amendments become effective on the date the Order is published in the Federal Register.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

1. Rules for which reconsideration is sought:

§ 68.218 Responsibility of grantee of equipment registration.

* * * * *

(b) The grantee or its agent shall provide to the user of the registered equipment the following:

* * * * *

(5) For a telephone which is not hearing aid-compatible, as defined in § 68.316 of these Rules:

(i) Notice that FCC rules prohibit the use of that handset in certain locations; and

(ii) A list of such locations (see Section 68.112).

A telephone company which provides and installs the registered equipment need only provide the user with the information required in paragraphs (b)(1), (b)(3) and (b)(5) of this section.,

§ 68.224 Notice of hearing aid-compatibility.

Every telephone offered for sale to the public on or after June 1, 1984, whether previously-registered or newly registered shall:

(a) Contain in a conspicuous location on the surface of its packaging a statement as to whether or not the telephone is hearing aid-compatible, as is defined in section 68.316 of these Rules, or if offered for sale without a surrounding package, shall be accompanied by a written statement as to whether or not the telephone is hearing aid-compatible, as is defined in Section 68.316 of these Rules; and

(b) Be accompanied by instructions in accordance with § 68.218(b)(5) of the Rules.

PART 68—[AMENDED]

2. Title 47, Part 68 of the Code of Federal Regulations is amended as follows:

Section 68.224 is amended by revising the introductory paragraph and by adding a new paragraph (c) to read as follows:

§ 68.224 Notice of hearing aid-compatibility.

Every telephone offered for sale to the public which leaves the plant or premises of a manufacturer or refurbisher of telephone equipment, on or after June 1, 1984, whether previously-registered or newly registered shall:

* * * * *

(c) For every telephone which is offered for sale on or after June 1, 1984, which left the plant or premises of a manufacturer or refurbisher prior to June 1, 1984, (1) the requirements of (a) and (b) of this section shall be complied with or (2) the manufacturer or refurbisher must ensure that the retailer or other seller make available written information sufficient to enable a consumer to determine whether a telephone is hearing aid-compatible, and, if the telephone is not hearing aid-compatible, information in accordance with § 68.218(b)(5) of the Rules. Every telephone, whether newly manufactured or refurbished, which is offered for sale to the public on or after January 1, 1985, must meet the requirements of (a) and (b) of this section.

[FR Doc. 84-11864 Filed 5-8-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 69

[CC Docket No. 78-72; Phase I; FCC 84-189]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: One year waiver of Commission rules.

SUMMARY: This action waives until June 1, 1985, a Commission rule which requires the National Exchange Carrier Association ("NECA") to bill and collect all carrier common line access charges. In addition, this order also waives § 69.607(a) of the Commission's rules, to the extent necessary, to permit the NECA to effect settlements on a net basis. This action is intended to afford the NECA sufficient time to arrange appropriate financing while maintaining continuity in the distribution of interstate revenues to exchange carriers.

DATE: May 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kent R. Nilsson, Common Carrier Bureau, (202) 632-9342.

List of Subjects in 47 CFR Part 69

Access charges, Exchange carrier association, Telephone.

Order Granting Waiver

In the matter of MTS and WATS market structure [CC Docket No. 78-72 Phase I; FCC 84-189]

Adopted: April 30, 1984.

Released: May 2, 1984.

By the Commission.

1. In its Access Charge Reconsideration Order, FCC 83-356, released August 22, 1983, the Commission adopted a final rule which provides that the National Exchange Carrier Association ("NECA") "shall bill and collect all Carrier Common Line access charges."[1] In its earlier Third Report and Order in the Access Charge Proceeding,[2] the Commission had concluded that the NECA "shall compute a monthly net balance for each member telephone company that is not an average schedule company. If such a company has a negative net balance, the association shall disburse that amount to such company."[3]

2. On March 1, 1984, the NECA filed an emergency petition for a one year waiver of those sections of the Commission's rules. We then issued a Public Notice requesting comments and reply comments on or before March 9, 1984, and March 14, 1984, respectively. GTE Service Corporation, the Municipality of Anchorage d/b/a Anchorage Telephone Utility ("ATU"), the Rural Telephone Coalition ("RTC") and the United States Telephone Association ("USTA") filed comments in support of the NECA emergency petition. Subsequently, the Bell Atlantic Telephone Companies, the BellSouth Corporation and the Rural Electrification Administration ("REA") filed reply comments.[4] In addition, the Southwestern Bell Telephone Company filed a letter which supported the NECA request.

3. The petition was grounded upon difficulties which the NECA had encountered in attempting to finance working capital requirements. More specifically, the NECA stated that negotiations with potential creditors have revealed that the NECA would be required to receive long term exchange carrier assignments of revenues as conditions precedent to minimizing the NECA's costs of borrowing. In attempting to secure those assignments, the NECA was informed that many exchange carriers, including over 1,000 borrowers from the Rural Electrification Administration, have already assigned security interests in revenues to existing creditors. In addition, other exchange carrier indenture provisions require assessments to determine whether assignments of revenues will conflict with existing exchange carrier lending arrangements.

4. Under these circumstances, and in light of the time remaining until the

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[1] See § 69.604 of the Commission's rules, 48 FR 43022 (September 21, 1983).

[2] 93 FCC 2d 241 (1983).

[3] See § 69.607(a) of the Commission's rules, 48 FR 20366 (March 11, 1983).

[4] The Bell Atlantic Telephone Companies' comments were filed on March 12, 1984, and therefore, will be treated as reply comments. REA filed a Motion to Accept Late-Filed Reply along with its reply comments on March 16, 1984.

effective date for access charges tariffs, the NECA has requested a one year waiver of § 69.604(a) of the Commission's rules to afford the NECA sufficient time to resolve this matter, and permit exchange carriers, on a transitional basis, to bill, collect, and report carrier common line charges in a manner which would be "consistent with the past settlements model approach." [5] If the waiver were granted, the NECA has stated that settlements would be accomplished by calculating a net balance due each exchange carrier by deducting the exchange carrier's revenues from its share of total pooled revenues and causing those exchange carriers with a negative net balance to remit such net amounts to NECA and having NECA subsequently distribute these funds to those exchange carriers having a positive net balance. Funds would be collected by NECA from exchange carriers having a negative net balance no earlier than four (4) business days before the end of the month following the data month under report and then be distributed to exchange carriers having a positive net balance no later than the last business day of the month.[6]

5. The commenting parties agree with the NECA's assessment of the difficulties involved in attempting to implement the provisions of § 69.604(a). The commenting parties emphasize the importance to exchange carriers of receiving a revenue stream from the NECA in a timely, stable manner and therefore urge the Commission to allow the waiver for the period sought. REA, RTC, and USTA noted that during the waiver period the NECA would have adequate time to develop a long term approach to exchange carriers' settlements.

