

the realization of efficiencies by prohibiting common ownership of television stations in most DMAs. To enhance the ability of broadcast television to compete with cable and DBS in more DMAs, the Commission believes that the potential efficiencies and cost savings of multiple station ownership should be available to stations in a larger number of DMAs than permitted by our current rule.

93. Common ownership of broadcast television stations in a local market may also spur the transition to digital television. In developing DTV build-out rules for broadcast stations, the Commission has recognized the particular financial challenges faced by stations in smaller markets. Nevertheless, many DTV construction costs do not vary with market size and thus it still may be relatively more difficult for stations in these markets to finance the transition to DTV.

94. The Commission believes that our modified rule, which permits the common ownership of at least two television stations in most markets, will have a beneficial impact on the DTV transition. One study shows that stations that are commonly owned and stations involved in joint operating arrangements are further along in the DTV transition. Common ownership could facilitate cost savings by sharing DTV equipment. Common ownership would also allow the expertise gained in transitioning one station to DTV to be transferred to other commonly owned stations.

95. The Commission's competition goal seeks to ensure that for each television market, numerous strong rivals are actively engaged in competition for viewing audiences. Although mergers among participants in the DVP market would not affect the number of delivered video program streams, they might adversely affect the types or characteristics of the programming offered by the merged entities to the detriment of viewers. The evidence for common ownership of two television stations, however, suggests that more viewers prefer the post-merger programming. The Commission therefore concludes that our current rule, which prohibits common ownership of broadcast television stations in most markets, is overly restrictive. Because some relaxation of the current rule to permit additional consolidation in local television markets would facilitate efficiencies and likely result in the delivery of programming preferred by viewers, the Commission concludes that our current rule cannot be justified on grounds of competition in the market for DVP.

96. *Video Advertising Market.* The Commission concludes that the current rule is not necessary to promote competition in the video advertising market. The Commission concludes that our local TV ownership rule restricts many broadcasters to suboptimal size and, therefore, hinders their ability to compete with other media for advertising revenue. That said, competitive broadcast television advertising markets may require a larger number of owners of DVP than are necessary to protect competition in the DVP market. As such, assuring competition in video advertising markets may provide the public with an added level of protection. A larger number of television station owners in a local television market may also lower the potential for the exercise of market power by any one broadcaster and, therefore, help smaller or non-consolidating broadcasters compete for advertising revenue.

97. The Commission has determined that broadcast television advertising is a relevant product market. Advertisers differ in their ability to substitute between alternative media. Although some advertisers that use broadcast television stations may consider cable networks or the advertising time sold by local cable operators to be good substitutes, other advertisers may not consider these alternatives to be good substitutes. In addition, most advertisers that use broadcast television stations do not consider radio, newspapers, and other non-video delivery media to be good substitutes.

98. Our experience suggests that common ownership of two local broadcast television stations has produced efficiencies without facilitating the exercise of market power in the broadcast television advertising market. In light of evidence detailed in the R&O, that the current rule prohibits some consumer welfare enhancing combinations, the Commission concludes that the current rule is overly restrictive and not necessary to protect competition in the broadcast television advertising market.

99. *Video Program Production Market.* The Commission concludes that the current rule is not needed to protect competition in the video program production market. Broadcast television stations, along with TV networks, cable networks, program syndicators, and cable and DBS operators purchase or barter for video programming. The channel capacity of today's cable operators and DBS operators provides many more opportunities for sellers of existing and new video programming, compared with 20 years ago. Many of

the programs sold today are specifically targeted to the niche audiences available on cable networks. In addition, many video programs initially sold to TV networks migrate to cable networks, and a few programs initially sold to cable networks migrate to local broadcast television stations. Same-market combinations are only of concern to the few program syndicators that sell their programming directly to individual local television stations. These program syndicators would not consider sales to group owners of television stations in multiple markets, TV networks, and cable networks to be good substitutes for the sale of programming to individual stations. These program syndicators play one television broadcast station against another in the same market to sell their programming. By precluding common ownership of broadcast television stations in most markets, our current rule provides for more owners of television broadcast stations in most markets than are necessary to assure that program syndicators receive a fair price for their programming.¹⁰ The Commission concludes, therefore, that the current rule is not necessary to protect competition in the video program production market.

100. *Localism.* The adoption of the local TV ownership rule was not predicated on promoting localism. To the contrary, the Commission has previously recognized that relaxation of the rule was likely to promote localism. The primary evidence of "programming and service" benefits was anecdotal evidence of increases in the amount of local news and public affairs programming aired by stations participating in LMAs.

101. The Commission concludes that our current local TV ownership rule poses a potential threat to local programming, and that modification of the rule is likely to result in efficiencies that will better enable local television stations to acquire content desired by their local audiences.

102. *Local Programming Quantity and Quality.* On balance, evidence presented by commenters concerning the amount and quality of local news and public affairs programming suggests that owners/operators of same-market combinations have the ability and incentive to offer more programming responsive to the needs and interests of their communities and that in many cases, that is what they do. Thus, modifications to the rule that will allow

¹⁰ The current rule ensures that there are at least eight independent owners in all markets with eight or more stations.