IX. NOTICE OF PROPOSED RULEMAKING

657. In the Local Radio Section of this *Order*, we replaced our current contour-overlap methodology for defining radio markets with a geography-based market definition. For areas of the country covered by Arbitron Metro markets, we adopted the Metro market as the relevant radio market for purposes of determining compliance with the local radio ownership rule. A significant portion of the country, however, is not covered by Metro markets. We initiate this rulemaking proceeding to define radio markets for those areas.

658. We seek comment on how to draw specific market boundaries in areas of the country not located in Arbitron Metros. What factors should we consider in grouping radio stations into markets? We propose that radio markets be county-based, as Arbitron Metros are. We seek comment on that proposal. In the western United States, counties are significantly larger. We seek comment on whether we should, like Arbitron, divide counties into separate radio markets in certain circumstances. We also propose that radio stations be assigned to radio markets based on the location of their communities of license We seek comment on this proposal.

659. We seek comment on whether we should rely on any pre-existing market definitions in delineating radio markets for non-Metro areas. As indicated in the Local Radio Section, Arbitron traditionally has based its Metro definitions on the Metropolitan Area (MA) definitions developed by OMB. Should we also do the same for non-Metro areas? OMB recently released new MA definitions based on the results of the 2000 Census.[1372] The 935 new MAs, moreover, cover a greater portion of the country. Previously, MAs were defined only for urban areas with a population of 50,000.[1373] The new MA definitions cover areas with a population of 10,000 to 50,000 (known as Micropolitan Statistical Areas), which should greatly increase the number of radio stations located in MAs.[1374] If we rely on MAs, how should we address future changes to MA definitions, and the creation of a new, or the deletion of an existing, MA?[1375] In addition, even with the expanded reach of the new MAs, there will be areas that they do not cover. How should the radio market be defined in those areas if MAs are used? One possible method is to establish geographic markets based on the location, distribution, and density of populated areas [1376] Because population clusters are likely to indicate areas of economic and social interaction, the location and distribution of the centers of population should give us a reasonable indicator of the boundaries of the relevant geographic market in which radio stations compete. Because

(Continued from previous page)

[1371] Aside from the reasons enumerated above, we reject WGA's proposal because it is far from clear that the Commission has jurisdiction over the programming carried on cable networks.

[1372] See OMB Bulletin No 03-04, http://www.whitehouse.gov/omb/omb/bulletins/b03-04.html. In 2000, OMB revised its procedures for defining MAs In addition, it adopted the more generic term Core Based Statistical Area (CBSA) to cover both traditional Metropolitan Areas and the new Micropolitan Statistical Areas. *See generally* Standards for Defining Metropolitan and Micropolitan Statistical Areas, 65 Fed. Reg. 82228 (2000). Although less accurate, we will use former term – i.e., MAs – to avoid confusion.

[1373] *See* U S. Census Bureau, Cartographic Boundary Files, http.//www.census.gov/geo/www/cob/ma_metadata html (visited May 30, 2003).

[1374] *See* 65 Fed. Reg. at 82236-37 for a detailed description of the standards OMB uses to define MAs.

[1375] See *id* at 82237 for the rules governing future updates to MAs.

[1376] Population data is available over the Internet from the Census Bureau.

the geographic areas involved generally will be low-density and rural areas of the country, moreover, we believe that population data could provide a fairly reliable and easily determinable market definition. We seek comment on this and any other methods.

660. Another possibility is to treat Cellular Market Areas (CMAs) as the relevant geographic market for radio. CMAs were developed in the mid-1980s to be the geographic basis for licensing cellular spectrum. CMAs consist of MAs (as they were defined after the 1980 census) and Rural Service Areas (RSAs),[1377] which the Commission delineated for areas of the country not located in MAs.[1378] Although CMAs were not developed in the context of radio broadcasting, they were designed to follow "natural social and economic communities" through "multi-county groupings drawn along . . . county boundaries."[1379] Are CMAs a reasonable proxy for radio markets in non-Metro areas of the country? We seek comment on this issue.

661. For any market definition we establish, how should we address situations in which that market overlaps an Arbitron Metro. If we use MAs or CMAs, there will be existing areas of overlap. Even if we define radio markets around existing Arbitron Metros, Metro boundaries may change, or Arbitron may create or delete a Metro. We seek comment on how to address the possibility of a market overlap (or in the case of a deleted Metro, the possibility of an undefined market).

662 The goal of this rulemaking proceeding is to generate a map or a list of markets for radio stations across the entire country, using Arbitron Metros where available and a Commission-endorsed market definition everywhere else. We therefore encourage parties to use this opportunity to submit specific information that would assist is in properly delineating the boundaries of the local radio markets in which they are interested.

663. *Comments and Reply Comments*. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules,[1380] interested parties may file comments on the notice of proposed rulemaking on or before 30 days after date of publication in the *Federal Register*, and reply comments on or before 45 days after date of publication in the *Federal Register*. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

664. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket, which in this instance is MB Docket No. 03-130. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. Filings

[1377] *See Amendment of the Commission's Rules for Rural Cellular Service*, 1985 WL 260366, FCC 85-646, ¶ 1 (rel Dec 17, 1985)

[1378] *Amendment of the Commission's Rules for Rural Cellular Service*, 60 Radio Reg. (P&F) 1029, ¶ 1 (1986)

[1379] *Id* at ¶ 11.

[1380] 47 C.F R. §§ 1.415 and 1.419.

can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002 The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

665. Parties must also serve either one copy of each filing via e-mail or two paper copies to Qualex International, Portals II, 445 12th Street, S W., Room CY-B402, Washington, D.C., 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or e-mail at qualexint@aol.com. In addition, parties should serve one copy of each filing via email or one paper copy to Amy Brett, Media Bureau, 445 12th Street, S.W , 2-C134, Washington, D.C., 20554. Parties should serve one copy of each filing via email or five paper copies to Linda Senecal, 445 12th Street, S.W., 2-C438, Washington, D.C., 20554.

666. *Availability of Documents* Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418-0267, (202) 418-7365 TTY, or bcline@fcc gov. These documents also will be available electronically at the Commission's Disabilities Issues Task Force web site: www.fcc.gov/dtf, and from the Commission's Electronic Comment Filing System. Documents are available electronically in ASCII text, Word 97, and Adobe Acrobat. Copies of filings in this proceeding may be obtained from Qualex International, Portals II, 445 12th Street, S.W., Room, CY-B402, Washington, D.C., 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail at qualexint@aol.com. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (TTY).

667. *Ex Parte Rules.* This proceeding will be treated as a "permit-but-disclose" proceeding, subject to the "permit-but-disclose" requirements under section 1.1206(b) of the Commission's rules.[1381] Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.[1382] Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules. Parties submitting written ex parte presentations or summaries of oral ex parte presentations are urged to use the ECFS in accordance with the Commission rules discussed above. Parties filing paper ex parte submissions must file an original and one copy of each submission with the Commission's

[1381] 47 C.F R § 1.1206(b)

[1382] *See id* § 1.1206(b)(2)

Secretary, Marlene H. Dortch, at the appropriate address as shown above for filings sent by either U.S. mail, overnight delivery, or hand or messenger delivery. Parties must also serve either one copy of each ex parte filing via e-mail or two paper copies to Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C., 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or e-mail at qualexint@aol.com. In addition, parties should serve one copy of each ex parte filing via email or one paper copy to Amy Brett, Media Bureau, 445 12th Street, S.W., 2-C134, Washington, D.C., 20554. Parties should serve one copy of each ex parte filing via email or five paper copies to Linda Senecal, 445 12th Street, S.W., 2-C438, Washington, D.C., 20554.

668 *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1383] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules considered in the *Notice of Proposed Rulemaking* initiated herein. The IRFA is set forth in Appendix I. Written public comments are requested on this IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the *Notice of Proposed Rulemaking*, and they should have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Notice of Proposed Rulemaking*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA), in accordance with the Regulatory Flexibility Act.[1384]

669. *Paperwork Reduction Act.* This *Notice of Proposed Rulemaking* contains modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection(s) contained in this proceeding.

670. *Authority* This *Notice* 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.

X. ADDITIONAL ADMINISTRATIVE MATTERS

PAPERWORK REDUCTION ACT

671. This *Order* contains both new and modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. They will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection(s) contained in this proceeding.

REGULATORY FLEXIBILITY ACT

[1383] *See* 5 U S.C. § 603. The RFA, 5 U.S.C. § 601 *et seq.*, has been amended by the *Small Business Regulatory Enforcement Fairness Act of 1996* ("SBREFA"), Pub L No. 104-121, Title II, 110 Stat. 847 (1996).

[1384] *See* 5 U S C § 603(a).

672. Pursuant to the Regulatory Flexibility Act of 1980, as amended,[1385] the Commission's Final Regulatory Flexibility Act Analysis is contained Appendix G.

DOCUMENT AVAILABILITY

673. This document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. This document is available in accessible formats (computer diskettes, large print, audio recording, and Braille) to persons with disabilities by contacting Brian Millin in the Consumer & Governmental Affairs Bureau at 202-418-7426, TTY 202-418-7365, or at bmillin@fcc gov.

XI. ORDERING CLAUSES

674. Accordingly, IT IS ORDERED that, 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), 303, 307, 309, and 310 and section 202(h) of the Telecommunications Act of 1996, this *Report and Order* in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244 IS ADOPTED.

675. IT IS FURTHER ORDERED that Part 73 of the Commission's Rules IS AMENDED as indicated in Appendix H.

676 IT IS FURTHER ORDERED that the Interim Policy set forth herein IS ADOPTED.

677. IT IS FURTHER ORDERED that the Motion for Revision of Procedural Dates, Expansion of the Scope of the Proceeding, and Inclusion of Additional Studies in the Record, filed on October 9, 2002 by Minority Media and Telecommunications Council and National Association of Black Owned Broadcasters, is DENIED in part and GRANTED in part to the extent described herein; the Motion to Bifurcate and Repeal, filed on March 11, 2003 by Media General, Inc., IS DISMISSED; and the Motion to Postpone, filed on May 31, 2003 by the Diversity and Competition Supporters, et al., IS DENIED.

678. IT IS FURTHER ORDERED, 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), 303, 307, 309, and 310 and section 202(h) of the Telecommunications Act of 1996, that the ownership requirements and rules adopted in this *Report and Order* SHALL BECOME EFFECTIVE thirty (30) days after publication of the text or summary thereof in the Federal Register, except for those rules and requirements involving Paperwork Reduction Act burdens, which SHALL BECOME EFFECTIVE immediately upon announcement in the Federal Register of OMB approval.

679. This action is taken 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), 303, 307, 309, and 310 and section 202(h) of the Telecommunications Act of 1996. If any section, subsection, paragraph, sentence, clause or phrase of this *Report and Order* or the rules adopted herein is declared

[1385] *See* 5 U S C § 604

invalid for any reason, the remaining portions of this *Report and Order* and the rules adopted herein SHALL BE severable from the invalid part and SHALL REMAIN in full force and effect.