6. We are aware of the complexities which are associated with effecting the lending arrangements which the NECA has described, and agree that additional time is required to permit the implementation of an efficient revenue distribution process. The period which has been requested for the waiver should be sufficient to resolve assignment of revenues questions and permit the NECA to arrange appropriate financing.

7. Accordingly, it is ordered that the request of the National Exchange Carriers Association for a waiver of § 69.604(a) of the Commission's rules is granted.

8. It is further ordered that § 69.607(a) of the Commission's rules is waived, to the extent necessary, to accomplish the net settlements which are described in paragraph 4 of this Order.

9. It is further ordered that this Order shall be effective immediately, and that the waivers that are granted herein shall expire on June 1, 1985.

10. It is further ordered, That the Motion to Accept the late-filed reply by the Rural Electrification Administration is granted.

11. It is further ordered that this Order shall be published in the **Federal Register.**

(**Authority:** Secs. 4(i) and 303, Communications Act of 1934, as amended.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-12422 Filed 5-8-84; 8:45 am]

BILLING CODE 6712-01-M

[5] A collateral waiver of § 69.607(a) was also requested to permit carriers to bill and collect revenues, with settlements among exchange carriers being made on a net basis during the period of the waiver.

[6] NECA Emergency Petition for Waiver at 10-11.

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47 CFR Part 73

[BC Docket No. 80-90; RM-2587; RM-3226; RM-3367]

Modification of FM Broadcast Station Rules To Increase the Availability of Commercial FM Broadcast Assignments

AGENCY: Federal Communications Commission.

ACTION: Correction of final rule.

SUMMARY: This document corrects the Memorandum Opinion and Order in the proceeding concerning the FM Broadcast rules to increase the availability of commercial FM broadcast assignments (49 FR 10260; published March 20, 1984).

These corrections are necessary because the original printing contained erroneous information and omitted material.

FOR FURTHER INFORMATION CONTACT: John A. Karousos, Mass Media Bureau, (202) 632-9660.

Erratum

In the Matter of Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments, BC Docket No. 80-90, RM-2587, RM-3226, RM-3367.

Released: April 23, 1984.

The Memorandum Opinion and Order in the above entitled proceeding (49 FR 10260; published March 20, 1984) is corrected to change as follows:

1. Table A in the appendix (paragraph 2, regarding § 73.207 of the Commission's rules) should change the minimum distance separation requirements of co-channel Class B to B relation from "241 (105) to 241 (150)."

2. In § 73.507(c)(1) of the appendix change the reference "§ 93.207" to read "§ 73.207".

3. The text of § 73.333 as published in Appendix C to the Report and Order of June 27, 1983, paragraph 18, is corrected to read as follows:

"**§ 73.333 Engineering charts.**

This Section consists of the following Figures 1, 1a, 2, and slider 4 and 5."

4. In Paragraph 35 in the Supplementary Information change "Act of 1834" to read "Act of 1934", as amended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-11349 Filed 5-8-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-19; RM-4564; FCC 84-156]

Repeal of the "Regional Concentration of Control" Provisions of the Commission's Multiple Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action eliminates the "regional concentration of control" provisions of the Commission's multiple ownership rules. These provisions prohibit the common ownership, operation, or control of three commercial AM, FM, or television stations where any two are located within 100 miles of a third, and where there is overlap of the primary service contours between any of the stations. The rule is being eliminated because the increase in the number of broadcast and other media outlets that has occurred since the rule's adoption has attenuated the need for regional ownership restrictions to promote the ultimate goals of diversity of voices and economic competition. Additionally, the regional concentration of control provisions impose significant opportunity costs involving foregone service or economic efficiencies that might have promoted greater diversity

or economic competition. These limitations also produce substantial administrative costs. Finally, the Commission's "duopoly" and "one-to-a-market" rules will continue to restrain group ownership, often more stringently, in many circumstances that would have been subject to the regional restrictions, thereby serving as a safety net in terms of concentration concerns.

DATE: June 7, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio and television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of Repeal of the "Regional Concentration of Control" Provisions of the Commission's Multiple Ownership Rules, MM Docket No. 84-19, RM-4564.

Adopted: April 11, 1984.
Released: May 1, 1984.

By the Commission. Commissioner Rivera dissenting and issuing a statement at a later date.

Introduction

1. On January 12, 1984, we adopted a *Notice of Proposed Rule Making* in this proceeding, proposing either the elimination or substantial relaxation of the "region concentration of control" provisions of §§ 73.35(b)(1), 73.240(a)(2), and 73.636(a)(2) of the Commission's Rules.[1] These sections[2] prohibit the common ownership, operation, or control of three commercial AM, FM, or television stations where any two are located within 100 miles of the third, and where there is primary service contour overlap between any of the stations.[3] The rule also provides for two exceptions. First, any regional concentration of control issue which involves overlap of or by UHF television stations is examined on a case-by-case basis. Second, AM-FM combinations may be considered as one station if their communities of license are within 15 miles and/or within the same urbanized area.

2. The *Notice* was issued in response to a petition for rule making filed by the National Association of Broadcasters. Based upon our review of the comments and reply comments filed in this proceeding, as well as other relevant information noted herein, we conclude that the "regional concentration of control" provisions should be eliminated.

Background

3. Over the years, the Commission has taken two different approaches toward considering regional concentration of control issues. First, prior to the adoption of the current rule, the Commission resolved such issues on a case-by-case basis, under which it weighed various factors such as the size and population of the areas served, the distances between commonly owned stations, and the number of competing media. However, as explained in the *Notice* in this proceeding, such an *ad hoc* approach presented significant problems.[4] It proved to be burdensome to applicants who were required to conduct extensive media surveys to disprove the possibility that the grant of an application would result in undue concentration of control. It also created uncertainty among applicants who were unsure of the significance of each of the factors weighed by the Commission. *See, e.g., Clarksburg Publishing Company* v. *F.C.C.*, 225 F.2d 511 (D.C. Cir. 1955); *Wichita-Hutchinson Co.*, 17 R.R. 2d 1235 (1969); and *Forum Communications Co.*, 34 R.R. 2d 1163 (1975).

