

determining radio markets on a case-by-case basis would create significant regulatory uncertainty and impose substantial burdens on small-market radio broadcasters, many of which are small businesses. The Commission concluded that the better course is to develop radio market definitions for non-Metro areas through the rulemaking process. The Commission found that this would be the most expeditious way to define local radio market boundaries for the entire country. Defining radio markets also would give all interested parties, including small businesses, clear guidance about how the Commission will analyze a proposed radio station combination in non-Arbitron areas.

23. The NPRM invites comment on how to modify the current methodology for determining radio markets for areas of the country outside of Arbitron defined areas. The Commission has a number of alternatives on which it invites comment. We particularly invite comment on how the various alternatives might impact on small businesses and on alternatives outside the NPRM which might minimize any burden on small businesses.

24. The Commission seeks comments on how to draw specific market boundaries in areas of the country not located in the Arbitron Metros and on what factors should we consider in grouping radio stations into markets. The Commission proposes that radio markets be county-based. One alternative, if that proposal is adopted, would be to use a different standard in the western United States where

counties are significantly larger. The Commission could also divide counties into separate radio markets in certain circumstances. Small businesses should benefit from a county-based system because county boundaries are clear, stable, and well-known, and are commonly used for market definition purposes (see next paragraph).

25. The Commission also seeks comment on whether to rely on any pre-existing market definitions in delineating radio markets for non-Metro areas. For example, the Commission could base its Metro definitions on the Metropolitan Area (MA) definitions developed by OMB. The Commission asks how the radio market should be defined in areas that MAs do not cover, and notes one possible alternative would be to establish geographic markets based on the location, distribution, and density of populated areas. The Commission could also treat Cellular Market Areas as the relevant geographic market for radio. Both of these potential market definitions are county-based. We do not believe that the selection of one pre-defined market definition over another generally will have an impact on small business. We invite comment on this question.

26. The market definition we establish would result in small business owners being subject to a market definition that is different than the one to which they currently are subject. As a result, the number of radio stations that they may own, and the number of radio stations that their competitors may own, under the local radio ownership rule may change. We encourage parties to use this

opportunity submit specific information that would the Commission in properly delineating the boundaries of the local radio markets in which they are interested.

#### **F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules**

27. None.

28. *Authority.* This *Notice of Proposed Rulemaking* is issued pursuant to authority contained in Sections 4(i), 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 307, and Section 202(h) of the Telecommunications Act of 1996.

29. Pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 307, 309, and 310 and section 202(h) of the Telecommunications Act of 1996, this Notice of Proposed Rulemaking in MB Docket 03-130 is adopted.

30. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

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