680. IT IS FURTHER ORDERED THAT the proceedings in MB Docket No. 02-277, MM Docket No 01-235, MM Docket No. 01-317, and MM Docket No. 00-244 ARE TERMINATED.

681 IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

682. IT IS FURTHER ORDERED that 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), 303, 307, 309, and 310 and section 202(h) of the Telecommunications Act of 1996, this *Notice of Proposed Rule Making* in MB Docket No. 03-130 IS ADOPTED.

683. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Secretary

APPENDIX A
LIST OF COMMENTERS

MB Docket No. 02-277: 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996

Initial Comments

Alaska Broadcasting Company, Inc., Quincy Newspapers, Inc. & Grant Communications, Inc. ("Alaska")
Alliance for Community Media ("Alliance")
American Federation of Labor & Congress of Industrial Organizations ("AFL-CIO")
American Federation of TV & Radio Artists and Writers Guild of America East ("AFTRA")
American Women in Radio & Television, Inc. ("AWRT")
Annenberg School for Communication ("Annenberg")
Arso Radio Corporation ("Arso")
Bear Stearns & Co.("Bear Stearns")
Belo Corp. ("Belo")
Block Communications, Inc. ("Block")
Bonneville International Corp. ("BIC")
Buckley Broadcasting Corp. ("Buckley")
CanWest Global Communications Corp. ("CanWest")
Caucus for Television Producers, Writers & Directors ("The Caucus")
Center for the Creative Community ("CCC")
Children Now, American Academy of Child and Adolescent Psychiatry, American Academy of Pediatrics, American Psychological Association, Action Coalition for Media Education, Center for Media Education, Mediascope, National Association of Child Advocates, National Institute on Media and the Family, National PTA ("Children Now")
Clear Channel Communications Inc ("Clear Channel")
Coalition Broadcasters, LIN Television Corporation, Raycom Media, Inc., Waterman Broadcasting Corporation, and Montclair Communications, Inc. ("Coalition Broadcasters")
Coalition for a Democratic Pacifica ("CDP")
Coalition for Program Diversity ("CPD")
Communications Science & Technologies, Inc ("CST")
Communications Workers of America, The Newspaper Guild/CWA, National Association of Broadcast Employees and Technicians/CWA, Printing, Publishing, and Media Workers Section/CWA ("CWA")
Consumer Federation of America, Consumers Union, Center for Digital Democracy, Media Access Project ("CFA")
Cox Enterprises, Inc ("Cox")
Craig, A.G. (Univ. of California) ("Craig)
Dispatch Broadcast Group ("Dispatch")
Duhamel Broadcasting Enterprises ("Duhamel")
Emmis Communications Corporation ("Emmis")
Entravision Holdings, Inc.("Entravision")
Fairness & Accuracy in Reporting ("FAIR")
Fox Entertainment Group, Inc. and Fox Television Stations, Inc., National Broadcasting Company, Inc. and Telemundo Communications Group, Inc. Viacom ("Fox")
Gannett Company, Inc ("Gannett")

Granite Broadcasting Corporation ("Granite")
Gray Television, Inc. ("Gray")
Hamilton, Dr. James ("Hamilton")
Hearst Corporation ("Hearst")
Hearst/Argyle Television ("Hearst/Argyle")
Information Policy Institute ("IPI")
Inner City Broadcasting Corporation ("Inner City")
Kidd, Dorothy (Univ. of San Francisco) ("Kidd")
KM Communications, Inc. ("KM")
MBC Grand Broadcasting ("MBC Grand")
Media General Inc. ("Media General")
Media General, Inc., ("Medial General") Cosmos Broadcasting Corporation ("Cosmos"), and Block Communications ("Block") ("Media General *et al*")
Minority Media & Telecommunications Council ("MMTC")
Morris Communications Corporation ("Morris")
National Association of Broadcasters ("NAB")
National Association of Broadcasters and the Network Affiliated Stations Alliance ("NAB") ("NASA")
National Association of Black-Owned Broadcasters, Inc and the Rainbow/PUSH Coalition, Inc. ("NABOB")
National Association of Hispanic Journalists ("NAHJ")
Newspaper Association of America ("NAA")
Nexstar Broadcasting Group, L L.C. and Quorum Broadcast Holdings, LLC ("Nexstar")
Noam, Eli, Columbia Business School ("Noam")
National Organization For Women ("NOW")
Ortiz, Prof. Sandra (USC) ("Ortiz")
Pappas Telecasting Companies ("Pappas")
Paxson Communications Corporation ("Paxson")
Pollack, Malla (Univ. of Memphis) ("Pollack")
Rodriguez, Dr Clemencia (Univ. of Oklahoma) ("Rodriguez")
Schechner, Noam (Yeshiva Univ.) ("Schechner")
Sinclair Broadcast Group, Inc. ("Sinclair")
Smith, Laura
Smith, Thomas ("Smith")
Stapleton, Nancy ("Stapleton")
Strott, Elizabeth ("Strott")
Tribune Company ("Tribune")
TV-Turnoff Network
United Church of Christ, Black Citizens for a Fair Media, Civil Rights Forum, Philadelphia Lesbian and Gay Task Force, and Women's Institute for Freedom of the Press ("UCC")
Verizon
Virginia Center for The Public Press
Walt Disney Company ("Disney")
West Virginia Media Holdings ("West Virginia Media")
Writers Guild of America ("Writers Guild")

Reply Comments (MB Docket 02-277)

American Cable Association ("ACA")
Amherst Alliance ("Amherst")

Attorney General State of Connecticut
Belo Corporation ("Belo")
Center for Creative Community ("CCC")
Clear Channel Communications ("Clear Channel")
Coalition for Program Diversity ("CPD")
Communications Science & Technologies, Inc. ("CS&T")
Cox Enterprises, Inc. ("Cox")
Desmond, Thomas ("Desmond")
Fox Entertainment Group, Inc. and Fox Television Stations, Inc., National Broadcasting Company, Inc. and Telemundo Communications Group, Inc. Viacom ("Fox")
Gannett Co., Inc. ("Gannett")
Granite Broadcasting ("Granite")
Gray Television, Inc. ("Gray")
Griffith, David E. ("Griffith")
Hearst-Argyle Television ("Hearst-Argyle")
Hodson Broadcasting ("Hodson")
Inner City Broadcasting ("Inner City")
Kennelwood Bcstg Co. ("Kennelwood")
Louisville Communications, LLC ("Louisville")
MBC Grand Broadcasting ("MBC Grand")
Media General, Inc. ("Media General")
Mediacom Communications ("Mediacom") (Revised February 10, 2003)
Minority Media & Telecommunications Council ("MMTC")
National Association of Broadcast Employees and Technicians-Communications Workers of America and the National Grange ("NABET-CWA")
National Association of Black Owned Broadcasters ("NABOB")
National Association of Broadcasters ("NAB")
National Association of Broadcasters and Network Affiliated Stations Alliance ("NAB/NASA")
National Grange ("The Grange")
Newspaper Association of America ("NAA")
Nexstar Broadcasting and Quorum Broadcast Holdings ("Nexstar/Quorum")
Paxson Communications ("Paxson")
Prairie Air Inc ("Prairie")
Prometheus Radio ("Prometheus")
Quincy Newspapers ("Quincy")
Sinclair Broadcast Group, Inc. ("Sinclair")
Tribune Company ("Tribune")
United Church of Christ, Black Citizens for a Fair Media, Civil Rights Forum, Philadelphia Lesbian and Gay Task Force, and Women's Institute for Freedom of the Press ("UCC")
United States Conference of Catholic Bishops ("USCCB")
Univision Communications ("Univision")
Walt Disney Company ("Disney")
Westwind Communications ("Westwind")

MM Docket No. 01-235: Cross-Ownership of Broadcast Stations and Newspapers (Notice of Proposed Rulemaking)

Initial Comments –

ALTV
American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO")
Arso Radio Corporation ("Arso")
Association of Local Television Stations ("ALTS")
Bear Stearns & Co. ("Bear Stearns")
Belo Corporation ("Belo")
Bonneville International Corporation ("BIC")
CanWest Global Communications ("CanWest")
Caribbean International News Corporation ("Caribbean")
Consumers Union, Consumer Federation of America, Civil Rights Forum, Center for Digital Democracy, Leadership Conference on Civil Rights and Media Access Project ("CU")
Cox Enterprises, Inc. ("Cox")
E W. Scripps Company ("Scripps")
Freedom of Expression Foundation, Inc.
Gannett Company ("Gannett")
Hearst Corporation ("Hearst")
Hearst-Argyle Television ("Hearst-Argyle")
Journal Broadcast Corporation
Leggett, Nickolas ("Leggett")
Media Institute
Media General, Inc. ("Media General")
Mid West Family Stations ("Mid West")
Morris Communications ("Morris")
National Association of Broadcasters ("NAB")
New York Times Company ("New York Times")
News Corporation, Ltd. ("News Corp.")
Newspaper Association of America ("NAA")
Norwell Television Corporation ("Norwell")
Pathfinder Communications Corporation ("Pathfinder")
Reading Eagle Company ("Reading")
Schurz Communications ("Schurz")
Star Printing Company ("Star")
Tribune Company ("Tribune")
United Church of Christ, Office of Communications, National Organization for Women and Media Alliance ("UCC")
West Virginia Media Holdings ("West Virginia Media")
West Virginia Radio Corporation ("West Virginia Radio")

Reply Comments

American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO")
Belo Corporation ("Belo")
Bliss Communications, Inc. ("Bliss")
Bowles, Kenneth W. ("Bowles")

Caribbean International News Corporation ("Caribbean")
Consumers Union, Consumer Federation of America, Civil Rights Forum, Center for Digital Democracy, Leadership Conference on Civil Rights and Media Access Project ("CU")
Cox Enterprises ("Cox")
E. W. Scripps Company ("Scripps")
Gannett Company ("Gannett")
Hahn, Robert ("Hahn")
Hearst Corporation ("Hearst")
Hearst-Argyle Television ("Hearst-Argyle")
Herald Media, Inc. ("Herald")
Independent Free Papers of America
Journal Broadcast Corporation
Leggett, Nickolas ("Leggett")
Media General, Inc. ("Media General")
Morris Communications ("Morris")
National Association of Broadcasters ("NAB")
Newspaper Association of America ("NAA")
Schurz Communications Inc. ("Schurz")
Shamrock Communications and The Scranton Times ("Shamrock")
Tribune Company ("Tribune")
United Church of Christ, Office of Communications, National Organization for Women and Media Alliance ("UCC")
West Virginia Media Holdings ("West Virginia Media")
Westwind Communications ("Westwind")

