

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Review of Foreign Ownership Policies for)	GN Docket No. 15-236
Broadcast, Common Carrier and Aeronautical)	
Radio Licensees under Section 310(b)(4) of the)	
Communications Act of 1934, as Amended)	

COMMENTS OF COMCAST CORPORATION

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TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY1

II. COMCAST SUPPORTS THE NOTICE’S PROPOSAL TO ALLOW U.S. PUBLIC COMPANIES TO RELY ON INFORMATION THAT IS KNOWN OR REASONABLY SHOULD BE KNOWN TO THE COMPANY TO DETERMINE COMPLIANCE WITH SECTION 310(b)(4).3

 A. Section 310(b)(4) Certifications Should Be Based On Information From The Company’s Officers, Directors, And Registered Shareholders, And From Other Public Filings and Materials Required by U.S. Securities Regulations.....4

Officers and Directors.....4

Registered Shareholders.....5

SEC Filings.....5

Non-Objecting Beneficial Owners.....7

 B. Licensees Owned By A U.S. Public Company Should Be Permitted To Certify Compliance Based On The Percentage Of The Company’s *Known* Shareholders That Are Foreign Or That Have A Foreign Address.9

III. THE PROPOSED APPROACH IS CONSISTENT WITH ESTABLISHED COMMISSION PRECEDENT, WOULD FURTHER THE CONGRESSIONAL POLICIES UNDERLYING SECTION 310(b)(4), AND WOULD ALIGN FCC AND SEC REGULATIONS.13

 A. The Proposed Approach Comports With Commission Precedent Applying Section 310(b)(4).13

 B. The Proposed Approach Would Further The Objectives Of Section 310(b)(4), As Applied To U.S. Public Companies Today.....14

 C. The Proposed Approach Would Align Section 310(b)(4) Certification Requirements With Current SEC Regulations.17

IV. CONCLUSION.....18

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COMMENTS OF COMCAST CORPORATION

Comcast Corporation (“Comcast”) hereby submits these comments in response to the Notice of Proposed Rulemaking in the above-captioned proceeding.¹ Comcast commends and supports the Commission’s proposal to adopt a rule applicable to U.S. public companies that would provide “greater clarity for U.S. public companies and reduce the burden of determining their aggregate levels of foreign ownership given the difficulties in ascertaining the citizenship of their shareholders.”²

I. INTRODUCTION AND SUMMARY

In the *Notice*, the Commission recognizes “the unique burdens [its] processes may exert on widely held public companies, which do not necessarily have adequate means to ascertain and certify the citizenship of their shareholders.”³ The Commission has thus announced that its intention in this proceeding “is to provide licensees with greater flexibility in their regulatory

¹ *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*, Notice of Proposed Rulemaking, FCC 15-137 (2015) (“*Notice*”).

² *Id.*

³ *Id.* ¶ 29.

filings and certifications.”⁴ Under the proposal advanced in the *Notice*, licensees owned by U.S. public companies would be able to “rely solely on information that is known or reasonably should be known to the public company to determine whether the licensee is in compliance with the foreign ownership benchmark in section 310(b)(4).”⁵ Comcast strongly supports this proposal, which would establish a clear, practical, and efficient means for U.S. public companies to certify compliance with Section 310(b)(4).

More specifically, Comcast respectfully urges the Commission to adopt the following rules in order to achieve the necessary clarity and flexibility for foreign ownership certifications by U.S. public companies (hereinafter “company”):

1. A company should be entitled to rely on the information it receives from each of the following types of shareholder information for its foreign ownership certification: (i) information regarding shares held by the company’s officers and directors; (ii) information provided to the company by registered shareholders; (iii) information that certain shareholders are required to provide in routine Securities and Exchange Commission (“SEC”) filings; and (iv) any information that, upon reasonable inquiry, the company receives from non-objecting beneficial owners of the company’s shares.
2. Where citizenship information for a shareholder identified through one of the sources set forth above (i.e., a “known” shareholder) is not available from that source, a company should be allowed to use the street address of the shareholder as a proxy for that shareholder’s citizenship.
3. A company should be permitted to use the analysis of foreign ownership among its *known* shareholders as a reasonable estimate of its *total* foreign ownership and, therefore, as the basis for its Section 310(b)(4) certification; in other words, there should be no presumption that unknown or unidentified shareholders are foreign.

