

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FCC Mail Room

In the Matter of

Review of Foreign Ownership Policies for
Broadcast, Common Carrier and Aeronautical Radio
Licenses under Section 310(b)(4) of the
Communications Act, as amended.

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GN Docket No. 15-236

PETITION FOR RECONSIDERATION

1. William J. Kirsch, hereinafter "Petitioner," requests reconsideration for the Report and Order and, in particular, the assertion that the Commission finds that the Executive Branch or "Team Telecom" review process addressed petitioner concerns. Nothing could be further from the truth. Instead, the FCC Report Order and Order opens Pandora's Box on U.S. broadcasting by affirming and expanding a process that generates and complicates longstanding problems as a result of unwise interference regarding reciprocity, state-owned enterprise and foreign corrupt practices addressed by the Trade Act of 2015.

2. Commissioner O'Rielly seeks to substitute FCC judgment for the Team Telecom review that fails "to identify concerns..." so as to be "incomprehensible." Commissioner Pai seeks to advance Commissioner O'Rielly's comprehension, but points in the wrong direction noting the *de facto* ban on any foreign investment in U.S. broadcasting, but failing to mention, much less analyze, the *de jure* and *de facto* bans on U.S. foreign investment among our trading partners often enshrined into international law in the World Trade Organization (WTO) General Agreement on Trade in Services (GATS).

3. Commissioner Rosenworcel takes us a much larger distance in the wrong direction by stating that "laws that govern broadcast investment" have a "distinctly vintage quality...put in place to prevent foreign powers from disrupting ship-to-shore governmental communications during warfare." Commissioner Rosenworcel continues with this misreading of history by stating that "[b]ut just as horses and bayonets are not tools of modern warfare, the cyber-thefts we face today are not especially well-guarded by these prohibitions." As a *prima facie* admission that the departure from the "same footing as regards privileges" standard used successfully for three-quarters of a century from the end of the First World War through the Second World War and the Cold War was an historic blunder by the Clinton Administration, this justifies an award of damages under my August 1, 2016 Notice of Claim under the Federal Tort Claims Act acknowledged by the Department of Commerce.

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4. In an attempt to make it comprehensible to Mr. O'Rielly, the United States can and must address the protectionism and mercantilism of the People's Republic of China by obtaining market access, national treatment, most favored nation and other trade concessions before permitting the PRC's Maoist progeny to use tying practices to dominate the Internet or future broadcasting. See, for example, Arjun Kharpal, Alibaba helps foreign tech firms enter China via the cloud, CNBC, Aug. 9, 2016. See also Jody Westby, 7 Days Before Obama Gives Away Internet and National Security, Forbes, Sept. 24, 2016 and Jim Blasingame, What you should know about the internet before we give away ICANN. Even USTR is moving away from the FCC's embrace of the long discredited WTO Telecoms approach. See Inside U.S. Trade, Leaked TISA Texts Show U.S. Stepping Away From WTO Telecoms Paper, Sept. 19, 2016. Perhaps Mr. O'Rielly has heard of the North American Free Trade Agreement in which Canada retains a *de jure* cultural exemption? See also Mike Dano, AT&T's Mexico Chief: We're "confident" government will loosen America Movil's grip, Fierce Wireless, Aug. 8, 2016.

5. Ms. Rosenworcel refers only to the disruption of ship-to-shore governmental communications, but there traditionally has also been a concern about government propaganda. In this context, one must note the statement of the late Elie Wiesel that neutrality always favors the oppressor never the oppressed. While it is fine for ICANN, for example, to select a Chief Executive Office from Sweden with experience from the "vintage" 19th Century Swedish postal and telecommunications administration model, FCC forbearance from regulation of ICANN based on reliance on the now expired Commerce contract oversight of ICANN is unlawful now after Sept. 30, 2016. See, Fred Campbell, FCC Response to Senator Cruz reveals hidden ICANN agenda in net neutrality order, The Hill, April 18, 2016. Ms. Rosenworcel's reliance on the bayonets analysis is misplaced. She may not lawfully substitute her judgment for the statutory requirements of the Submarine Cable Landing License Act, the Communications Act of 1934 and the Trade Act of 2015 nor should she try to improve upon the judgment of Presidents Wilson, Roosevelt, Truman, Eisenhower and Reagan particularly with a hollowing out of our military that reduces it to the First War World bayonet-era levels of strength under mandatory sequestration.

6. One would hope now that Commissioner Clyburn would step forward and provide leadership during the transition to the new Administration in order to give new impetus to the trade process with Africa given the ten year renewal of AGOA and perhaps the last chance to ensure that Africa does not fall under the yoke of PRC imperialism.

7. For all these reasons, I respectfully request grant of my petition for reconsideration, the application of the "same footing standard" of the SCLLA and the Communications Act of 1934 to broadcasting licenses and common carrier licenses, including broadband licenses under the Open Internet Order, and my claim under the FTCA upon receipt.

/s/

William J. Kirsch
October 3, 2016