



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 12th St., SW
WASHINGTON, D.C. 20554

News media information 202/418-0500
Fax-On-Demand 202/418-2830
Internet: <http://www.fcc.gov> <ftp.fcc.gov>

DA 02-552

**FCC File Nos.
ISP-PDR-20011128-00054
ITC-T/C-20011221-00649**

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INTERNATIONAL BUREAU GRANTS CONSENT TO TRANSFER CONTROL OF SECTION 214 AUTHORIZATIONS FROM ELISKA WIRELESS VENTURES LICENSE SUBSIDIARY I, L.L.C., ELISKA WIRELESS INVESTORS I, L.P., AND SONERA HOLDING, B.V. TO POWERTEL, INC., AND DECLARATORY RULING ALLOWING INCREASED INDIRECT FOREIGN OWNERSHIP

Pursuant to section 214(a) of the Communications Act of 1934, as amended,¹ (the “Act”) and section 0.261 of the Commission’s rules,² the International Bureau authorizes the proposed transfer of control of international section 214 authorizations held by Eliska Wireless Ventures License Subsidiary I, L.L.C., (Eliska Wireless) from Eliska Wireless Investors I, L.P. (“Eliska Investors”) and Sonera Holding, B.V. (“Sonera”) to Powertel, Inc. (“Powertel”) (collectively, “Applicants”). The Bureau finds, upon consideration of the record, that the proposed transfer of control will serve the public interest, convenience, and necessity.³ The Bureau also finds, pursuant to section 310(b)(4) of the Act,⁴ that it would not serve the public interest to prohibit the proposed indirect foreign ownership of Eliska Wireless in excess of the statutory 25 percent foreign ownership benchmark.⁵ The Bureau issues its section 310(b)(4) ruling in connection with the companion applications to transfer control of common carrier wireless licenses held by Eliska Wireless from Eliska Investors and Sonera to Powertel. These applications, filed pursuant to section 310(d) of the

¹ 47 U.S.C. § 214(a).

² 47 C.F.R. § 0.261.

³ See 47 U.S.C. § 214(a).

⁴ 47 U.S.C. § 310(b)(4).

⁵ See Eliska Wireless Ventures License Subsidiary I, L.L.C., Eliska Wireless Investors I, L.P., and Sonera Holding B.V. Seek FCC Consent to Transfer Control of Licenses and Section 214 Authorizations and Request Declaratory Ruling Allowing Increased Indirect Foreign Ownership, International Bureau, DA 02-0039, *Public Notice*, (rel. January 9, 2002) (“Pleading Cycle Established”). No comments or petitions to deny were received in response to the Public Notice announcing that the application and petition for declaratory ruling had been accepted for filing.

Act, are the subject of a public notice grant issued today by the Wireless Telecommunications Bureau.⁶

The proposed transfer of equity and voting interests to Powertel would result in Powertel increasing its current minority investment interest to 100 percent ownership of Eliska Wireless. In addition, in light of Deutsche Telekom AG's ("DT") 100 percent indirect ownership of Powertel, DT's indirect equity interest in the licensee would increase from 49.9 percent to 100 percent, and its indirect voting interest would increase from 24.95 percent to 100 percent. As of the filing date of the applications and petition, the German government owned 43 percent of the equity in DT.⁷ Applicants petition the Commission to issue a declaratory ruling that the proposed increase in the level of indirect foreign ownership in Eliska Wireless by DT is consistent with the Commission's finding in *VoiceStream Wireless Corporation, Powertel, Inc. and Deutsche Telekom AG seek FCC Consent to Transfer Control of Licenses and Authorizations and Request Declaratory Ruling Allowing Indirect Foreign Ownership*, Memorandum Opinion and Order, 16 FCC Rcd 9779 (rel. April 27, 2001) ("*VoiceStream-Powertel-DT Order*"), and the public interest pursuant to Section 310(b)(4) of the Act.

Our grant of the petition for declaratory ruling permits the requested indirect foreign ownership of Eliska Wireless by DT and its German shareholders (up to 100 percent), with the exception of the German government, and the German government through its investment in DT (up to 43 percent).⁸ Eliska Wireless may accept up to and including an additional, aggregate 25 percent indirect equity and/or voting interests from other unnamed non-U.S. investors, including non-German shareholders of DT, subject to the following conditions. First, no single non-U.S. individual or entity – with the exception of DT and the German government – may acquire indirect ownership of Eliska Wireless in excess of 25 percent without Commission approval under Section 310(b)(4). Second, Eliska Wireless shall seek approval under Section 310(b)(4) before it accepts any additional indirect investment by the German government in excess of the permitted 43 percent.

With respect to the application to transfer control of the international section 214 authorizations held by Eliska Wireless,⁹ Powertel seeks, and we here grant, authority for Eliska Wireless to continue to provide international telecommunications services to all of the countries as to which Eliska Wireless is currently authorized,¹⁰ except Uzbekistan and Macedonia.¹¹ Eliska Wireless will continue to be classified as a dominant U.S. international carrier on the U.S.-

⁶ See Public Notice, DA 02-547 (rel. March 6, 2002). See also section 1.948(b)(1) of the rules, 47 C.F.R. § 1.948(b)(1).

⁷ See FCC Form 602.

⁸ ISP-PDR-20011128-00054.

⁹ ITC-T/C-20011221-00649 (requesting authority to transfer control of Eliska Wireless authorizations, File Nos. ITC-214-20000801-00444 and ITC-214-20000627-00370).

¹⁰ Powertel certifies that it is a foreign carrier, or is affiliated with a foreign carrier, in the following countries: Austria, Belgium, Canada, Croatia, Czech Republic, Macedonia, France, Germany, Hong Kong, Hungary, Indonesia, Japan, Netherlands, Philippines, Poland, Russia, Singapore, Slovakia, Switzerland, and United Kingdom. DT, which holds a 100 percent controlling interest in Powertel, is either a foreign carrier itself or a foreign carrier affiliate in each of the above referenced countries, except Indonesia, the Philippines, Poland and Russia.

¹¹ 16 FCC Rcd 9779, 9833 n. 292 (2001); FCN-NEW-20010622-00032. Uzbekistan and Macedonia are WTO Observer Nations.

Germany, U.S.-Croatia, U.S.-Hungary, and U.S.-Slovakia routes, and it has agreed to comply with our dominant carrier requirements, as specified under section 63.10 of the rules, on these routes. On all other affiliated routes, Eliska Wireless shall continue to be classified as a non-dominant U.S. international carrier.

For further information, please contact Imani Ellis-Cheek, Telecommunications Division, International Bureau, at (202) 418-1028.