

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

In the Matter of)	
)	
Corvex Master Fund LP)	KXMZ(FM), Box Elder, South Dakota
)	Facility ID No. 164109
Petition for Declaratory Ruling Under Section)	
310(b)(4) of the Communications Act of 1934, as)	MB Docket No. 16-253
Amended)	

DECLARATORY RULING

Adopted: February 14, 2017

Released: February 14, 2017

By the Chief, Media Bureau:

I. INTRODUCTION

1. In this *Declaratory Ruling*, the Media Bureau (Bureau) addresses a petition for declaratory ruling (Petition) filed by Corvex Master Fund LP (Corvex) on July 27, 2016, pursuant to Section 310(b)(4) of the Communications Act of 1934, as amended, and the *Pandora Declaratory Ruling*.¹ By the Petition, Corvex asks the Commission to exercise its discretion under Section 310(b)(4) to permit Corvex to: (1) exercise stock options that would increase its present 4.95 percent non-controlling voting and equity interest in Pandora Media, Inc. (Pandora Media), the parent corporation of Pandora FM LLC (Pandora FM), to a 9.99 percent non-controlling voting and equity interest; and (2) further increase its voting and equity interest in Pandora Media, at some future time, up to and including a total non-controlling interest of 14.99 percent without further Commission approval.² The Petition is unopposed. As discussed below, we find that it will serve the public interest to grant the Petition, subject to the terms and conditions set forth herein and in the *Pandora Declaratory Ruling*.

II. BACKGROUND

2. *Pandora FM*. Pandora FM, the licensee of Station KXMZ(FM), Box Elder, South Dakota, is a wholly owned, direct subsidiary of Pandora Media, a publicly traded company incorporated in the State of Delaware.³ On May 1, 2015, the Commission issued the *Pandora Declaratory Ruling*, permitting aggregate foreign ownership in Pandora Media up to and including 49.99 percent, subject to certain conditions, including that Pandora obtain prior Commission approval for: (1) aggregate foreign equity and/or foreign voting interests in Pandora Media exceeding 49.99 percent; or (2) any change in the Pandora Media Board of Directors that would result in a majority of foreign members; or (3) any individual foreign investor or “group” acquiring a greater than five percent voting or equity interest (or

¹ See 47 U.S.C. § 310(b)(4) (Section 310(b)(4)); *Pandora Radio LLC, Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Declaratory Ruling, 30 FCC Rcd 5094 (May 4, 2015) (*Pandora Declaratory Ruling*), *recon denied*, 30 FCC Rcd 10570 (2015); 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) (*2013 Broadcast Clarification Ruling*).

² There are no applications for assignment of license or transfer of control associated with the Petition.

³ On June 17, 2015, the name of the licensee subsidiary was changed from Pandora Radio LLC to Pandora FM LLC. For convenience, we may refer to Pandora FM and Pandora Media collectively as “Pandora.”

greater than 10 percent for certain institutional investors) in Pandora Media.⁴ The Commission also required Pandora Media to modify its organizational documents to ensure that its Board of Directors has all necessary powers to maintain compliance with Section 310(b)(4), including the right to request and obtain information regarding citizenship of Pandora Media's interest holders, and the necessary powers to cure noncompliance, specifically: (1) the right to restrict the transfer of shares to aliens; (2) the right to require disclosure when an alien acquires an equity and/or voting interest; and (3) the right to compel the redemption of shares held by aliens.⁵ Subsequently, the Media Bureau granted two petitions for declaratory ruling allowing aggregate foreign investment in broadcast licensees of 49 percent in one case and 49.99 percent in the other case, and granting specific approval for named investors to acquire interests of 40 percent, 49 percent, and 49.99 percent.⁶ The Petition is filed pursuant to the requirement for prior approval before any individual foreign investor or "group" acquires a greater than 5 percent voting or equity interest (or greater than 10 percent for certain institutional investors) in Pandora Media.⁷

