Dated: September 23, 1996.

John P. DeVillars,

Regional Administrator Region I.

[FR Doc. 96–26198 Filed 10–11–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[NM–23–1–7101b, FRL–5612–9]

Approval and Promulgation of State Implementation Plans (SIP); Prevention of Significant Deterioration; Louisiana and New Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Louisiana and New Mexico SIPs addressing Prevention of Significant Deterioration (PSD) permitting regulations. The purpose of these revisions is to replace the total suspended particulate PSD increments with increments for PM–10 (particulate matter 10 micrometers or less in diameter). In the final rules section of this Federal Register, EPA is approving the States' SIP revisions as direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be postmarked by November 14, 1996.

ADDRESSES: Comments should be mailed to Jole C. Luehrs, Chief, Air Permits Section (6PD–R), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency, Region 6, Air Permits Section (6PD–R), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

New Mexico Environment Department, Air Monitoring and Control Strategy Bureau, 1190 St. Francis Drive, Room So. 2100, Santa Fe, New Mexico 87503.

Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

Anyone wishing to review this petition at the Region 6 EPA office should contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel R. Mitz, Air Permits Section (6PD–R), EPA Region 6, telephone (214) 665–8370.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this Federal Register.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 27, 1996.

Jerry Clifford,

Acting Regional Administrator (6RA–D).

[FR Doc. 96–26205 Filed 10–11–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[MM Docket No. 96–197; FCC 96–381]

Waiver of the Newspaper/Broadcast Cross-Ownership Restriction

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission seeks comment on the adoption of a new policy under which it will consider requests for waiver of the newspaper/broadcast cross-ownership restriction with respect to proposed newspaper/radio combinations. The intended effect is to provide more clarity and certainty to Commission policy with respect to such combinations.

DATES: Comments are due by December 9, 1996, and reply comments are due by January 8, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Roger Holberg, Mass Media Bureau, Policy and Rules Division (202) 418–2134.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Inquiry in MM Docket No. 96–197, FCC 96–381, adopted May 9, 1996, and released May 20, 1996. The complete text of this NOI is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Synopsis of Notice of Inquiry

1. *Introduction*. In 1975, the Commission adopted its rule (47 CFR 73.3555(d)) prohibiting the common ownership of commercial broadcast stations and newspapers in the same community.[1] Although divestiture of existing local newspaper/broadcast combinations was not required except in ''egregious'' cases, the Commission did intend the rule to prevent the creation of new combinations, including those created by the sale of a ''grandfathered'' newspaper-broadcast combination to the same party.[2]

2. Like all of our multiple ownership rules, the newspaper/broadcast cross-ownership rule rests on the twin goals of promoting diversity of viewpoint and economic competition.[3] Of these two goals, the Commission made it clear when adopting the rule that fostering diverse viewpoints from antagonistic sources is at the heart of its licensing responsibility. It determined that, as a general rule, granting a broadcast license to an entity in the same community as that in which the entity also publishes a newspaper would harm local diversity.[4] The Commission nonetheless noted its expectation that there could be meritorious waiver requests.[5] Accordingly, it set forth the

[1] Multiple Ownership of Standard, FM, and Television Broadcast Stations, Second Report and Order, 40 FR 6449, 50 FCC 2d 1046 (1975) (''Second Report and Order''), recon., 40 FR 24729, 53 FCC 2d 589 (1975) (''Recon. Order''), aff'd sub nom. *Federal Communications Commission* v. *National Citizens Committee for Broadcasting*, 436 U.S. 775 (1978). The provisions of 47 CFR 73.3555 do not apply to noncommercial educational FM and TV stations. See 47 CFR 73.3555(f).

[2] Second Report and Order, supra at 1076.

[3] *Id*. at 1074.

[4] *Id*. at 1075.

[5] Although the waiver standards were discussed in the *Second Report and Order, supra*, in

grounds that it would consider pertinent to such requests. First, the Commission stated that inability to sell the station would constitute a basis for a waiver.[6] Refusal to grant a waiver under such conditions would work a forfeiture, a result contrary to the Commission's intent. Second, the Commission stated that it would waive the rule upon a showing that the only sale possible would be at an artificially depressed price.[7] Third, the Commission contemplated waiving the rule if it could be shown that the separate ownership and operation of the newspaper and the broadcast station could not be supported in the locality.[8] Finally, the Commission indicated that it would waive the rule if it could be shown, for whatever reason, that the purposes of the rule would be disserved by its application.[9] In this regard, the Commission stated that while it would consider the specifics of any particular situation, it would not relitigate in the guise of a waiver request issues that it had previously considered and rejected in adopting the rule. The Supreme Court in upholding the rule specifically noted the availability of waivers of the rule, particularly where the station and newspaper could not survive under separate ownership, as underscoring the reasonableness of the rule.[10]

