

Fox Television Stations, Inc.	Fox
Freedom of Expression Foundation, Inc.	FOE
Golden Orange Broadcasting Co.	Golden Orange
Hill Radio, Inc., et. al.	Hill Radio
Jet Broadcasting Co., Inc., The	Jet
Kentuckiana Broadcasting, Inc.	Kentuckiana
Lee Enterprises, Inc.	Lee Enterprises
Local Station Ownership Coalition	Local Station Ownership
Louisiana Television Broadcasting Corp.	Louisiana Television
Malrite Communications Group	Malrite
Media America Corp.	Media America
Media Institute, The	Media Institute
Mostek, Raymond	Mostek
National Association of Black Owned Broadcasters	NABOB
National Broadcasting Co., Inc.	NBC
Network Affiliated Stations Alliance	NASA
New World Communications Group, Inc.	New World
Post-Newsweek Stations, Inc.	Post-Newsweek
Press Broadcasting Co., Inc.	Press Broadcasting
Pulitzer Broadcasting Co.	Pulitzer
Silver King Communications, Inc.	Silver King
Sinclair Broadcasting Group, Inc.	Sinclair
Smith, Thomas C.	Smith
Spectrum Detroit	Spectrum Detroit
Television Operators Caucus, Inc.	Television Operators
Texas Television, Inc.	Texas Television
Tribune Broadcasting, Co.	Tribune
Westinghouse Broadcasting Co. (Group W)	Group W
WYDO-TV	WYDO-TV
Young Broadcasting, Inc.	Young Broadcasting

Reply Commenters

AFLAC Broadcast Group, Inc.	AFLAC
Allbritton Communications, Co.	Allbritton
Black Citizens for a Fair Media	BCFM
Brooks Broadcasting, LLC	Brooks Broadcasting ¹⁹⁰
Capital Cities/ABC, Inc.	Capital Cities/ABC

¹⁹⁰ Although titled "comments", Brooks Broadcasting Comments were received after the comment deadline and as such are considered as reply comments.

CBS, Inc.	CBS
Centennial Communications, Inc.	Centennial
Fox Television Stations, Inc.	Fox
LIN Television Corp.	LIN
Local Station Ownership Coalition	Local Station Ownership
Malrite Communications Group	Malrite
Meyer Broadcasting	Meyer
Midcontinent Television of South Dakota, Inc.	Midcontinent Television
Minority Media and Telecommunications Council	MMTC
National Broadcasting Co, Inc.	NBC
Network Affiliated Stations Alliance	NASA
Northern Television, Inc.	Northern Television
Pappas Stations Partnership	Pappas Stations
Silver King Communications, Inc.	Silver King
Smith Broadcasting Group, Inc.	Smith Broadcasting
Tribune Broadcasting Co.	Tribune
Viacom, Inc.	Viacom

**SEPARATE STATEMENT
OF
COMMISSIONER JAMES H. QUELLO**

RE: Review of the Commission's Regulations Governing Television Broadcasting; ("Local Ownership"), Second Further Notice of Proposed Rulemaking

Broadcast Television National Ownership Rules and Review of the Commission's Regulations Governing Television Broadcasting ("National Ownership"), Notice of Proposed Rulemaking

Review of the Commission's Regulations Governing Attribution of Broadcast Interests; Review of the Commission's Regulations and Policies Affecting Investment in the Broadcast Industry; Reexamination of the Commission's Cross-Interest Policy ("Attribution"), Further Notice of Proposed Rulemaking

Today the Commission has adopted three notices seeking further comment on various aspects of its television ownership rules, specifically focusing on rules pertaining to local ownership issues, national ownership issues, and the attribution of broadcast interests. I believe that these three notices identify appropriate questions in a relatively neutral manner, and I write separately in this statement to highlight issues from each item that I consider of particular importance.

