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Team Telecom Reviews Need More Structure

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The Commission has clarified our past broadcast foreign ownership restrictions and now needs to consider ways to take the next step. I have [made the case previously](#) ^[2] that this means we must clearly permit greater foreign ownership in order to open the doors to new capital and opportunities for U.S. broadcasters while at the same time hopefully laying the groundwork for similar treatment of U.S. investors abroad. And I very much appreciate the Chairman's commitment to move forward on this issue in the near term. The biggest obstacle to making improvements quickly, however, is the opaque and sometimes unending review process used by what's commonly known as Team Telecom (i.e., a working group of representatives from the Federal government entities charged with ensuring national security: the Departments of Homeland Security, Defense, Justice, State, Treasury, and Commerce, as well as USTR and the FBI). The way to break the stalemate is to set a definitive process that the Commission will follow in working with Team Telecom.

No one disputes that protecting our homeland is a top priority. At this time of year we are reminded of the devastation that can occur when foreign terrorists seek to harm Americans. At the same time, we can't allow these legitimate concerns to delay the benefits from greater foreign investment by benign private entities. It is also important to keep in mind that our past justifications for limiting foreign investment for broadcast licenses no longer make sense, if they ever did.

Today's marketplace for video programming is exceptionally dynamic and competitive. While once there were only a few television "channels," now there are hundreds available to fulfill any binge watcher's wishes. Adding to the dynamism of the content marketplace is the disruptive force brought by over-the-top providers, who offer all types of video programming from snippets to individual episodes to wholesale station offerings. And this doesn't even attempt to account for all of the Internet content that serves as a reliable diversion for many people. If we are not living in the all-time golden era for video consumers, I ask someone to point to a moment that was more prolific.

To the extent that in the past we were concerned that an adversarial foreign entity or nation state could capture a significant portion of the American media through ownership of an individual television station, the vast expansion of the media landscape has greatly diminished any danger. No one can corner the video offerings in any one market, much less nationwide, to distribute their particular “political” message or to compromise the delivery of emergency information to Americans in times of need. Moreover, we are sadly reminded on an almost daily basis that terrorists and others are well-versed in the use of non-broadcast media, such as the Internet, email and social media applications, to recruit new members, distribute orders, and disseminate anti-American views. Given this reality, artificially limiting foreign ownership for broadcasters without a legitimate, identifiable concern regarding the specific transaction proposed makes as much sense as imposing technological speed limits on bicycles while cars, trucks and buses continue to fly by.

Here are just some of the high level problems with Team Telecom's current process:

- **Inextricable Black Hole** – Once transaction applications are submitted, there is little to no information available to the Commission, much less applicants, on status or potential areas of concern, no timeline for conclusion, and way to discern which agency, if any, has concerns.
- **No Clarity for Future** – The haphazard process does not provide any precedential value for future applicants to know what may be acceptable or unacceptable practices, structure or partnerships. This leaves applicants subject to the whim of the individual members of Team Telecom at that exact moment in time.
- **Subject to Politics** – Without a transparent and balanced process, any decisions resulting fuel the charge that blatant political influences led to a particular outcome. This can undermine the legitimacy of the Commission in dealings internationally and could further inhibit development of an independent international telecommunications regulatory structure that the U.S. has sought for decades.

As long as the Commission is going to defer to Team Telecom for review or approval as part of its transaction review process when any foreign investment might be involved, there must be firm procedures in place to prevent abuse and unnecessary delay. Specifically, I propose that the Commission adopt the following structure:

- **Remove Artificial Cap** – Establish a new FCC foreign ownership cap for purposes of 310(b)(4) at 100 percent.
- **Team Telecom Notification & Timeline** – Establish a notification process for a potential licensee to inform the FCC if foreign investment would be involved above 80 percent and forward pertinent information to Team Telecom:
 - Establish that foreign investment is automatically approved after 30 days, unless Team Telecom submits a formal request to FCC seeking additional review time not to exceed 90 days, which can be extended for one additional 90 day period by another formal request;
 - Establish timeline in which Team Telecom must submit recommendations to FCC on whether to grant or deny the application based on foreign ownership.
- **Extend to Non-Broadcast Licensees** – To the extent that these suggestions would streamline current foreign investment review practices in other Bureaus, these proposals should be extended to foreign investors seeking to invest in non-broadcast licensees.

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