3. The Commission has stated that ''the broadcast-newspaper cross-ownership rule will be waived only in cases where application of the rule would be 'unduly' harsh.'' [11] Moreover, requests for permanent waiver of the rule have a ''considerably heavier'' burden than do requests for its temporary waiver.[12] The Commission has granted only two permanent newspaper/broadcast waivers. Both involved television stations. In *Field Communications Corp.*, 65 FCC 2d 959 (1977), Field Communications Corp. (''Field'') published two daily newspapers in Chicago. As a result of the proposed transaction, a subsidiary of Field would reacquire ownership of a Chicago television station in which Field had previously sold a majority interest to the instant assignor. The only other permanent waiver of the newspaper/broadcast cross-ownership rule involved the reacquisition of the New York Post newspaper by NYP Acquisition Corp., a subsidiary of The News Corporation Limited (''News Corp.''). In granting the waiver, the Commission relied on ''special circumstances,'' considered in tandem with an evaluation of the diversity and competitiveness of the New York market.[13]

4. For several years Congress precluded the Commission from spending authorized funds ''to repeal, retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer'' the newspaper/broadcast cross-ownership restriction.[14] In the Commission's 1994 appropriation, however, Congress provided that the Commission could ''amend policies with respect to waivers'' of the broadcast-newspaper cross-ownership rule.[15] In the legislative history of the 1994 Appropriations Act, Congress clarified its intent and set forth guidelines for Commission consideration of waiver requests involving daily newspapers and radio stations. The legislative history of that Act indicates a congressional intent that such ''new policy allow such waivers to be granted only in the top 25 markets [with] at least 30 [remaining] independent broadcast voices'' provided that the Commission make ''a separate affirmative determination that [the transaction] is otherwise in the public interest, based upon the applicants' showing that there are specified benefits to the service provided to the public sufficient to offset the reduction in diversity which would result from the waiver.'' [16]

5. The legislative history also indicates that Congress intended the Commission to examine, on a case-by-case basis, requests for waivers in other circumstances upon a showing of ''unique public benefits.'' [17] As we noted in *Capital Cities/ABC, Inc., supra,* this was not a directive requiring the Commission to grant waivers in such ''top 25/30 voice'' situations or otherwise to modify our waiver policy.[18] Instead, it reflected congressional intent that, if we modified our waiver policy for newspaper/radio combinations, we (1) require a showing that the proposed combination met the ''top 25/30 voice'' standard, and (2) make ''a separate affirmative determination'' in each case that ''the specified benefits'' to the public would offset ''the reduction in diversity.'' This second element suggests that Congress did not intend that the Commission routinely grant waiver requests because the first element is established but, instead, that we require a showing of specific public interest benefits flowing from a waiver. In any event, the ''top 25/30 voice'' language was not included by Congress in either the text of our 1995 or 1996 appropriations acts or their accompanying conference reports, and the proscription against spending funds to reevaluate policies related to the rule has been eliminated.[19] Subsequently, on February 8, 1996, President Clinton signed into law the Telecommunications Act of 1996, omnibus legislation which, *inter alia,* removed national radio station ownership caps but imposed a legislative ceiling on the number of stations that could be commonly owned in a local market. The Telecommunications Act of 1996 addresses other cross-ownership issues, and the legislative history of that Act reveals that the House of Representatives explicitly considered and rejected changes to the newspaper/broadcast cross ownership rules.[20] Thus, while the Commission now clearly has the authority to reevaluate its waiver policy for newspaper-broadcast combinations it is without specific

conjunction with the ''egregious'' cases in which divestiture was required, they are the standards that have subsequently been applied in virtually all newspaper/broadcast cross-ownership waiver cases.

[6] *Id.* at 1085.

[7] *Id.* at 1084; see also *Hopkins Hall Broadcasting, Inc.,* 10 FCC Rcd 9764 (1995)

[8] *Second Report and Order, supra* at 1085.

[9] *Id.*

[10] *FCC* v. *National Citizens Committee for Broadcasting, supra* at 802 n. 20.