3. *Corvex*. The Petition proffers the following representations regarding the organizational structure of Corvex and the entities and investors in its vertical chain of ownership. Corvex is an investment fund organized as a limited partnership under the laws of the Cayman Islands. Corvex is ultimately controlled by Keith Meister, a citizen of the United States, through two intermediate entities organized under Delaware law and owned and controlled by U.S. citizens. Specifically, the sole general partner of Corvex is Corvex GP LP (Corvex GP), a Delaware limited partnership. Corvex GP holds 100 percent of the voting interest in Corvex. All of the limited partners of Corvex, according to the Petition, are fully insulated in accordance with the Commission's broadcast attribution rules.⁸ Neither Corvex GP nor any of the limited partners of Corvex holds or will hold a greater than one percent equity interest in Pandora Media. The sole general partner of Corvex GP is Meister GP Holdings LLC (Meister Holdings), a Delaware limited liability company. Meister Holdings holds all of the voting interests in Corvex GP. The limited partners of Corvex GP are all U.S. citizens. With the exception of Keith Meister, who ultimately controls Corvex GP, the limited partners of Corvex GP are fully insulated in accordance with the Commission's broadcast attribution rules. Neither Meister Holdings nor any of the limited partners of Corvex GP holds or will hold a greater than one percent equity interest in Pandora Media. The sole member and manager of Meister Holdings is Keith Meister, a U.S. citizen. By contract, investment decisions for Corvex are made by Corvex Management LP, a Delaware partnership, the general partner of which is controlled by Keith Meister. All of the entities and individuals in the chain of ownership of Corvex Management LP are either organized in the United States or are U.S. citizens, as are all of its limited partners.

4. *Pandora*. Pandora FM states that it has reviewed the foreign ownership proposed in the Petition and takes no position on, and thus has no objection to, Corvex exercising its current stock options and/or increasing its future holdings in Pandora Media, Inc. up to the total proposed aggregate ownership

⁴ *Pandora Declaratory Ruling*, 30 FCC Rcd at 5101-5103, paras. 18-24.

⁵ *Id.* at 5101, para. 20.

⁶ *Univision Holdings, Inc.*, Declaratory Ruling, DA 17-4 (MB Jan. 3, 2017) (*Univision Declaratory Ruling*) (permitting aggregate foreign ownership of 49 percent voting and equity and granting specific approval for named entities to hold 40 percent of the voting shares and 49 percent of the equity); *Hemisphere Media Group, Inc.*, Declaratory Ruling, DA 17-79 (MB Jan. 18, 2017) (*Hemisphere Declaratory Ruling*) (permitting up to 49.99 percent aggregate foreign ownership and granting specific approval to named entities and individuals to hold interests up to that level). The Commission conditioned these rulings on additional requirements, including monitoring, reporting, and compliance requirements.

⁷ *Pandora Declaratory Ruling*, 30 FCC Rcd at 5101, para. 19.

⁸ See 47 CFR § 73.3555 Note 2.

level of 14.99 percent.⁹ Although Pandora FM notes that is not in a position to attest to the facts submitted by and as they pertain specifically to Corvex, it is aware of no reason why the proposed ownership would be inconsistent with the public interest, and therefore joins the Petition in accordance with the terms of the *Pandora Declaratory Ruling*.¹⁰ Pandora also acknowledges that it has the responsibility to comply at all times with the terms of the *Pandora Declaratory Ruling*, in particular the 49.99 percent aggregate foreign ownership limit, and must therefore submit on its own behalf any request to modify that or any other condition of the *Pandora Declaratory Ruling* if it seeks relief from these conditions.

5. *Public interest.* Corvex asserts that the proposed transaction furthers the public interest goals set out in the *2013 Broadcast Clarification Ruling* and the *Pandora Declaratory Ruling* because it “facilitates Corvex’s investment in a recent entrant to the broadcast radio market” without “increas[ing] the likelihood of foreign influence or control of Pandora FM.”¹¹ Corvex emphasizes that even after increasing its stock ownership, it will hold only a minority, non-controlling interest in Pandora Media. Corvex states that although it is deemed foreign for Section 310(b)(4) purposes, it is domiciled in the Cayman Islands for business reasons, primarily invests in U.S. companies, and is ultimately managed and controlled by U.S. entities and individuals. Therefore, Corvex concludes, grant of the Petition will facilitate investment in the broadcast radio market and the efficient operation of secondary markets for shares of a publicly traded company, without increasing the likelihood of foreign influence or control.

III. DISCUSSION

6. *Section 310(b)(4) standard.* We review the foreign ownership of Pandora FM under Section 310(b)(4) of the Act, which states that “[n]o broadcast ... 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.”¹² In the *2013 Broadcast Clarification Ruling*, the Commission clarified the policies and procedures for evaluating potential foreign investment in broadcast licensees under Section 310(b)(4) of the Act to remove apparent uncertainty. Recognizing that “changes have occurred in the media landscape and marketplace since the foreign ownership restriction was enacted and that limited access to capital is a concern in the broadcast industry, especially for small business entities and new entrants, including minorities and women,”¹³ the Commission stated that it would exercise its statutory discretion to consider, on a fact-specific, case-by-case basis, applications and transactions that propose foreign broadcast ownership exceeding the 25 percent benchmark of Section 310(b)(4).¹⁴ In assessing the public interest, we afford appropriate deference to the expertise of the Executive Branch agencies on issues related to national security, law enforcement, foreign policy, and trade policy.¹⁵

7. In considering the Petition, we are cognizant of the Commission’s recent decision in the

⁹ Letter from Mark D. Schneider, Counsel for Pandora Media, Inc. and Pandora Radio LLC, to Marlene H. Dortch, Secretary, FCC (Feb. 7, 2017) (on file in MB Docket No. 16-253).

