

# NEWS

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**Federal Communications Commission**  
**445 12<sup>th</sup> Street, S.W.**  
**Washington, D. C. 20554**

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

FOR IMMEDIATE RELEASE  
August 5, 1999

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## **FCC REVISES LOCAL TELEVISION OWNERSHIP RULES**

The FCC today revised its local market television ownership rules – the “TV duopoly” rule and the radio-television cross ownership (or “one-to-a-market”) rule to reflect changes in the media marketplace.

In a Report and Order adopted today, the Commission said the revised rules reflect the growth in the number and variety of media outlets in local markets, including cable and direct broadcast satellite, and the Commission’s desire to permit broadcasters to realize the efficiencies of common ownership where consistent with its ongoing concern for diversity and competition in broadcast markets. The changes are intended to strengthen the potential of free over-the-air broadcast services to compete, particularly failed and failing broadcast stations, and to continue to provide public service benefits in the video marketplace.

The FCC said the new rules would promote diversity of ownership by imposing “minimum voice” floors in local markets that must be met before owners could be eligible for the duopolies and radio-TV crossownerships provided for in the new rules. It said it was also adopting “failed station”, “failing station” and unbuilt station waiver standards, and grandfathering existing Local Management Agreements (LMAs), to help promote additional media outlets in a market.

Changes to the TV Duopoly rule (owning more than one TV station in a market) include:

- \* Narrow the geographic scope of the rule from the current Grade B contour approach to a “DMA” test to permit common ownership of two television stations without regard to contour overlap if the stations are in separate Nielsen Designated Market Areas (“DMAs”).
- \* Continue to allow common ownership of two stations in the same DMA if their Grade B contours do not overlap;
- \* Permit common ownership of two television stations within the same DMA if eight full-power independent television stations (commercial and noncommercial) will remain post-merger, and one of the stations is not among the top four-ranked stations in the market based on audience share;

\*Allow a rule waiver to permit common ownership of two television stations in the same market where a same-market licensee is the only reasonably available buyer and the station purchased is a "failed station" (either off the air for at least four months prior to the waiver application or involved in involuntary bankruptcy or insolvency proceedings) or a "failing" station (having a low audience share and financially struggling during the previous several years).

\* Allow a waiver of the rule to applicants that can show that the combination will result in the construction of a previously unbuilt station.

Changes to the Radio-Television Cross-Ownership rule include:

\* Permit a party to own a television station and a second television station if permitted under the modified TV duopoly rule or television LMA grandfathering policy and any of the following radio station combinations in the same market:

- up to six radio stations (any combination of AM or FM stations, and to the extent permitted under the local radio ownership rules) in any market where at least 20 independent voices would remain post-merger;
  - up to four radio stations (any combination of AM or FM stations, and to the extent permitted under the local radio ownership rules) in any market where at least 10 independent voices would remain post-merger; and
  - one radio station (AM or FM) notwithstanding the number of independent voices in the market.
- \* In those markets where the revised rule will allow parties to own eight outlets in the form of two TV stations and six radio stations, a party can own one TV station and seven radio stations instead.

For purposes of the new radio-television cross-ownership rule, "independent voices" will include (1) all independently owned, full-power, operational commercial and noncommercial television stations licensed to a community in the DMA in which the TV station in question is located, (2) all independently owned operational commercial and noncommercial radio stations licensed to, or with a reportable share in, the radio metro market where the TV station involved is located; (3) daily newspapers that are published in the DMA with a circulation exceeding five percent in the DMA; and (4) wired cable service (counted as a single voice), provided cable service is generally available in the DMA.

\* Allow waivers where one station is a failed station.

\* The Commission noted that in the cases of radio-television cross-ownership rule conditional waivers that were granted or on file as of July 29, 1999 (the date of the Sunshine Notice for taking up this item at today's meeting), a majority involve radio-television combinations that will now be permissible under the revised rule.

\* The Commission noted that existing conditional waivers, and those on file as of the July 29, 1999, Sunshine Notice date, that are not covered by the revised rule will be extended for an additional five-year period, after which they would be reviewed on a case-by-case basis in conjunction with the FCC's 2004 biennial ownership review. Parties who do not want to wait

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until 2004 for the Commission to renew their waivers may seek such review beginning one year following the publication of this Report and Order in the Federal Register.

Changes to LMA (Local Marketing Agreement) policies include:

\* The FCC referred to a companion proceeding in which it imposed new rules to attribute time brokerage of another television station for purposes of the FCC's multiple ownership rules where the brokered and brokering station are in the same market and the amount of time brokered is more than 15 percent of the brokered station's weekly broadcast hours.

\* It noted that the majority of currently existing same-market television LMAs will become permissible under the new TV Duopoly rule or related waiver policies.

\* The FCC said that those LMAs not falling under the new duopoly rule and waiver policies, but which were entered into before November 5, 1996, (the date of the 2<sup>nd</sup> Further Notice of Proposed Rulemaking in this proceeding) could continue in full force and effect and would be grandfathered for an initial term of five years. Non-grandfathered LMAs would have two years from the date of adoption of the order to terminate their LMA agreement or otherwise come into compliance with the new local broadcast ownership rules.

\* At the end of this five year period, the Commission will review grandfathered television LMAs on a case-by-case basis as part of its 2004 biennial review to determine whether the initial five-year grandfathering period should be continued. Parties who do not want to wait until 2004 for the Commission to renew their grandfathered status may seek such review beginning one year following the publication of this Report and Order in the Federal Register. During the grandfathering period, the holder of the LMA may renew and/or transfer the term of the LMA that remains in the five-year grandfathering period.

The Commission noted that the broadcast media are facing increased competition from alternative video sources, including: 11,600 cable systems passing 94+ million homes and serving almost 65 million TV households; 240 Direct Broadcast Satellite (DBS) channels serving 7 million subscribers; 2 million households with Home Satellite dishes; 1 million MMDS subscribers; almost 1 million SMATV subscribers; and 66,000 Open Video Systems (OVS) subscribers.

The Commission said that relaxed TV station duopoly rules could provide public interest benefits, such as increased news and public affairs programming, because of significant efficiencies inherent in joint ownership and operation. It noted that the new rules can help ensure the continued survival of struggling stations and keep additional stations on the air. It said the rule changes insure that consolidation can only occur where competition and diversity will not be unduly diminished.

The Commission said that the radio-television cross-ownership rule continues to be necessary to promote diversity in the broadcast media. It said it is including voice test components in the revised rule to ensure that the local market remains sufficiently diverse and competitive. The Commission noted that the revised rule reflects the changes that have occurred in the local broadcast media marketplace, the growth in the availability of alternatives to broadcast television and radio, and efficiencies inherent in joint ownership and operation of both television and radio stations in the same market.

Action by the Commission August 5, 1999, Report and Order (FCC 99-209) Chairman Kennard, Commissioners Ness, Powell and Tristani, with Chairman Kennard, Commissioners Ness and Tristani issuing separate statements. Commissioner Furchtgott-Roth dissenting and issuing a separate statement.

Report No. MM 99-8  
MM Docket No. 91-221 and 87-8

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