[11] *NewCity Communications of Massachusetts, Inc.,* 10 FCC Rcd 4985, 4986 n. 8 (1995). (In *NewCity* we dismissed the applicant's application on other grounds and did not reach the issue of whether to grant a waiver of the newspaper/broadcast cross-ownership restriction.) See also *Second Report and Order, supra* at 1077.

[12] *News America Publishing Inc.* v. *FCC,* 844 F.2d 800, 803 (D.C. Cir. 1988); see also *Hopkins Hall Broadcasting, supra* at 9764; *Capital Cities/ABC, Inc.,* 11 FCC Rcd 5841 (1996). See also, *Owosso Broadcasting Co.* (Stay Request), 60 RR 2d 99 (1986) (grant of temporary waiver in which to divest in ''egregious'' case).

[13] *Fox Television Stations Inc.,* 8 FCC Rcd 5341, 5349 (1993); *aff'd sub nom. Metropolitan Council of NAACP Branches* v. *FCC,* 46 F.3d 1154 (D.C. Cir. 1995).

[14] See, *e.g.,* Department of Justice and Related Agencies, Appropriations Act, 1993, Pub. L. 102–395, 106 Stat. 1828 (1992). These appropriations restrictions were continued in effect through subsequent appropriations legislation and continuing resolutions that funded the agency until April 26, 1996, when a budget was enacted. See Departments of Commerce, State, Justice, the Judiciary and Related Agencies for FY '96, Pub. L. 104–134, 110 Stat. 1321. The restriction on repealing, retroactively applying or reexamining the newspaper/broadcast cross-ownership rule is no longer contained in this Agency's appropriation legislation.

[15] 107 Stat. 1167 (1993).

[16] *Id.* at 2–3.

[17] *Id.* at 3.

[18] *Capital Cities/ABC, Inc., supra* at 5889.

[19] See Department of Justice and Related Agencies, Appropriations Act, 1995 Pub. L. No. 103–317, 108 Stat. 1724, 1737–38 (1994); H. Rep. 103–708, filed August 16, 1994; see also Departments of Commerce, State, Justice, the Judiciary and Related Agencies for FY '96, Pub. L. No. 104–134, 110 Stat. 1321; H. Rep. 104–537, filed April 25, 1996.

[20] 141 Cong. Rec. E–1571 (August 1, 1995).

guidance on whether or how that authority should be exercised.

Discussion

6. We are issuing this *NOI* in order to solicit comment on what, if any, changes we should make in our newspaper/broadcast cross-ownership waiver policy with respect to newspaper/radio combinations. Since 1975 when the newspaper/broadcast cross-ownership rule was adopted, the number of radio stations licensed has increased from 8,265 [21] to 12,076,[22] a 46 percent increase. Meanwhile, since the rule's adoption the number of English language daily newspapers has shrunk from 1,756 [23] to approximately 1,556,[24] an 11 percent drop. However, during that same period, radio ownership limitations have been amended from allowing common ownership of only a single AM and single FM radio station in the same market to the current regulatory regime in which, depending on the number of voices in a market, as many as eight radio stations (no more than five of which may be in the same service) may be commonly owned. This allows far more concentration of radio ownership on the local level than was available when the newspaper/broadcast cross-ownership restrictions were adopted. Nevertheless, there may be markets in which allowing waiver of the cross-ownership restriction would be healthy for the maintenance of diversity. This could occur, for example, in markets where a newspaper is failing and the only prospective purchaser is the owner of a local radio station. There may also be cases where cross-ownership, while not necessary to the viability of one or both outlets, could lead to benefits such as increased dissemination of news and information in the relevant local market and have only a negligible effect on ownership diversity and competition.[25] On the other hand, we recognize the powerful market presence that many newspapers have in their local markets and we ask for comment concerning whether this distinguishes newspaper/radio cross-ownership from other cross-ownership situations.

7. Therefore, we are soliciting comment on what changes, if any, may be desirable in our waiver policy with respect to newspaper/radio cross-ownership situations and whether we should adopt objective criteria for evaluating waiver requests. For example, should we adopt a waiver policy in which a transaction is in the public interest if it is in a market of specified numerical rank or larger and a specified number of independently owned voices would remain? Alternatively, should a waiver test turn on whether a specified minimum number of voices remains after the transaction without reference to market rank? Should such a waiver test only apply where the applicant owns no more than, for instance, a single station in each broadcast service in the community? What public interest benefits might be sufficient to overcome any detrimental effects from a reduction in diversity of voices? [26]