The Commission's local ownership rules currently prohibit a person or entity from having interests in two television stations whose Grade B signal contours overlap. It is significant that today's Second Further Notice seeks comment on a potential change to a new standard for authorizing common ownership of television stations that are in separate DMAs (Nielsen's Designated Market Area) and whose Grade A contours do not overlap. While I am interested in seeing the response of commenters on this issue, I believe that the proposal is potentially useful to the extent that it applies a definition of a broadcasting market commonly used for advertising purposes. In this regard, the combination of the DMA and Grade A information could yield a more actual reflection of a "local market", including the unique market characteristics east and west of the Mississippi River, as well as the influence of cable carriage upon actual viewing practices. I also am pleased that the local ownership item enables the Commission to move forward, during the interim period pending the outcome of this proceeding, in processing pending assignment or transfer applications, conditioned on the stations' compliance with the outcome of the proceeding.

I would also note that the DMA/Grade A proposal is intended as an analytically reasonable step in defining local markets for broadcasting purposes, and is not intended to be applied so as to become a more restrictive standard. Accordingly, I am hopeful that commenters will identify any specific instances where particular markets or counties might experience unintended consequences under the new standard.

As another local ownership issue, the radio-television cross-ownership rule, or the one-to-a-market rule, generally prohibits joint ownership of a radio and television station in the same local market. With respect to the Commission's waiver policy for this rule, the Second Further Notice seeks comment on potential changes to the "five factors" typically evaluated in order to foster competition and diversity. In this context, to the extent that the Commission finds it is necessary to consider market share information in reviewing requests for waivers, I believe it is important for the Commission to analyze the appropriate definition of the relevant advertising market, as well as the necessary level of data that firms should be required to provide in order to demonstrate that common ownership would meet market share criteria. It is useful to point out that since the passage of the 1996 Telecommunications Act, the radio marketplace continues to demonstrate increases in the number of stations with a slight trend toward moderate decreases in the number of owners.¹ As a result, I previously have stated that to the extent media outlets are increasing rapidly and becoming more closely related to other communications services, we must carefully weigh the longer term impact of finding markets to be "concentrated" based solely on radio advertising, as opposed to all advertising, sources in a community.²

Concerning national ownership issues, I take special interest in the treatment of the discount attributed to UHF stations in calculating a broadcasting network's national audience reach. I believe it is appropriate, at this time, for the Commission to defer consideration of the issue of the UHF discount until the Commission's biennial review of the broadcast ownership rules that will be conducted in 1998 pursuant to the 1996 Act. In addition to varying station valuations between UHF and VHF stations as well as the evolving role of UHF stations in emerging networks, I believe that it is necessary to wait in order to assess more carefully the impact of digital allocations on the role of UHF stations in the video marketplace.

¹ Since March 1996, the number of commercial stations in the top 50 markets has increased nearly 2%, while the total number of owners of commercial stations in the top 50 markets have decreased over the same period by approximately 3.7%. See BIA MasterAccess Database; BIA Publications Inc., Chantilly, VA, 22021.

²See Jacor Communications, Inc., FCC 96-380 (released September 17, 1996), Statement of Commissioner James H. Quello, Concurring in Part.

Finally, concerning attribution of broadcast ownership interests, I am interested in the impact of the proposal to include debt and equity held by a program supplier. In particular, I question whether certain debt or equity issues, even with the limitation to those held by program suppliers, would not be conducive to establishing "control". I also am concerned that our definitions in this area must be sufficiently precise in order to avoid causing disruptions in institutional investment, or other productive ventures.

SEPARATE STATEMENT
of
COMMISSIONER SUSAN NESS

Re: Review of the Commission's Regulations Governing Television Broadcasting; ("Local Ownership"), Second Further Notice of Proposed Rulemaking; Broadcast Television National Ownership Rules and Review of the Commission's Regulations Governing Television Broadcasting ("National Ownership"), Notice of Proposed Rulemaking; Review of the Commission's Regulations Governing Attribution of Broadcast Interests; Review of the Commission's Regulations and Policies Affecting Investment in the Broadcast Industry; Reexamination of the Commission's Cross-Interest Policy ("Attribution"), Further Notice of Proposed Rulemaking; et al.

