



NEWS

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MASS MEDIA ACTION

August 5, 1999

COMMISSION AMENDS BROADCAST AND CABLE/MDS OWNERSHIP ATTRIBUTION RULES (MM DOCKET NOS. 94-150, 92-51, AND 87-154)

The FCC has revised its broadcast and cable/MDS ownership attribution rules. The attribution rules define what constitutes a "cognizable interest" for purposes of applying the ownership rules. A Report and Order (FCC 99-207) adopted today improves the precision of the attribution rules and makes them more clear to financial markets. Regulatory certainty for the attribution rules is necessary to prevent disruptions in the flow of capital into broadcasting. Through these changes, the FCC and the industry will be better able to identify the real interests that companies hold in broadcast properties.

Key elements of this order include:

- adoption of a new "equity/debt plus" attribution rule which would function in addition to the current attribution rules. Under this new rule, a holder of a financial interest, whether equity or debt or both, in excess of 33% of a licensee's total assets will have an attributable interest in that licensee if it is either a major program supplier to that licensee (supplying more than 15 percent of a station's total weekly broadcast programming hours) or if it is a same market media entity (including broadcasters, cable operators and newspapers). All stock, both common and preferred, both voting and nonvoting, will be counted toward the 33% threshold;
- retention of the 5% voting stock benchmark while raising the voting stock benchmark for passive investors (bank trust department, mutual funds, and insurance companies) to 20% (from the existing 10% benchmark);
- adoption of a new attribution rule for television Local Marketing Agreements (LMAs). Under this rule, time brokerage of another television station in the same market, for more than 15% of the brokered station's broadcast hours per week will result in attribution of the LMA.

- elimination of current aspects of the cross-interest policy (i.e., key employee relationships, nonattributable equity interests, joint venture arrangements);
- no change in the treatment of joint sales agreements (JSAs);
- no change in the treatment of limited partnership interests as distinct from corporate voting equity interests.
- application of limited partnership insulation criteria to determine attribution of limited liability companies (LLCs).
- application of revised broadcast attribution criteria to cable/MDS and broadcast/cable cross-ownership rules.

Except for LMAs, any interests acquired on or after November 7, 1996, the date of FCC adoption of the Attribution Further Notice of Proposed Rulemaking, are subject to the rules adopted in this Report and Order. If the interest was acquired before that date, it is grandfathered and not subject to these revised rules.

Action by the Commission August 5, 1999, by Report and Order (FCC 99-207). Chairman Kennard, Commissioners Ness and Powell with Commissioners Tristani and Furchtgott-Roth dissenting in part, concurring in part and all five Commissioners issuing separate statements.

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