Initial Comments (MM 01-235 in the NPRM Biennial Review MB Docket 02-277

Alliance for Community Media ("Alliance")
American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO")
American Women in Radio and Television ("AWRT")
Block Communications ("Block")
Buckley Broadcasting Group ("Buckley")
Children Now
Clear Channel Broadcasting ("Clear Channel")
Coalition Broadcasters
Coalition for Program Diversity ("CPD")
Consumer Federation of America ("CFA")
Cox Enterprises ("Cox")
CWA
Dispatch Broadcast Group ("Dispatch")
Duhamel Broadcasting Enterprises ("Duhamel")
Entravision Holdings, Inc. ("Entravision")
Granite Broadcasting ("Granite")
Hearst Corporation ("Hearst")
Hearst-Argyle Television ("Hearst-Argyle")
JP Kids
Leggett, Nickolas ("Leggett")
Media General, Inc. ("Media General")
Media General, Inc , Cosmos Broadcasting and Block Communications ("Media General *et al.*")

Minority Media and Telecommunications Council ("MMTC")
National Association of Black-Owned Broadcasters ("NABOB")
National Association of Broadcasters ("NAB")
National Association of Broadcasters/Network Affiliated Stations Alliance ("NAB/NASA")
Network Affiliated Stations Alliance ("NASA")
Nexstar Broadcasting Group, L.L.C. and Quorum Broadcast Holdings, LLC ("Nexstar")
Paxson Communications ("Paxson")
Sinclair Broadcast Group ("Sinclair")
Smith, Laura K.
Smith, Thomas ("Smith")
United Church of Christ, Office of Communications, National Organization for Women and Media Alliance ("UCC")
Verizon
Walt Disney Company ("Disney")
Writers Guild of America ("Writers Guild")

Reply Comments

Amherst Alliance ("Amherst")
Attorney General for State of Connecticut ("Attorney General")
Cox Enterprises ("Cox")
Granite Broadcasting ("Granite")
Hearst-Argyle Television ("Hearst-Argyle")
Hodson Broadcasting ("Hodson")
Louisville Communications ("Louisville")
MBC Grand Broadcasting ("MBC Grand")
Media General, Inc. ("Media General")
Minority Media & Telecommunications Council ("MMTC")
National Association of Black-Owned Broadcasters ("NABOB")
National Association of Broadcasters ("NAB")
National Association of Broadcasters and Network Affiliated Stations Alliance ("NAB/NASA")
Nexstar Broadcasting Group, L.L.C. and Quorum Broadcast Holdings, LLC ("Nexstar")
Paxson Communications Corporation ("Paxson")
Sinclair Broadcast Group ("Sinclair")
Tribune Company ("Tribune")
United States Conference of Catholic Bishops ("USCCB")
Univision Communications ("Univision")
Walt Disney Company ("Disney")

MM Docket No. 01-317: Rules & Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets

Initial Comments –

American Federation of TV & Radio Artists and Writers Guild of America East ("AFTRA")
American Women in Radio & Television, Inc. ("AWRT")
Americans for Radio Diversity ("ARD")
Amherst Alliance, Americans for Radio Diversity, Rogue Communications, Palmsradio Beat Radio, REC Networks, Spry Multimedia Group, Citizens Media Corps/Allston-Brighton Free Radio, WILW Radio,

AMRAG Magazine, Greenhouse Magazine, Virginia Center for Public Press and Nickolas Leggett ("Amherst")
Blakeney Communications ("Blakeney")
Clear Channel Communications Inc.("Clear Channel")
Cox Radio ("Cox")
Cumulus Media Inc ("Cumulus")
Daugherty Broadcasting Company ("Daugherty")
Davis Broadcasting Inc. of Columbus ("Davis")
Dick Broadcasting Company ("Dick")
Entercom Communications Corporation ("Entercom")
Eure Communications Inc. ("Eure")
Hispanic Broadcasting Corporation ("Hispanic")
Hodson Broadcasting ("Hodson")
Idaho Wireless Corporation ("Idaho")
Jefferson Pilot Communications Company ("Jefferson")
Leggett, Nickolas ("Leggett")
MBC Grand Broadcasting ("MBC Grand")
Main Street Broadcasting ("Main Street")
Mapleton Communications LLC ("Mapleton")
Minority Media & Telecommunications Council ("MMTC")
Nassau Broadcasting ("Nassau")
National Association of Black-Owned Broadcasters ("NABOB")
National Association of Broadcasters ("NAB")
North American Broadcasting Company ("North American")
Office of Advocacy, U.S. Small Business Administration ("SBA")
Reese, James L ("Reese")
Radio One, Inc. ("Radio One")
Salem Communications Corporation ("Salem")
United Church of Christ ("UCC")
Viacom, Inc. ("Viacom")
West Virginia Radio Corp ("West Virginia Radio")

Reply Comments

Clear Channel Communications, Inc ("Clear Channel")
Cumulus Media Inc. ("Cumulus")
Entercom Communications Group ("Entercom")
Future of Music Coalition
MBC Grand Broadcasting ("MBC Grand")
Minority Media & Telecommunications Council ("MMTC")
Nassau Broadcasting ("Nassau")
National Association of Black-Owned Broadcasters ("NABOB")
National Association of Broadcasters ("NAB")
Office of Advocacy, U S Small Business Administration ("SBA")
Radio One Inc. ("Radio One")
United Church of Christ ("UCC")
Viacom, Inc. ("Viacom")

Initial Comments (MM Docket No. 01-317 in the NPRM for MB 02-277 (Biennial)

Alliance for Community Media
American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO")
American Women in Radio and Television ("AWRT")
Block Communications ("Block")
Buckley Broadcasting ("Buckley")
Children Now
Clear Channel Broadcasting, Inc. ("Clear Channel")
Coalition Broadcasters ("Coalition")
Coalition for Program Diversity ("CPD")
Communication Workers of America ("CWA")
Cox Enterprises ("Cox")
Cumulus Media Inc. ("Cumulus")
Dispatch Broadcast Group ("Dispatch")
Duhamel Broadcasting Enterprises ("Duhamel")
Entravision Holdings Inc. ("Entravision")
Granite Broadcasting ("Granite")
Hearst Argyle Television ("Hearst-Argyle")
Leggett, Nickolas ("Leggett")
MBC Grand Broadcasting ("MBC Grand")
Media General, Inc ("Media General")
Media General, Inc. *et al*
National Association of Black-Owned Broadcasters ("NABOB")
National Association of Broadcasters ("NAB")
National Association of Broadcasters and Network Affiliated Stations Alliance ("NAB/NASA")
Nexstar Broadcasting Group, L.L.C and Quorum Broadcast Holdings, LLC ("Nexstar")
Paxson Communications Corporation ("Paxson")
REC Networks ("REC")
Sinclair Broadcast Group ("Sinclair")
Smith, Thomas C. ("Smith")
UCC ("UCC")
Verizon Inc. ("Verizon")
Walt Disney Company ("Disney")
Writers Guild of America ("Writers Guild")

Reply Comments

Amherst Alliance ("Amherst")
Attorney General for the State of Connecticut ("Attorney General")
Coalition for Program Diversity ("CPD")
Cox Enterprises ("Cox")
Granite Broadcasting ("Granite")
Hearst-Argyle Television ("Hearst-Argyle")
Hodson Broadcasting ("Hodson")
Louisville Communications ("Louisville")
Media General Inc. ("Media General")
Minority Media & Telecommunications Council for Diversity & Competition Supporters ("MMTC")
National Association of Black-Owner Broadcasters ("NABOB")

National Association of Broadcasters ("NAB")
National Association of Broadcasters and Network Affiliated Stations Alliance ("NAB/NASA")
Nexstar Broadcasting Group, L.L.C. and Quorum Broadcast Holdings, LLC ("Nexstar")
Paxson Communications ("Paxson")
Prairie Air Inc. ("Prairie")
Sinclair Broadcast Group ("Sinclair")
Tribune Company ("Tribune")
UCC
United States Conference of Catholic Bishops ("USCCB")
Univision Inc. ("Univision")
Walt Disney Company ("Disney")
Westwind Communications ("Westwind")

MM Docket No. 00-244: (Definition of Radio Markets – NPRM 12/6/2000)

Initial Comments
Aurora Communications, LLC ("Aurora")
Brill Media Company ("Brill")
Citadel Communications Corporation ("Citadel")
Clear Channel Communications ("Clear Channel")
Cox Radio, Inc. ("Cox")
Cumulus Media, Inc. ("Cumulus")
Entercom Communications Corporation ("Entercom")
Entravision Holdings, LLC ("Entravision")
MBC Grand Broadcasting ("MBC Grand")
Murphy, Rick L. ("Murphy")
National Association of Broadcasters ("NAB")
Next Media Licensees Inc ("Next Media")
Radio Newburyport LLC ("Radio Newburyport")
Secret Communications II, LLC ("Secret")
Small Market Broadcasters ("Small Market")
Viacom Inc ("Viacom")
Walt Disney Company ("Disney")
Weigle Broadcasting Corporation and Wm. E. Bennett ("Weigle")
West Virginia Radio Corporation ("West Virginia Radio")

Reply Comments

Great Scott Broadcasting, New Wave Broadcasting, LP, Noalmark Broadcasting ("Great Scott")
Jimcar Inc. ("Jimcar")
MBC Grand Broadcasting ("MBC Grand")
Nassau Broadcasting II, LLC ("Nassau")

Initial Comments – NPRM and FNPRM (11/8/2001)

Americans for Radio Diversity ("ARD")
Amherst Alliance ("Amherst")
Clear Channel Communications ("Clear Channel")
Cox Radio, Inc. ("Cox")

Cumulus Media, Inc. ("Cumulus")
Davis Broadcasting Inc. of Columbus ("Davis")
Dick Broadcasting Co. ("Dick")
Entercom Communications Corporation ("Entercom")
Eure Communications, Inc. ("Eure")
Hispanic Broadcasting Corporation ("Hispanic")
Hodson Broadcasting ("Hodson")
Idaho Wireless Corporation ("Idaho")
Jefferson-Pilot Communications Company ("Jefferson-Pilot")
Leggett, Nickolas ("Leggett")
MBC Grand Broadcasting ("MBC Grand")
Mapleton Communications LLC ("Mapleton")
Nassau Broadcasting II ("Nassau")
National Association of Black-Owned Broadcasters ("NABOB")
National Association of Broadcasters ("NAB")
North American Broadcasting Company ("North American")
Salem Communications Corporation ("Salem")
United Church of Christ ("UCC")
Viacom, Inc. ("Viacom")

Reply Comments

Clear Channel Broadcasting ("Clear Channel")
Cumulus Media, Inc. ("Cumulus")
Entercom Communications Corp. ("Entercom")
MBC Grand Broadcasting ("MBC Grand")
Nassau Broadcasting II ("Nassau")
National Association of Black-Owned Broadcasters ("NABOB")
National Association of Broadcasters ("NAB")
United Church of Christ ("UCC")
U.S. Small Business Association ("SBA")
Viacom, Inc. ("Viacom")

APPENDIX B
NATIONAL NEWS SOURCES

National News Sources

TV	***Cable/Sat***	***Radio***	***Newspapers***
		Evening News	
ABC	CNN	B/C	USA Today
CBS	Conus Comm	United Press Int'l	WSJ
NBC	FOX News Ch	ABC	NY Times
Associated Press	Radio Press News	Associated Press	LA Times
News B/C network	WSJ Radio Net	Audio-Visual News	Wash Post
Reuters	All News Ch	CBS	
States News Service	C-Span	CNN	
Wash News Net	CNBC	Radio America	
All News Ch	MSNBC	Reuters	
PBS		Westwood One	
		USA Radio Net	
		NPR	