4. As a result, the Commission instituted, on its own motion, a rule making proceeding to establish a "fixed" standard for identifying and resolving regional concentration of control issues that would avoid the imprecision and unpredictability of the case-by-case approach. It ultimately adopted the current rule which relies on simple and easily understood, but extremely rigid, geographic and contour overlap criteria. However, as explained in the *Notice*, this "fixed" rule has presented serious problems of its own, producing inconsistent and arbitrary results in its application. Citing these difficulties and the substantial changes in marketplace conditions that have occurred since the policy bases for our regional concentration of control provisions were last examined, we requested comment on the problems associated with the present rule and on the advisability of substantially relaxing or eliminating entirely our regional ownerships restraints.[5]

Comments

5. Comments filed in this proceeding recommended, almost unanimously, the elimination or significant modification of the regional concentration rules.[6] The comments reflected a strong consensus that the application of a "fixed" rule, without regard for geographic contours, population concentration, or competing services and marketplace conditions, has produced arbitrary and anomalous results.[7] NAB, recommending not only elimination of these rules but the underlying policy as well,[8] observed that the regional concentration issue is defined in terms which bear no relationship to the Commission's real concerns of competition and diversification in the broadcast industry. As a consequence, NAB alleged that rigid application of the rules has created an insurmountable burden in demonstrating that waiver of the rules would serve the public interest. Multimedia and ALF agreed that the impact of the regional concentration rules has not corresponded to the regulatory purposes they were intended to serve.[9] Noting that many contours

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[1] FCC 84-10, released January 17, 1984, 49 Fed. Reg. 2478, published January 20, 1984. The *Notice* established filing deadlines of February 21, 1984, and March 7, 1984, for comments and reply comments, respectively.

[2] Subsequent to the adoption of the *Notice* in this proceeding, the Commission issued its *Report and Order* in MM Docket No. 83-46 *et al.*, FCC 84-115, adopted March 29, 1984, in which Sections 73.35, 73.240 and 73.636 were deleted and Section 73.3555 of the rules was added. Section 73.3555 consolidated the formerly separate multiple ownership provisions for each of the broadcast services without altering the substantive terms of those provisions. To provide continuity with our discussion in the *Notice*, we shall continue to refer herein to the rules by their former section designations.

[3] The term "primary service contour" refers to the predicted or measured 0.5 mV/m contour for AM stations, the predicted 1.0 mV/m contour for FM stations, and the predicted Grade B contour for TV stations, computed in accordance with Sections 73.183 or 73.186, 73.313 and 73.684, respectively, of the rules.

[4] *Notice of Proposed Rule Making* in MM Docket No. 84-19, 49 FR 2478, 2479, para. 4 (1984).

[5] *Id.* at 2481-83, paras. 14-24.

[6] Formal comments in this proceeding were submitted by the following parties: American Broadcasting Companies, Inc. (ABC), American Legal Foundation (ALF), Bahakel Communications, Ltd. (Bahakel), Broadcast Licensees (MWK), Charisma Communications (Charisma), Communications Investment Corp. (CIC), Henry Geller and Donna Lampert (Geller), Multimedia, Inc. (Multimedia), National Association of Broadcasters (NAB), National Radio Broadcasters Association (NRBA), National Telecommunications and Information Administration (NTIA), North Carolina Association of Broadcasters (NCAB), Rand Corporation (Rand), United States Department of Justice (DOJ), United States Small Business Administration (SBA), Viacom International, Inc. (Viacom), and Western Pennsylvania Christian Broadcasting Company (WPCB).

[7] *See* comments of MWK, ABC, ALF, Bahakel, Charisma, Multimedia, NAB, NRBA, NTIA, NCAB, and Viacom.

[8] *See also* comments of CIC.

[9] ALF, for example, cited several cases in which application of the rules foreclosed otherwise meritorious applications for broadcast outlets or occurred where no possibility of regional concentration existed. *Piedmont Service Corp.*, 68 FCC 2d 992 (1978); *WFGL, Inc.*, 68 FCC 2d 892 (1978); and *Tri-State Broadcasting, Inc.*, 52 R.R. 2d 992, 1013 (1982).

extend beyond a station's genuine service area, ABC and MWK argued that the rules are very simplistic in considering only geographical distances and contour overlap.[10]

6. Beyond the arbitrariness of the current "fixed" rule, the most frequently cited argument supporting elimination of the regional ownership limitations was that expansion of the marketplace itself assures public access to a wide variety of diverse viewpoints and services. Because adequate protection for competition and diversity inheres in the market structure, many commenters urged, the Commission's initial concern with regional concentration has been rendered moot. CIC, for example, contended that diversity has already been achieved and that retaining the present limits adds only marginally to that diversity. Moreover, DOJ noted that elimination of the regional concentration rule would raise little risk of adverse competitive effects in broadcast markets because regional markets are not relevant to an analysis of competitive concerns. Similarly, NAB commented that diversity is simply not a meaningful concern in the regional market context, suggesting that "few people read daily newspapers or watch local TV broadcasts originating from different communities on a regular basis."

7. In addition, commenters insisted that the regional concentration rules have produced undesirable economic costs. Specifically, it was suggested that the rules may prevent regional broadcasters from establishing the widespread market presence necessary to compete effectively in the video marketplace. NRBA claimed that "only larger and financially stronger broadcast operations can produce the quality programming that increasingly sophisticated consumers demand in highly competitive markets." Moreover, Viacom, NAB and WPCB claimed that economies of scale are necessary to provide economically feasible service to many areas of the country. In addition, Bahakel observed that the rules may prohibit acquisition of stations which could improve program service in given markets. Thus, these commenters concluded that reduced efficiencies penalize broadcasters and consumers because they often result in reduced programming choices and service opportunities.

8. Two other arguments supporting the elimination of the regional concentration of control rules were made with some frequency. First, several commenters claimed that it was unfair to restrain ownership of only over-the-air commercial broadcast stations in this fashion.[11] Specifically, commenters noted that in expressly declining to adopt regional concentration rules for cable and LPTV, even the Commission has recognized that developments in the telecommunications marketplace have rendered such rules obsolete.[12] Secondly, many commenters [13] stressed that adequate regulation of legitimate regional concentration concerns could be accomplished through the enforcement of the "duopoly" and "one-to-a-market" rules and existing antitrust laws.[14]

9. One commenting party, Geller, argued that the Commission's proposal to eliminate the regional concentration rules disregards the Constitutional and statutory goals of diversification of sources in the marketplace of ideas in the area where diversity is most critical—the local/regional level. Geller observed that *any* numerical restriction must have an arbitrary component, but such a component is acceptable where, as here, it is necessary to effective regulation. Thus, Geller concluded that repeal of the rules would not only represent a serious departure from the Commission's historical concern with diversification of ownership but also be contrary to First Amendment principles. Geller also contended that by its recent action amending the Communications Act to allow the award of diversity preferences in lotteries, Congress has made it clear that the diversification principle cannot be abandoned *solely* on the basis of increased marketplace competition.