Importantly, the Commission’s rules should not impose any specific methodology that companies must use to analyze the sources of information noted above to perform their foreign ownership analysis. Rather, companies should have the discretion to use the information gleaned

⁴ *Id.*

⁵ *Id.* ¶ 32.

from each of these sources to reasonably inform their analysis and certifications under Section 310(b)(4). Imposing further obligations for certifying compliance with Section 310(b)(4) beyond those set forth above would not be in the public interest, but rather would simply create substantial additional burdens, costs, and difficulties for a company without improving the reliability of a certification or achieving any other corresponding statutory or public benefit.

Finally, the approach to Section 310(b)(4) certifications proposed by the *Notice* and further delineated in these comments (1) follows established FCC precedent providing that a company should use “reasonable methods” to ensure compliance with Section 310(b)(4), and (2) is also consistent with the language and legislative history of Section 310(b)(4), as well as relevant federal securities regulations.

II. COMCAST SUPPORTS THE NOTICE’S PROPOSAL TO ALLOW U.S. PUBLIC COMPANIES TO RELY ON INFORMATION THAT IS KNOWN OR REASONABLY SHOULD BE KNOWN TO THE COMPANY TO DETERMINE COMPLIANCE WITH SECTION 310(b)(4).

The Commission has recognized that certification requirements under Section 310(b)(4) for a company should be practical, efficient, and flexible. The approach in the *Notice* would comport with these principles by allowing licensees controlled by a company to “rely solely on ownership information that is known or reasonably should be known to the public company to determine whether the licensee is in compliance with the foreign ownership benchmark in section 310(b)(4).”⁶ Comcast endorses this approach, and respectfully urges the Commission to implement it by adopting a rule that provides each company flexibility to tailor its Section 310(b)(4) compliance inquiries based on the company’s individual circumstances. Such flexibility is critical because the share ownership information available to a company can vary significantly depending on several factors, including, *inter alia*, the number of different series or

⁶ *Id.*

classes of stock that have been issued, the voting rights of each series, the percentage of shareholders that have elected to be objecting beneficial owners under the SEC's rules, and how widely shares of the company's stock are dispersed among the investing public.

To properly account for these factors, as described below, the Commission's rules should allow a company to rely on shareholder information that is already available to and tracked by the company, further supported by additional shareholder information that the company may be able to ascertain through reasonable inquiry.

A. Section 310(b)(4) Certifications Should Be Based On Information From The Company's Officers, Directors, And Registered Shareholders, And From Other Public Filings and Materials Required by U.S. Securities Regulations.

Section 310(b)(4) certifications from licensees owned by a company should be based on the following: (1) information regarding shares held by officers and directors of the company;⁷ (2) information from registered shareholders of the company;⁸ (3) information that shareholders are required to provide in routine SEC filings;⁹ and (4) information that the company, upon reasonable inquiry, receives from its non-objecting beneficial owners. As shown below, these data sources contain significant shareholder information that is accessible to all U.S. public companies, highly reliable, and sufficient for purposes of reasonably determining compliance with Section 310(b)(4).

Officers and Directors. Because officers and directors of a company are either employees of the company and/or have fiduciary obligations with respect to the company, it is

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* ¶ 31.

reasonable to expect a company to maintain citizenship and shareholding information about such individuals.¹⁰

Registered Shareholders. Because registered shareholders have submitted to the company certain of their own information, it is reasonable to expect the company to use the information submitted to inform its Section 310(b)(4) compliance analysis.