¹⁰ *Pandora Declaratory Ruling*, 30 FCC Rcd at 5101, para. 19.

¹¹ Petition at 6 (internal quotation marks omitted).

¹² 47 U.S.C. § 310(b)(4).

¹³ *Broadcast Clarification Ruling*, 28 FCC Rcd at 16249.

¹⁴ *Id.* (“Congress’ directive is that 25 percent alien ownership is the point at which the Commission must act and exercise its discretion in making a public interest determination on proposed ownership arrangements that would exceed this level.”).

¹⁵ *Id.* at 16251.

2016 Foreign Ownership Order, which modified the broadcast licensee foreign ownership review process by extending the streamlined rules and procedures developed for review of foreign ownership of common carrier and certain aeronautical licensees under Section 310(b)(4) to the broadcast context, with certain limited exceptions.¹⁶ The Commission also reformed the methodology used by both common carrier and broadcast licensees to assess compliance with the foreign ownership limits in Sections 310(b)(3)¹⁷ and 310(b)(4) of the Act, as appropriate, in recognition of the difficulty that U.S. publicly traded companies face in attempting to ascertain their level of foreign ownership.¹⁸ Because the rules adopted in the *2016 Foreign Ownership Order* have not yet taken effect, our foreign ownership review process is still governed by the *2013 Broadcast Clarification Ruling*, rather than the recently adopted rules, but the policies adopted in the *2016 Foreign Ownership Order*, which is currently effective, guide our review.

8. In the *2013 Broadcast Clarification Ruling*, the Commission declined to adopt a standardized review process and clarified that it would continue follow a case-by-case approach to reviewing petitions for declaratory ruling to exceed the 310(b)(4) benchmark, stating that “[b]y their nature, these case-by-case reviews will lead to distinct, factually driven results.”¹⁹ Accordingly, in the *Pandora Declaratory Ruling*, the Commission imposed terms and conditions appropriate to the facts and circumstances.²⁰ One such condition was that Pandora must obtain prior Commission approval before any individual foreign investor or “group” acquires a greater than five percent (or greater than 10 percent for certain institutional investors) voting or equity interest in Pandora Media.²¹ In addition, the *2016 Foreign Ownership Order* reflects a determination that insulated limited partnership interests held by any individual whose direct or indirect interests in the licensee’s controlling U.S. parent do not exceed five percent do not rise to the level that may be relevant to the concerns applicable to the Section 310(b) review of foreign ownership.²² In considering whether to grant Corvex’s request for specific approval, we take into account the specific facts and circumstances presented by Corvex, as well as input received from the Executive Branch and Pandora’s history of compliance with the terms and conditions of the *Pandora Declaratory Ruling*.²³ Although Corvex is a foreign entity because it is foreign-

¹⁶ *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Report and Order, 31 FCC Rcd 11272 (2016) (*2016 Foreign Ownership Order*). A summary of the *2016 Foreign Ownership Order* was published in the Federal Register on December 1, 2016. *Review of Foreign Ownership for Broadcast, Common Carrier and Aeronautical Radio Licensees*, 81 Fed. Reg. 86568 (Dec. 1, 2016). The order became effective on January 30, 2017, except for those sections requiring approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). All of the revised rules appearing in Appendix B of the order were submitted to OMB for approval, and notice of that submission was published on December 29, 2016. 81 Fed. Reg. 95993 (Dec. 29, 2016) (establishing a due date of February 27, 2017 for PRA comments). They will become effective after the Commission publishes a notice in the Federal Register announcing such approval and the relevant effective date.

¹⁷ 47 U.S.C. § 310(b)(3) (prohibiting grant of a broadcast, common carrier, aeronautical en route and aeronautical fixed radio license to “[A]ny corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country...”).

¹⁸ *2016 Foreign Ownership Order*, 31 FCC Rcd at 11289-11307, paras. 35-72.

¹⁹ *2013 Broadcast Clarification Ruling*, 28 FCC Rcd at 16252.

