competition and diversity. Commenters are invited to submit further analyses of these proposals with reference to a Grade A contour definition of the relevant local geographic market for purposes of establishing local television ownership limits. However, commenters arguing that the economic benefits outweigh the potential harm to competition and diversity need to provide more specific evidence of the projected economic benefits as weighed against the potential harm to competition and diversity.

51. If the Commission were to maintain the existing prohibition against common ownership of broadcast television stations with contour overlap but allow waivers, it must also be determined whether to follow a case-by-case approach. Parties may wish to address the factors the Commission currently considers in one-to-a-market waivers, which include the financial condition of the station to be purchased, the competitive and diversity characteristics of the market, and potential public interest benefits.

52. Whether the Commission relaxes the rule or adopts a waiver standard, it is necessary to consider the number of independent suppliers serving the market. In a number of our past ownership proceedings, the Commission described and generally took into account the growth of new media that provide competitive and diversity enhancing alternatives to over-the-air television (or radio). However, with the exception of the one-to-a-market rule, the Commission fashioned the actual rule that counted only television stations or only radio stations in the local or in the national market. Given the conclusions discussed above regarding who are the relevant alternative suppliers and the kind of analysis we were concerned with (*e.g.*, competitive analysis versus diversity analysis), comment is invited on the issue of which market or analysis should control the determination of who are the independent suppliers that the Commission counts for purposes of setting local ownership limits.

53. In determining the number of independent suppliers for either competitive or diversity analysis of a relaxation to the contour overlap rule, the Commission must define the region in which the count is performed. One proposal is to treat the overlap area as the relevant region. Another proposal would be to treat the relevant region as the DMA within which the two broadcast television stations operate. This second proposal might allow joint ownership of two broadcast television stations with contour overlap when such joint ownership does not reduce the number of independent suppliers in their DMA below some critical level. The Commission solicits comment on both these proposals.

54. Finally, should the Commission decide to designate a minimum number of independent suppliers that should remain in a local market, the question must be addressed of whether we should choose a number which allows everyone in the market currently to acquire another station or whether to allow firms to be acquired on a first-come first-served basis until some minimum number of independent broadcast television stations remain. The Commission seeks guidance on which threshold number, if any, of remaining independent suppliers would satisfy both competition and diversity concerns. Further, comment is solicited on whether simply counting outlets is preferable to examining audience share for addressing the impact of an outlet on our competitive and diversity concerns. Finally, guidance is sought on which of the above approaches is the preferred approach with respect to these concerns.

## II. The Radio-Television Cross-Ownership Rule

55. The radio-television cross-ownership rule, or the one-to-a-market rule, basically provides that a company cannot own both a radio station and a television station located in a given ''local'' market. This rule was adopted to limit any potential market power in the media market, and to ensure a sufficient diversity of broadcast outlets, and was amended in 1989 to permit, on a waiver basis, radio-television mergers as long as the combination occurred in one of the top 25 television markets and 30 separately owned broadcast licensees remained after the combination, or if the waiver request involved a ''failed'' station, or if the waiver request satisfactorily addressed five criteria relating to public interest concerns. Whether this limit is still needed to promote these ends will be considered in the following discussion.

*Effects on Competition*

56. As indicated above, the Commission tentatively concludes that delivered video programming and delivered audio programming were sufficiently distinct products so as to represent different product markets for competitive analysis purposes. Commenters are asked to provide information on the nature and extent of harm, if any, from relaxing this rule on these markets.

57. The main potential economic cost of permitting the owner of a broadcast TV station to own a broadcast radio station in a local market, or vice versa, appears to be that it might give the company the market power to raise local radio and/or television advertising rates. People may listen to radio and watch television at different times while advertisers might view either means as an acceptable substitute for getting their message to the same people. On the other hand, some advertising messages may be more effective on television and others more effective on radio. However, as our earlier discussion indicated, we do not have sufficient evidence on this issue to address the effects of relaxing the one-to-a-market rule on the local advertising market. Assuming for the purposes of soliciting comments, that they are economically relevant substitutes, then the issue arises as to how many independent suppliers of local advertising are necessary to ensure that these markets are workably competitive. The Commission invites comment and evidence on both these issues.

58. Earlier in the FNPRM, the Commission tentatively concluded that video programs are sufficiently distinct products that the market for video program production should be considered a separate product market. By this logic, the markets for video program production and audio program production are arguably distinct markets. Thus, market power in the video program production market should not translate into market power in the audio program production market, unless the company already has such market power. However, these program production markets are national markets and presumably the national ownership limits for either broadcasting station type should prevent a company from acquiring such market power. Thus the Commission sees no reason why relaxing the one-to-a-market rule should harm competition in either of these supply markets, but seeks comment on this tentative conclusion.

59. The benefits of permitting the owner of a broadcast TV station to own a broadcast radio station in the same local market, or vice versa were discussed in the Memorandum Opinion and Order in MM Docket No. 87–7 (54 FR 32639, August 9, 1989). The company can reduce its video and audio programming costs through a reduction in personnel and overhead expenses and could use one advertising sales force instead of two for the two stations. This reduction in expense could make the joint enterprise more economically