SEC Filings. Information in certain SEC filings can be used to obtain shareholder citizenship information beyond that received from officers, directors, and registered shareholders. Existing SEC rules require various filings that provide a rich source of publicly available information about the citizenship of owners with significant holdings in shares of U.S. public companies. For example, beneficial owners, including foreign persons or entities, holding more than five percent of a voting class of a company's stock must file Schedule 13D with the SEC within 10 days of acquiring such stock.¹¹ Schedule 13D requires, among other things, disclosure of the filer's citizenship for a natural person or the place of organization for an entity.

¹⁰ There should be no requirement that a certain percentage of a company's officers or directors are U.S. citizens. *See id.* ¶ 32. As originally adopted, Section 310(b)(4)'s foreign ownership restrictions included a prohibition on ownership of a licensee by any parent company "of which any officer or more than one-fourth of the directors are aliens." 47 U.S.C. § 310(b)(4) (1994). However, this language was eliminated by Section 403(k) of the Telecommunications Act of 1996. Telecommunications Act of 1996, Pub. L. No. 104-104, § 403(k), 110 Stat 56, 131-32. The Commission implemented this change to its rules shortly thereafter. *Amendment of Parts 20, 21, 22, 24, 26, 80, 87, 90, 100, and 101 of the Commission's Rules to Implement Section 403(k) of the Telecommunications Act of 1996 (Citizenship Requirements)*, Order, 11 FCC Rcd. 13072 (1996). The Commission has consistently declined to pursue the nationality of officers and directors as a regulatory issue for broadcasters or other services since that time, and it should continue that reasonable approach here. *See, e.g., MAP Mobile Communications, Inc. Petition for Determination of the Public Interest under 47 U.S.C. § 310(b)(4) to permit Narrowband PCS and Additional CMRS Paging Licensing*, Order, 12 FCC Rcd. 6109, ¶ 8 (1997); *Application of Texas Educational Broadcasting Co-operative, Inc. For Renewal of License for Station KOOP(FM) Hornsby, Texas*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd. 13038, ¶ 8 & n.26 (2007).

¹¹ *See* 15 U.S.C. § 78m(d); 17 C.F.R. § 240.13d-1(a); 17 C.F.R. § 240.13d-101.

If the voting stock was purchased in the ordinary course of business without the purpose or effect of changing or influencing the control of the company, the shareholder may file an abbreviated form, Schedule 13G, in lieu of Schedule 13D.¹² Schedule 13G likewise requires disclosure of the shareholder's citizenship or place of organization and, in most instances, must be filed within 45 days after the end of the calendar year in which the stock was purchased. Thus, both Schedules 13D and 13G identify significant beneficial owners of U.S. public companies.

In addition, persons or entities, including foreign persons or entities, exercising investment discretion over \$100 million in a broad range of publicly traded stocks and options are required to file Form 13F. This form identifies, among other things, the total number of shares of a company held by the filer and/or its affiliates.¹³ Notably, in 1978, Congress authorized the SEC to implement Form 13F specifically to address "gaps in information about the purchase, sale and holdings of securities by major classes of institutional investors."¹⁴ As explained by the SEC, Form 13F serves the important public purpose of providing information on who holds significant positions in such companies:

First, the reporting system is designed to improve the body of factual data available and thus facilitate consideration of the influence and impact of institutional investment managers on the securities markets and the public policy considerations of that influence. Second, by making the [SEC] responsible for all gathering, processing, and dissemination of the data, Congress intended to permit establishment of uniform reporting standards and a uniform centralized data base.¹⁵

¹² See 17 C.F.R. § 240.13d-1(b); 17 C.F.R. § 240.13d-102.

¹³ See 15 U.S.C. § 78m(f); 17 C.F.R. § 240.13f-1.

¹⁴ Filing and Reporting Requirements Relating to Institutional Investment Managers, Exchange Act Release No. 34-14852 (effective July 31, 1978), 43 Fed. Reg. 26700, 26701 (June 22, 1978) (citing S. Rep. 94-75, at 85 (1975), as reprinted in 1978 U.S.C.C.A.N. 179, 263-64).

