

access is not mandated by federal legislation, but rather derives from a statute that allows local communities to regulate it. The Commission dismisses Alliance's request as outside the scope of this proceeding and our authority, generally. The Commission once had access requirements of the type suggested by Alliance, but the Supreme Court struck them down as beyond our statutory authority. Congress did not authorize the Commission, however, to implement, enforce, or oversee the broad local access requirements advocated by Alliance. Although DBS is required to set aside 4% of capacity for public interest ("non-commercial, educational, and informational") programming pursuant to section 335 of the Act, the Commission does not have authority to adopt the broader rights advocated. The Commission notes, however, that noncommercial educational television stations may request mandatory carriage on cable systems and also have satellite carriage rights in markets where DBS provides local-into-local service pursuant to the "carry-one-carry-all" requirements under section 338 of the Act.

473. *Payola*. Future of Music Coalition alleges that a new form of payola exists in which record companies pay independent promoters to ensure that the companies' records are played on the radio. The independent promoters, Future of Music Coalition alleges, then establish exclusive relationships with radio stations and pay these radio stations a large portion of the money received from the record companies in the form of "promotional expenses." Future of Music Coalition asks that the Commission ban this practice, thereby promoting diversity in radio programming. The Commission dismisses Future of Music Coalition's request because it is outside the scope of this proceeding.

474. *Ownership Issues Outside the Scope of the Proceeding*. Some parties request action regarding ownership or attribution issues that were not raised in the NPRM and that are therefore outside the scope of the proceeding. The Commission dismisses these requests.

475. *Alien Ownership*. CanWest suggests that the Commission's biennial review of media ownership rules and the multilateral trade in services negotiations underway in the World Trade Organization provide a timely occasion to review foreign ownership rules for broadcasting. The Commission declines to undertake such a review because it would be outside the scope of this proceeding. Moreover, to the extent that our foreign ownership

regulations are statutorily based, 47 U.S.C. 310, the Commission does not have the discretion to modify or repeal them in the biennial review process, pursuant to section 202(h).

476. *Attribution*. MMTC asks us to expand this proceeding to include review of the attribution rules. The Commission denies this request because the attribution limits are not properly reviewed in the biennial review process, except for review of radio joint sales agreements ("JSAs"), which the Commission addresses in the Local Radio Ownership section of the R&O. The attribution rules do not themselves prohibit or restrict ownership of interests in any entity, but rather determine what interests are cognizable under the ownership rules. The focus of the biennial review process is whether the ownership rules are necessary in the public interest as a result of competition. The attribution limits are set at the level the Commission believes conveys influence or control and, as these limits are not related to any changes in competitive forces, they are not reviewed biennially.

477. *LPFM*. REC Networks requests that the Commission refrain from changing our Low Power FM ("LPFM") rules relating to ownership caps and assignment of stations because these rules are consistent with our intentions in establishing LPFM. LPFM ownership and assignment rules are addressed in §§ 73.855, 73.858, 73.860, and 73.865 of the Commission's rules, and are not addressed in the context of this proceeding. These are non-commercial stations and therefore a consideration of ownership limits for these stations is outside the scope of this proceeding. REC also asks that the Commission impose new ownership restrictions on non-commercial educational stations. The Commission dismisses that request as such limits are outside the scope of this proceeding.

478. *Broadcast Auction Process*. Hodson recommends that the Commission modify the new entrant bidding credit in the broadcast auction process from the current percentages of 25 percent and 35 percent to 30 percent and 45 percent. Hodson also recommends, in its proposed 30 percent tier, that the Commission allow an attributable interest in five mass media facilities nationwide instead of the current three, with the condition that the winning bidder has no attributable interest in a broadcast presence already in the market the proposed broadcast station intends to serve. Finally, for entities eligible for Hodson's proposed 45 percent tier, Hodson recommends that the Commission establish a relaxed

payment plan for the winning bid balance that would include an extended payment schedule. Hodson's proposals go to the Commission's broadcast auction rules and process, not our ownership rules. These proposals are outside the scope of this proceeding. The Commission addressed the broadcast auction process in a prior rulemaking proceeding. In 1998, the Commission determined that it would fulfill its obligations under section 309(j) of the Communications Act of 1934, 47 U.S.C 309(j)(3)(B), to promote economic opportunity and competition for designated entities, including small businesses, by providing new entrant bidding credits. Changes to these bidding credits would require a separate rule making.

479. *Translator/Spectrum Issues Outside the Scope*. REC also makes other requests involving the Commission's rules applying to use of translators. REC claims that the current rules allow distant translators and discourage establishment of new local LPFM stations. Nickolas Leggett asks that the Commission provide alternative opportunities to small broadcasters including: (1) A frequency band for manually operated low-power commercial broadcasters; (2) a citizens broadcasting band; and (3) open-microphone neighborhood broadcasting supported by the consolidated broadcasters. The Commission denies requests to change its translator rules or afford spectrum to small broadcasters because they are outside the scope of the proceeding.

480. *Cable Ownership*. CCC requests that the Commission retain our 30% national cable system ownership limits. The Commission dismisses CCC's request because it is outside the scope of this proceeding and it relates to an issue that is the subject of a separate rulemaking.

481. *DTV*. USCCB asks the Commission to promulgate regulations that define digital television ("DTV") broadcasters' public interest obligations. The Commission dismisses USCCB's request because it is outside the scope of this proceeding. CST requests that the Commission amend or eliminate any of our rules that hinder the digital conversion of broadcasters, cable systems, and telephone systems, and that the Commission establish regulatory policies to encourage the introduction of digital technologies. The Commission dismisses CST's requests because they are outside the scope of this proceeding.

482. Further, CST proposes that all broadcast licensees and cable systems that expand their operations as a result