

ownership rule continues to be "necessary in the public interest as a result of competition." In determining whether the rule meets that standard, the Commission considers whether the rule serves the public interest, which, in radio broadcasting, traditionally has encompassed competition, localism, and diversity. The Commission examines each of these public interest objectives in turn.

164. *Competition.* In the Policy Goals section, the Commission explained how the public interest is served by preserving competition in relevant media markets. Although limits on local radio ownership are generally necessary to serve the public interest, the Commission concludes that the current local radio ownership rule does not serve the public interest as it relates to competition for two reasons. First, the current rule uses a methodology for defining radio markets and counting the number of radio stations in a market that has not protected against undue concentration in local radio markets. Second, the current rule fails to account for the competitive presence of noncommercial stations in a market. Accordingly, the Commission modifies the rule to address these concerns.

165. *The Product Market Definition.* To measure the state of competition in radio broadcasting, the Commission first must determine the relevant product markets in which radio stations compete and the other media, if any, that compete in those markets. The Commission concludes that radio broadcasters operate in three relevant markets: radio advertising, radio listening, and radio program production.

166. *The Radio Advertising Market.* The Commission concludes that advertisers do not view radio stations, newspapers, and television stations as substitutes. A number of commenters have argued that there is little substitution between advertising on broadcast TV and newspapers. Further, empirical studies confirm that advertisers do not view ads in newspapers and broadcast radio as substitutes. The Commission acknowledges that the studies discussed in the full text of the R&O focus on national advertising markets. Nothing has been submitted in the record, however, that suggests that local advertisers are better able to substitute between radio and other media than are national advertisers, and the studies' results are consistent with the results of MOWG Study No. 10, which did examine local advertisers.

167. *The Radio Listening Market.* The Commission concludes that radio

listening is a relevant product market. There is no evidence that radio listeners consider non-audio entertainment alternatives to be good substitutes for listening to the radio. The Commission therefore disagrees with commenters who argue that the relevant market should be broadened from radio listening to include non-audio entertainment options. The Commission also disagrees with commenters who argue that the relevant product market should be broadened to include other delivered audio media, such as Internet audio streaming and satellite radio. Internet audio streaming may be a substitute for broadcast radio when listening takes place while working on a computer or in a small office environment. A significant portion of audio listening, however, occurs while driving or otherwise outside of the office or home. Since most people do not access Internet audio from a mobile location, the Commission concludes that Internet audio streaming is not a substitute for broadcast radio for a significant portion of audio listening. Similarly, satellite radio may be a substitute for broadcast radio for the fewer than 600,000 people that subscribe to satellite radio. But the vast majority of the population does not subscribe to a satellite radio service. Accordingly, the Commission concludes that satellite radio is not yet a good substitute for broadcast radio for most listeners.

168. Preserving competition for listeners is of paramount concern in the Commission's public interest analysis. Although competition in the radio advertising market and the radio program production market indirectly affects listeners by enabling radio broadcasters to compete fairly for advertising revenue and programming—critical inputs to broadcasters' ability to provide service to the public—it is the state of competition in the listening market that most directly affects the public. When that market is competitive, rivals profit by attracting new audiences and by attracting existing audiences away from competitors' programs. Monopolists, on the other hand, profit only by attracting new audiences; they do not profit by attracting existing audiences away from their other programs. Because the additional incentives facing competitive rivals are more likely to improve program quality and create programming preferred by existing listeners, it is critical to the Commission's competition policy goals that a sufficient number of rivals are actively engaged in competition for

listening audiences. Limits on local radio ownership promote competition in the radio listening market by assuring that numerous rivals are contending for the attention of listeners.

169. *Radio Program Production Market.* Radio stations seek to acquire audio programming from a variety of audio program producers. Many sellers of audio programming do not have adequate substitutes for local radio stations. The record indicates that radio stations are an important mechanism by which the American public is made aware of new music. Moreover, the record suggests no reasonable alternative available to producers of radio talk shows—a type of radio programming that has become increasingly popular in the last decade. To the extent that the radio stations in a local community are owned by one or a few firms, those firms could constitute a bottleneck that would impede the ability of radio programming producers to make their programming available to consumers in that community. Accordingly, the Commission concludes that radio programming constitutes a separate relevant product market.

170. *Geographic Market Definition.* There is no serious dispute that the relevant geographic market for the product markets in which radio stations compete is local. The parameters of the local market, however, have been a source of considerable debate and controversy. The Commission currently uses a contour-overlap methodology for defining radio markets and determining the number of radio stations that are in those markets. That methodology has been subject to intense criticism for producing unrealistic and irrational results. Based on the record and our own experience, the Commission now concludes that the contour-overlap system should be replaced by a more rational and coherent methodology based on geographically-determined markets to promote more effectively our competition policy goals.

171. *Problems with the Existing Radio Market Definition and Counting Methodologies.* The Commission currently relies on the principal community contours of the commercial radio stations that are proposed to be commonly owned to determine the relevant radio market in which those stations participate and to count the other radio stations that are in the market. We first consider whether an area of overlap exists among the principal community contours of all of the stations proposed to be commonly owned. If no such overlap area exists, then the radio stations involved are presumed to be in separate radio