¹⁵ *Id.*

Implementation of Form 13F has thus created a unified approach to the assessment and depiction of the ownership and control of significant blocks of shares of U.S. public companies, including by foreign persons and entities.

In addition, the SEC rules governing the above filings are rigorously enforced, and the information provided by filers is considered to be very reliable. These SEC reporting rules thus provide existing, significant sources of shareholder information that can be used for Section 310(b)(4) certification purposes.

However, while very helpful, these SEC filings are not able to provide all remaining shareholder citizenship information beyond officers, directors, and registered shareholders. This is so for two reasons: (1) a shareholder must own a relatively large number of shares to meet the ownership triggers for such SEC filings (e.g., five percent of the voting shares of a public company can be a very large number of shares and therefore typically represents a very large financial outlay), so there can be a large number of non-registered shareholders in a widely held public company whose share ownership falls below these thresholds and who therefore are not required to file; and (2) many of the SEC filings that *are* made are submitted by mutual funds or other brokers or bank intermediaries that hold shares on behalf of small investors (who are the beneficial owners of the shares), but the filings do not reveal the individual citizenship information of the individual investors/beneficial owners that such intermediaries represent.

Non-Objecting Beneficial Owners. The final potential source of a company's citizenship information (beyond the officers, directors, registered shareholders, and SEC filers described above) are the brokers and bank intermediaries that hold information regarding the beneficial owners of a company's shares. Under SEC rules, a company typically communicates with its shareholders indirectly through brokers or bank intermediaries, which hold the company's shares in "street name," i.e., in the name of the broker or bank intermediary, not the name of the actual

beneficial owner of the shares. Brokers and bank intermediaries, as part of their anti-money laundering compliance programs, are required to implement customer identification programs, under which they must obtain and verify, at a minimum, a customer's name, address or principal place of business for an entity, date of birth for an individual, and identification number for each customer, and have a method to verify that information.¹⁶

However, that information is not always accessible to the company. The SEC has adopted shareholder communication rules that seek to preserve a privacy interest for beneficial owners should they object to disclosing their information to the company.¹⁷ Under these SEC rules, brokers and bank intermediaries are prohibited from disclosing to a company the identity of "Objecting Beneficial Owners" ("OBOs"), i.e., those beneficial owners whose share ownership is below a certain threshold and who object to such disclosure.¹⁸

By contrast, a company is allowed to request lists of "Non-Objecting Beneficial Owners" ("NOBOs"), i.e., shareholders who do *not* object to such disclosures, from the brokers or bank intermediaries holding the NOBOs' shares. The company can then contact the NOBOs on such lists and inquire about their citizenship. In some cases, this will lead to additional information the company can use to supplement its foreign ownership calculation. However, it is important to highlight that these NOBOs are under no obligation to respond to inquiries from the company

¹⁶ See 31 C.F.R. § 1023.220.

¹⁷ Report of the Advisory Committee on Shareholder Communications, Improving Communications Between Issuers and Beneficial Owners of Nominee Held Securities, at 68 (1982).

¹⁸ See 17 C.F.R. § 240.14b-1(b)(3)(i). According to an estimate cited by the SEC, 70 to 80 percent of all public issuers' shares are held in street name, and 75 percent of those shares, or 52 to 60 percent of all shares, are held by OBOs. See Concept Release on the U.S. Proxy System, Exchange Act Release No. 34-62495, 75 Fed. Reg. 42982, 42999 (July 22, 2010) (citing Report and Recommendations of the Proxy Working Group to the New York Stock Exchange, at 10-11 (June 5, 2006)).

regarding their citizenship.¹⁹ As a result, it can be very difficult, and often impossible, to determine the citizenship of the beneficial owner of many shares. Moreover, in some cases where the identity of the entity that directly holds shares is known, there may be “up-the-chain” owners of that entity whose identity and citizenship are unknown.

