

review its broadcast ownership rules every two years. The NPRM initiated review of four ownership rules; the national television multiple ownership rule, the local television multiple ownership rule, the radio television cross-ownership rule; and the dual network rule. The R&O: (1) Replaces the newspaper/broadcast and radio/television cross/ownership rules with a set of cross-media limits; (2) modifies the local television multiple ownership rule; (3) modifies the local radio ownership rule and its market definition; (4) modifies the national TV ownership rule by changing the 35% limit in the current rule to 45%; and (5) retains the current dual network rule. The Commission believes these actions are necessary not only to comply with its section 202(h) obligation, but to protect the Commission's chief goals in effectively regulating broadcasting, to promote diversity, localism, and competition.

508. The changes adopted in the R&O provide a new, comprehensive framework for broadcast ownership regulation. The march of technology has brought to homes, schools, and places of employment across America unprecedented access to information and programming, while the Commission's broadcast ownership rules continue to restrict who may hold radio and television licenses. The current rules inadequately account for the competition presence of cable, ignore the diversity-enhancing value of the Internet, and lack any sound basis for a national audience reach cap. Our current rules are, in short, a patchwork of unenforceable and indefensible restrictions that, while laudable in principle, do not serve the interests they purport to serve.

509. The adoption of the R&O is critical to the realization of the Commission's public interest goals in that it puts an end to any uncertainty regarding the scope and effect of our structural broadcast ownership rules. Most importantly, the rules discussed and adopted in the R&O serve the Commission's competition, diversity and localism goals in highly targeted ways and, working together, form a comprehensive framework that is responsive to today's media environment.

B. Legal Basis

510. This R&O is adopted pursuant to §§ 1, 2(a), 4(j), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310, and section 202(h) of the Telecommunications Act of 1996.

C. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

511. In addition to comments filed in direct response to the IRFA, the Commission received hundreds of thousands of comments, some of which concerned matters of particular interest to small entities. These comments are discussed in the section of this FRFA discussing the steps taken to minimize significant impact on small entities, and the significant alternatives considered. The Small Business Administration (SBA) filed comments in response to the IRFA in the NPRM and also in response to the IRFAs in Dockets 01-317 and 00-244. In both letters, SBA argues that the Notices of Proposed Rulemaking were not specific enough to comply with the Administrative Procedure Act or the Regulatory Flexibility Act., and that the IRFA did not fully discuss the possible impact of the proposed actions on small entities or offer alternatives that could minimize that impact. SBA contends that the general nature of the decisions made it difficult for small entities to file meaningful comments and so "frustrates the spirit of the RFA." Therefore, SBA asks us to issue a Further Notice of Proposed Rulemaking in this proceeding. We disagree with SBA and deny its request. Contrary to the implication of SBA, the actual rules at issue in this proceeding are specifically identified in the NPRM and are well-known by interested parties—they are our current broadcast ownership rules. Congress has directed us to review those rules every two years to determine whether those exact rules remain necessary in the public interest. That we have done in this proceeding and in accordance with the NPRM. Further, Congress has directed the Commission to eliminate or modify any of its broadcast ownership rules that no longer are necessary. Again, it was explicit in the NPRM that we might eliminate any rule that could not be justified in light of the current media marketplace. To the extent that we have eliminated rules in the Order, there has been no failure of notice. With respect to those rules that, having been found unnecessary, have been modified in the Order, the question is the familiar one—were the modifications a "logical outgrowth" of the issues identified in the NPRM. The Commission concludes that the R&O and its accompanying rules are a logical outgrowth of the questions posed in the NPRM. The modifications made in the R&O are consistent with the issues and questions posed in the NPRM, and take account of the full record in this proceeding. The

Commission takes seriously the mandate of section 202(h) to review our broadcast ownership rules every two years. It would be impractical to complete such a Herculean task, in this case, to review six different rules, and to complete that review in time to start another review, if we issued a separate notice detailing modifications to rules and initiated another comment period.

512. SBA's contentions that the general nature of the IRFA in the NPRM made it financially and practically difficult for small entities to file meaningful comments and that small entities have not had an opportunity to comment on the potential impact of the actions adopted in the R&O are belied by the hundreds of thousands of comments filed in this proceeding. Additionally, public hearings were conducted.

513. Hodson Broadcasting filed comments and reply comments in MM Dockets 01-317 and 00-244, recommending 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 we 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 we establish a relaxed payment plan for the winning bid balance that would include an extended payment schedule. Hodson claims that its proposals would benefit small entities. Hodson's proposals go to our broadcast auction rules and process, not our ownership rules. These proposals are not a logical outgrowth of the NPRM and they are therefore outside the scope of this proceeding.

D. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

514. The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of entities that will be affected by the rules. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or