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May 28, 2008

The Honorable Daniel K. Inouye
Chairman
The Honorable Ted Stevens
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable John D. Dingell
Chairman
The Honorable Joe Barton
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: In the Matter of Promoting
Diversification of Ownership in the Broadcasting Services*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (the Commission), entitled “In the Matter of Promoting Diversification of Ownership in the Broadcasting Services” (FCC 07-217). We received the rule on May 2, 2008. It was published in the *Federal Register* as a final rule on May 16, 2008. 73 Fed. Reg. 28,361. The rule has a stated effective date of July 15, 2008.

The final rule expands opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses. Among other changes, the rule will allow eligible entities acquiring an expiring construction permit additional time to build the facility; modifies the equity/debt plus attribution standard; and bars discrimination on the basis of race, gender, and related protected categories in broadcast transactions.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Thomas Horan
Chief of Staff, Media Bureau
Federal Communications Commission

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"IN THE MATTER OF PROMOTING DIVERSIFICATION OF
OWNERSHIP IN THE BROADCASTING SERVICES"
(FCC 07-217)

(i) Cost-benefit analysis

The Federal Communications Commission (the Commission) is not required to prepare and did not prepare a cost-benefit analysis for the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603–605, 607, and 609

The Commission prepared an Initial Regulatory Flexibility Analysis for the Notice of Proposed Rulemaking, a Supplemental Initial Regulatory Flexibility Analysis for the Further Notice of Proposed Rulemaking, and a Second Supplemental Initial Regulatory Flexibility Analysis for the Second Further Notice of Proposed Rulemaking. For the final rule, the Commission prepared a Final Regulatory Flexibility Analysis.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, the Commission is not subject to the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The Commission issued a Notice of Proposed Rulemaking, Further Notice of Proposed Rulemaking, and a Second Further Notice of Proposed Rulemaking. Each of these documents solicited comments and was published on the Commission's website. The Commission discussed comments regarding issues of interest to small entities in the final rule. 73 Fed. Reg. 28,367–68.

Paperwork Reduction Act, 44 U.S.C. §§ 3501–3520

This final rule contains new or modified information collection requirements that the Commission will submit to the Office of Management and Budget under the Act.

Statutory authorization for the rule

The Commission promulgated this final rule under the authority of sections 1, 2(a), 4(i), 257, 303, and 307–310 of the Communications Act of 1934, as amended. 47 U.S.C. §§ 151, 152(a), 154(i), 257, 303, 307–310.

Executive Order No. 12,866

As an independent regulatory agency, the Commission is not subject to the review requirements of the order.