



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 19-636

Released: July 10, 2019

MEDIA BUREAU ANNOUNCES FILING OF PETITION FOR DECLARATORY RULING BY HEMISPHERE MEDIA GROUP, INC., AND PERMIT-BUT-DISCLOSE *EX PARTE* STATUS FOR THE PROCEEDING

MB Docket 19-194

Comment Date: August 9, 2019

Reply Date: August 26, 2019

Hemisphere Media Group, Inc. (HMTV) has filed a petition for declaratory ruling¹ (Petition) asking the Federal Communications Commission (Commission) to find that it would be in the public interest to permit foreign investors to own up to 100 percent in the aggregate of both its equity and voting interests.² This ruling would supersede HMTV's existing declaratory ruling, which (1) permits foreign investors to own up to 49.99 percent in the aggregate of both HMTV's equity and voting interests and (2) provides for specific approval of various foreign entities and individuals to hold up to a 49.99 percent voting interest and up to 49.99 of the company's equity.³ In the Petition, HMTV also seeks specific approval of all previously approved foreign investors; HMTV does not seek approval of a change in control and does not seek specific approval of any new foreign investors.⁴

On January 18, 2017, the Media Bureau, on delegated authority, granted a petition for declaratory ruling filed by HMTV (2016 Petition) permitting foreign investors to own up to 49.99 percent in the

¹ 47 CFR § 1.5000 *et seq.*

² Petition at 1. The Petition was filed on June 3, 2019, and it was supplemented on July 2, 2019 (Supplement). The Supplement made clear that HMTV was seeking a new ruling under section 1.5000 *et seq.* of the Commission's rules and provided additional information required under those rules. *See* 47 CFR § 1.5000 *et seq.*

³ *Hemisphere Media Group, Inc.*, Declaratory Ruling, 32 FCC Rcd 718 (MB 2017) (2017 Declaratory Ruling); *see also Hemisphere Media Group, Inc.*, Declaratory Ruling, 33 FCC Rcd 8779 (MB 2018) (revising the 2017 Declaratory Ruling to permit Banco Santander (México, S.A.), a Mexican Corporation, and affiliated entities, to hold up to 49.99% of the voting interests and up to 49.99% of the equity of HMTV) (2018 Declaratory Ruling). The 2017 Declaratory Ruling was adopted after the release of the order revising the Commission foreign ownership rules, but before the new rules had gone into effect. *See generally 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). Accordingly, the ruling—which incorporates the limited modifications adopted in the 2018 Declaratory Ruling—was issued under the broadcast foreign ownership policy as set forth by the Commission in 2013. *See generally 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). As noted above, the Petition seeks a new ruling under the revised rules.

⁴ *See* Petition at 1; Supplement at 2-5.

aggregate of both its and equity and voting interests.⁵ The *2017 Declaratory Ruling* also granted specific approval allowing Cinema Aerpuerto, S.A. de C.V. (Cinema Aerpuerto), a Mexican corporation, and a series of subsidiary foreign entities and associated foreign entities and individuals to hold up to 49.99 percent of the voting interests and 49.99 percent of the equity of HMTV.⁶ As explained in the *2017 Declaratory Ruling*, Cinema Aerpuerto's ultimate parent was HSBC 61549, a trust organized under Mexican law for the benefit of the descendants of Mr. José Joaquín Vargas Gómez.⁷ The sole trustee of HSBC 61549 was HSBC México, S.A., an indirect wholly-owned subsidiary of HSBC Holdings plc, which is organized under the laws of the United Kingdom.⁸ The shares of the trust were voted at the direction of a trust committee comprised solely of children of Mr. Gómez.⁹

HMTV filed a remedial petition for declaratory ruling in 2018 (2018 Petition), which was prompted by Cinema Aerpuerto's March 23, 2018, amendment to the Schedule 13D on file with the Securities and Exchange Commission with respect to its investment in HMTV.¹⁰ Cinema Aerpuerto reported that HSBC 61549 had been replaced with Santander Trust Agreement Number 2003914 (the Trust), with Banco Santander (Mexico) as the Trustee.¹¹ The new trustee continued to vote the shares of Grupo MSV—the ultimate corporate parent of Cinema Aerpuerto—at the direction of a trust committee, the members of which remained unchanged.¹² In the *2018 Declaratory Ruling*, the Commission granted HMTV's request for specific approval for the following foreign entities to hold up to a 49.9 percent voting and equity interest in HMTV indirectly through Cinema Aerpuerto: Santander Trust Agreement Number 2003914; Banco Santander (México), S.A.; Grupo Financiero Santander México, S.A. de C.V.; and Banco Santander, S.A.¹³

HMTV now requests a new declaratory ruling under the Commission's revised foreign ownership rules to permit up to 100 percent aggregate foreign ownership of voting and equity interests and to re-approve each foreign investor or group previously approved by the Commission. No new foreign investors/groups are being added and the Petition does not seek approval of a transfer of control.

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,¹⁴ 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.¹⁵

⁵ *2017 Declaratory Ruling*, 32 FCC Rcd at 725.

⁶ *Id.*

⁷ *Id.* at 719.

⁸ *Id.*

⁹ *Id.*

¹⁰ Petition of Hemisphere Media Group, Inc., for Remedial Declaratory Ruling, MB Docket No. 18-134, at 2 (2018 Petition).

¹¹ *Id.* HMTV confirmed with Cinema Aerpuerto and its counsel that there were no other changes to the trust structure other than the replacement of HSBC Mexico by Banco Santander (Mexico). *Id.*

¹² *Id.*

¹³ *2018 Declaratory Ruling*, 33 FCC Rcd at 8779, para. 1.

¹⁴ 47 CFR § 1.1200(a).

The proceeding in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁶ 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.¹⁷ 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. 19-194.

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 **August 9, 2019**. Replies must be filed no later than **August 26, 2019**.

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 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.

All filings concerning matters referenced in this Public Notice should refer to MB Docket No. 19-194.

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 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

¹⁵ See *id.* § 1.1206.

¹⁶ *Id.* § 1.1200 *et seq.*

¹⁷ *Id.* § 1.1206(b)(2).

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 Roberts, Video Division, Media Bureau, Room 2-A660, e-mail David.Roberts@fcc.gov
- Benjamin Arden, Video Division, Media Bureau, Room 2-A622, e-mail Benjamin.Arden@fcc.gov

Any submission that is e-mailed to David Roberts or Benjamin Arden should include in the subject line of the email (1) MB Docket No. 19-194; (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. 19-194, HMTV 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 documents are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>.

For further information, contact David Roberts at (202) 418-1618 or Benjamin Arden at (202) 418-0288. For press inquiries, contact Janice Wise at (202) 418-8165.

By: Chief, Media Bureau