

competitive, thus diminishing the need for regulatory oversight of cross-interests; (3) alternative remedies, such as the antitrust laws and internal conflict of interest policies, will serve to deter abuses stemming from cross-interests; and (4) The cross-interest policy imposes significant burdens in terms of administrative costs and uncertainty, chilling investment in the broadcast industry. The Commission believes each of these arguments has merit, and continues to question the continuing need for our cross-interest policy in its present form. The Commission also strives to clarify aspects of the policy that may warrant continued enforcement.

42. For a number of reasons, however, the Commission believes it necessary to develop a more complete and updated record in our review of the cross-interest policy as applied to key employees, joint ventures, and nonattributable equity interests. It is necessary as a general matter to update the record to ensure that changes in interrelated policies are coordinated. Further, comment is also requested regarding whether multiple cross interests and business relationships between stations, when viewed in combination, raise diversity and competition concerns, an issue that the commenters did not address.

43. On a more specific level, the Commission also seeks comment regarding a number of issues either not addressed in the comments or raised by the comments themselves. First, a number of parties argued that the Commission's ownership and attribution rules have supplanted the remaining aspects of the cross-interest policy that implicate diversity and competition concerns. It is true that the Commission's attribution rules have evolved to the point where they now apply to a number of interests formerly covered only by the cross-interest policy. The Commission seeks comment, however, on whether this argument is undermined by the proposed changes to our attribution rules. There remains the question of whether particular situations warrant case-by-case review to determine whether a cross-interest poses diversity and competition concerns. The Commission requests commenters to be specific in defining the particular situations and harms they may believe require continued application of the cross-interest policy.

44. The Commission also seeks further comment on the argument that the increased competition facing broadcasters eliminates the need for the cross-interest policy. We seek comment

on whether there are smaller markets with an insufficient number of media outlets to assume that competition will deter the abuses our cross-interest policy seeks to prevent. If parties believe this to be the case, they should define the size and nature of the markets that raise such concerns.

45. Commenters favoring the elimination of the remaining aspects of the cross-interest policy point to the burdens and uncertainty it creates. Parties should submit, if possible, evidence to support the assertion that the cross-interest policy has impeded the ability of broadcasters to raise capital. Comment is also sought regarding the extent, if any, of a shortage of key employees, especially in smaller markets, that may be exacerbated by the Commission's cross-interest policy.

46. In addition, commenters raised several questions regarding the alternative remedies that other parties maintain lessen the need for the remaining aspects of our cross-interest policy. How common, and how effective, are the internal conflict of interest policies cited by parties as providing a means to deter abuses stemming from key employee cross-interests? While the antitrust laws deter anticompetitive conduct, do they address the diversity concerns behind the cross-interest policy? The Commission seeks comment as to these questions and more generally as to the effectiveness of these alternative remedies.

47. Finally, no comment was received on ways to clarify and possibly narrow the cross-interest policy in the event the Commission determines that continued enforcement is appropriate. The Commission now seeks specific suggestions as to how the cross-interest policy might be clarified. The Commission also seeks comment on the following means of narrowing the policy: (1) Should we limit the application of the cross-interest policy to smaller markets where competition and diversity are of particular concern, and, if so, how should we define these markets? (2) Should we enforce the cross-interest policy only where the cross-interest, if attributable under our attribution rules, would violate the ownership rules? (3) With respect to nonattributable equity interests, should we limit review only to those interests reaching a certain level of ownership, or when those interests exceed or reach a certain percentage of the licensee's voting equity?

#### *B. Non-Equity Financial Relationships and Multiple Business Interrelationships*

48. In our review of the cross-interest policy, the Commission has focused on each cross-interest individually. But broadcasters in particular markets may also at times enter into a number of different business relationships between themselves. While the Commission recognizes the important role cooperative arrangements can play, we seek comment as to whether multiple "cross-interests" or otherwise nonattributable interests, when viewed in combination, raise diversity and competition concerns warranting regulatory oversight. The nature of broadcaster interrelationships can vary widely, and can include nonattributable interests, contractual relationships, family relationships in conjunction with other interests, and joint arrangements among stations, including time brokerage agreements (also referred to as local marketing agreements or LMAs) and joint sales arrangements. Many of these business interrelationships serve legitimate purposes and, indeed, have been encouraged by the Commission. The Commission seeks comment as to whether ostensibly separately owned stations could so merge their operations, through a variety of joint enterprises or cooperative agreements, perhaps in conjunction with other nonattributable interests, and thereby create such close business interrelationships as to implicate our diversity and competition concerns.

49. In 1984, the Commission decided to exclude debt from attribution on the supposition that attributing debt would severely restrict capital sources for broadcasters, and because debt financing was the least likely of all financing sources to involve an interest that implicates the multiple ownership rules. The Commission believes, at this point, that we should continue to exclude such relationships, standing alone, from attribution under the multiple ownership rules because any other approach would severely impair the ability of the broadcasting industry to obtain necessary capital. The Commission would neither wish to inhibit such a key means of obtaining capital nor to disrupt existing expectations and relationships to such a degree. If any commenters disagree with this conclusion, the Commission invites them to demonstrate that the benefits of extending our attribution rules to debt and other similar contractual relationships outweigh the significant drawbacks. At the same time, there may be circumstances where debtholding, accompanied by a number of other close