APPENDIX C
Diversity Indices in
Ten Sample Markets

Market 1 New York City

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col. F Squared
Television 33 8%	Broadcast 100 0%	ABC Inc	1	4 3	1 5	a	---
		Connecticut Public TV & Radio	1	4 3	1 5		2 2
		Dutchess Community College	1	4 3	1 5		2 2
		Educational Broadcasting Corp	2	8 7	2 9		8 6
		Family Stations Inc	1	4 3	1 5	b	---
		Mountain Broadcasting Corp	1	4 3	1 5		2 2
		NBC/GE	2	8 7	2 9		8 6
		News Corporation	2	8 7	2 9	c	---
		NJ Public Broadcasting Authority	1	4 3	1 5		2 2
		NYC Board of Education	1	4 3	1 5	d	---
		Paxson Communications Corp	1	4 3	1 5		2 2
		Shop At Home Incorporated	1	4 3	1 5		2 2
		Tribune Broadcasting Company	1	4 3	1 5	e	---
		Trinity Broadcasting Network Inc	1	4 3	1.5		2 2
		Univision Communications Inc	3	13 0	4 4	f	---
		Viacom International Inc	1	4 3	1 5	g	---
		WLNY Inc	1	4 3	1 5		2 2
		WRNN-TV	1	4 3	1 5		2 2
Radio 24 9%		ABC Radio Incorporated	4	6 7	1 7	a	---
		Access 1 Communications	1	1 7	0 4		0 2
		Alexander Broadcasting	1	1 7	0 4		0 2
		Auricle Communications	1	1 7	0 4		0 2
		Bloomberg Communications Inc	1	1 7	0 4		0 2
		Buckley Broadcasting Corporation	1	1 7	0 4		0 2
		City College of New York	1	1 7	0 4		0 2
		Clear Channel Communications	5	8 3	2 1		4 3
		College of Staten Island	1	1 7	0 4		0.2
		Columbia University	1	1 7	0 4		0 2
		Emmis Communications	3	5 0	1 2		1 6
		Fairleigh Dickinson University	1	1 7	0.4		0 2
		Family Stations Inc	1	1 7	0 4	b	---
		Fordham University	1	1 7	0 4		0 2
		Inner City Broadcasting Corporation	2	3 3	0 8		0 7

		Kingsborough Community College	1	1 7	0 4		0 2
		Mariana Broadcasting Inc	1	1 7	0 4		0 2
		Mega Communications Inc	1	1 7	0 4		0 2
		Montclair State College	1	1.7	0.4		0.2
		Multicultural Radio Broadcasting Inc	3	5 0	1 2		1 6
		New York Times Co.	1	1.7	0 4	H	---
		New York University	1	1 7	0 4		0.2
		Newark Public Radio	1	1 7	0 4		0 2
		Nyack College	1	1 7	0 4		0 2
		NYC Board of Education	1	1 7	0 4	D	---
		Pacifica Foundation	1	1 7	0 4		0 2
		Polnet Communications Ltd	1	1 7	0 4		0 2
		Radio Unica	1	1 7	0.4		0 2
		Radio Vision Cristiana Mgnt Corp	1	1 7	0.4		0 2
		Ramapo College of New Jersey	1	1 7	0 4		0 2
		Salem Communications Corporation	2	3 3	0 8		0 7
		Seton Hall University	1	1 7	0 4		0 2
		Spanish Broadcasting System	2	3 3	0 8		0 7
		Universal Broadcasting	1	1 7	0 4		0 2
		Univision Communications Inc	2	3 3	0 8	F	---
		Viacom International Inc	6	10 0	2 5	G	---
		Vulcan Ventures Inc	1	1 7	0 4		0 2
		William Patterson College	1	1 7	0 4		0 2
		WNYC Radio	2	3.3	0.8		0 7
	Daily	Gannett Corporation	6	28 6	5 8		33 5
Newspaper	70 3%	Asbury Park Press (Neptune, NJ)					
28 8%		Courier News (Bridgewater, NJ)					
		Daily Record (Morristown, NJ)					
		Home News Tribune (E Brunswick)					
		Journal News (White Plains, NY					
		Poughkeepsie Journal					
		Daily News (New York, NY)	1	4 8	1 0		0 9
		El Diario La Prensa (New York, NY)	1	4 8	1 0		0.9
		Hoy	1	4 8	1 0		0 9
		Advance Corporation	4	19.0	3 9		14 9
		Jersey Journal (Jersey City, NJ)					
		Star-Ledger (Newark, NJ)					
		Staten Island Advance					
		Times (Trenton, NJ)					
		New Jersey Herald (Newton, NJ)	1	4 8	1 0		0 9
		New York Post	1	4 8	1 0	C	---
		New York Times	1	4 8	1 0	H	---

		Newsday (Melville, NY)	1	4 8	1 0	E	---
		Nowy Dziennik-Polish Daily News	1	4 8	1.0		0 9
		Record/Herald News (Bergen-Passaic)	1	4 8	1 0		0 9
		Times Herald Record (Middletown)	1	4.8	1 0		0 9
		Trentonian (Trenton, NJ)	1	4 8	1 0		0.9
	Weekly 29 7%	Weekly Newspaper	1	100 0	8.6		73.2
Internet 12 5%	18 3%	Cable	1	100 0	2 3		5.2
	81 7%	Dial-up, DSL, and other	1	100 0	10 2		104 3
Cross-Ownership Total Shares		ABC Corporation			3 1	A	9 8
		Family Stations Inc			1.9	B	3 6
		News Corporation			3 9	C	15 2
		NYC Board of Education			1 9	D	3 6
		Tribune Broadcasting Company			2 4	E	5 9
		Univision Communications Inc			5 2	F	27 4
		Viacom Corporation			4 0	G	15.7
		New York Times Co			1 4	H	1 9
Diversity Index (Sum of Column H)							373

Market 29 Kansas City

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Hearst-Argyle TV Incorporated	2	22 2	7 5		56 4
		Meredith Corp	1	11 1	3 8		14 1
		News Corp	1	11 1	3 8		14 1
		Paxson Communications Corporation	1	11 1	3 8		14 1
		Public TV 19 Inc	1	11 1	3 8		14 1
		Scripps Howard Broadcasting	2	22 2	7 5		56 4
		Sinclair Broadcast Group Inc	1	11 1	3 8		14 1
Radio 24 9%		ABC Radio Incorporated	1	2 3	0 6		0 3
		Alpine Broadcasting	1	2 3	0 6		0 3
		Board Trustees/Park College	1	2 3	0 6		0 3
		Bott Radio Network	4	9 1	2 3		5 1
		Calvary Bible College	1	2 3	0 6		0 3
		Campbell, Brad L	1	2 3	0 6		0 3
		Carter Broadcast Group Inc	3	6 8	1 7		2 9
		Entercom	9	20 5	5 1		25 9
		First Broadcasting Company LP	1	2.3	0 6		0 3
		Full Smile Inc	1	2 3	0 6		0 3
		HMEB Communications LLC	1	2 3	0 6		0 3
		KANZA Incorporated	1	2 3	0 6		0 3
		Mid-Coast Radio Project Inc	1	2 3	0 6		0 3
		Mortenson Broadcasting Co , Inc	1	2 3	0 6		0 3
		New Life Evangelistic Center	1	2 3	0 6		0 3
		Stayton, D T	1	2 3	0 6		0 3
		Susquehanna Radio Corporation	4	9 1	2 3		5 1
		Syncom Radio Corporation	2	4 5	1 1		1 3
		Union Broadcasting	2	4 5	1 1		1 3
		University of Missouri	1	2 3	0 6		0 3
		Viacom International Inc	4	9 1	2 3		5 1
		Wilkins Communications Network	1	2 3	0 6		0 3
		William Jewell College	1	2 3	0 6		0 3
Newspaper 28 8%	Daily 70 3%	Daily News (Richmond, MO)	1	16 7	3 4		11 4
		Examiner (Independence, MO)	1	16 7	3 4		11 4
		Liberty Group Publishing	2	33 3	6 7		45 5
		Kansas City Kansan					
		Leavenworth Times					
		Kansas City Star	1	16 7	3 4		11 4
		Olathe Daily News	1	16 7	3 4		11 4
	29 7%	Weekly Newspaper	1	100 0	8 6		73 2
Internet 12 5%	18 3%	Cable	1	100 0	2 3		5 2
	81 7%	Dial-up, DSL, and Other	1	100 0	10 2		104 3
Cross-Ownership		None					
Diversity Index (Sum of Column H)							509

Market 57 Birmingham, AL

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Alabama Educational Television	2	20.0	6 8		45.7
		Channel 23 LLC	1	10 0	3 4		11 4
		Media General Broadcast Group	1	10 0	3 4		11 4
		NBC/GE	1	10 0	3 4		11 4
		News Corp	1	10 0	3 4		11 4
		Paxson Communications Corp	1	10.0	3 4		11.4
		Sinclair Broadcast Group Inc	2	20.0	6.8		45 7
		Trinity Broadcasting CO.	1	10.0	3 4		11.4
Radio 24 9%		Bessemer Radio Inc	1	2 2	0 5		0 3
		Bill Davison Evangelistic Association	1	2 2	0 5		0 3
		Birmingham Ebony Broadcasters	1	2 2	0 5		0 3
		Blount County Broadcasting	2	4 3	1 1		1 2
		Briarwood Presbyterian Church	1	2.2	0 5		0 3
		Citadel Communications Corporation	5	10 9	2 7		7 3
		Clear Channel Communications	5	10 9	2 7		7 3
		Courington Jr , Pat	1	2 2	0 5		0 3
		Cox Radio Inc	7	15 2	3 8		14 4
		Crawford Broadcasting Company	4	8 7	2 2		4 7
		Family Stations Inc	1	2 2	0 5		0 3
		Glen Iris Baptist School	2	4 3	1 1		1 2
		Jefferson State Community College	1	2 2	0 5		0 3
		Lee, James	1	2 2	0 5		0 3
		Macias, Javier	1	2 2	0 5		0 3
		New Century Radio	2	4 3	1 1		1 2
		Progressive United Communications	1	2 2	0 5		0 3
		Queen of Peace Radio Incorporated	1	2 2	0 5		0 3
		Richardson Broadcasting Corporation	1	2 2	0 5		0 3
		Samford University	1	2 2	0 5		0 3
		Sides Robinson Inc	1	2 2	0 5		0 3
		Steadman, Herb	1	2 2	0 5		0 3
		Stocks Broadcasting Inc	1	2 2	0 5		0 3
		University of Alabama	1	2 2	0 5		0 3
		Willis Broadcasting Corporation	2	4 3	1 1		1 2
Newspaper 28 8%	Daily 70 3%	Birmingham News	1	50 0	10 1		102 5
		Birmingham Post-Herald	1	50 0	10 1		102 5
	29 7%	Weekly Newspaper	1	100 0	8 6		73 2
Internet 12 5%	18 3%	Cable Operator	1	100 0	2 3		5 2
	81 7%	Dial-up, DSL, and other	1	100 0	10 2		104.3
Cross-Ownership		none					
Diversity Index (Sum of Column H)							591