In short, while NOBOs can be helpful in supplying some additional shareholder citizenship information, the likely unavailability of such data in many cases – as well as the absence of OBOs’ citizenship information – should be recognized as a fact of life for all public companies under the SEC’s existing requirements and should not be held against the companies as described below – i.e., the Commission’s rules should not count any unidentified OBO or NOBO as foreign. Rather, companies should be able to use any citizenship information they obtain from NOBOs to supplement the information obtained from the other sources described above, and then to use the other mechanisms described in the next section to complete their foreign ownership analysis.

B. Licensees Owned By A U.S. Public Company Should Be Permitted To Certify Compliance Based On The Percentage Of The Company’s *Known* Shareholders That Are Foreign Or That Have A Foreign Address.

Using each of the sources of available shareholder data set forth above, a company should be able to rely on citizenship information for its *known* shareholders in certifying compliance with Section 310(b)(4). In some cases, this information will include a shareholder’s citizenship or the jurisdiction in which a shareholder is organized, thereby enabling the company to identify foreign shareholders. However, where citizenship information for a known shareholder is not included in the information obtained from a given source, but the mailing

¹⁹ See 17 C.F.R. § 240.14a-13(b)(5).

address of that shareholder is included in information from that source, a company should be able to use the mailing address of such shareholder as a proxy for that shareholder's citizenship.

The use of mailing addresses as a proxy for shareholder citizenship is an accepted practice under the Commission's existing precedents for common carrier licensees.²⁰ The Commission likewise endorsed this approach for broadcast television licensees in *WWOR-TV*, a decision in which the applicant provided a foreign ownership update based in part on identifying shareholders with foreign mailing addresses. The Commission concluded in *WWOR-TV* that "we have never imposed on publicly traded corporate licensees the costly requirement of conducting on-going surveys to assure compliance with the statute."²¹ However, in its later *Cellco Recon* decision regarding a common carrier licensee, the Commission questioned this approach, suggesting that broadcast licensees should not be allowed to rely on shareholder addresses in lieu

²⁰ See, e.g., *Applications of Cellco Partnership d/b/a Verizon Wireless and Rural Cellular Corporation for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager Leases, and Petitions for Declaratory Ruling that the Transaction is Consistent with Section 310(b)(4) of the Communications Act; Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements, and Petition for Declaratory Ruling that the Transaction is Consistent with Section 310(b)(4) of the Communications Act*, Order on Reconsideration, 26 FCC Rcd. 11763 (2011) ("*Cellco Recon*") (affirming decisions in *Verizon-RCC* and *Verizon-Alltel* approving reliance of Verizon, a common carrier licensee wholly owned by publicly traded, widely held companies, on beneficial owner addresses of record collected and verified by third-party investor communications firms as proxies for citizenship of the shareholders), *aff'g Applications of Cellco Partnership d/b/a Verizon Wireless and Rural Cellular Corporation For Consent To Transfer Control of Licenses, Authorizations, and Spectrum Manager Leases and Petitions for Declaratory Ruling that the Transaction Is Consistent with Section 310(b)(4) of the Communications Act*, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd. 12463 (2008) ("*Verizon-RCC*"); *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC For Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements and Petition for Declaratory Ruling that the Transaction is Consistent with Section 310(b)(4) of the Communications Act*, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd. 17444 (2008) ("*Verizon-Alltel*").

²¹ *Application of WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd. 193, ¶ 9 (1990) ("*WWOR-TV*").

of the “more reliable” method of statistical surveys, even while continuing to accept shareholder addresses as a proxy for common carrier certifications.²² The Commission’s asserted policy concerns for drawing this distinction among the regulated companies have focused on the potential *control* a foreign owner might exercise over broadcast content, including in times of war.²³

Importantly, the *Notice* makes no distinction between broadcast and common carrier licensees—and there should be none. For several reasons, the Commission’s asserted policy concerns over broadcast ownership do not support maintaining this kind of distinction between public companies for Section 310(b)(4) certification purposes.