10. Several parties suggested that the anomalous consequences produced by the rules could be mitigated through substantial modification or relaxation.[15] ABC and ALF recommended amending the specific contour overlap which currently triggers application of the rules. However, NTIA and Rand insisted that an alternative structure was necessary to ensure First Amendment diversity and economic competition and suggested the use of a flexible guideline to determine whether the grant of a new license or the transfer of an existing license would serve the public interest. Rand suggested adoption of the guideline used by the Department of Justice in evaluating proposed mergers. NTIA agreed, and recommended issuing a *Further Notice* on the guideline issue.

Reply Comments [16]

11. With one exception, discussed below, the reply comments generally reiterated the support expressed in the comments for elimination of the regional concentration of control provisions. NAB again stressed its contention that concentration of control, *per se*, as a potential antitrust violation, is properly within the province of DOJ's responsibilities. DOJ, however, qualified its role in this regard, asserting that deletion of the rule, which it favored, would not free the Commission of its obligation to review the possible anticompetitive effects of particular broadcast license transfers.[17] NCAB warned that a return to the case-by-case approach suggested by DOJ would only re-create the problems the "fixed" rule was designed to alleviate. They further noted that, in the past, case-by-case review had not produced a single instance of waiver under the rule.

12. Citizens alleged that the subject proceeding represents an attempt by the Commission to reverse its longstanding ownership policies without any evidentiary or analytical bases on which to ground such action. In its view, the Commission's suggestion that the current rule has produced arbitrary results does not warrant deleting the rule altogether since a more flexible approach to waivers could cure this deficiency. Moreover, Citizens argued that diligent enforcement of the rule has preserved diverse viewpoints on both regional and local levels and noted that the regional concentration of control provisions have not acted to bar group ownership but have simply restricted it within small geographic areas. Citizens also alleged that the *Notice* presented no evidence regarding ownership patterns and trends in regional markets.

[10] We also note that Rand submitted a study which found little or no evidence of anticompetitive behavior as a consequence of multiple station ownership.

[11] *See* comments of Charisma, Multimedia, NAB, Viacom and WPCB.

[12] *See* comments of Charisma, Multimedia, NAB and WPCB.

[13] *See* comments of Bahakel, NAB, NRBA, NCAB, DOJ and Viacom.

[14] Geller, however, concluded that the "one-to-a-market" and "duopoly" rules cannot effectively combat concentration arising out of multiple station ownership within a given geographic area.

[15] *See* comments of ALF, NTIA, and Rand.

[16] Reply comments were filed by: Department of Justice (DOJ); National Association of Broadcasters (NAB); North Carolina Association of Broadcasters (NCAB); and, Citizens Communications Center (Citizens) on behalf of itself and the National Conference of Black Lawyers, Communications Task Force, Black Citizens for a Fair Media, League of United Latin American Citizens, National Association for the Advancement of Colored People, National Association for Better Broadcasting and Telecommunications Research and Action Center.

[17] NAB contended that *United States* v. *F.C.C.*, 652 F.2d 72 (D.C. Cir. 1980), cited by DOJ, does not stand for the proposition that the Commission must consider competitive issues from an antitrust perspective.

In this connection, Citizens submitted its own study, based on five selected Areas of Dominant Influence (ADIs). It contended that the study indicates a trend toward increased ownership concentration despite a concurrent increase in the number of commercial broadcast stations and called for further investigation of this pattern. Finally, Citizens stressed that reliance on antitrust laws and local market rules alone will not adequately protect against the dangers posed by potential ownership combinations. The regional rules, Citizens argued, are the only provisions which preclude partial contour overlap between different broadcast services in local markets and, as such, are a critical means of ensuring the diversity of viewpoints that the First Amendment seeks to serve.

Discussion

13. The Commission has traditionally sought to further the dual goals of program service diversity and economic competition in the broadcast media [18] by encouraging diversity in the ownership of broadcast facilities.[19] To this end, we have adopted various rules limiting ownership of broadcast entities on a local, regional and national level. In devising these restrictions, we have necessarily undertaken to balance the costs and burdens of regulatory intervention in the form of ownership constraints against the need for and benefits of such action in furthering our ultimate objectives. The points of balance we have struck in this regard, however, vary depending on the nature of the market concerned. Thus, in local market situations, we historically have found the need for regulatory assurance of diversity and competition more intense because the broadcast facilities at issue speak to the same audience and compete directly with one another. Accordingly, the "duopoly" and "one-to-a-market" rules are extremely strict, essentially requiring absolute ownership diversity. On a regional level, however, where the threat of adverse diversity and competition effects has been considered less immediate, a degree of multiple ownership has been permitted. Bearing this distinction in mind, our reweighing of the costs and benefits of regional ownership limitations leads us to the conclusion that these restrictions are no longer warranted.

Need for the Rule

14. *Marketplace Developments.* The dramatic growth in the number and variety of media outlets in recent years is perhaps the most critical development underlying our conclusion that regulatory restraint of regional ownership patterns is no longer appropriate. In this regard, we note that as of January 31, 1984, Commission records show that there were 10,161 authorized radio stations (4,899 AM and 5,262 FM) and 1,425 authorized television stations representing increases of 19.5% and 38.5% in the number of radio and television stations, respectively, since the rule was adopted in 1977.[20] Moreover, as we pointed out in the *Notice*, these figures are likely to increase due to several rule making proceedings which seek to make more broadcast frequencies available. For example, our action in Docket No. 20642 permitting the shared use of Class I–A clear channel frequencies, may ultimately result in the creation of more than 100 new AM stations.[21] Similarly, we recently implemented our *Report and Order* in BC Docket 80–90 and proposed 684 new FM channels.[22] We expect that this will generate a tremendous number of counterproposals by the public and that by the end of this year we might allocate as many as 1,000 new FM channels.[23] Furthermore, we have already authorized approximately 440 new low power television stations and have approximately 30,000 applications pending for new LPTV stations. Hundreds of these applications will likely be granted this year as a result of the monthly lotteries which have been conducted since September 1983.