²⁰ *Pandora Declaratory Ruling*, 30 FCC Rcd at 5101-5103.

²¹ *Id.* at 5101, para. 19.

²² *2016 Foreign Ownership Order*, 31 FCC Rcd at 11283-84, paras. 16, 22.

²³ See Letter from Mark D. Schneider, Counsel for Pandora Media, Inc. and Pandora Radio LLC, to Marlene H. Dortch, Secretary, FCC (Sept. 1, 2016) (on file in MB Docket No. 16-253) (providing copies of amendments to Pandora Media’s organizational documents and confirming Pandora’s enrollment in the Depository Trust Corporation’s SEG-100 program).

domiciled, it is controlled by a U.S. citizen, and none of the individual foreign investors, all of whom are insulated pursuant to the Commission's broadcast attribution rules, would hold a greater than one percent indirect interest in Pandora if Corvex increases its ownership interest as proposed.

9. *Public Interest Analysis.* In both the *2013 Broadcast Clarification Ruling* and the *2016 Foreign Ownership Order*, the Commission emphasized the need to encourage new sources of investment in the broadcast industry, including foreign investment.²⁴ The Commission also affirmed the need to protect important interests related to national security, law enforcement, foreign policy, trade policy, and other public policy goals while maintaining compliance with Section 310(b).²⁵ In this case, we have coordinated the request for specific approval of Corvex's proposed investment in Pandora with the relevant Executive Branch agencies with expertise on issues related to national security, law enforcement, foreign policy, and trade policy, and the agencies have filed a letter with the Commission stating that they have no objections.²⁶ Moreover, we find that grant of the Petition would facilitate investment in the publicly traded parent corporation of a recent entrant to the broadcast radio market. For these reasons, we find that grant of the Petition will serve the public interest.

IV. DECLARATORY RULING

10. Under the facts and circumstances set out above, and pursuant to Section 310(b) of the Act, we find that the public interest would not be served by prohibiting the proposed additional foreign ownership of Pandora Media by Corvex, subject to the limitation discussed below. We find that grant of the Petition will facilitate investment from sources of capital that would not otherwise be available to Pandora Media—a new entrant in the broadcast market—and may encourage reciprocal investment opportunities for U.S. companies in foreign markets. As mentioned above, the relevant Executive Branch agencies with expertise on issues related to national security, law enforcement, foreign policy, and trade policy have been notified of the Petition and have not filed any objections or requested that we impose conditions on its grant. We also find no grounds to object to the requested specific approval and conclude that grant will facilitate the foreign investment proposed by Corvex.

11. *Specific Approval.* This *Declaratory Ruling* grants specific approval for Corvex to: (1) exercise stock options that would increase its present 4.95 percent non-controlling voting and equity interest in Pandora Media to a 9.99 percent non-controlling voting and equity interest; and (2) further increase its voting and equity interest in Pandora Media, at some future time, up to and including a total non-controlling interest of 14.99 percent without further Commission approval. We emphasize that our ruling herein does not modify any of the terms and conditions set out in the *Pandora Declaratory Ruling*, including the requirement for Pandora to obtain prior Commission approval for foreign equity and/or foreign voting interests exceeding 49.99 percent in the aggregate.²⁷ Therefore, if Pandora determines that this or any proposed transaction would cause it to exceed 49.99 percent foreign ownership, it must either: (1) take steps to ensure that it complies with the limit, including, if necessary, exercising its corporate power to restrict stock ownership; or (2) petition the Commission to raise that limit.

V. ORDERING CLAUSES

12. Accordingly, IT IS ORDERED that, pursuant to section 310(b)(4) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(b)(4), and section 0.283 of the Commission's rules, 47 CFR §

²⁴ *2013 Broadcast Clarification Ruling*, 28 FCC Fcd at 16249; *2016 Foreign Ownership Order* at para. 2.

²⁵ *Id.* at 16251; *2016 Foreign Ownership Order* at para. 2.

²⁶ See Letter from Bermel R. Paz, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC (Dec. 12, 2016) (on file in MB Docket No. 16-253).

²⁷ See *Pandora Declaratory Ruling*, 30 FCC Rcd at 5101, para. 19.

0.283, the Petition for Declaratory Ruling filed by Corvex Master Fund LP and Pandora IS GRANTED subject to the terms and conditions set forth in paragraph 11 of this *Declaratory Ruling*.

13. IT IS FURTHER ORDERED that this *Declaratory Ruling* SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Michelle Carey
Acting Chief
Media Bureau