First, the plain language of Section 310(b)(4) makes no distinction between broadcast and common carrier licensees, and there is no indication that Congress intended for such a result.²⁴

²² *Cellco Recon* ¶ 24 n.92.

²³ *Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order, 11 FCC Rcd. 3873, ¶ 192 (1995) (linking broadcast foreign ownership concerns to the public trust concept and stating that “[h]istorically, foreign control of limited broadcast information outlets, particularly in time of war, was a principal consideration in adopting the foreign ownership limitations”); 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, ¶ 2 (2013) (noting that broadcast foreign ownership restrictions “were designed to protect the integrity of ship-to-shore and governmental communications and thwart the airing of foreign propaganda on broadcast stations.”).

²⁴ The statute states that “[n]o *broadcast or common carrier* or aeronautical en route or aeronautical fixed radio station 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” 47 U.S.C. § 310(b)(4) (emphasis added).

Second, the public trust concerns over control of broadcast content are simply not present in the context of known foreign owners whose relatively small ownership interests *aggregate* to less than 25 percent.²⁵

Third, as described in Section III below, the Commission will still be able to review and pass upon: (1) any change in control or license assignment that proposes to give control of a broadcast licensee to a foreign owner, and (2) any transaction in which the *known* foreign ownership of a broadcast licensee would exceed 25 percent, or at whatever higher threshold the Commission determines to require such a filing under the rules adopted in this proceeding.²⁶

Finally, whatever the merit of concerns regarding foreign ownership of broadcasting in 1934, the explosive growth in the sources of news available to Americans (as also described below in Section III) should largely eliminate such concerns today.

Accordingly, using the information gleaned from the available sources described above, a company should be permitted to perform an analysis ascertaining the percentage of its *known* shareholders that are foreign, and then to use this percentage as a reasonable estimate of its *total* foreign ownership, in certifying its compliance with Section 310(b)(4). A company should *only* be required to seek a declaratory ruling if its *known* foreign ownership ascertained using the information sources described above exceeds 25 percent where deemed necessary by the Commission.²⁷

This proposed approach is both practical and reasonable. In contrast, an approach that counted unidentified shareholders as foreign would inappropriately penalize companies simply

²⁵ In fact, the *Notice* indicates (¶ 36) that the Commission is considering allowing aggregate foreign equity and/or voting interests to exceed 25 percent in some circumstances without the need to obtain a declaratory ruling for such ownership.

²⁶ *See id.*

²⁷ *See id.* ¶ 36; *supra* note 25.

because they (like all other U.S. public companies) have OBOs and/or non-responsive NOBOs – notwithstanding that SEC rules are *specifically designed* to create and permit these categories of unidentified shareholders. That punitive approach makes little sense: a presumption that shareholders that cannot be identified are foreign likely results in a gross overstatement of a company’s foreign ownership, as the *Notice* itself recognizes.²⁸ And “unknown” shareholders are, by definition, below the existing SEC reporting thresholds, have chosen not to be registered owners, are not officers or directors, and are either OBOs or are NOBOs that have declined to provide sufficient ownership information to the company. Thus, such shareholders most certainly are not capable of influencing the U.S. public company’s policy decisions.

III. THE PROPOSED APPROACH IS CONSISTENT WITH ESTABLISHED COMMISSION PRECEDENT, WOULD FURTHER THE CONGRESSIONAL POLICIES UNDERLYING SECTION 310(b)(4), AND WOULD ALIGN FCC AND SEC REGULATIONS.

A. The Proposed Approach Comports With Commission Precedent Applying Section 310(b)(4).

A rule allowing certification of compliance with Section 310(b)(4) based on the information sources and approach described above would be consistent with Commission precedent holding that reasonable methods of estimating foreign ownership are permissible under the statute. For example, in its *WWOR-TV Recon* decision, the Commission stated that it expected the applicant would “generally monitor” its foreign ownership, and that the applicant would use “reasonable methods” to ensure compliance with Section 310(b).²⁹

²⁸ *Notice* ¶ 35.

