

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket 02–277, and MM Dockets 01–235, 01–317, and 00–244; FCC 03–127]

#### Broadcast Ownership Rules, Cross-Ownership of Broadcast Stations and Newspapers, Multiple Ownership of Radio Broadcast Stations in Local Markets, and Definition of Radio Markets

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document completes the Commission's biennial review of its broadcast ownership rules. The Commission replaces its absolute prohibition on common ownership of daily newspapers and broadcast outlets in the same market and its restrictions on common ownership of radio and television outlets in the same market with Cross Media Limits. The Commission also revises the market definition and the way it counts stations for purposes of the local radio rule, revises the local television multiple ownership rule, modifies the national television ownership cap from a 35% national audience reach limit to a 45% reach limit, and retains the dual network rule. The action is taken in response to section 202(h) of the Telecommunications Act of 1996, which requires the Commission to review its broadcast ownership rules on a biennial basis to determine whether the rules remain "necessary in the public interest." The action is necessary to comply with this legislative mandate.

**DATES:** Effective September 4, 2003, except for §§ 73.3555 and 73.3613 which contains information collection requirements that are not effective until approved by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing the effective date of these sections. A separate notice will be published in the **Federal Register** soliciting public and agency comments on the information collections, and establishing a deadline for accepting such comments.

**FOR FURTHER INFORMATION CONTACT:** Mania Baghdadi, Deputy Division Chief, Industry Analysis Division, Media Bureau, 202–418–2133. For further information concerning the information collection requirements contained in this Report and Order, contact Les Smith, Federal Communications Commission, 202–418–0217, or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order (R&O) in MB Docket No. 02–277 and MM Docket Nos. 01–235, 01–317, and 00–244; FCC 03–127, adopted June 2, 2003, and released July 2, 2003. The complete text of the R&O and the Final Regulatory Flexibility Analysis is available on the Commission's Internet site, at [www.fcc.gov](http://www.fcc.gov), and is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC. The text may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B4202, Washington, DC 20554 (telephone 202–863–2893).

#### Synopsis of the Report and Order

1. This R&O brings to completion the Commission's third biennial ownership review of all six broadcast ownership rules. The Commission addresses these rules in light of the mandate of section 202(h) of the Telecommunications Act of 1996 (1996 Act), which requires the Commission to reassess and recalibrate its broadcast ownership rules every two years. (Telecommunications Act of 1996, Public Law 104–104, 110 Stat. 56 (1996).)

2. The *Notice of Proposed Rulemaking* (NPRM) in this proceeding (67 FR 65751, October 28, 2002), initiated review of four ownership rules: the national television multiple ownership rule;<sup>1</sup> the local television multiple ownership rule;<sup>2</sup> the radio-television cross-ownership rule;<sup>3</sup> and the dual network rule.<sup>4</sup> The first two rules have been reviewed and the proceedings remanded to the Commission by the U.S. Court of Appeals for the District of Columbia Circuit. (*Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027, 1044 (D.C. Cir. 2002) (Fox Television), *rehearing granted*, 293 F. 3d 537 (D.C. Cir. 2002) (Fox Television Re-Hearing) addressing the national TV ownership rule, and *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148 (DC Cir. 2002), (Sinclair) addressing the local TV ownership rule.) After the Commission issued the NPRM, the Commission issued 12 Media Ownership Working Group (MOWG) studies for public comment. A summary of the studies, a public notice, and the text of the studies may be found at [www.fcc.gov/ownership](http://www.fcc.gov/ownership).

<sup>1</sup> 47 CFR 73.3555(e).

<sup>2</sup> 47 CFR 73.3555(b).

<sup>3</sup> 47 CFR 73.3555(c).

<sup>4</sup> 47 CFR 73.658(g).

3. In this R&O, the Commission examines the legal context within which this review is conducted, identifies and describes the public interest policy goals that guide our decision, assesses changes in the media marketplace over time, repeals some rules, modifies others, and adopts some new rules. In consideration of the record and our statutory charge, the Commission concludes that neither an absolute prohibition on common ownership of daily newspapers and broadcast outlets in the same market (the newspaper/broadcast cross-ownership rule) nor a cross-service restriction on common ownership of radio and television outlets in the same market (the radio-television cross-ownership rule) remains necessary in the public interest. With respect to both of these rules, the Commission finds that the ends sought can be achieved with more precision and with greater deference to First Amendment interests through our modified Cross Media Limits (CML). The Commission also revises the market definition and the way it counts stations for purposes of the local radio rule, revises the local television multiple ownership rule, modifies the national television ownership cap, and retains the dual network rule.

4. The Commission, in the R&O, adopts limits both for local radio and local television station ownership. Both of these rules are premised on well-established competition theory and are intended to preserve a healthy and robust competition among broadcasters in each service. As explained in the R&O, however, because markets defined for competition purposes are generally more narrow than markets defined for diversity purposes, the Commission's ownership limits on radio and television ownership also serve our diversity goal. By ensuring that several competitors remain within each of the radio and television services, the Commission also ensures that a number of independent outlets for viewpoint will remain in every local market, thereby protecting diversity. Further, though, because local television and radio ownership limits cannot protect against losses in diversity that might result from combinations of different types of media within a local market, the Commission adopts a set of specific cross-media limits.

5. Similarly, by virtue of the staff's extensive information gathering efforts and the voluminous record assembled in this rulemaking docket, the Commission has, for the first time substantial evidence regarding the localism effects of our national broadcast ownership rules. The