familiarize themselves with the Commission's *ex parte* rules.¹⁸ 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. 22-61.

GENERAL INFORMATION

The Petition 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 **March 14, 2022**. Replies must be filed no later than **March 29, 2022**.

To allow the Commission to consider fully all substantive issues regarding the Petition 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 comment period has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the comment period 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. 22-61, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

Filing Requirements. Submissions may be filed electronically using ECFS or by filing paper copies.¹⁹

- Electronic Filers: Documents may be filed electronically using the Internet by accessing ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- 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 Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.²⁰
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

¹⁸ See 47 CFR § 1.1200 *et seq.*

¹⁹ See *Electronic Filing of Documents in Rulemaking Proceedings*, Report and Order, 13 FCC Rcd 11322 (1998).

²⁰ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (2020).

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

- Jeremy Miller, Video Division, Media Bureau, e-mail Jeremy.Miller@fcc.gov
- David Brown, Video Division, Media Bureau, e-mail David.Brown@fcc.gov

Any submission that is e-mailed to Jeremy Miller or David Brown should include in the subject line of the e-mail: (1) MB Docket No. 22-61; (2) the name of the submitting party; (3) a brief description or title identifying the type of document being submitted (*e.g.*, MB Docket No. 22-61, SBS Petition for Declaratory Ruling, *Ex Parte* Notice).

Availability of Documents. Documents in this proceeding are available electronically through ECFS. ECFS may be accessed on the Commission's Internet website at <http://www.fcc.gov>.

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).

For further information, contact Jeremy Miller at (202) 418-1507 or David Brown at (202) 418-1645. For press inquiries, contact Janice Wise at (202) 418-8165.

This action is taken by the Chief, Media Bureau, pursuant to authority delegated by sections 0.61 and 0.283 of the Commission's rules.²¹

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²¹ 47 CFR §§ 0.61 and 0.283.