15. Program service diversity and economic competition have also been enhanced by the significant expansion of new media delivery systems. As we explained in the *Notice*, the growth in the cable television industry has been very rapid and substantial, with 5,600 CATV systems serving about 25 million subscribers as of January 1, 1983.[24] More recent data reveals that there are currently about 30.3 million basic cable subscribers and that cable now passes about 64.2% of all television households in the United States.[25] In addition, there are about 16,500 applications pending for systems in the new multichannel multipoint distribution service which may in effect create "wireless" cable television systems with eight channels per market. The *Notice* also pointed out that further competition can be expected from numerous entities authorized to provide direct broadcast satellite service, with each operator capable of providing up to ten channels of programming to all television households in the United States.[26] Finally, there is additional service available from satellite master antenna systems, which currently have between 100,000 to 150,000 subscribers and from conventional MDS systems, which now serve about 565,000 subscribers.[27]

16. *Impact of Markplace Developments.* In our view, this substantial rise in the multiplicity of media voices considerably attenuates both the diversity and economic competition justifications underlying our regulatory limitation of multiple ownership on the regional level. First, by increasing the total base of stations, it dilutes the relative significance of group ownership as a potential threat to adequate program service diversity in any given region. As noted above, our broadcast ownership restrictions were adopted at a time when the total number of stations was substantially less than exists today and the likelihood was

[18] These goals, in turn, rest on the First Amendment concern for ensuring the broad availability of "information from diverse and antagonistic sources," *Associated Press v. U.S.*, 326 U.S. 1, 10 (1945), and the long-standing concern with undue economic concentration in the broadcast industry expressed by Congress in enacting the Communications Act of 1934. *See Notice of Proposed Rule Making* in Gen. Docket No. 83–1009, 48 FR 49438, 49440 n.25, published October 25, 1983.

[19] *See, e.g., Report and Order* in Docket 8967, 18 FCC 288, 291–92 (1953); *First Report and Order* in Docket No. 18110, 22 FCC 2d 306, 307 (1970); and *First Report and Order* in Docket No. 20548, 63 FCC 2d 824, 827 (1977).

[20] By way of comparison, Commission records indicate that in 1977 there were 8,505 authorized radio stations (4,536 AM and 3,969 FM) and 1,029 television stations. *Notice of Proposed Rule Making* in MM Docket 84–19, 49 Fed Reg. at 2480 (1983). It is perhaps more appropriate, however, to compare current operating station levels with those in 1953, the year in which the Commission first codified the factors utilized in its subsequent case-by-case reviews of regional concentration issues. *See Report and Order* in Docket No. 8967, 18 FCC 2d 296 (1953). This comparison reveals that, in the period 1953 to 1983, the number of operating AM, FM and TV stations increased by approximately 92%, 561% and 466%, respectively. *Notice of Proposed Rule Making* in Gen. Docket No. 83–1009, 48 FR 49438, 49443 (October 25, 1983).

[21] *Report and Order* in Docket No. 20642, 78 FCC 2d 1345 (1980, *recon. denied*, 48 RR 2d 1077 (1980), *aff'd sub nom. Loyola University* v. *F.C.C.* 670 F.2d 1222 (D.C. Cir. 1982).

[22] *Report and Order* in MM Docket 84–231, 49 FR 11214, published March 26, 1984.

[23] *Id.* at para. 3.

[24] *Television Factbook*, 1982–83 edition, at 1560.

[25] Cablevision, February 27, 1984, at 86.

[26] Eight entities have already been authorized to provide DBS service. Seven additional applications were filed for DBS systems in January, 1984. Although DBS service is not scheduled to commence until 1986, at least one entity is currently providing "satellite-to-home" television programming to subscribers on the fixed satellite ban in several areas of the country. *See GTE Satellite Corporation*, 90 FCC 2d 1009 (1982), *recon. denied*, FCC 83–271, released June 23, 1983. Additionally, one of the DBS licensees is planning to provide a similar service on the fixed satellite band until its own DBS satellites are launched. *See* Application File No. 170–DSS–MP/ML–84.

[27] *Notice of Proposed Rule Making* in Gen. Docket 83–1009, 48 FR at 49443 (1983).

accordingly much greater that multiple ownership could confer considerable sway over public opinion. It was this very concern that primarily motivated adoption of our regional concentration of control provisions. In today's telecommunications marketplace, with its myriad voices, such an outcome appears to be highly unlikely.

17. Similarly, this growth in media outlets directly diminishes the likelihood that multiple ownership on a regional level might afford licensees sufficient economic power to permit anticompetitive behavior. As the number of alternative outlets rises, the capacity of any given level of group ownership to artificially restrict output and increase prices necessarily declines. Moreover, we agree with DOJ that market factors beyond the level of competing regional media suggest elimination of the regional concentration of control provisions will raise little risk of adverse competitive effects in broadcast markets. This is because the rule does not address economic concentration of broadcast stations in any market relevant to antitrust concerns. Specifically, stations compete with each other for advertising at national and/or local levels. DOJ found that "* * * advertisers do not generally view the different local markets in a region as good substitutes for each other. Stations in one city do not compete with stations in another city, such that advertisers would respond to a price increase in one city by shifting to advertising in another city." Similarly, program acquisition by stations occurs primarily on a national or local basis, making the regional ownership rules unnecessary for ensuring competition in the program acquisition market. Thus, the only significant competitive issue raised by the regional rule is the degree to which it may incidentally prevent some acquisitions of broadcast stations that serve substantially the same area and the compete directly in local markets.[28] DOJ noted, however, that the Commission's "duopoly" and "one-to-a-market" rules address most possible problems of concentration in local markets, and concluded that any competitive protection that might be afforded by the regional ownership limitations appears to be minimal.

18. Citizens contended, however, that the increasing number of media voices has not allayed the concerns underpinning the regional concentration of control provisions. In this connection, it submitted a limited, five market study which purports to show a trend toward increasing regional concentration. After analyzing this submission, we are not persuaded that it accurately reflects regional market conditions in terms relevant to our analysis in this proceeding. Moreover, even if we were to accept the study at face value, we do not believe that it supports the conclusion that the regional ownership restrictions of our rules should be retained. First, assuming that Citizens' market analysis is correct, diversity—defined as the number of independent voices (each multiple owner counting once)—has generally not been harmed in the markets reviewed. Of the five markets examined by Citizens, the number of independent voices declined only in Twin Falls, Idaho, and then only by one voice in ten years. In all other markets, the number of independent voices remained the same or increased during the study period. This was so because, even though the number of multiple owners rose and the average number of stations held by each multiple owner also rose, the increase in the number of broadcast outlets compensated for this change.