Market 85 Little Rock, AK

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Agape Church, Inc	2	14 3	4 8		23 3
		Allbritton Communications Company	1	7 1	2 4		5 8
		Arkansas Educational Television Ntk	3	21 4	7 2		52 5
		Clear Channel Television Inc	2	14 3	4.8	a	---
		Daystar Television Network	1	7 1	2 4		5 8
		Equity Broadcasting Corp	2	14 3	4.8	b	---
		Gannett Company Incorporated	1	7 1	2 4		5 8
		Morris Multimedia Inc	1	7 1	2 4	c	---
		Newark Public Schools	1	7 1	2 4		5 8
Radio 24 9%		AM1380 LLC	1	2 3	0 6		0 3
		American Family Association Inc	1	2 3	0 6		0 3
		AR Broadcasting Foundation Inc	1	2 3	0 6		0 3
		Archway Broadcasting Group LLC	2	4 5	1 1		1 3
		Caldwell Broadcasting LLC	1	2 3	0 6		0 3
		Citadel Communications Corporation	10	22 7	5 7		32 0
		Clear Channel Communications	5	11 4	2 8	a	---
		Creative Media Inc	2	4 5	1 1		1 3
		Domerese, George	1	2 3	0 6		0 3
		Equity Broadcasting Corporation	3	6 8	1 7	b	---
		Hendrix College	1	2 3	0 6		0 3
		Joshua Ministries	1	2 3	0.6		0 3
		Landers Broadcasting Co Inc	1	2 3	0 6		0 3
		Little Rock School District	1	2 3	0.6		0.3
		Malvern Entertainment Corp	1	2 3	0 6		0 3
		Metropolitan Radio Group Inc	1	2.3	0 6		0 3
		Nameloc Broadcasting	1	2 3	0 6		0 3
		Noalmark Broadcasting Corporation	1	2 3	0 6		0 3
		Powell Broadcasting Company, Inc	1	2 3	0 6		0 3
		Rusk, Tom	1	2 3	0 6		0 3
		Signal Media	2	4 5	1 1		1 3
		University of Arkansas	1	2 3	0 6		0 3
		University of Central Arkansas	2	4 5	1 1		1 3
		Wells Broadcasting Inc	1	2 3	0 6		0 3
		Willis Broadcasting Corporation	1	2 3	0 6		0 3
Newspaper 28 8%	Daily 70 3%	Arkansas Democrat-Gazette	1	33 3	6 7		45 5
		Denton Courier	1	33 3	6 7		45 5
		Log Cabin Democrat (Conway)	1	33 3	6 7	c	---
	29 7%	Weekly Newspaper	1	100 0	8 6		73 2
Internet 12 5%	18 3%	Cable	1	100 0	2 3		5 2
	81 7%	Dial-up, DSL, and other	1	100 0	10 2		104 3
Cross Ownership Total Shares		Morris Communications Corp			7 7	a	58 6
		Clear Channel Television Inc			6 5	b	42 6
		Equity Broadcasting Corp			9 2	c	84 0
Diversity Index (Sum of Column H)							601

Market 115 Lancaster, PA

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Allbritton Communications Company	1	14 3	4 8		23 3
		Clear Channel Television Inc	2	28 6	9 7	a	---
		Hearst-Argyle TV Incorporated	1	14 3	4 8		23 3
		Norris, John and Family	1	14 3	4 8		23 3
		Tribune Broadcasting Company	1	14 3	4 8		23 3
		WITF Inc	1	14.3	4 8		23 3
Radio 24 9%		Clear Channel Communications	2	15 4	3 8	a	---
		Creative Ministries Inc	1	7 7	1 9		3 7
		Elizabethtown College	1	7 7	1 9		3 7
		Esfuerzo de Union Cristiana	1	7 7	1 9		3 7
		Franklin & Marshall College	1	7 7	1 9		3 7
		Hall Communications Inc	2	15 4	3 8		14 7
		JVJ Communications Inc	1	7 7	1 9		3 7
		Millersville State College	1	7 7	1 9		3 7
		Regent Communications, Inc	1	7 7	1 9		3 7
		Spanish American Civil Association	1	7 7	1 9		3 7
		WDAC Radio Company Inc	1	7 7	1 9		3 7
Newspaper 28 8%	Daily 70 3%	New Era, Intelligencer Journal	1	100 0	20 2		409 9
	29 7%	Weekly Newspaper	1	100 0	8.6		73.2
Internet 12 5%	18 3%	Cable	1	100 0	2 3		5 2
	81 7%	Dial-up, DSL, and other	1	100 0	10.2		104 3
Cross Ownership Total Shares		Clear Channel Communications			13 5	a	181 9
Diversity Index (Sum of Column H)							939

Market 139 Burlington, VT / Plattsburgh, NY

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Hearst-Argyle TV Incorporated	1	10 0	3 4		11 4
		Mountain Lake Public Telecom	1	10 0	3 4		11 4
		Mt Mansfield Television, Inc	1	10 0	3 4		11 4
		Smith Broadcasting Group Inc	1	10 0	3 4		11.4
		Straightline Communications	1	10 0	3 4		11 4
		University of New Hampshire	1	10 0	3 4		11.4
		Vermont Public Television	4	40 0	13 5		182 8
Radio 24 9%		Burlington Broadcasters	2	5 1	1 3		1 6
		Champlain Radio Inc	1	2 6	0 6		0 4
		Christian Ministries Inc	1	2 6	0 6		0 4
		Clear Channel Communications	5	12 8	3 2		10 2
		Empire State Radio	1	2 6	0 6		0 4
		Hall Communications Inc	3	7 7	1 9		3 7
		Hometown Radio Inc	1	2 6	0 6		0 4
		Jackson Group	1	2 6	0 6		0 4
		Middlebury College	1	2 6	0 6		0 4
		Northeast Broadcasting Company	7	17 9	4 5		20.0
		Radio Lake Placid Inc	2	5 1	1 3		1 6
		Radio Vermont Group LLC	3	7 7	1 9		3 7
		Saint Michaels College	1	2 6	0 6		0 4
		Saranac Lake Radio LLC	2	5 1	1 3		1 6
		Sison Broadcasting Incorporated	2	5 1	1 3		1 6
		St Lawrence University	1	2 6	0.6		0 4
		State University of New York	1	2 6	0 6		0 4
		University of Vermont	1	2 6	0 6		0.4
		Vermont Public Radio	1	2 6	0 6		0 4
		WAMC/Northeast Public Radio	2	5 1	1 3		1 6
Newspaper 28 8%	Daily 70 3%	Burlington Free Press	1	33 3	6 7		45 5
		Press Republican (Plattsburgh)	1	33 3	6 7		45 5
		St Albans Messenger	1	33 3	6 7		45 5
	29 7%	Weekly Newspaper	1	100 0	8 6		73 2
Internet 12 5%	18 3%	Cable	1	100 0	2 3		5 2
	81 7%	Dial-up, DSL, and other	1	100 0	10 2		104.3
Cross Ownership		None					
Diversity Index (Sum of Column H)							621

Market 167 Myrtle Beach, SC

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col. F Squared
Television 33 8%	Broadcast 100 0%	Diversified Communications	2	33 3	11 3		126.9
		GE Media Inc	1	16 7	5 6		31 7
		Media General Broadcast Group	1	16 7	5 6		31 7
		South Carolina Educational TV	2	33 3	11 3		126 9
Radio 24 9%		Altman, Gardner	2	6 9	1 7		2 9
		Coastline Comm of Carolina Inc	2	6.9	1 7		2 9
		Cumulus Media Inc	7	24 1	6 0		36 1
		Educational Media Foundation	1	3 4	0 9		0 7
		Fidelity Broadcasting	3	10 3	2 6		6 6
		GEO Broadcast Group Inc	1	3 4	0 9		0 7
		JARC Broadcasting Inc	1	3 4	0 9		0 7
		NextMedia Group	5	17 2	4 3		18 4
		Radio Training Network Inc	1	3 4	0 9		0 7
		Root Communications Group LP	3	10 3	2 6		6 6
		SC Ed TV Commission	1	3 4	0 9		0 7
		Stalvey, RJ	1	3 4	0 9		0 7
		WPJS Broadcasting Inc	1	3 4	0 9		0 7
Newspaper 28 8%	Daily 70 3%	Sun News	1	100 0	20 2		409 9
	Weekly 29 7%	Weekly Newspaper	1	100 0	8 6		73 2
Internet 12 5%	18 3%	Cable	1	100 0	2 3		5 2
	81 7%	Dial-up, DSL, and other	1	100 0	10 2		104 3
Cross Ownership		None					
Diversity Index (Sum of Column H)							989

Market 200 Terre Haute, IN

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE))	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Bahakel Communications Limited	1	20 0	6 8		45 7
		Emmis Communications	1	20 0	6.8	a	---
		Nexstar Broadcasting Group, L P	1	20 0	6 8		45 7
		Southern Illinois University	1	20 0	6 8		45 7
		Vincennes University	1	20 0	6.8		45 7
Radio 24 9%		American Family Association Inc	1	4 2	1 0		1 1
		Bright Tower Communications	2	8 3	2 1		4 3
		Cromwell Group Inc, The	1	4 2	1 0		1 1
		Crossroads Investments LLC	5	20 8	5 2		26 9
		Emmis Communications	2	8 3	2 1	a	---
		Illinois Bible Institute	1	4 2	1 0		1 1
		Indiana State University	1	4 2	1 0		1 1
		JDL Broadcasting Incorporated	1	4 2	1 0		1 1
		JTM Broadcasting Corp	2	8 3	2 1		4 3
		Key Broadcasting Inc	2	8 3	2 1		4 3
		Rose Hulman Institute of Technology	1	4 2	1 0		1 1
		The Original Company, Inc	2	8 3	2 1		4 3
		Word Power Inc	3	12 5	3 1		9 7
Newspaper 28 8%	Daily 70 3%	Brazil Times	1	33 3	6 7		45 5
		Daily Clintonian	1	33 3	6 7		45 5
		Terre Haute Tribune-Star	1	33 3	6 7		45 5
	Weekly 29 7%	Weekly Newspaper	1	100 0	8 6		73 2
Internet 12 5%	18 3%	Cable	1	100 0	2.3		5 2
	81 7%	Dial-up, DSL, and other	1	100 0	10 2		104 3
Cross-Ownership Total Shares		Emmis Communications			8 8	a	78 1
Diversity Index (Sum of Column H)							640