8. If we adopt an objective test based on number of voices and market size, a number of questions arise. One general set of questions concerns what other media outlets in the local market we should consider in computing the number of independent voices, and how we should assess those outlets in evaluating waiver requests. For purposes of a newspaper/radio cross-ownership waiver standard, if we adopt an objective test for favorable waiver consideration, should we count both radio and television voices and, if so, should we count them equally? We have previously determined that a television station is, relatively speaking, more a source of news than is a radio station. In adopting the rule at issue, we stated, ''[r]ealistically, a radio station cannot be considered the equal of either the paper or the television station in any sense, least of all in terms of being a source for news or for being the medium turned to for discussion of matters of local concern.'' [27] Does this lead to the conclusion that they should be counted differently in assessing the number of independent voices that would remain after a waiver? Should we give equal consideration to waiver requests irrespective of the strength of the particular media outlets involved or should we, for example, give different consideration to requests depending on whether the newspaper involved is a major paper or the radio station involved has a certain level of market penetration, has a certain level of authorized power, or is of a particular class of station? Should we favor newspaper/radio combinations only if the proposed purchaser would hold no more than a specified number of radio stations in the market after the transaction and a specified minimum level of independent voices remains?

9. Two separate but related matters concern which radio stations to count in assessing the number of independent voices and whether to count non-broadcast media. When we count the number of radio stations in a radio market for purposes of the radio duopoly rule, we count only commercial radio stations. For purposes of the one-to-a-market waiver standard we count both commercial and noncommercial radio and television stations. Should we count both commercial and noncommercial stations when determining the number of independent voices for purposes of newspaper/radio cross-ownership waivers? Are there other media that should also be included in calculating the number of independent voices that would remain after the waiver? For example, should we also count other independently owned daily newspapers published in the radio station's community if our determination that they are more a source of discussion concerning local issues than are radio stations remains valid? [28] Should we count the presence of cable or other video delivery services? At first blush, we do not believe that most such non-broadcast video services should be counted in any waiver standard because the newspaper/radio rule is particularly bound up with issues of local diversity, and many alternative video delivery services do not provide programming on local issues. However, there are some cable systems that carry local cable news channels. Additionally, many cable systems have public, educational and governmental access channels which cover local government and local schools and serve as forums for the

[21] *Broadcasting and Cable Yearbook—1995* at B–655.

[22] See *FCC News Release,* ''Broadcast Station Totals as of May 31, 1996,'' (June 6, 1996).

[23] Information Please Almanac - 1980, Simon and Schuster, 643 (1979). (Source: Editor and Publisher Yearbook, 1979.)

[24] Information Please Almanac - 1995, Houghton Mifflin Company, 315 (1995). (Source: Editor and Publisher International Yearbook, 1994.) This figure is as of February 1, 1994.

[25] For a more complete discussion of the Commission's diversity concerns, new approaches to diversity and other diversity related issues, see Further Notice of Proposed Rule Making in MM Docket Nos. 91–221 and 87–8, 60 FR 6490, 10 FCC Rcd 3524, 3546–59 (1995).

[26] A market rank/independent voice test would be similar to one of the tests contained in Section 73.3555, Note 7, of our Rules for favorable Commission consideration of one-to-a-market rule waivers. In one-to-a-market waiver cases, the Commission ''looks favorably'' upon waiver applications (1) in top 25 markets where there will remain 30 independent voices after grant of the waiver, or (2) where a failing station is involved. The Commission also will consider on a case-by-case basis waiver requests founded on other grounds. In Section 202(d) of the Telecommunications Act of 1996 Congress instructed the Commission to replace the ''top 25 markets'' provision of the waiver standard with a ''top 50 markets'' standard, ''consistent with the public interest, convenience, and necessity.'' Should we consider a ''top 50 market/30 voice'' waiver standard for combinations of no more than one FM, one AM, and a newspaper as well?

[27] *Second Report and Order, supra* at 1083.

[28] *Id.*

discussion of issues of local concern. Should the presence of such a channel on a local cable system count as an independent voice?[29]

10. Another set of questions concerns to what local markets any waiver should apply, and whether or not we should redefine how we measure the appropriate geographic scope of the market. Is there some standard other than a top 25 markets/30 voices, or top 50 markets/30 voices formulations for the rank of the market or number of voices that should be used? Indeed, should we consider market rank at all or, instead, simply rely on the number of independent voices that would remain after the waiver.

