



Federal Communications Commission
Washington, D.C. 20554

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Small Entity Compliance Guide

Media Ownership

FCC 07-216

MB Docket Nos. 06-121, 02-277, and 04-228

MM Docket Nos. 01-235, 01-317, 00-244, and 99-360

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—to comply with the new rules adopted in the above-referenced FCC rulemaking docket. This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on application of the statute and FCC rules and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC may decide to revise this Guide without public notice to clarify or update the contents. Direct your comments or calls for further assistance, to the FCC’s Consumer Center:

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Compliance Requirements

General Responsibility

All broadcast licensees are required to comply with the Federal Communications Commission's (FCC) broadcast ownership rules. The FCC's broadcast ownership rules are contained in 47 C.F.R. §§ 73.3555 and 73.658(g). Among other things, the rules limit the number of broadcast licenses that one entity may control in a single market. The Report and Order completes the 2006 quadrennial review of the broadcast ownership rules pursuant to Section 202(h) of the Telecommunication Act of 1996, which requires the FCC to review its broadcast ownership rules every four years to determine whether they remain necessary in the public interest as the result of competition and to modify or repeal any rules that no longer serve the public interest. The Report and Order modestly relaxed the newspaper/broadcast cross-ownership rule and left intact the other broadcast ownership rules currently in effect.

Sources and Links

The FCC's Decision: 2006 Quadrennial Regulatory Review - Review of the Commission's Broadcast Ownership Rules and other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Report and Order and Order on Reconsideration, FCC No. 07-216, 23 FCC Rcd. 2010 (2008).

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-216A1.doc
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-216A1.pdf
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-216A1.txt

Rules that the Commission Reviewed

The FCC reviewed all of its broadcast ownership rules except the national TV ownership cap. The FCC revised the newspaper/broadcast cross-ownership rule and retained the other media ownership rules currently in effect. Compliance with the revised rule is required, as discussed below.

- **Newspaper/Broadcast Cross-Ownership.** The Report and Order modestly relaxed the previous ban on common ownership of a newspaper and a broadcast station in the same market. Under the new rule, the FCC adopted a presumption that a waiver of the cross-ownership rule is not inconsistent with the public interest in the following circumstances: when one entity seeks to combine a daily newspaper with a television station in a top-20 designated market area ("DMA") and (1) the television station is not ranked among the top four stations in the DMA and (2) at least eight independent "major media voices" would remain in the DMA, or when a daily newspaper seeks to combine with a radio station in a top 20 DMA. The Report and Order defines major media voices as full-power commercial and noncommercial television stations and major newspapers (newspapers that are published at least four days a week within the DMA and have a circulation exceeding 5 percent of the households in the DMA). The FCC concluded that such sources are generally the most important and relevant outlets for news and

information in local markets. For markets below the top 20 DMAs, the FCC adopted a presumption that it is inconsistent with the public interest for an entity to own newspaper/broadcast combinations and emphasized that the FCC is therefore unlikely to approve such transactions. According to the Report and Order, the FCC will reverse the negative presumption in two limited circumstances: when the proposed combination involves a failed/failing station or newspaper, or when the combination results in a new source of a significant amount of local news in a market. To the extent that a proposed combination does not qualify for a positive presumption, the FCC will require any applicant attempting to overcome the negative presumption to demonstrate by clear and convincing evidence that the merged entity will increase the diversity of independent news outlets and increase competition among independent news sources in the relevant market. No matter which presumption applies, the FCC will look at every transaction on a case-by-case basis, and the FCC's analysis of the following four factors will inform its review of a proposed combination: (1) the extent to which the proposed combination will increase the amount of local news disseminated through the affected media outlets in the combination; (2) whether each affected media outlet in the combination will exercise its own independent news judgment; (3) the level of concentration in the DMA; and (4) the financial condition of the newspaper or broadcast station, and if the newspaper or broadcast station is in financial distress, the owner's commitment to invest significantly in newsroom operations. See paragraphs 18-79 of the Report and Order (link supplied above) for a discussion of the revised newspaper/broadcast cross-ownership rule.

