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

In the Matter of)	
)	MB Docket No. 13-50
Request for Clarification of the)	
Commission's Policies and Procedures)	
Under 47 U.S.C. § 310(b)(4))	

COMMENTS

The National Association of Media Brokers (“NAMB”), by its attorneys, hereby comments in favor of the request by the Coalition for Broadcast Investment (“the Coalition”) for a more flexible approach in the Commission’s treatment of foreign ownership of broadcast stations. NAMB is an association of media brokers active in facilitating the purchase and sale of broadcast stations. In essence, members of the NAMB put buyers and sellers of broadcast stations together, and provide information about broadcast stations that are for sale, which allows transactions to occur. In this role, members of NAMB see the majority of broadcast transactions from some perspective and are in a position to know the issues that face broadcast station buyers and sellers in the marketplace.

In the recent call for comments by the FCC in MB Docket Nos. 09-182 and 07-294, where the Commission asked for comments on the impact of changes in the broadcast cross-ownership rules on minority ownership, NAMB posited that it was not the cross-ownership of broadcast stations that hold back an increase in new entrants into the ranks of broadcast ownership. Instead, the primary issue facing any prospective buyer of a broadcast station, and most especially any prospective new entrant, is access to the capital with which to make his or

her acquisition. The difficulty in financing the acquisition of smaller broadcast properties is even more acute in the post-recession marketplace, as many companies which provided capital to prospective new owners who were previously active in the broadcast marketplace have exited the industry. New sources of capital to take their place have been slow to develop. Thus, while there remains a high inventory of stations that are available for purchase, and there is always a large number of individuals who are interested in becoming buyers, the lack of available capital is the primary issue that discourages new entrants into broadcast ownership.

In the past, we have seen many active broadcast lenders from outside of the United States, including banks from Canada and Europe. But the alien ownership limitations of Section 310 of the Communications Act, as applied to the broadcast industry, have limited the participation of foreign equity investors in broadcast ownership.¹ While most of the other portions of the telecommunications industry in the United States have seen significant foreign investment – including investments in the wireless carriers and, in the past, in the cable television industry – broadcasting remains an island where the opportunities for foreign investment have, thus far, been limited.

As the comments of the Coalition make clear, the absolute prohibitions on alien ownership over 25% in any holding company that has control over companies holding broadcast licenses, while allowing higher ownership in other parts of the telecommunications landscape, no longer make sense.² In today's media world, broadcasters compete against content delivered through multiple other sources – whether those sources be the Internet, wireless carriers, or some

¹ As the statute limits both alien *ownership* as well as control, a mere equity investment by a foreign citizen in a company with broadcast investments can be prohibited, even where total control of the broadcaster is in the hands of U.S. citizens.

² Under Section 310(b), aliens are limited to 20% ownership or control of a broadcast licensee, and 25% of a licensee's holding company.

physical medium. In all of these other sources, the limitations on foreign ownership are either absent or relaxed. Only in broadcasting is the strict application of the alien ownership limitations still the rule. When the consumer increasingly cannot tell the difference between content delivered by a broadcaster and that which comes from some other source, these arbitrary distinctions no longer make sense. In the television world, video can be delivered by programming networks whose ownership can be 100% foreign – witness the recent sale of Current TV to Al Jazeera or the success in the United States of BBC America. While a channel on a multichannel video provider can be programmed by a company that is completely foreign owned, the next channel on that same system, transmitting programming from a broadcast station, must under current rules limit its foreign ownership to 25%.

In the audio world as well, what was once the exclusive province of radio in the home, and even the car dashboard, is no longer reserved for over-the-air broadcasters. Today, in the home, and increasingly in the car, content can be delivered through Internet technologies. And those Internet-based technologies have no national boundaries. Audio content can be wirelessly delivered to the listener's receiver from around the world – and often delivered over a wireless network with significant foreign ownership. Yet the broadcaster cannot have foreign ownership in excess of 25%.

Moreover, that ownership limitation often imposes great costs on broadcasters seeking financing, as the analysis of ownership and control mandated by Commission case law requires countless hours of legal review to assure compliance – even for domestic investors who may receive part of their capital from foreign individuals or even from funds whose ownership may come from widely diffuse sources. We have seen investors scared off from broadcast investments as the organizational documents of their funds did not include the necessary

language to “insulate” all of its investors from attribution and consideration in an alien ownership analysis. Making changes in the fund organizational documents or coming up with other work-arounds was not worth the trouble for a broadcast investment. This is especially problematic for smaller investments, where the legal costs of compliance may make such determinations cost prohibitive.

The problems with the limits on foreign ownership are evident, as are the benefits of relaxing the strict enforcement of those limits. Relaxation of the strict enforcement of the 25% limitation will provide another source of financing for both existing broadcasters, to provide them with the funds to meet new competitive challenges; and for new broadcasters, to allow their entry into the market. Specialized broadcasters, with targeted programming to serve racial and ethnic minorities, are particularly likely to see new sources of funding should the enforcement of the alien ownership restrictions be relaxed, as foreign investors trying to reach those members of their ethnic communities are natural sources of funding for US broadcast investments.

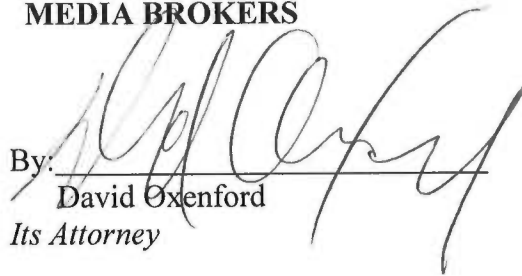
The downsides of a more flexible review of alien ownership limitations in broadcasting, as in other communications ventures, are minimal and easily controlled. As in other areas in which the FCC regulates foreign investment in communications entities, the FCC can evaluate each proposed investment on its own merits, deciding if any pose a risk to national security or reciprocal trade principles that could be caused by rewarding citizens of a country that does not allow US citizens to invest in media properties in their country.

As the benefits of a more flexible approach to alien ownership far outweigh the detriments (which can be easily controlled), NAMB joins the Coalition in urging the Commission to issue a policy statement adopting a more flexible approach to alien ownership of

broadcast properties, rather than the strict adherence to the 25% limitation that has been in force until this point in time. NAMB respectfully asks that this action be taken.

Respectfully submitted,

**NATIONAL ASSOCIATION OF
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