- properties by minorities, the overall representation of minorities among broadcast station or cable owners remains for below their presence in the national population and the civilian labor force. Women have likewise traditionally been underrepresented among mass media owners.
- 3. The Commission requests that commenters provide current data regarding female ownership of mass media facilities. The Commission invites commenters to discuss whether, if it is ultimately established that women are underrepresented, each of the initiatives proposed below to promote minority ownership should also be applied to women. The Commission notes that, in the past, female owners were eligible for a preference in comparative broadcast hearings, but that policy was invalidated by the U.S. Court of Appeals for the District of Columbia in Lamprecht v. FCC, 958 F.2d 382 (DC Cir. 1992). Lamprecht found that the Commission had failed to show a nexus between women's ownership of broadcast stations and diversity of programming. The Commission asks commenters to specifically address the extent to which female ownership contributes to diversity of programming distributed by the mass media and to provide evidence.
- 4. As an alternative legal justification for providing incentives for greater ownership of mass media facilities by both minorities and women, apart from diversity of programming, the Commission solicits comment on whether it should instead rely on an economic rationale. This concept was espoused by Congress in 1993 when it adopted Section 309(j) of the Communications Act, 47 U.S.C. § 309(j), in which Congress specifically recognized that it is consistent with the public interest to adopt competitive bidding procedures that promote economic opportunity for a wide variety of applicants, including minorities and women. The Commission seeks comment on economic disadvantages faced by minorities and women.
- 5. The *Notice* proposes specific mechanisms intended to increase minority and female ownership of mass media facilities, and particularly seeks to increase those groups' access to capital. The suggestions presented in the *Notice* are not intended to be exhaustive; the Commission encourages commenters to propose other ways to advance minority and female ownership of mass media outlets.

- Incubator Programs
- 6. First, the Commission discusses ways to refine the Commission's previous proposal to create an "incubator" program whereby existing mass media entities would be encouraged, through ownership-based incentives, to assist new entrants to the communications industry. In return for providing certain types of assistance to a minority or female entrepreneur seeking to acquire a mass media facility, the incubating entity would be permitted to exceed the otherwise applicable ownership limits.
- 7. The Commission seeks comment on the structure of an acceptable incubator program. The Commission proposes that an acceptable incubator program must include, at a minimum, three elements: (1) substantial financial assistance (e.g., direct equity participation, loan guarantees or long-term low interest loans at, for example, one-half the market rate); (2) operational assistance (such as technical advice or assistance with station operations and management); and (3) training programs for new broadcasters and/or station personnel.
- 8. The Commission also asks commenters to discuss at what point the incubating owner should be permitted to acquire additional facilities. For example, should the Commission adopt a one-year waiting period i.e., an incubator program must have been in place for one year before the incubating entity may purchase additional facilities? In the alternative, given that the purpose of an incubator program is to enable the incubated entity to purchase a facility, the incubating entity could be permitted to acquire an additional facility as soon as the incubated facility is purchased and operational, subject to a one-year holding requirement on the part of the incubated owner.
- 9. In addition, the Commission seeks comment on how many mass media properties a group owner participating in such a program should be permitted to acquire above the applicable ownership limit. Should a TV licensee, for example, be allowed to acquire one additional TV station for every two TV stations it incubates? Further, the Commission proposes to require that the additional facilities acquired by the incubating owner are of comparable value to the incubated station. It would not permit, for example, an owner incubating an FM radio station to acquire an additional VHF TV station. It also proposes that the facility acquired by the incubating entity must be within five markets above the incubated

facility's market rank, or must be in a market ranked below the incubated facility's market. A parallel formulation would also be needed in the cable television context so that the additional facilities or "households" passed in excess of what is ordinarily permitted by the rules has comparable size or value in relationship to the incubated facility. The Commission also asks whether broadcasters participating in the incubator program should be allowed to exceed both the national and local multiple ownership limits.

Attribution Rules

10. Next, the Commission seeks comment on whether and how to modify its ownership attribution rules to increase investment in minority and female-controlled properties and further to benefit minority and female owners. The Commission's broadcast attribution rules, set forth in the notes to 47 CFR 73.3555, are used to determine whether particular media holdings will be considered ownership interests for purposes of applying the Commission's multiple ownership rules. Parallel provisions appear in the cable television rules, 47 CFR 76.501. In general, any interest that represents five percent or more of the outstanding voting stock of a company is an attributable ownership interest and thus is counted in determining compliance with the multiple ownership limits.

11. The Commission suggests that one of the options made available to "designated entities" bidding for PCS licenses could be adapted as follows: If a minority or female individual or entity or group of individuals or entities holds more than 50 percent of the voting stock of a corporate broadcast licensee or other mass media entity, with at least 15 percent of the company's equity, then no other interests in that entity will be attributable. The Commission asks whether the rule should apply locally as well as nationally, and, if so, whether the rule should be limited to large markets with a specified number of outlets and independent voices.

12. The above rule, as proposed, would permit an investor to hold 49.9 percent of the voting stock in an unlimited number of minority or female-controlled entities. The Commission seeks comment on whether to adopt a numerical limit on the number of interests in minority or female-controlled stations that would, under this exception, be considered not attributable to the investor.

13. Further, this proposed rule would require that the minority or female owner or owners actually control the licensee. The Commission questions