

## Media Services

37. *Television Broadcasting.* The Small Business Administration defines a television broadcasting station that has no more than \$12 million in annual receipts as a small business.<sup>125</sup> Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.”<sup>126</sup> According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database as of May 16, 2003, about 814 of the 1,220 commercial television stations in the United States have revenues of \$12 million or less. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations<sup>127</sup> must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. There are also 2,127 low power television stations (LPTV).<sup>128</sup> Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

38. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

<sup>125</sup> See OMB, North American Industry Classification System: United States, 1997 at 509 (1997) (NAICS code 513120, which was changed to code 515120 in October 2002).

<sup>126</sup> OMB, North American Industry Classification System: United States, 1997, at 509 (1997) (NAICS code 513120, which was changed to code 51520 in October 2002). This category description continues, “These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studios, from an affiliated network, or from external sources.” Separate census categories pertain to businesses primarily engaged in producing programming. See *id.* at 502–05, NAICS code 51210, Motion Picture and Video Production; code 512120, Motion Picture and Video Distribution; code 512191, Teleproduction and Other Post-Production Services, and code 512199, Other Motion Picture and Video Industries.

<sup>127</sup> “Concerns are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.” 13 CFR 121.103(a)(1).

<sup>128</sup> FCC News Release, “Broadcast Station Totals as of September 30, 2002.”

39. *Radio Broadcasting.* The SBA defines a radio broadcast entity that has \$6 million or less in annual receipts as a small business.<sup>129</sup> Business concerns included in this industry are those “primarily engaged in broadcasting aural programs by radio to the public.”<sup>130</sup> According to Commission staff review of the BIA Publications, Inc., Master Access Radio Analyzer Database, as of May 16, 2003, about 10,427 of the 10,945 commercial radio stations in the United States have revenue of \$6 million or less. We note, however, that many radio stations are affiliated with much larger corporations with much higher revenue, and that in assessing whether a business concern qualifies as small under the above definition, such business (control) affiliations<sup>131</sup> are included.<sup>132</sup> Our estimate, therefore likely overstates the number of small businesses that might be affected by our action.

40. *Auxiliary, Special Broadcast and Other Program Distribution Services.* This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. The applicable definitions of small entities are those, noted previously, under the SBA rules applicable to radio broadcasting stations and television broadcasting stations.<sup>133</sup>

41. The Commission estimates that there are approximately 3,790 translators and boosters. The Commission does not collect financial information on any broadcast facility, and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most commercial translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (\$5 million for a radio station or \$10.5 million for a TV station). Furthermore, they do not meet the Small Business Act’s definition of a “small business concern” because they are not independently owned and operated.<sup>134</sup>

<sup>129</sup> See OMB, North American Industry Classification System: United States, 1997, at 509 (1997) (Radio Stations) (NAICS code 513111, which was changed to code 515112 in October 2002).

<sup>130</sup> *Id.*

<sup>131</sup> “Concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.” 13 CFR 121.103(a)(1).

<sup>132</sup> “SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern’s size.” 13 CFR 121(a)(4).

<sup>133</sup> 13 CFR 121.201, NAICS codes 513111 and 513112.

<sup>134</sup> 15 U.S.C. 632.

## Wireless and Commercial Mobile Services

42. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of Paging<sup>135</sup> or Cellular and Other Wireless Telecommunications.<sup>136</sup> Under both of those SBA size standards, such a business is small if it has 1,500 or fewer employees.<sup>137</sup> For the census category of Paging, Census Bureau data for 1997 show that there were 1320 firms in this category, total, that operated for the entire year.<sup>138</sup> Of this total, 1303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more.<sup>139</sup> Thus, under this category and associated small business size standard, the great majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications firms, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year.<sup>140</sup> Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more.<sup>141</sup> Thus, under this second category and size standard, the great majority of firms can, again, be considered small.

43. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined “small entity” for Blocks C and F as an entity that has average gross revenues of \$40 million or less in the three previous calendar years.<sup>142</sup> For Block F, an additional classification for “very small business” was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.<sup>143</sup> These

<sup>135</sup> 13 CFR 121.201, NAICS code 513321 (changed to 517211 in October of 2002).

<sup>136</sup> 13 CFR 121.201, NAICS code 513322 (changed to 517212 in October of 2002).

<sup>137</sup> *Id.*

<sup>138</sup> U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Employment Size of Firms Subject to Federal Income Tax: 1997,” Table 5, NAICS code 513321 (issued Oct. 2000).

<sup>139</sup> *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is “Firms with 1,000 employees or more.”

<sup>140</sup> U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Employment Size of Firms Subject to Federal Income Tax: 1997,” Table 5, NAICS code 513322 (issued Oct. 2000).

<sup>141</sup> *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is “Firms with 1,000 employees or more.”

<sup>142</sup> See Amendment of Parts 20 and 24 of the Commission’s Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT Docket No. 96–59, Report and Order, 11 FCC Rcd 7824 paragraphs 57–60 (1996), 61 FR 33859 (July 1, 1996); see also 47 CFR 24.720(b).

<sup>143</sup> See Amendment of Parts 20 and 24 of the Commission’s Rules—Broadband PCS Competitive