Market 224 Charlottesville, VA

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Central VA Educational Telecom	2	66 7	22 5		507 8
		Waterman Broadcasting Corp	1	33 3	11 3		126 9
Radio 24 9%		Baker Family Stations	1	5 9	1 5		2 1
		Clear Channel Communications	6	35 3	8 8		77 2
		Eure Communications	4	23 5	5 9		34 3
		James Madison Univ Bd of Visitors	1	5 9	1 5		2 1
		Mid-Virginia Broadcasting Corp	1	5 9	1 5		2 1
		Stu-Comm Inc	1	5 9	1 5		2 1
		University of Virginia	1	5 9	1 5		2 1
		Virginia Tech Foundation Inc	2	11 8	2 9		8 6
Newspaper 28 8%	Daily 70 3%	Daily Progress	1	100 0	20 2		409 9
	Weekly 29 7%	Weekly Newspaper	1	100 0	8 6		73 2
Internet 12 5%	Cable 18 3%	Cable	1	100 0	2 3		5 2
	Other 81 7%	Dial-up, DSL, and other	1	100 0	10 2		104 3
Cross Ownership		None					
Diversity Index (Sum of Column H)							1,358

Market 255 Altoona, PA Base Case

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Clear Channel Communications	1	16 7	5 6		31.7
		Cornerstone TV, Inc	1	16 7	5 6		31 7
		Cox Broadcasting	1	16 7	5 6		31 7
		Peak Media LLC	2	33 3	11 3		126.9
		Penn State University	1	16 7	5 6		31 7
Radio 24 9%		Allegheny Mountain Network	3	21 4	5 3		28 5
		Altoona Trans Audio Corp Inc	1	7 1	1 8		3 2
		B&F Enterprises	1	7 1	1 8		3 2
		Forever Broadcasting Incorporated	4	28 6	7 1		50 6
		Martinsburg Broadcasting	2	14 3	3 6		12 7
		Sounds Good Incorporated	1	7 1	1 8		3 2
		Vital Licenses	2	14 3	3.6		12 7
Newspaper 28 8%	Daily 70 3%	Altoona Mirror	1	100 0	20 2		409.9
	Weekly 29 7%	Weekly Newspaper	1	100 0	8 6		73 2
Internet 12 5%	Cable 18 3%	Cable	1	100 0	2 3		5 2
	Other 81 7%	Dial-up, DSL, and other	1	100 0	10 2		104 3
Cross-Ownership		None					
Diversity Index (Sum of Column H)							960

Market 255 Altoona, PA Scenario. Radio Duopoly

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Clear Channel Communications	1	16 7	5 6		31.7
		Cornerstone TV, Inc	1	16 7	5 6		31 7
		Cox Broadcasting	1	16 7	5.6		31 7
		Peak Media LLC	2	33 3	11 3		126 9
		Penn State University	1	16 7	5 6		31 7
Radio 24 9%		Allegheny Mountain Network	3	21 4	5 3	a	---
		Altoona Trans Audio Corp Inc	1	7 1	1.8	b	---
		B&F Enterprises	1	7 1	1 8	b	---
		Forever Broadcasting Incorporated	4	28 6	7 1	a	---
		Martinsburg Broadcasting	2	14 3	3 6	b	---
		Sounds Good Incorporated	1	7 1	1 8	b	---
		Vital Licenses	2	14 3	3 6	b	---
Newspaper 28 8%	Daily 70 3%	Altoona Mirror	1	100 0	20 2		409.9
	Weekly 29 7%	Weekly Newspaper	1	100 0	8 6		73 2
Internet 12 5%	Cable 18 3%	Cable	1	100 0	2 3		5 2
	Other 81 7%	Dial-up, DSL, and other	1	100 0	10 2		104 3
Cross-Ownership Hypothetical		1st radio owner			12 5	a	155 0
		2nd radio owner			12.5	b	155 0
Diversity Index (Sum of Column H)							1,156
Delta (compared to base case of 960 points)							196

Market 255 Altoona, PA Scenario· TV Duopoly

Media Market		Ownership Shares			Percent Share of Media Market		
% of Media	% of Medium	Parent Company	# of Stations	% Share	% Share (AxBxE)	Cross Ownership	Col F Squared
Television 33 8%	Broadcast 100 0%	Clear Channel Communications	1	16 7	5.6	a	---
		Cornerstone TV, Inc	1	16 7	5 6	a	---
		Cox Broadcasting	1	16 7	5 6		31 7
		Peak Media LLC	2	33 3	11 3		126 9
		Penn State University	1	16.7	5 6		31 7
Radio 24 9%		Allegheny Mountain Network	3	21 4	5 3		28 5
		Altoona Trans Audio Corp Inc	1	7 1	1 8		3 2
		B&F Enterprises	1	7 1	1.8		3 2
		Forever Broadcasting Incorporated	4	28 6	7 1		50 6
		Martinsburg Broadcasting	2	14.3	3 6		12.7
		Sounds Good Incorporated	1	7 1	1 8		3 2
		Vital Licenses	2	14 3	3 6		12 7
Newspaper 28 8%	Daily 70 3%	Altoona Mirror	1	100 0	20 2		409 9
	Weekly 29 7%	Weekly Newspaper	1	100 0	8.6		73 2
Internet 12 5%	Cable 18 3%	Cable	1	100 0	2 3		5.2
	Other 81 7%	Dial-up, DSL, and other	1	100 0	10 2		104 3
Cross-Ownership Hypothetical		TV Duopoly			11 3	a	126 9
Diversity Index (Sum of Column H)							1,024
Delta (compared to base case of 960 points)							64

APPENDIX D
DIVERSITY INDEX SCENARIOS
BY NUMBER OF TV STATIONS IN MARKETS

Base Case		Average Change in Diversity Index, Resulting from Mergers						
TV Stations in Market	Average Diversity Index	Radio and Television	Newspaper and Radio	Newspaper and Television	Newspaper, TV, and ½ Radio	TV Duopoly	Newspaper and TV Duopoly	Newspaper, Radio, and TV Duopoly
1	1,707	651	271	910	1,321	----	----	----
2	1,316	301	335	731	1,009	----	----	----
3	1,027	190	242	331	515	----	----	----
4	928	138	236	242	408	----	----	----
5	911	111	263	223	393	91	376	846
6	889	79	239	200	340	63	357	688
7	753	73	171	121	247	47	242	533
8	885	79	299	152	314	36	308	734
9	705	64	198	86	207	28	172	473
10	635	56	107	51	119	23	101	292
15	595	43	149	48	145	10	97	302
20	612	49	222	40	128	6	80	350

The Diversity Indices are calculated according to the method described in the text of this *Report and Order*. To obtain the average changes in the Diversity Index across markets, we grouped each Arbitron market according to the number of television stations in that market's overlapping Nielsen DMA. We examined the entire universe of markets for those markets with either few television stations (1-5) or many television stations (15 and 20), because of the limited number of markets in these groups. We selected a random sample of 10 markets each from the groups of markets with 6, 7, 8, 9, and 10 television stations, because of the large number of these markets. In developing the merger scenarios, we started with the market structure as of November 2002, and made hypothetical adjustments; *e.g.*, how would the Diversity Index change by creating a TV duopoly. For scenarios involving mergers between radio stations and television or newspaper (except for the newspaper, TV and ½ of the radio limit scenario) we assumed that prior to the merger the radio owner owned the maximum number of radio stations allowable. We adjusted the initial market structure, therefore, if the owner was not actually at the maximum.

APPENDIX E
DISCUSSION OF COMMENTS ON MOWG STUDY NO. 10

A. Discussion of Economists Incorporated Comments

1. Introduction

1. In the comments of Economists Incorporated, Bruce M. Owen et al evaluate the study "*On the Substitutability of Local Newspaper, Radio, and Television Advertising in Local Business Sales*" by C. A Bush. Owen et al focus on measurement errors and assert that price data require additional manipulation prior to use in estimation. In this section, we respond to the comments of Economists Incorporated. In summary, measurement errors are acknowledged in the paper of Bush, and under the regression technique and model used by Bush, Owen et al fail to show whether the bias is toward too little substitution between local newspaper, radio, and television, or whether there is too much substitution between local media. Finally, the proposed manipulation of radio and TV prices is without merit.

2. Measurement Errors

2. Owen et al begin with the measurement error associated with the use of SQAD data for prices of both local radio and local television advertising. We agree that use of SQAD data introduces measurement error. Bush used SQAD radio and television price data because data on prices paid by local radio and television advertisers are not available.

3. The second measurement error recognized by Owen involves expenditures on local newspaper ads. Owen argues that there is no basis for the allocation and no test of the robustness of the allocation methodology Owen asserts that the regression coefficients have no validity. Bush acknowledges, however, that local newspaper ad expenditures are constructed through an allocation process that introduces some degree of measurement error. The basis for the allocation process is a simple understanding that advertising revenues are associated with newspaper reach or number of readers/subscribers. It is assumed that readers/subscribers are positively correlated with adult population However, reader/subscriber data were not available for newspapers in the sample, and therefore, adult population was used. On the question of validity of results- the results are valid given assumptions and data. Appropriate econometric technique was used with available data under reasonable assumptions. The question is not validity - but reliability. Measurement errors affect both the dependent and independent variables of the model. Under the regression technique and model used by Bush, Owen et al fail to show or provide any evidence on whether the bias is toward too little substitution between local newspaper, radio, and television, or whether there is too much substitution between local media. Bush has, however, provided some evidence of weak substitutability. On robustness - Owen has complete access to all the data and software associated with the Bush study, but no sensitivity analysis or alternative modeling/regressions are provided by Owen et al Bush presented statistical results in Chart A of his paper. The data support the theoretical model and reveal that, statistically, there is weak substitutability between local television ads, local newspaper ads, and local radio ads in the sales activities of local businesses. However, due to measurement errors in the work of Bush, we give the study an appropriate weight, and we also give weight to other evidence of distinct local media markets that are contained in the record.

3. Data Manipulation

4. Owen asserts that the cost per point price measures used by Bush are meaningless. He

reasons that the audience represented by a "point" varies between television and radio within a DMA, and within television and radio across DMA. Owen et al claim that using cost per point data for both radio and television is an apples and oranges comparison because the Arbitron radio market populations is typically smaller than the Neilsen DMA population. We disagree with Owen et al for several reasons. First, Bush's use of CPP follows work in the economic literature. Ekelund et al (1999) and (2000) use CPP in their studies of radio and television. Second, radio and television are apples and oranges. Radio and television technologies are fundamentally and inherently different and, therefore, give rise to distinctly different messages/content. A radio message/content is not the same as a television message/content. A radio message is only sound, while television is sound, text, pictures, and motion pictures. Because the radio message stimulates a person only through sound, a radio listener/person is fundamentally different from a television viewer/person. That is a radio person has the characteristic of only hearing, while any television person sees and hears. One need only think of the 1960 Presidential Election between John F. Kennedy and Richard M. Nixion to understand these technologies and their different effects. As another example, one can look to music videos and the effects of MTV. By using non-manipulated CPP data, Bush acknowledges the apples and oranges nature of radio and television. Bush understands that it is really meaningless to assume that 1000 television viewers/persons are the same as 1000 radio listeners/persons. As a final example, instead of the sales activities, suppose that a local business is manufacturing desks Desks require wood and metal. The price of wood is in dollars per board foot, while steel is sold in dollars per ton. It would bring no meaning to the estimation of the substitutability of wood and steel in the production of desks by first altering the price of wood to be dollars per ton. Besides such a conversion having no meaning, it is not the actual price a desk manufacturer would pay for wood Owen's proposed manipulation of CPP data is unnecessary and meaningless.