19. Perhaps most damaging, however, is Citizens' failure to include in its concentration analysis significant additional media outlets available to the public in the studied markets. By omitting noncommercial broadcast stations, for example, Citizens ignores the significant contribution to diversity that these entities make in the markets where they are available. Indeed, in three (Detroit, Rochester and San Diego) of the five markets studied by Citizens, there are three or more operating noncommercial broadcast stations (data from Broadcasting/Cablecasting Yearbook, 1983). Similarly, Citizens' study does not account for nonbroadcast outlets and the role these facilities play in enhancing the diversity of viewpoints available to the public. Cable television, for example, is available in each of the markets evaluated by Citizens, with penetration rates approximating 50% in three of the five markets (data from *Television Markets and Rankings Guide*, 1982–1983). Further, all of the studied markets except Great Falls, Montana, are served by MDS (data as of December 31, 1983, from Paul Kagan, *Multicast*, March 4, 1983). When these other media outlets are included, as is appropriate for our analysis, we find that the level of diversity in the studied markets has increased over time, not decreased as suggested by Citizens.[29]

20. *Effect of Other Multiple Ownership Limitations.* In reexamining the need for our regional concentration of control provisions, it is critically important to recognize that the Commission's other multiple ownership rules, particularly its local market restrictions, will continue to restrain group ownership, often more stringently, in many situations that would have been subject to the regional limitations. Moreover, this "overlap" of the local and regional rules most often occurs in "core market" areas, where our concern for diversity and economic competition is most intense.

21. Specifically, the "duopoly" rule prohibits the common ownership, operation, or control of two broadcast stations in the same service whose relevant contours overlap (*i.e.*, 1 mV/m contour for AM and FM stations, and Grade B contour for television stations).[30] Significantly, the "duopoly" rule is not limited in effect to a local area but also may prohibit the common ownership of two stations in excess of 100 miles apart depending upon the class of the station or size of its facilities.[31] In fact, because the "duopoly" contours may extend well beyond a station's community of license, they were originally objected to by the commenters in Docket No. 14711 as imposing "unrealistically wide separations between co-owned stations, the separations having little relation to the service actually rendered." [32] We further note that the "duopoly" contours are, with one exception,[33] the same as

[28] *See* DOJ comments, at 8. While DOJ does not exclude the theoretical possibility that regional concentration could enhance a multiple owner's power in a local market, it finds no evidence that this risk is significant.

[29] We also note that Citizens' study utilized Arbitron's "Area of Dominant Influence" as a basis for defining the markets it reviewed. The Commission has previously found that this approach presents serious difficulties in the context of analyzing regional concentration of control issues. *See First Report and Order* in Docket No. 20548, 63 FCC 2d 824, 828 (1977).

[30] Sections 73.35(a), 73.240(a)(1), and 73.636(a)(1) of the Commission's Rules.

[31] For example, the predicted Grade B contour of a television station, utilizing maximum facilities, may extend 60 to 80 miles. *See* §§ 73.614 and 73.683 of the Commission's Rules. Similarly, a Class C FM station with maximum facilities has a predicted 1 mV/m contour extending approximately 57 miles. *See Report and Order* in BC Docket 80-90, 94 FCC 2d 152, 183 (1983). Finally, a non-directional AM station at maximum facilities, using median frequencies and conductivities, as well as a quarter-wave antenna, may have a 1 mV/m service contour extending about 85 miles. *See* Section 73.184 of the Commission's Rules, graph 12.

[32] *Report and Order* in Docket 14711, 45 FCC 1476, 1483 (1964).

[33] The exception is for AM stations. The "duopoly" rule uses the 1 mV/m contour for AM stations while the regional concentration rule uses the 0.5 mV/m contour.

they are for the current "fixed" regional concentration rule, thus indicating some similarity in the scope of both rules. We believe that the often wide separations between commonly owned stations necessitated by these "duopoly" contours will continue to enhance diversity of voices and economic competition, and as a result, will act as an appropriate safety net in many instances.

22. Similarly, diversity and competition concerns in "cross-service" situations will remain the subject of the "one-to-a-market" rule which limits common ownership, operation, or control within a given market to one commercial AM–FM combination, or one commercial television station, or one daily newspaper.[34] In addition, our concerns with promoting diversity are served by the "diversification" criteria under which, is a comparative hearing between two or more applicants for a broadcast station, an advantage is given to the applicant with the least amount of other media interests.[35] Finally, we note that pursuant to the recently added Section 309(i)(3)(A) of the Communications Act, in those mass media services in which lotteries are used to select among competing applicants, a "significant" preference is granted to applicants that would increase diversification of ownership of the media of mass communications.[36]

Costs of Regional Ownership Limitations

23. Against the need for regional ownership restrictions as a means of ensuring diversity and economic competition, which we believe is strongly attenuated by the marketplace developments we have outlined above and by the continued applicability of our local market rules, we must balance the clear costs which these restraints involve. These include both administrative costs related to the substantial difficulties the Commission has encountered in devising a workable and administerable rule, and opportunity costs involving foregone service or economic efficiencies that might have contributed to our diversity and economic competition goals.

24. *Administrative Costs.* We explained at considerable length in the *Notice* the problems that have been presented by the current "fixed" rule in terms of its accuracy and consistency as a reliable indicator of concentration concerns.[37] We noted the severely anomalous results which it has precipitated and questioned, therefore, its continued viability. The commenting parties agreed nearly unanimously with our characterization of the "fixed" rule as an arbitrary and unworkable standard and nothing presented in the record herein persuades us to the contrary.[38]

25. The specific administrative costs produced by the arbitrary nature of the "fixed" rule are apparent from the filings of parties seeking waiver of its provisions. Such requests often focused on the failure of the "fixed" rule's simplistic "contour overlap" and "geographic proximity" criteria to consider such factors as the number of competing media outlets and the sizes or classes of stations involved. Thus, Commission resources were frequently devoted to analyzing detailed waiver requests in addition to the rule's explicit requirements. The only gain from this substantial administrative effort has been inconsistent and questionable case results. The rigid character of the "fixed" rule has also precipitated informal objections and petitions to deny in numerous cases where the rule did not technically apply, causing the Commission to substantively address the question of whether grant of a specific application would present regional concentration problems. *See, e.g., Millard V. Oakley,* 45 R.R. 2d 661 (1979); and *Acadian Television Corporation,* 51 R.R. 2d 743 (1982).