²⁹ *Application of WWOR-TV, Inc. For Transfer of Control of WWOR-TV, Inc., License of Station WWOR-TV, Channel 9 Secaucus, New Jersey*, Memorandum Opinion and Order, 6 FCC Rcd. 6569, ¶ 13 (1991) (“*WWOR-TV Recon*”).

Similarly, in *HLT Corporation and Hilton Hotels Corporation*,³⁰ the Mass Media Bureau (as the Media Bureau was styled at that time) approved a foreign ownership certification based on the types of information specified in Section II.A above, including Hilton’s list of registered shareholders and information provided by 25 banks, brokers, and trusts holding shares for beneficial owners. Based on the ownership analysis and Hilton’s certification of compliance with the statute’s foreign ownership limits, the Bureau found that the transaction was consistent with Section 310(b)(4).³¹

And the Commission has followed this “reasonable methods” standard more recently in assessing compliance with Section 310(b)(4) in the common carrier context.³²

B. The Proposed Approach Would Further The Objectives Of Section 310(b)(4), As Applied To U.S. Public Companies Today.

Section 310(b)(4) provides that “[n]o broadcast or common carrier or aeronautical en route or aeronautical fixed radio station 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”³³ This statutory language does not mandate any particular methodology for assessing compliance, and thus affords the Commission discretion to adopt a reasonable approach.

³⁰ *HLT Corporation and Hilton Hotels Corporation For Consent to Interim Transfer of Control of ITT Broadcasting Corporation and HLT Corporation and Hilton Hotels Corporation For Consent to Transfer of Control of ITT Broadcasting Corporation*, Memorandum Opinion and Order, 12 FCC Rcd., 18144 ¶ 28 (MMB 1997).

³¹ *Id.* ¶ 30.

³² *Verizon-Alltel*, ¶ 229 (citing *WWOR-TV Recon Order* ¶ 13). As urged in the discussion above in Section II.B, the Commission should not impose more onerous requirements on broadcast licensees owned by public companies than it imposes on common carrier licensees.

³³ 47 U.S.C. § 310(b)(4).

Notably, as the Commission observed in its 1995 *Fox Television* decision, the “owned of record” language was added by Congress to Section 310(b)(4) precisely to avoid imposing onerous requirements on widely-held public companies:

The legislative history shows that Congress added this language simply to ease the burdens of determining who owned stock in the large, existing multi-national corporations that would be affected by Section 310(b)’s new provisions concerning parent companies.³⁴

Thus, since adopting the 25 percent limit on aggregate indirect foreign ownership in Section 310(b)(4), Congress has *always* intended that public companies subject to that requirement should be able to rely on examinations of *record ownership* to ascertain compliance with the statute. As described in the *Notice*³⁵ and above in Section II.A, due to changes in U.S. securities laws, a company today has less information available about its stock ownership than companies had in 1934. This makes a company’s right to certify compliance with Section 310(b)(4) based on an analysis of shares “owned of record” even more important today.

In addition, no U.S. broadcast license is under foreign control today, and the Commission retains authority to review transfers of control of broadcast licensees and assignments of broadcast licenses. Thus, the Commission’s existing review process for broadcast license assignments and transfers of control will give the Commission and the U.S. security agencies ample opportunity to review and pass upon every instance in which a foreign entity proposes to acquire *control* of a U.S. broadcast station. The Commission will also retain the ability to review

³⁴ *Application of Fox Television Stations, Inc. For Renewal of License of Station WNYW-TV, New York, New York*, Memorandum Opinion and Order, 10 FCC Rcd. 8452, ¶ 47 (1995) (“*Fox Television*”) (citing *A Bill to Provide for the Regulation of Interstate and Foreign Communications by Wire or Radio, and for Other Purposes: Hearings on S. 2910 Before S. Comm. on Interstate Commerce, 73d Cong. 122-27 (1934)*).

