



May 23, 2013

Via Electronic Filing

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Joint Applications of Sprint Nextel Corporation, SOFTBANK CORP., and Starburst II, Inc. and Petition for Declaratory Ruling under Section 310(b)(4) of the Communications Act of 1934, as Amended
IB Docket No. 12-343
File No. ISP-PDR-20121115-00007
Written Ex Parte Presentation

Dear Ms. Dortch:

SoftBank Corp., Starburst I, Inc., and Starburst II, Inc. (collectively, “SoftBank”) hereby submits this written ex parte presentation in response to the May 16, 2013 letter to the Commission from Pantelis Michalopoulos, counsel to DISH Network Corporation (“DISH”).^[1]

The DISH May 16 Letter is merely one more attempt by DISH to abuse the FCC’s regulatory process for DISH’s private financial advantage. DISH seems to have concluded that, by raising issues through ex-parte submissions to the FCC, it can then suggest that they are newsworthy and seek greater publicity benefits, regardless of how irrelevant its positions may be to the FCC’s considerations. This is now the third such letter, in just the last month, that appears to have been sent to the FCC regardless of regulatory relevance in the search for some level of validating media effect. The letter simply raises no issues that warrant further Commission consideration or further delay in the above-referenced proceeding.

^[1] Letter from Pantelis Michalopoulos, Counsel to DISH Network Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, IB Docket No. 12-343 (filed May 16, 2013) (the “DISH May 16 Letter”).

With respect to the suggestions here, simply put, SoftBank is in no position to make determinations concerning any operating decisions of Alibaba Group Holding Ltd. (“Alibaba”), including any decisions concerning which banks might participate in any offering process that the company might choose to pursue. This is true not only for Alibaba, but for all other companies in which Softbank holds a minority stake.

Even if SoftBank had such rights, DISH’s claims are simply irrelevant to the Commission’s decision in this proceeding, and unrelated to the well-documented public interest benefits of the transaction. Aside from involving wild speculation about whether SoftBank has market power in the market for investment banking services, this market – of course – far outside the Commission’s regulatory purview. The Commission consistently rejects efforts to have it consider matters that are so far outside its jurisdiction.^[2] Indeed, DISH’s invocation of supposed differences between U.S. and Japanese banking law is a perfect example of the kind of issue that the Commission has no reason to consider. Note, for instance, that the sole precedent DISH cites for the proposition that the Commission should consider market power in markets unrelated to communications services is focused instead on telecommunications services, not unrelated markets, and specifically refers to: “a telecommunications carrier that possess the ability to exercise market power in the foreign market for facilities and services necessary for the provision of U.S. international services[.]”^[3] Claims relating to supposed market power in investment banking services, a market wholly unrelated to any communications or ancillary market, are simply not relevant to the Commission’s assessment of foreign ownership or any other aspect of a proposed transaction.

DISH further claims that its fundamentally irrelevant concerns about SoftBank’s alleged power in the market for investment banking services are exacerbated by SoftBank’s “controlling interest” in “SBI Sumishin Net Bank, Ltd. (an Internet bank that accepts deposits and makes consumer loans)” and the risk that such an interest “may facilitate SoftBank’s communications with other banks” or could be relevant to the Federal Reserve’s evaluation of SoftBank’s qualifications, if SoftBank applied to the Federal Reserve to register as a bank holding company.

While these concerns would be farfetched even if true, SoftBank doesn’t have a controlling interest in SBI Sumishin Net Bank. Indeed, neither SoftBank nor any SoftBank affiliate holds any interest whatsoever in SBI Sumishin Net Bank. While we don’t really know who does, we note that – based on the company’s website – the company appears to

^[2] See, e.g., *Application for Consent to Assignment of PCS Licenses KNLH651 and KNLH653 from Northstar Technology, LLC to Banana Communications, LLC*, Memorandum Opinion and Order, 23 FCC Rcd 9122, ¶ 16 (WTB 2008) (refusing to address matters “beyond the scope of our jurisdiction”); *In the Matter of A.L.Z. Broadcasting, Inc.*, 15 FCC Rcd 23200, 23201 (2000) (finding contractual dispute concerning payment obligations to be within the province of a court of competent jurisdiction, not the Commission) (citations omitted).

^[3] *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23913 ¶ 51 (1997) (footnotes omitted).

be 50% owned by SBI Holdings, Ltd., a wholly different and unrelated Japanese public company in which neither SoftBank nor any SoftBank affiliate holds any interest. Presumably this would have been readily apparent to DISH if they had taken the time to check their representations to the FCC against this company's website.

DISH's letter continues a regular flow of letters to the Commission which misrepresent the facts of Softbank's application in an effort to create issues where none exist – regardless of whether misstatements and/or innuendo are required to do so. We urge the Commission to disregard the letters of this sort that it has received, and will undoubtedly continue to receive, from DISH.

Given the accurately described and well-documented public interest benefits demonstrated in the above-referenced application, SoftBank continues to urge the Commission to act promptly and grant its applications and petition for declaratory ruling in this proceeding.

Respectfully submitted,

**SOFTBANK CORP.
STARBURST I, INC.
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/s/ John R. Feore

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