26. We also observed in the *Notice* that the *ad hoc* method of evaluating regional concentration issues, which the Commission utilized prior to adopting the "fixed" rule, had imposed substantial costs of its own.[39] For example, applicants often felt compelled to conduct extensive media surveys to convince the Commission that the public interest would be served by grant of their applications. The Commission's staff, in turn, expended a substantial amount of time in evaluating these studies, as well as subsequently filed amendments. The development of this media survey technique reflected the inherent unpredictability of the case-by-case approach and the generalized business uncertainty it produced for prospective broadcast applicants since, even though most applications were ultimately granted, parties were never sure of the significance attached to the various factors weighed by the Commission. Again, we can find no basis in the record to alter our initial view of this matter.[40]

27. *Opportunity Costs.* Our regional ownership rules also impose significant costs on the broadcast industry and, ultimately, on the public, which conflict with the rule's underlying purposes of promoting economic competition and diversity of voices. For example, an owner of a broadcast station may be precluded from improving its facilities, thereby reaching a larger audience, because the rule would be violated. In some instances, this has prevented a first daytime or nighttime service which itself would have served directly our diversity and competition objectives. *Piedmont Service Corporation,* 68 FCC 2d 992 (1978).

28. Of equal importance, regional ownership restrictions preclude broadcasters from realizing the potential public interest benefits from the multiple ownership of stations on a regional basis.[41] In particular, joint ownership

[34] *See* n.30, *supra.* An exception is provided for UHF television stations, applications for which are handled on a case-by-case basis. *See, e.g., Television Corporation of Virginia,* 69 FCC 2d 1161 (1978); and *Jersey Cape Broadcasting Corporation,* 85 FCC 2d 654 (1981), *recon. denied,* 89 FCC 2d 984 (1982). However, requests for waiver of the "one-to-a-market" rule involving VHF television stations and aural facilities have been granted only in extremely limited situations. *See, e.g., Combined Communications Corporation,* 21 R.R. 2d 441 (1971); and *United Artists Group,* 44 R.R. 2d 1637 (1978).

[35] *Policy Statement on Comparative Broadcast Hearings,* 1 FCC 2d 393, 394–95 (1965).

[36] As previously mentioned, this lottery mechanism is currently being used to grant applications in the low power television service. In particular, applicants whose owners in the aggregate hold 50% or more of the ownership interest in no other media of mass communications receive a preference of 2:1. Applicants whose principals own 50% or more of the ownership in one, two, or three other media of mass communications obtain a preference of 1.5:1. Sections 1.622(i)(2) and (3) of the Commission's Rules. *See also Second Report and Order* in Gen. Docket 81–768, 48 FR 27182, published June 13, 1983.

[37] *Notice of Proposed Rule Making* in MM Docket No. 84–19, 49 FR at 2481–82.

[38] Noting that all rules are arbitrary to some extent, Geller and Citizens argued that the anomalous results produced by the current rule are primarily a result of the Commission's inflexible approach to waiver of the rule's rigid "minimum distance" and "contour overlap" criteria. A more liberal waiver policy, they contended, would cure these deficiencies while retaining a workable rule. The problem with this argument is that it effectively requires a return to the case-by-case approach to regional concentration issues, the very mechanism that the Commission rejected as too unpredictable and burdensome when it adopted the "fixed" standard.

[39] *Notice of Proposed Rule Making* in MM Docket No. 84–19, 49 FR at 2479.

[40] Citizens suggested various alternative rule formulations as a substitute for outright repeal of the regional concentration of control provisions. Citizens offered no explanation, however, as to how these approaches might improve upon the difficulties we have found inherent in such rules.

[41] The comments submitted by S. Besen and L. Johnson, prepared for the Rand Corporation, evaluate empirical studies that attempt to determine the effect of multiple ownership in the broadcasting industry. While they state that the evidence is not definitive, these studies conclude that the economies to be derived from joint operation are not large. Besen and Johnson state, however, "* * * that in particular situations, substantial

Continued

may create operating efficiencies, or economies of scale, that lower the multiple owner's production costs and thus permit it to channel saved resources into other areas such as programming. This may result in the acquisition of better quality programming that has not been previously available in a given market. Furthermore, a multiple owner may have improved access to capital, thus enabling it to upgrade an existing broadcast facility or activate an allocation that has been unused for a long period of time. *See, e.g., Windmill Broadcasting Co.*, 44 R.R. 2d 475 (1978); and *Meyer Broadcasting Co.*, 42 R.R. 2d 339 (1978). A multiple owner may also have greater research and development capabilities and thereby increase the potential for technological innovation in the industry.

29. Similarly, the larger audience and advertising bases available to a multiple owner may enable such an entity to produce or to acquire programming that each station, acting separately, could not. For example, joint ownership may facilitate the creation of a regional newsgathering and public information capability, which could enhance service to the public. The economies generated by multiple ownership may even be sufficient to facilitate the creation of new regional networks, with the resources to provide programming of special regional interest. This programming may be of an informational, sports, or entertainment nature. Furthermore, the development of regional networking may foster competition with the established national television networks, which could be beneficial to the public.

Conclusion

30. We believe that the significant expansion in both broadcast and non-broadcast media voices documented herein substantially alters the delicate balance of competing interests that underlies the current regional concentration of control provisions. In our view, this development, taken together with the effectiveness of our other multiple ownership rules in preventing adverse diversity and economic competition effects in regional markets, convinces us that the clear costs associated with our regional ownership limitations are no longer warranted. Accordingly, we shall delete these provisions in their entirety.

gains in economic efficiency might result if groups were permitted to expand beyond current limits * * *. [The weight of existing evidence] does not necessarily mean that in all cases group ownership confers few economic benefits." Comment at 32.

31. Pursuant to the requirements of section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, a final regulatory flexibility analysis has been prepared and is attached hereto as Appendix B.

32. Accordingly, it is ordered that, Part 73 of the Commission's Rules and Regulations is amended, effective June 7, 1984, as set forth in Appendix A.

33. It is further ordered that, the petition for reconsideration or clarification of the Commission's *Memorandum Opinion and Order* in Docket No. 20548, 67 FCC 2d 54 (1977), filed by Great Trails Broadcasting Corporation, is dismissed.[42]

34. It is further ordered that, this proceeding is terminated.

35. It is further ordered that, the Secretary shall cause this *Report and Order* to be printed in the FCC Reports.

36. Authority for the actions taken herein is contained in sections 4(i), 303(g) and (r) of the Communications Act of 1934, as amended.

37. For further information concerning this proceeding, contact Andrew J. Rhodes, Mass Media Bureau (202) 632-7792.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

47 CFR 73.3555 is amended by removing paragraph (e) and redesignating paragraph (f) as paragraph (e) and paragraph (g) as paragraph (f); by removing Note 7 in its entirety; and by revising paragraph (d) to read as follows:

§ 73.3555 Multiple Ownership.

