

DOCKET FILE COPY ORIGINAL

RECEIVED

DEC 13 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Attached addendum for Senator Hollings Comments in IB Docket No. 00-187.

Please see bold text under Section II suggesting that this matter may need to be designated for a hearing.

No. of Copies rec'd 02
List ABCDE

precedential value, and twists the applicable statutory text so as to permit foreign government control of U.S. telecommunications licenses. The FCC must review the instant application without regard to that prior, erroneous, bureau level decision.

In addition, the 1997 WTO Telecommunications Agreement does not provide the FCC the authority to approve the DT-VoiceStream merger application. Rather, that agreement clearly violates Section 310(a). Since that 1997 agreement was never submitted to the United States Senate for ratification, it represents nothing more than an Executive Agreement that cannot govern the FCC's consideration of the current transaction. Instead, the FCC must be guided by controlling statutory text – namely Section 310(a).

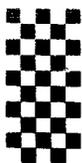
Finally, the acquisition of VoiceStream by Deutsche Telekom will harm competition in the United States and is clearly contrary to the public interest the FCC is required to safeguard and protect. The unique aspects of government ownership will provide a combined DT-VoiceStream with both the ability and the incentive to behave anticompetitively against U.S. telecommunications carriers in a manner that runs counter to decades of American telecommunications competition policy.

II. The Federal Communications Commission Must Deny the Application of Deutsche Telekom to Acquire VoiceStream Pursuant to the Plain Prohibition Against Such a Transaction Contained in 47 U.S.C. Section 310(a)

Deutsche Telekom is a formerly wholly state-owned company that has been partially privatized, but remains majority owned by the German government. DT's acquisition of VoiceStream is plainly prohibited by the plain language of 47 U.S.C. Section 310(a). Moreover, this prohibition is unequivocal, and cannot be waived. **Accordingly, the Commission should seriously consider designating this proceeding for a hearing prior to reaching any determination on the matter.**

A. Section 310(a) Plainly Prohibits the FCC from Granting Any "Station License" to an Entity Controlled by a Foreign Government

Any acquisition of a United States telecommunications company by a foreign government owned provider violates Section 310(a) of the Communications Act, as amended. That section plainly prohibits foreign governments or their representatives from acquiring U.S. telecommunications licenses. Deutsche Telekom, France Telekom, or NTT, for example, clearly fall within the prohibition contained in Section 310(a). Moreover, Section 310(a) of the Act is an enduring provision. Congress has had numerous opportunities to modify this prohibition on foreign government ownership of licenses but has declined to do so, effectively endorsing its viability and significance. In fact, in 1995, the Chief of the FCC's International Bureau, Scott Blake Harris, testified before the Senate Commerce Committee in favor of maintaining "the general ban, now in Section 310(a), on foreign governments or their representatives owning radio



U.S. SENATE COMMITTEE ON
Commerce, Science, and Transportation

FAX

TO: Bill Pender

OFFICE: _____

FAX NO: 418 2806

DATE: _____ TIME: _____

PAGE 1 OF: 3

FROM: Al Noth (202) 224 - _____

SUBJECT: _____