Today we advance towards our goal of issuing clear, simplified, and fair rules regarding broadcast media ownership.

The Telecommunications Act of 1996 expanded radio and television ownership opportunities nationwide and significantly liberalized local radio ownership rules. We had initiated these proceedings before Congress took action last winter because we recognized that the media markets are changing. In view of the changes mandated by Congress and to elicit comment on more specific proposals than those previously described, we now ask the public for further comment.

I am pleased to support these items for three reasons:

First, I prefer to change FCC policies or set standards by rulemaking rather than through ad hoc decisions. We shouldn't delay making decisions on license transfers and other transactions that come before us, but those individual cases do not give the kind of guidance that rulemakings do. A rule is clear, is predictable, and is fair to all. When we complete a rulemaking, everyone knows what the rules of the game will be. Through rulemaking, we have the benefit of hearing from all who are interested, including experts and others who may point out unintended consequences of our proposals. And best of all, transactions can then be expedited.

Second, I prefer to expand market opportunities by raising ownership limits as Congress has done, not through unattributable interests and other "all-but-ownership" activities. In our attribution proposals, we are striking a balance between the goal of precisely defining

"ownership" and the equally significant goal of not impeding capital flow. The proposals we put out for comment today are intended to be narrowly tailored to close loopholes, even as we liberalize direct ownership limits.

Third, the three items include several specific concepts that further our goal of making FCC rules realistic, such as the "Grade A/DMA" duopoly proposal and the "debt and equity plus" attribution proposal. We are also asking for comments on how we might improve the "five factors" we weigh in evaluating certain one-to-a-market waiver applications. These proposals, I believe, should help refine and expedite a more market-based review process.

The challenge of making decisions that are in the "public interest, convenience, and necessity" has never been more difficult in the broadcasting area than it is today. I join Commissioner Chong in saying, "we should adopt new rules precisely calibrated to achieve our goals of encouraging competition and diversity in broadcasting without unduly restraining broadcast commerce." I hope that the comments we receive provide us with the strong factual basis we need to achieve these goals.

STATEMENT OF
COMMISSIONER RACHELLE B. CHONG

Re: Review of the Commission's Regulations Governing Television Broadcasting; ("Local Ownership"), Second Further Notice of Proposed Rulemaking, MM Docket No. 91-221; Broadcast Television National Ownership Rules and Review of the Commission's Regulations Governing Television Broadcasting ("National Ownership"), Notice of Proposed Rulemaking, MM Docket No. 96-222; Review of the Commission's Regulations Governing Attribution of Broadcast Interests; Review of the Commission's Regulations and Policies Affecting Investment in the Broadcast Industry; Reexamination of the Commission's Cross-Interest Policy ("Attribution"), Further Notice of Proposed Rulemaking, MM Docket No. 94-150; et al.

Last year, we undertook a reevaluation of our television ownership and broadcast attribution rules in light of current market conditions. We recognized that the video programming market is becoming more and more competitive with each passing month. Cable channels are proliferating. In addition, there is new competition from Direct Broadcast Satellite services, MMDS providers, on-line services and, soon, Open Video Systems offered by the local telephone companies.

In this increasingly competitive environment, broadcasters, including TV licensees, need greater ownership flexibility so that they can have a fair chance to compete. Congress recognized this fact in the 1996 Telecommunications Act by directing us to eliminate the national ownership cap and reexamine our local television ownership rules. In my view, the 1996 Act evinces Congress' clear intention that we loosen our regulatory grip on the broadcast medium. Congress signalled to us that it is time to adjust our rules to fit the new reality of the video programming marketplace.

In these further NPRMs, we seek to update our record in light of the 1996 Act and other changes in the market. In my mind, our goal here is to fine tune our ownership and attribution rules. We should adopt new rules precisely calibrated to achieve our goals of encouraging competition and diversity in broadcasting without unduly restraining broadcast commerce. I encourage all commenters to examine the proposals set forth in these items and tell us how we can best reach our goal.