As discussed below, the FCC reviewed the other broadcast ownership rules, except the national ownership cap, but did not revise them. Therefore, no new compliance requirements have been adopted with respect to those other rules as a result of the action taken in the cited item.

- **Radio/Television Cross-Ownership.** The Report and Order left intact the radio/television cross-ownership rule currently in effect. That rule limits the number of commercial radio and television stations an entity may own in the same market. Under this rule, one company may own, in a single market: two TV stations (as permitted by the local TV ownership rule) and one radio station regardless of total market size; if at least ten independent media voices would remain after the proposed combination, up to two TV stations and up to four radio stations; or if at least 20 independently owned voices would remain post-merger, up to two TV stations and up to six radio stations or one TV station and up to seven radio stations. Proposed combinations must also comply with the local radio and the local TV ownership rules. For purposes of the radio/television cross-ownership rule, voices include full-power commercial and non-commercial television stations, cable television systems (which count as one voice regardless of how many serve the DMA), daily newspapers that are published in the DMA and have a circulation exceeding five percent of the DMA's population, and radio stations.
- **Local Television Ownership.** The Report and Order left intact the local television ownership rule currently in effect. Under that rule, a company can own, operate or control two TV stations in a market if no more than one of the two is among the top four stations in ratings and eight independently owned television stations would remain after

the merger (“eight voices test”) or if there is no Grade B contour overlap between the two stations sought to be commonly owned.

- **Local Radio Ownership.** The Report and Order left intact the local radio ownership rule currently in effect. Under that rule, an entity may own, operate, or control: up to eight commercial radio stations, not more than five of which are in the same service (*i.e.*, AM or FM), in a radio market with 45 or more full-power, commercial and noncommercial radio stations; up to seven commercial radio stations, not more than four of which are in the same service, in a radio market with between 30 and 44 (inclusive) full-power, commercial and noncommercial radio stations; up to six commercial radio stations, not more than four of which are in the same service, in a radio market with between 15 and 29 (inclusive) full-power, commercial and noncommercial radio stations; and up to five commercial radio stations, not more than three of which are in the same service, in a radio market with 14 or fewer full-power, commercial and noncommercial radio stations, except that an entity may not own, operate, or control more than 50 percent of the stations in such a market.
- **Dual Network Rule.** The Report and Order left intact the dual network rule, which is contained in 47 C.F.R. § 73.658(g). That rule provides that a TV station may affiliate with a person or entity that maintains two or more networks of TV stations unless such dual or multiple networks are composed of two or more persons or entities that, on February 8, 1996, were defined as “networks” (*i.e.* ABC, CBS, Fox, and NBC). Thus, the rule permits common ownership of multiple broadcast networks, but prohibits a merger between or among the “top four” networks.

Recordkeeping and Other Compliance Requirements.

As stated above, the Report and Order modestly revised the newspaper/broadcast cross-ownership rule and retained the other broadcast ownership rules currently in effect. Under the revised newspaper/broadcast cross-ownership rule, a broadcast licensee facing a negative presumption against a particular proposed newspaper/broadcast combination may seek to overcome that presumption by showing that the combination would initiate local news programming of at least seven hours per week on a broadcast outlet that otherwise was not offering local newscasts prior to the combined operations. Licensees that win approval of combinations under this standard must report to the Commission annually regarding how they have followed through on their commitment to initiate at least seven hours a week of local news. In cases where an entity has a pending request for a waiver of the newspaper/broadcast cross-ownership rule to permit common ownership of more than one newspaper or broadcast station, or an entity has a temporary waiver pending the completion of the quadrennial media ownership proceeding, the Commission, in the Report and Order, gave licensees 90 days from the effective date of the Report & Order to amend the pending request or file a new request for a permanent waiver. With the exception of the foregoing new or revised reporting requirements or showings, the Report and Order imposes no increased reporting, recordkeeping or other compliance requirements.