11. We also seek comment on defining the geographic market for purposes of assessing diversity and competition in waiving the rule. Under our existing cases, the geographic area to be considered in evaluating a radio/newspaper cross-ownership waiver is the area of overlap between the defining signal contour of the radio station (1 mV/m for FM and 2 mV/m for AM) and the area of significant circulation of the newspaper. In *Capital Cities/ABC, Inc., supra,* we rejected Disney's argument that we consider all stations licensed to the Detroit DMA to determine whether Disney could commonly own a Detroit station and a newspaper published in Pontiac. Should this standard continue to guide our consideration of waiver requests involving newspaper/radio cross-ownership and, if so, should it be revised in any way? Should the Commission take into account the possibility that even major outlets serving a metropolitan market may underserve suburban communities in the metro region, leaving smaller newspapers and broadcast outlets concentrating on the suburbs as the only outlets of any consequence for the suburban resident? In this regard, we seek comment on the extent to which metropolitan outlets concentrate on big city issues and elections with little, if any, coverage of suburban issues and candidates. It could be argued that common ownership of a radio station and a newspaper expressly focused on the urban centers could have much greater impact on viewpoint diversity than a simple count of voices might suggest. Should those major metropolitan media outlets be counted in the same way as voices located in and serving the neighboring market where the overlap is of the neighboring market?

Alternatively, should different criteria be developed? If so, what criteria should be used? There are a number of definitions of the geographic ''market'' that the Commission has utilized in various contexts. Our one-to-a-market waiver standard considers ''television licensees in the relevant ADI television market and radio licensees in the relevant television metropolitan market.''[30] While this provision may be appropriate in the one-to-a-market context, in which television stations are involved, is it also usable in the radio/newspaper context, where ownership of television stations is not involved? We note in this regard that television stations do appear to compete with newspapers in the adverstising market and do function as a significant source of news and information.

13. In implementing provisions of the Telecommunications Act of 1996,[31] we noted that we would continue to define the relevant radio market for purposes of the radio contour overlap rules ''as the area encompassed by the principal community contours (i.e., predicted or measured 5 mV/m for AM stations and predicted 3.16 mV/m for FM stations) of the mutually overlapping stations proposing to have common ownership.''[32] Does this market definition provide useful guidance for evaulating requests for waiver of the radio/newspaper cross-ownership rule?

14. Finally, we request comments on whether the radio metro market, as designated by a nationally recognized ratings service, may be a viable alternative. In this regard, we ask commenters to address the question of whether broadcast outlets licensed to other communities in the radio metro market can be counted on to provide programming on local issues in the station's community of license or the newspaper's community of publication or area of circulation?

15. Resolving how to define the boundaries of the relevant market does not entirely resolve the issue. Should we count stations as being in the relevant market only if they completely encompass the market with a certain quality signal contour; or should media outlets be counted as voices in the relevant market if a certain quality signal contour overlaps any portion of the relevant market? If the latter, should we establish a certain portion of the relevant market, either in terms of area or population, that they must overlap in order to counted as voices in that market? What level of overlapping signal contour would be the appropriate measure in order to capture accurately those media outlets that should be counted in assessing the diversity and competition effects of waiving the newspaper/radio cross-ownership rule in a local market?

16. Are there other objective criteria besides the number of independent voices and market size that we should specify that should warrant a waiver, such as saving a failing station or newspaper, reacquisition of a media property by a former owner so that the waiver would not truly be creating a new combination in the market, etc.? In situations meeting whatever objective criteria we may adopt should we also require a showing of special circumstances? What salient factors should the Commission weigh in determining whether the specific public benefits flowing from the proposed radio/newspaper combination overcome the reduction in diversity of voices? Should applicants seeking a waiver of the newspaper/radio cross-ownership rule be required to demonstrate that diversity will not be diminished, and the public interest will be served, by grant of the waiver? For example, to address the issues potentially raised in suburban communities, should the parties involved be required to describe specific plans or efforts to enhance coverage of events in a smaller community within the metropolitan region? How can we properly evaluate whether the proposed acquisition will serve the people in such neighboring municipalities and whether it will increase content diversity in such places? We seek comment on these issues.

17. Finally, as we indicated above, the newspaper/radio cross-ownership rule stands on another foundation in addition to diversity, that of competition. As we stated in the *Second Report and Order,* ''Daily newspapers tend to be much larger enterprises than television stations. Radio stations are

[29] We have previously tentatively concluded in our television ownership proceeding (MM Docket No. 91–221) that we would consider cable systems as contributing to diversity under some circumstances, and to some extent, and invited comment. *Further Notice of Proposed Rule Making* in MM Docket Nos. 91–221 and 87–8, 10 FCC Rcd 3524, 3556 (1995). We concluded that other video suppliers could not be included because they are neither as ubiquitous as cable nor do they have the capability for local origination that cable has. *Id.* at 3557. Finally, we tentatively concluded that neither a radio station nor a newspaper were the equivalent of a broadcast television station for diversity purposes and are not fungible for diversity purposes on a ''one-for-one'' basis. *Id.* at 3557–58.