5. Owen et al argue that newspaper prices in Bush's study are not adjusted for audience size. That is the newspaper price is not comparable to the radio and television prices. Owen would manipulate the data in order to express the newspaper price on a CPP basis. Owen is incorrect. Bush's newspaper price is the price actually paid by advertises for a retail ad. Moreover the price reflects both the technology of newspapers i e., print which is not sound or motion pictures. The construction of a "newspaper CPP" would distort the fact that a newspaper reader is not the same as a radio listener or television viewer. This is because the technologies of radio, television, and newspaper are different i.e., the message/content of these media are different. The construction of a "newspaper CPP" is unnecessary.

6. Owen argues that Bush's newspaper price inappropriately averages newspapers of different sizes. Owen asserts that if prices [of newspapers within a DMA] are not on a comparable circulation basis, their average is meaningless. Owen is wrong. The mean price of a newspaper is a reasonable calculation when data are not available on quantity of retail ads or on retail ad revenues for newspapers in the sample. If data were available, a weighted average price using newspaper ad revenue as the basis for weights would appear most appropriate. However, retail ad revenue by newspaper by DMA are not available. Although the data of Bush are publicly available, Owen does not present alternative or "correct" newspaper price data. He provides no alternative estimates of substitutability using an alternative newspaper price. In other words, there is no evidence of distortion or bias resulting from Bush's construction of newspaper prices.

7. Owen argues that the Bush study does not control for non-price media characteristics that might affect the choice of advertising media. Owen is wrong for several reasons. First, in the theoretical model of the Bush study, the derived demand for a medium is a function of media prices and the total media budget of the local business. Thus, the theory completely informs the regressions. Non-price media characteristics would appear in ad hoc specifications that are uninformed or guided by economic theory.

In deed, without a priori theoretical consideration of variables to be included in the specification, variables could be added to the model such that statistical significance could not be determined for any parameter of interest in the model. Second, Bush does introduce, however, two dummy variables to control for competitive effects that are associated with the size or rank of a DMA In summary, the model of Bush is, however, supported by the data, and the results of Bush suggest that, statistically, there is weak substitutability between local media in the sales activities of local businesses. Again, Owen et al provide no alternative results using the data or model of Bush.

8. Owen et al assert that the Bush study incorrectly states advertising on a per business establishment basis. They argue that dividing local advertising expenditures by the number of business establishments is not appropriate because some businesses do not advertise at all via media. This argument is without merit. Without specific data on local businesses that advertise within a DMA, Bush followed the practice of the consumer demand literature in constructing advertising expenditures of a local business. In the economic literature on estimating consumer demand systems, it is typical to express consumer expenditures on a particular good or category of goods on a per capita basis even though not all people consume the good or category. Analogously, Bush expresses local media expenditures on a per business establishment basis even though not all local businesses advertise. Moreover, Owen et al provide no empirical evidence of bias or distortion in the estimate parameters as result of expressing advertising expenditures on a per business establishment basis.

B. Discussion of Hausman's Comments

1. Introduction

9. In the Comments of Clear channel Communications, Inc., Dr. Hausman critiques the study "*On the Substitutability of Local Newspaper, Radio, and Television Advertising in Local Business Sales*" by C. A. Bush. In this section, Hausman's comments are addressed.

2. Methodological Issue

10. Dr. Hausman's methodological criticism of the Bush study assumes a model where market price and market quantity are determined by the intersection of the market demand curve and the market supply curve. His entire analysis assumes that prices are determined in a simultaneous equation model of market demand and market supply. The Bush study is not, however, a general equilibrium model or simultaneous equation model of price determination. Bush studies the derived demand of a local business for advertising that is used in the sales effort of the local business. In the model of Bush all firms are Bertrand competitors. In Bertrand competition each provider of a good or service sets the price of that good or service. For any competitive market, price will equal marginal cost, and for non-competitive markets prices are set based on the Bertrand pricing rule. Prices are completely determined without any reference to intersecting market supply and market demand curves. In fact, as Hausman[1] points out, there is a "prevalence of one-newspaper towns", and such monopolists would follow the Bertrand pricing rule. In fact, supply curves do not exist for monopolists. In other words, Bush assumes that the underling price data are generated through a process of Bertrand pricing. The local business takes advertising prices as given, and maximizes expected sales. The result is a system of derived demand equations for local advertising by the local business This means that there is no simultaneous equations bias, and therefore instrumenting in order to correct for simultaneous equation bias is not necessary.

[1] Statement of Professor Jerry A. Hausman at 17.

11. In the demand system modeled by Bush, the fundamental econometric problem is the singularity of the covariance matrix caused by the adding-up restriction i.e., the sum of the local business's expenditures on various media must equal the total media budget. When the covariance matrix is singular, conventional methods fail and estimates cannot be derived. Moreover, the econometric methodology proposed by Hausman of estimating three separate simultaneous equation models and instrumenting/using two stage least squares does not address or solve the problem of singularity. The econometric methodology used by Bush produces efficient and consistent estimates given the singularity of the covariance matrix. Finally, the econometric methodology used by Bush is based on recent literature and practices for estimating demand systems with singular covariance matrices[2]. Bush's use of price data is consistent with recent and historical practices, e.g., Raper et al (2002)[3], Andrikopoulos (2000)[4], and Powell (1974)[5] in the estimation of demand systems with singular covariance matrices.

3. Measurement Error and Bias

12. In the Bush paper measurement errors are acknowledged. Bush states that local newspaper ad expenditures are constructed through an allocation process that introduces some degree of measurement error. Bush used SQAD radio and television price data because data on prices paid by local radio and television advertisers are not available Use of SQAD data introduces measurement error.

13. Hausman (p. 17) finds the same measurement errors and concludes that Bush's results are biased towards finding too little demand sensitivity and too little substitution across media. Hausman provides no evidence on the direction of bias. Under the estimation of procedure and model used by Bush, Hausman does not demonstrate the direction of bias given measurement errors. The direction of bias suggested by Hausman holds for the case of simple linear regressions[6]. In deed, there could be bias towards finding too little substitution or bias toward finding too much substitution. Without

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[2] *See* Dhrymes (1987 and 1994)

[3] Kellie C. Raper, Maria Namakhoye Wanzala, and Rudolfo M. Nayga, Jr , *Food Expenditures and Household Demographic Composition in the US a Demand System Approach*, 34 APPLIED ECON 981-92 (2002).

[4] Andreas A. Andrikopoulos and John Loizides, *The Demand for Home-Produced and Imported Alcoholic Beverages in Cyprus The Aids Approach*, 32 APPLIED ECON 1111-19 (2000).

[5] Alan Powell, EMPIRICAL ANALYTICS OF DEMAND SYSTEMS (Mass : Lexington Books, 1974)

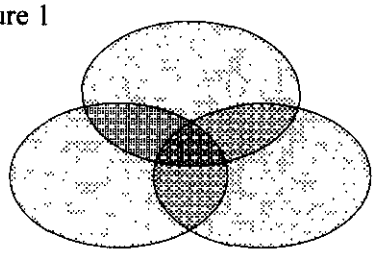
[6] Jerry Hausman, *Mismeasured Variable in Econometric Analysis Problems from the right and problems from the Left*, 15 *J*. ECON PERSPECTIVES 57-67 (Nov. 2001)

evidence/data the actual direction of the bias cannot be determined. Bush has, however, provided some evidence of weak substitutability

APPENDIX F
CONTOUR-OVERLAP METHODOLOGY

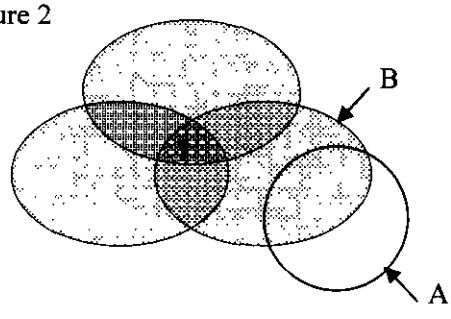
Under the existing contour-overlap methodology for defining radio markets and counting the radio stations that are in those markets, the Commission uses the principal community contours of the commercial radio stations that a party seeks to own. The relevant radio market is defined as the area encompassed by the principal community contours of the commonly owned radio stations whose contours mutually overlap. In Figure 1, for example, because the three stations have contours that mutually overlap in Area 1, if they were to be commonly owned, the radio market would be the entire shaded area.

Figure 1



Principal community contours also are used to count the number of radio stations in a radio market (*i e*, to determine the size of the market for purposes of applying the ownership limits). Specifically, in addition to the radio stations whose contours form the market, any station whose principal community contour intersects the market is considered "in" the market. For example, in Figure 2, three of the stations have contours that overlap in Area 1, thus forming a radio market comprised of the shaded area. Station A would be considered in that market because its contour intersects the market. It would be counted, moreover, even if it and the three other stations in Figure 2 have the same owner.

Figure 2



The situation exemplified in Figure 2 can result in what is known as the "numerator-denominator" inconsistency (also know as the "Pine Bluff" problem) Under the current rule, the numerator represents the number of commercial radio stations a party is deemed to own in a market. Only those stations that form the market (because their contours mutually overlap) are counted in the numerator For example, in Figure 2, the three stations whose contours overlap in Area 1 are the only stations that their owner is deemed to own in that market. In contrast, the denominator, which represents

the total number of commercial radio stations in the market (*i.e.*, the market size or tier), includes every station whose contour intersects the market. Thus, even if all four stations in Figure 2 were to be commonly owned, Station A would be included in the denominator because its contour intersects the shaded area, but it would not be included in the numerator because its contour does not intersect Area 1. (Station A would, however, be included in the numerator when analyzing the market formed by the overlap of its contour and that of Station B. The two unlabeled stations in Figure 2 would be counted in the denominator (but not the numerator) in *that* market because their contours overlap the market.)

