

six radio stations (to the extent permitted under the local radio ownership rule) in a market where at least 20 independently owned media voices would remain post-merger. Where parties may own a combination of two television stations and six radio stations, the rule allows a party alternatively to own one television station and seven radio stations. A party may own up to two television stations (as permitted under the current television duopoly rule) and up to four radio stations (as permitted under the local radio ownership rule) in markets where, post-merger, at least ten independently owned media voices would remain. A combination of one television station and one radio station is allowed regardless of the number of voices remaining in the market.

250. Based on the record in this proceeding, the Commission does not find that the radio/television cross-ownership rule remains necessary in the public interest to ensure competition, diversity or localism. The Commission's decision reflects the substantial growth and availability of media outlets in local markets, as well as the potential for significant efficiencies and public interest benefits to be realized through joint ownership. The Commission finds that its diversity and competition goals will be adequately protected by the local ownership rules adopted herein.

251. In 1970, the Commission restricted the combined ownership of radio and television stations in local markets. The purpose of the rule (originally referred to as the one-to-a-market rule) was twofold: (1) To foster maximum competition in broadcasting, and (2) to promote diversification of programming sources and viewpoints. In 1995, the Commission requested comment to determine whether the cross-ownership limitations were still warranted in light of the then current market conditions. Before the Commission issued a decision, Congress passed the 1996 Act. Section 202(d) of the 1996 Act required the Commission to extend the radio-television cross-ownership presumptive waiver policy to the top 50 television markets "consistent with the public interest, convenience and necessity." Prior to implementing the statutory change, the Commission issued a Second Further Notice of Proposed Rulemaking (61 FR 66978, December 19, 1996) requesting comment on whether modification of the rule was warranted beyond the Section 202(d) requirements. In 1999, the Commission modified the rule to its current form.

252. Under the Commission's statutory mandate pursuant to section

202(h) of the 1996 Act, the Commission is required to consider biennially whether "to 'repeal or modify' any rule that is not 'necessary in the public interest.'" In determining whether the rule meets this standard, the Commission considers whether it is necessary to promote any of its public interest objectives. With respect to cross-ownership of radio and television stations in the same market, the Commission reexamines the impact of the rule on competition, localism and diversity.

253. *Competition.* To assess the competitive impact of its radio/television cross-ownership rule, the Commission needs to determine whether radio and television stations compete for sources of revenue generation—in this case, advertising.<sup>16</sup> If the Commission finds that they do, *i.e.*, that a significant number of advertisers consider radio and television to be good substitutes, then its concern would be that elimination or relaxation of the cross-ownership restrictions may enable a single firm to acquire sufficient market power to hinder small and independent broadcasters' efforts to generate revenue, and thereby put their continued viability at risk. However, if radio and television are not in the same product market, then the Commission would have little concern that elimination or relaxation of the rule would have any negative effects on competition.

254. The Commission concludes that most advertisers do not consider radio and television stations to be good substitutes for advertising and, therefore, that generally combinations of these two types of media outlets likely would not result in competitive harm. In MOWG Study No. 10, Anthony Bush found weak substitutability between local media, including radio and television. Other studies confirm Bush's conclusion that advertisers do not consider radio and television to be good substitutes. In addition to the empirical evidence, differences between radio and

<sup>16</sup> The competitive analysis for both the local radio and the local television ownership rules focuses on two additional markets, delivered programming and programming production. However, in analyzing the effects of combined ownership of radio and television stations in a local market, neither of the latter product markets is relevant. Radio and television broadcasting are distinct programming markets with little overlap. The bulk of video entertainment and news programming available on commercial television is not suitable for radio. Similarly, audio radio programming, which is predominately music and talk show formats, cannot be replicated on television. Thus, because the essential nature of each medium determines the type of programming each medium broadcasts, the content is not interchangeable.

television programming and formats suggest that they do not compete in the same product market. Radio and television broadcast distinct programming. Video is not suitable for radio and vice versa. The difference is important for viewers and advertisers alike. The essential nature of each medium determines, in large measure, the type of programming each will broadcast. Thus, some advertisers may prefer, while others avoid, the radio listener as a significant audience to target. Additionally, television advertisements typically are more expensive than radio ads. In sum, television and radio stations neither compete in the same product market nor do they bear any vertical relation to one another.<sup>17</sup> A television-radio combination, therefore, cannot adversely affect competition in any relevant product market. Accordingly, the Commission cannot conclude that the current television-radio cross-ownership rule is necessary to promote competition.

255. *Localism.* The NPRM sought comment on how cross-ownership limitations affect localism, as measured by the quantity and quality of news and public affairs programming that stations provide to local communities. The NPRM sought comment on the quantities of local news and public affairs programming provided by radio and television combinations as opposed to stand-alone stations in the same markets. The NPRM asked whether radio and television combinations produce more, less, or the same amount of news programming than stand-alone stations. The NPRM also asked commenters to address the implications of any such differences. The Commission finds that by prohibiting combinations of news gathering resources between radio and television stations, the current rule prohibits owners from maximizing local news and information production, which would benefit consumers.

256. There is no compelling or substantial evidence in the record that the rule is necessary to protect localism. The record in this proceeding includes evidence to the contrary that efficiencies and cost savings realized from joint ownership may allow radio and television stations to offer more news reporting generally, and more local news reporting specifically, than otherwise may be possible. The record in this proceeding suggests that station

<sup>17</sup> Generally we identify both the product and the geographic markets. Because we find that radio and television advertising are separate product markets, it is not necessary to define the geographic market for these purposes.