[30] Section 73.3555 Note 7(1) of the Commission's Rules.

[31] Pub. L. 104–104, 110 Stat. 56 (1996).

[32] *Order,* Implementation of Sections 202(a) and 202(b)(1) of the Telecommunications Act of 1996, FCC 96–90, 61 F.R. 10689 (released March 8, 1996) at para 4. (Footnotes omitted.) See also 47 C.F.R. § 73.3555(a)(3)(ii).

significantly smaller than either.'' [33] Accordingly, any move toward loosening the waiver requirements in this context must also be assessed in terms of competition. A waiver that might be acceptable in terms of its impact upon diversity might create such market power in a single entity that it would not be tolerable in terms of competition. In this regard, we note that in 1995, local newspapers captured 49% of local advertising expenditures (20.1% of all advertising) as against a total of 13.3% of local advertising (5.5% of all advertising) captured by radio stations.[34] And the 49% share is usually captured by a single newspaper while the 13.3% radio share is typically divided among a number of radio stations. In considering newspaper/radio waiver requests, should we consider from a competition standpoint the size of the newspaper involved? That is, should we view a proposed newspaper/radio combination differently if it involves a large major daily newspaper rather than a small, but not failing, local daily? If so, what test should we use to measure the size or competitive power of the newspaper involved in a waiver request? Should we require information on the percentage of local advertising dollars that the newspaper commands? Alternatively, should we look at the percentage of such dollars that would be commanded by the proposed newspaper/radio combination? [35] How should we determine whether the proposed newspaper/radio combination will possess market power? If we establish a test based on the proportion of local advertising dollars that the proposed combination would command, should we establish an objective, bright line benchmark and, if so, what should that level be? What other objective test might we use to determine whether a proposed local newspaper/radio combination would possess such market power that our competition concerns would be undermined by grant of a waiver? Will entry barriers for prospective radio broadcasters or newspaper owners be increased by relaxation of our waiver policy? What impact, if any, should the size of the media outlets involved also have on our diversity analysis?

Administrative Matters

I. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before December 9, 1996, and reply comments on or before January 8, 1997. To file formally in this proceeding, you must file an original plus six copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus eleven copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554.

II. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

Ordering Clause

III. Accordingly, *it is ordered* that pursuant to the authority contained in Sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154 and 303, this Notice of Inquiry *is adopted*.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–26313 Filed 10–11–96; 8:45 am]

BILLING CODE 6712–01–P

[33] *Second Report and Order, supra* at 1057.

[34] McCann-Ericson, *U.S. Advertising Volume*, Advertising Age (May 20, 1996).

[35] Given the present ability of an entity or individual to obtain attributable ownership interests in up to eight radio stations in a single market (depending on the number of stations in the market) a different case might be presented by a situation in which the licensee of several stations in a market purchases, or is purchased by, a major daily newspaper in that market than would be presented if a single station/newspaper combination was proposed.

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47 CFR Part 73

[MM Docket No.96–204; RM–8876]

Radio Broadcasting Services; Martin and Tiptonville, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Thunderbolt Broadcasting Company, licensee of Station WCMT(FM), Channel 269A, Martin, Tennessee, requesting the substitution of Channel 267C3 for Channel 269A at Martin, Tennessee, and the modification of Station WCMT(FM)'s license to specify operation on the higher powered channel. Petitioner also requests the deletion of vacant Channel 267C3 at Tiptonville, Tennessee. Channel 267C3 can be allotted to Martin in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.1 kilometers (8.8 miles) northwest to accommodate Thunderbolt's desired site. The coordinates for Channel 267C3 at Martin, Tennessee, are 36–26–09 and 88–57–30. The coordinates for Channel 267C3 at Tiptonville, Tennessee, are 36–22–42 and 89–28–30.

DATES: Comments must be filed on or before November 25, 1996, and reply comments on or before December 10, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John R. Garziglia, Pepper & Corazzini, L.L.P., 1776 K Street, NW., Suite 200, Washington, DC 20006 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–204, adopted September 27, 1996, and released October 4, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.