APPENDIX G
FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (Notice) initiating this proceeding.[2] IRFAs were also incorporated into the Notice of Proposed Rulemaking in MM Docket 01-317, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets (Local Radio Ownership NPRM), the Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking in MM Dockets 01-317 and 00-244, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, and Definition of Radio Markets (Combined NPRM), the Notice of Proposed Rulemaking in MM Docket 00-244, Definition of Radio Markets (Definition NPRM), and the Notice of Proposed Rulemaking in MM Docket 01-235, Cross-Ownership of Broadcast Stations and Newspapers (Newspaper/Broadcast Cross-Ownership NPRM).[3] The Commission sought written public comment on the proposals in all of the Notices of Proposed Rulemaking, including comment on the IRFAs. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[4]

A. Need for, and Objectives of the Report and Order (Order)

2. The Order is the culmination of the Commission's third biennial ownership review and addresses all six broadcast ownership rules. This review is undertaken pursuant to Section 202(h) of the Telecommunications Act of 1996, which requires the Commission to review its broadcast ownership rules every two years. The Notice initiated review of four ownership rules; the national television multiple ownership rule,[5] the local television multiple ownership rule[6], the radio television cross-ownership rule[7]; and the dual network rule.[8] The first two rules have been reviewed and the proceedings remanded to the Commission by the U.S. Court of Appeals for the District of Columbia Circuit. In addition, the Commission previously initiated proceedings on the local radio ownership rule[9] and the

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[1] *See* 5 U.S C § 603 The RFA, *see* 5 U.S.C. § 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[2] See Appendix A of the Notice, 17 FCC Rcd at 18558

[3] *See* Notice of Proposed Rulemaking in MM Docket 01-317, 16 FCC Rcd at 19904, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking in MM Dockets 01-317 and 00-244, 16 FCC Rcd at 25085, Notice of Proposed Rulemaking in MM Docket 00-244, 15 FCC Rcd at 25085, and the Notice of Proposed Rulemaking in MM Docket 01-235, 16 FCC Rcd at 17307. Cited collectively as the NPRMs.

[4] *See* 5 U.S C § 604

[5] *See* 47 C.F.R § 73 3555(c).

[6] *See* 47 C.F.R. § 73 3555(b)

[7] *See* 47 C.F.R.§ 73.3555(c).

[8] *See* 47 C.F.R. § 73.658(g)

[9] *See* 47 C.F R § 73.3555(a)

newspaper/broadcast cross-ownership rule.[10] The Order: (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.

3. The changes adopted in the Order 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.

4. The adoption of the Order 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 Order 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

5. This Order is adopted pursuant to Sections 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

6. 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 Notice and also in response to the IRFAs in Dockets 01-317 and 00-244.[11] In both letters, SBA argues that the Notices of

[10] *See* 47 C F R § 73 355(d).

[11] SBA's comments were endorsed in an e-mail from Chris Powell, managing editor of the Journal Inquirer in Manchester, Connecticut, and by Susan Hager of the Alliance for Small Business Regulatory Fairness. The Center for the Creative Community (CCC) also filed comments in response to the IRFA in the Notice, echoing many of same arguments as SBA, and the Commission dismisses these arguments for the same reasons it dismisses SBA's contentions. Additionally, CCC maintains that the IRFA should have discussed the negative impact that easing or eliminating the dual network or national television multiple ownership rules could have on small entities in the creative arts community, such as writers, directors, producers, and performers among others The Commission notes that the RFA requires that the Commission discuss the impact of potential rules or rule changes only on small entities which are regulated by the Commission (*See American Trucking Associations, Inc v United States Environmental Protection Agency*, 171 F3d 1027, 336 U S. App D.C 16 citing *Motor and Equip Mfrs Ass'n v Nichols*, 142 F.3d (continued. .)

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 Notice 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 Notice. 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 Notice 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 Notice. The Commission concludes that the Order and its accompanying rules are a logical outgrowth of the questions posed in the Notice. The modifications made in the Order are consistent with the issues and questions posed in the Notice, 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.

7. SBA's contentions that the general nature of the IRFA in the Notice 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 Order are belied by the hundreds of thousands of comments filed in this proceeding. Additionally, public hearings were conducted.

8. 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 Notice and they are therefore outside the scope of this proceeding.

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449, 467 & n. 18, 1988, supporting an interpretation of the RFA that agencies have no obligation "to conduct a small entity impact analysis of effects on entities which it does not regulate) The Commission does not regulate these entities

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

9. 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.[12] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[13] 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 more definitions that are appropriate to its activities.[14] A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[15]

10. In this context, the application of the statutory definition to television stations is of concern. 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 estimates that follow 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. 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.

11. **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.[16] Business concerns included in this industry are those "primarily engaged in broadcasting images together with sound."[17] According to Commission staff review of the BIA Publications, Inc. Master Access Television

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[12] 5 U.S C 604(a)(3).

[13] *Id* § 601(6).

[14] *Id* § 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U S.C § 632) Pursuant to 5 U S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

[15] 15 U.S.C. § 632

[16] *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)

[17] 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 (continued)

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[18] must be included. Our estimates, therefore, likely overstates the number of small entities that might be affected by any changes to the ownership rules, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

12. **Radio Broadcasting**. The SBA defines a radio broadcast entity that has $6 million or less in annual receipts as a small business [19] Business concerns included in this industry are those "primarily engaged in broadcasting aural programs by radio to the public.[20] 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[21] are included.[22] Our estimate, therefore likely overstates the number of small businesses that might be affected by any changes to the ownership rules.

13. **Daily Newspapers.** The SBA defines a newspaper publisher with no more than 500 employees as a small business.[23] According to the 1997 Economic Census, 8,620 of 8,758 newspaper publishers had less than 500 employees.[24] The data does not distinguish between newspaper publishers that publish daily and those that publish less frequently, and the latter are more likely to be small businesses than the former because of the greater expense to publish daily. The new cross ownership limits apply only to daily newspapers. It is likely that not all of the 8,620 small newspaper publishers are affected by the current rule.

E. Description of Projected Reporting, Recordkeeping, Other Compliance Requirements

14. The Order generally relaxes or retains the existing broadcast ownership rules. The Order

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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.

[18] "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 to power to control both." 13 C.F.R. § 121.103(a)(1).

[19] *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).

[20] *Id*

[21] "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 C F.R. § 121.103(a)(1).

[22] "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 C.F.R. § 121(a)(4).

[23] 13 C.F.R. § 121.201 (NAICS Code 511110).

[24] These census data are found at http:/www.census.gov/prod/ec97/97m511a.pdf, visited 5/21/03.

does, however, adopt a paperwork and compliance requirement in connection with the local radio ownership rules. The Order requires that parties with existing attributable Joint Sales Agreements (JSAs) covering radio stations located in Arbitron Metros file a copy of the JSA with the Commission within 60 days of the effective date of the Order. Parties with JSAs for radio stations not located in Arbitron Metros will have to file JSAs within 60 days of the effective date of the Order. Additionally, we are modifying FCC Application Forms 314 and 315 to require applicants to file attributable JSAs at the time an applications is filed. In addition, parties may be required to file a copy of Local Marketing Agreements (LMAs) that have become attributable because of the decision to modify the market definition for radio stations.

15. Further, in connection with the local TV ownership rule, the Order states that any licensee with a temporary waiver or pending waiver extension request must, by no later than 60 days after the effective date of the Order, file either a statement describing how ownership of the subject station complies with the local TV ownership rule or an application for transfer or assignment of license for one of the stations that is subject of the waiver.

16. The Order modifies the standards for rule waiver requests involving failed, failing, and unbuilt local television stations by removing the requirement to demonstrate that there is no reasonably available out-of-market buyers. It also provides guidelines for waiver of the top four-ranked restriction in markets of certain sizes, and addresses existing combinations that may not comply with the modified local television ownership rule. The Order indicates that waiver applicants should supply: television ratings information for all the television stations in the market for the four most recent ratings periods; and information about current local news production for all stations in the local market and the effect of the proposed merger on local news and public affairs programming for the affected stations. Waiver applicants claiming that the merger is needed to facilitate the digital transition should provide data supporting this assertion. Applicants stating that the merger is needed to preserve a local newscast should document the financial performance of the affected news division. Applicants for waiver of our top four-ranked restriction must demonstrate that the proposed combination will produce public interest benefits. As in the context of the failing station waiver, the Commission will require that, at the end of the merged stations' license term, the owner of the merged stations must certify to the Commission that the public interest benefits of the merger are being fulfilled. This certification must include a specific factual showing of the program-related benefits that have accrued to the public. The Commission will consider waivers of our local TV ownership rule where a party can demonstrate that the signals of the stations in a proposed combination do not have overlapping Grade B contours and have not been carried, via DBS or cable, to any of the same geographic areas within the past year. The Order also adopts a paperwork and compliance requirement in connection with parties who have a conditional waiver or a pending waiver request concerning newspaper/broadcast or television/radio cross-ownership situations. These parties must notify the Commission as to whether or not the combinations are in at-risk markets or whether the combinations would otherwise be prohibited pursuant to the Commission's Cross-Media Limits [25]

17. The Order addresses issues relating to existing combinations that may not comply with the modified rules. The Order grandfathers existing holdings. The Order requires that parties come into compliance with the modified rules upon sale of the grandfathered combination, except when such transfers are made to, or by, "eligible entities." The Order defines an eligible entity as a small business consistent with SBA standards for industry groupings. The Order prohibits an eligible entity from selling

[25] *See* Order paragraph 494

a grandfathered combination acquired after the adoption date of the Order unless it has held the combination for a minimum of three years. The Order adopts processing guidelines for pending broadcast assignment and transfer of control applications. Applicants with pending long-form applications (FCC Forms 314 and 315) that require a multiple ownership showing may amend applications by submitting a new multiple ownership showing demonstrating compliance with the rules adopted in the Order. Applicants may begin filing such amendments once notice has been published by the Commission in the Federal Register that OMB has approved the information collection requirements contained in such amendments. Applications pending as of the effective date of the rules adopted in the Order will be processed under the new rules.

18. Finally, the Order establishes a freeze on the filing of new broadcast assignment and transfer of control applications that require the use of FCC Form 314 or 315.

19. The freeze begins on the adoption date of the Order and ends on the date that notice has been published by the Commission in the Federal Register that OMB has approved the revised forms. The Commission will continue to process short-form (FCC 316) applications. The Commission is modifying and releasing revised forms 301, 314, and 315 based on the changes in the Order, and these revised forms will be effective upon OMB approval.

F. Steps Taken to Minimize Significant Impact on Small Entities and Significant Alternatives Considered

20. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[26]

21. Any discussion of alternatives which were available to the Commission in reviewing these broadcast ownership rules must begin with an understanding that Section 202(h) mandates that the Commission review these rules to determine whether they remain "necessary in the public interest." Section 202(h) carries with it a presumption in favor of repealing or modifying the ownership rules if the Commission finds the rules are not "necessary in the public interest." Thus, the Commission has three chief alternatives available in analyzing each of these rules -- to eliminate the rule, modify it, or, if the Commission determines that the rule is "necessary in the public interest," retain the rule. As discussed in paragraphs 10-16 of the Order, the Commission in reviewing the broadcast ownership rules is acting under its legislative mandate and, guided by recent court decisions,[27] finds that Section 202(h) carries with it a presumption in favor of repealing or modifying the ownership rules. Given these limitations, the Commission is limited in the relief it can offer small entities.

22. The Commission received more than 500,000 brief comments and form letters from individual citizens. These commenters expressed general concerns about the potential consequences of

[26] 5 U.S.C. § 603 (c).

[27] *See*, for example, *Fox Television Station, Inc v FCC*, 280 F.3d 1027, 1044 (D.C Cir. 2002), *rehearing granted*, 293 F 3d 537 (D.C. Cir 2002) and *Sinclair Broadcast Group v FCC*, 284 F.3d 148 (D.C. Cir 2002)