* * * * *

(d) No license for an AM, FM, or TV broadcast station shall be granted to any party (including all parties under common control) if such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other broadcast station in the same service, if the grant of such license would result in a concentration of control of broadcasting in a manner inconsistent with the public interest, convenience, or necessity. The FCC, however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stockholders, officers or directors to have a direct or indirect interest in, or be stockholders, officers, or directors of, more than seven AM, seven FM, or seven TV broadcast stations (no more than five of which may be in the VHF band).

* * * * *

Appendix B—Final Regulatory Flexibility Analysis

I. Need for and Purpose of the Rule

The purpose of the Commission's regional ownership constraints has been to promote diversity of program service and economic competition on a regional basis by encouraging diversity in the ownership of broadcast facilities. However, due to the dramatic increase in the number of broadcast and other media outlets that has occurred in recent years, and the further growth in this area that is reasonably anticipated in the near future, the Commission has determined that such constraints are no longer necessary or appropriate to accomplish these goals. Specifically, the increase in the number of media outlets has diluted the potential influence of any single broadcaster and has resulted in greater economic competition. Additionally, regulatory restraint of regional ownership patterns has imposed significant administrative costs. The existing rule has proven arbitrary and inconsistent in its application, while the former *ad hoc* approach was highly unpredictable, creating great uncertainty among applicants and significant burdens for the Commission. Further, regional ownership restrictions impose appreciable opportunity costs. Such provisions, for example, can prevent the activation of unused allocations or the improvement of existing facilities which would provide greater diversity and economic competition. These restrictions can also preclude broadcasters from taking advantage of the economies of scale or operating efficiencies accruing from group ownership of stations on a regional basis. These foregone savings could be channeled into the acquisition or production of better programming or even the development of new regional networks which would benefit the public by increasing viewing or listening options. Finally, it is important to note that the Commission's local market ownership limitations—such as the

[42] Great Trails' petition, and responsive pleadings filed by Group One Broadcasting Co. and Lares Broadcasting Corp., raised questions concerning the AM-FM exception to the regional concentration of control provisions and the rights of stations "grandfathered" under these provisions to make changes in their facilities which would otherwise violate the rule. These pleadings were incorporated herein by the *Notice* in this proceeding, 49 FR 2479, 2480 (1984). In view of our action in this *Report and Order* eliminating the underlying regional concentration rule, Great Trails' petition and its associated pleadings are clearly moot.

"duopoly" and "one-to-a-market rules"—substantially overlap the regional concentration of control provisions and will continue to apply. Given these considerations, the benefits to be derived from continued regulation of regional ownership patterns no longer justify the costs associated with such provisions.

II. Flexibility Issues Raised in the Comments

The most significant regulatory flexibility issue raised in the comments was the impact that elimination of regional ownership restrictions would have on small entities that own and operate broadcast stations, particularly in small radio and television markets. In this regard, we do not believe that elimination of these provisions will result in adverse competitive effects on small entities. As the Department of Justice observed, regional ownership limitations do not operate in markets relevant to anticompetitive concerns. Specifically, stations compete for advertising revenue on local and national bases, which are not within the scope of the subject provisions. Consequently, elimination of these restraints will not affect competition within these local and national advertising markets. Similarly, the program acquisition market operates on local and national levels, making regional rules unnecessary to ensure competition in the purchasing of programming. Moreover, other Commission rules and policies will still be in place—including the "duopoly" and "one-to-a-market" rules—to ensure that in the relevant *local* markets, anticompetitive group ownership patterns potentially harmful to small broadcast entities do not develop. Finally, we note that elimination of the regional concentration of control provisions was supported by small broadcasters, as well as larger ones, who believe the rules are unnecessary and too costly.

III. Significant Alternatives Considered But Not Adopted

Two significant alternatives were considered. The first was to relax the rule by using smaller "contours" for measuring overlap. The second was to replace the rule with flexible guidelines as a basis for reviewing the proposed acquisition of broadcast stations. These alternatives were both rejected because no persuasive demonstration was made of a need for continued regulatory intervention that would justify the costs which these provisions would impose. Such costs include both the opportunity and administrative costs discussed above. With regard to administrative costs in particular, the first alternative does not appear appreciably different from the existing rule and would seem just as likely to produce arbitrary and inconsistent results, while the second alternative would again return us to a case-by-case approach, with its inherent uncertainty and substantial administrative burdens.

[FR Doc. 84-12428 Filed 5-8-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Parts 81, 83 and 87

Editorial Amendment of the Rules in the Maritime and Aviation Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document editorially amends various sections of the Commission's rules in the Aviation and Maritime Services. It deletes obsolete language, clarifies vague wording, corrects errors, and makes other minor editorial changes. This action was undertaken to update the existing rules. This action is intended to simplify the rules and delete outdated provisions.

EFFECTIVE DATE: April 24, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Feser, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Parts 81, 83, and 87

Radio.

Order

In the matter of editorial amendment of Parts 81, 83, and 87 of the rules.

Adopted: April 20, 1984.
Released: April 24, 1984.

1. We are editorially amending a number of sections of Parts 81, 83, and 87 of the Commission's rules to delete obsolete language and sections, to clarify unclear language to make minor editorial changes, and to correct errors. The affected sections are: §§ 81.5, 81.131, 81.356, 81.623, 83.151, 83.155, 83.322, 83.353, 83.359, 83.365, 83.446, 83.484, 87.5, 87.251, 87.437.

2. Authority for this action is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r) and § 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure, and effective date provisions of 5 U.S.C. 553 do not apply.

3. Regarding questions on matters covered in this document contact Richard Feser, telephone (202) 632-7175.

4. In view of the above, it is ordered, That the rule amendments set forth in the attached Appendix are adopted effective April 24, 1984.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Parts 81, 83, and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

§ 81.5 [Amended]

1. In § 81.5 paragraphs (f) and (g) are removed.

2. In § 81.131, the introductory text of paragraph (b) is revised to read as follows:

§ 81.131 Authorized frequency tolerance.

* * * * *

(b) Authorized frequency tolerances for coast stations operating on frequencies below 30 MHz and for marine utility stations:

* * * * *

3. In § 81.356 the heading for the table of frequencies in paragraph (a) is revised to read as follows:

§ 81.356 Assignable frequencies in the band 156-162 MHz.

(a) * * *

Channel designator	Frequency (MHz)		Points of communication	Conditions of use
	Coast	Ship		

* * * * *

§ 81.623 [Amended]

4. In § 81.623 paragraph (b) is removed.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Section 83.151, including the heading, is revised to read as follows: