

Examples of FCC Precedent: §310(b)(3) for Direct Foreign Investment and §310(b)(4) for Indirect Foreign Investment

VoiceStream Wireless Corp. and Deutsche Telekom, 16 FCC Rcd 9779 (2001)

- “Historically, the Commission has analyzed cases involving indirect alien ownership as described in section 310(b)(4) under that section rather than sections 310(b)(1) or (3), even where the ownership amounted to indirect de jure control of the licensee through a holding company that controls the licensee.” ¶ 41.
- “We also consider in this proceeding three petitions for declaratory ruling under section 310(b)(4), and one petition for declaratory ruling under sections 310(b)(4) and 310(d) of the Act, from entities in which VoiceStream currently holds indirect, non-controlling interests.... [U]nder section 310(b)(4), we determine whether the public interest would be served by allowing these common carrier licensees to have indirect foreign ownership that exceeds 25 percent.” ¶ 127.

Wilner & Scheiner, Declaratory Ruling, 103 F.C.C. 2d 511 (1985)

- “There are several differences in the alien ownership provisions contained in Section 310(b)(3), which apply to non-controlling interests directly in the licensee, and those of Section 310(b)(4), which apply to companies which directly or indirectly control the licensee.” ¶ 22.

Bell Atlantic New Zealand Holdings, Inc., and Pacific Telecom Inc., 18 FCC Rcd 23140 (IB, WTB, & WCB, 2003)

- “[B]ecause the proposed transaction does not involve direct foreign investment . . . , it does not trigger section 310(b)(3) of the Act, which places a 20% limit on direct alien, foreign corporate or foreign government ownership of entities that hold common carrier, broadcast and aeronautical fixed or en route Title III licenses.” (citing *VoiceStream*, 16 FCC Rcd at 9804-09, for the proposition that “issues related to indirect foreign ownership of common carrier licensees are addressed under section 310(b)(4).”) n.70.

Global Crossing Ltd., 18 FCC Rcd 20301 (IB, WTB, & WCB, 2003)

- “[B]ecause the proposed transaction does not involve direct foreign investment ... it does not trigger section 310(b)(3) of the Act, which places a 20 percent limit on direct alien, foreign corporate or government ownership of entities that hold common carrier, broadcast and aeronautical fixed or en route Title III licenses.” (citing *VoiceStream*, 16 FCC Rcd at 9804-09, for the proposition that “issues related to indirect foreign ownership of common carrier licensees are addressed under section 310(b)(4).”) n.81.

Lockheed Martin Corporation, 17 FCC Rcd 27732 (IB & WTB, 2002)

- “[B]ecause the proposed transaction does not involve direct foreign investment . . . , it does not trigger section 310(b)(3) of the Act, which places a 20% limit on direct alien, foreign corporate or government ownership of entities that hold common carrier, broadcast and aeronautical fixed or en route Title III licenses.” (citing *VoiceStream*, 16 FCC Rcd at 9804-09, for the proposition that “issues related to indirect foreign ownership of common carrier licensees are addressed under section 310(b)(4).”) n.127.

***Glentel Corp.*, 17 FCC Rcd 12008 (SD, 2002)**

- “[Section 310(b)(3)] applies to [] direct ownership. . . Indirect foreign ownership, on the other hand, is governed by section 310(b)(4) of the Act.” n.9.

***Applications of NWCG (Parent) Holdings Corp.*, 11 FCC Rcd 16318 (MMB 1996)**

- “Since the merger will occur at the holding company level, several levels removed from the licensee, the transaction does not implicate the direct alien investment limitation of Section 310(b)(3).” ¶ 12.