³⁵ See *Notice* ¶¶ 27-31.

and pass upon instances in which the *known* foreign ownership of a U.S. public company exceeds the 25 percent limit in the aggregate through the declaratory ruling process where the Commission deems such review necessary. As such, adopting the approach to Section 310(b)(4) certifications proposed in the *Notice*, along with Comcast's recommendations for implementing it, would not present any risk of foreign control, or known foreign ownership exceeding 25 percent, without FCC and U.S. security agency review.

With respect to foreign *influence* from *unknown* shareholders (that may or may not be foreign), as noted above, it simply is not plausible that a shareholder (whether foreign or not) of a widely-held company that is not required to make an SEC Schedule 13D or 13G filing would have the kind of concerted *influence* that Congress sought to address in Section 310(b)(4). Stated another way, unknown shareholders are shareholders that fall below SEC reporting thresholds, decline to reply to requests for information, and/or have elected OBO status, and thereby intentionally, and by their very nature, lack influence.

Finally, any perceived threat from unknown foreign owners is further attenuated by the growing plethora of news sources available to U.S. citizens, particularly when considered in light of the changes in the media landscape in the decades since 1934. In the 1930s, the options for news media sources were limited, and fear of foreign influence over those sources may have been justified. Today's news media landscape is fundamentally different due to the development of broadcast television and, more recently, the Internet.³⁶ And, even if one looks at television in

³⁶ In 2012, 39 percent of Americans got their news online, surpassing radio and newspapers and closing in on television. See Pew Research Center, *In Changing News Landscape, Even Television is Vulnerable—Trends in News Consumption: 1991-2012*, at 1 (Sept. 27, 2012), <http://www.people-press.org/files/legacy-pdf/2012%20News%20Consumption%20Report.pdf>. This shift is especially pronounced for younger Americans, who increasingly get more of their news online than from television or radio, and reflects the future trends of news consumption. *Id.* at 10.

isolation, that medium is marked by a massive volume and diversity of voices, including local and network broadcast news, and cable television news, none of which can claim dominance over shaping public opinion.³⁷ Ultimately, the dramatically changed media landscape has significantly diminished any risk from foreign ownership of broadcast licensees.

C. The Proposed Approach Would Align Section 310(b)(4) Certification Requirements With Current SEC Regulations.

As outlined above, the SEC's existing filing requirements and restrictions on shareholder communications both supply and limit the sources of shareholder information that are practically available to U.S. public companies. By permitting licensees of a company to rely primarily on such "record" ownership when certifying compliance with Section 310(b)(4), the proposed approach in the *Notice*, along with Comcast's recommendations for implementing it, will effectively align the Commission's regulatory requirements with those of the SEC. This will further serve the public interest, while also reducing the burdens and difficulties of the certification process for U.S. public companies.

³⁷ See Kenneth Olmstead et al., *How Americans Get TV News at Home*, Pew Research Center (Oct. 11, 2013), <http://www.journalism.org/2013/10/11/how-americans-get-tv-news-at-home/>.

IV. CONCLUSION

Comcast supports the *Notice*'s proposal to allow licensees owned by U.S. public companies to "rely solely on ownership information that is known or reasonably should be known to the public company" when certifying compliance with Section 310(b)(4).³⁸ Comcast respectfully urges the Commission to adopt rules that allow companies to rely on the shareholder information identified in these comments, which is either already available to the company or may be ascertained by the company through reasonable inquiry. The rules should not mandate any specific methodology to analyze these sources of information. Rather, companies should have the discretion to use these sources and information reasonably to inform their analysis and foreign ownership certifications under Section 310(b)(4). This approach will best achieve the Commission's goal of adopting revised rules that clarify companies' foreign ownership certification obligations and ensure a more efficient, effective and practical process going forward.

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³⁸ *Notice* ¶ 32.