



B-283683

October 1, 1999

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Federal Communications Commission: Review of the Commission's
Regulations Governing Attribution Ownership Rule

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 (FCC), entitled "Review of the Commission's Regulations Governing Attribution Ownership Rule" (MM Docket No. 94-150, 92-51, 87-154, FCC 99-207). We received the rule on August 31, 1999. It was published in the Federal Register as a final rule on September 17, 1999. 64 Fed. Reg. 50622.

The final rule amends the FCC's broadcast, broadcast cable cross-ownership, and cable/Multipoint Distribution Service cross-ownership attribution rules. According to the FCC, the final rule improves the precision of the attribution rules, avoids disruption in the flow of capital to broadcasting, affords clarity and certainty to regulatees and markets, and facilitates application processing.

Enclosed is our assessment of the FCC'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 FCC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Judy England-Joseph,

Director, Housing and Community Development Issues. Ms. England-Joseph can be reached at (202) 512-7631.

Sincerely yours,

**Robert P. Murphy
General Counsel**

Enclosure

**cc: Mr. Roy Stewart
Chief, Mass Media Bureau
Federal Communications Commission**

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"REVIEW OF THE COMMISSION'S REGULATIONS
GOVERNING ATTRIBUTION OWNERSHIP RULE"
(MM Docket No. 94-150, 92-51, 87-154, FCC 99-207)

(i) Cost-benefit analysis

The FCC was not required to prepare and did not prepare a cost-benefit analysis of the rule.

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

The FCC prepared an Initial Regulatory Flexibility Analysis in connection with the Attribution Further Notice and a Final Regulatory Flexibility Analysis in issuing the final rule.

The analyses comply with the requirements of the Regulatory Flexibility Act, including the number and description of small entities affected by the rule, the steps taken to minimize the burdens on small entities, and alternatives that were considered.

(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 FCC is not subject to title II of 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 final rule was issued using the notice and comment procedures of 5 U.S.C. 553. The FCC issued an Attribution Notice on February 2, 1995 (60 Fed. Reg. 6483). Subsequent to the enactment of the Telecommunications Act of 1996, the FCC issued Attribution Further Notice on December 20, 1996 (61 Fed. Reg. 67275) to receive further comments on the issues involved with attribution rules.

The FCC received comments from 36 parties and reply comments from 22 parties. The comments are considered and responded to in the preamble to the final rule.

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

The final rule will require a modification of the Ownership Report form, Form 323. The FCC has solicited comments on the modified information collection, which is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Comments are due by November 16, 1999.

The changes to the form will not be implemented and no response is needed until OMB has approved the changes.

Statutory authorization for the rule

The final rule was issued pursuant to the authority of sections 4(i) & (j), 303(r), 307, 308, and 309 of the Communications Act of 1934 as amended, 47 U.S.C. 154 (i), (j), 303(r), 307, 308, and 309.

Executive Order No. 12866

As the rule was promulgated by an independent regulatory agency, it is not subject to the review requirements of E.O. 12866.