viable than the separate operations were before the combination took place. It would be important for commenters to provide factual evidence on the size of such efficiency gains so the Commission could weigh them against any potential costs of relaxing the one-to-a-market rule.

Effects on Diversity

60. The radio-television ("one to a market") rule is intended to foster outlet and viewpoint diversity on the local level. The rule appears to be achieving the diversity goals for which it was adopted, but may not be necessary in its current form to ensure competitive and diverse radio and television markets. Nevertheless, as noted above, diversity has the most impact in the local context and we must be cautious in taking any action that could serve to reduce that diversity, particularly in smaller markets.

Tentative Proposals

61. The NPRM in this proceeding sought comment on a variety of proposed relaxations to the one-to-amarket rule, including: (1) Elimination of the rule—using local limits of each service to prevent undue concentration; (2) allowing common ownership of one AM, one FM and one TV station per market; (3) allowing TV-AM combinations only; and, (4) codifying current waiver criteria and applying them to all markets, and not just the top 25 markets, where 30 independently owned voices remain. Commenters were generally in favor of elimination or relaxation of the current rule, arguing that the economies from joint operations would allow more stations to remain on the air and would also permit licensees to provide better service to the public.

62. The Commission tentatively concludes that there are two alternative approaches towards modifying the oneto-a-market rule. On the one hand, the Commission could find that radio stations and television stations do not compete in the same local advertising, program delivery, or diversity markets and propose to eliminate this rule entirely and rely on local ownership rules to ensure competition and diversity at the local level. On the other hand, the Commission could conclude that radio and television do compete in some or all of these local markets, in which case we propose to allow radiotelevision combinations in those markets that have a sufficient number of remaining alternative suppliers/outlets as to ensure sufficient diversity and workable competition. In this regard, the Commission seeks comment on whether "30 separately owned, operated and controlled broadcast licensees' continues to represent the appropriate minimum requirement, or whether diversity and competition concerns can be satisfied if a lesser number of licensees remain, such as 20. Further, comment is invited on whether this count should be for independent supplier/outlets within a DMA or some other geographic market delineation. Finally, the Commission notes that if the latter proposal, to modify rather than eliminate the rule were to be adopted, we also propose to continue accepting waivers for "failed" broadcast stations as currently provided for in note 7 of § 73.3555 of the Commission's Rules, and to continue evaluating other waiver requests on the basis of the five considerations set forth in the Second Report and Order (54 FR 08744, March 2, 1989) and the Memorandum and Order (as cited above) in MM Docket No. 87-7.

VIII. Local Marketing Agreements

Description

63. A Local Marketing Agreement (LMA) is a type of joint venture that generally involves the sale by a licensee of discrete blocks of time to a broker who then supplies the programming to fill that time and sells the commercial spot announcements to support it. Such agreements enable separately owned stations to function cooperatively via joint advertising, shared technical facilities, and joint programming arrangements. In MM Docket 91-140, the Commission adopted guidelines primarily applicable to the AM and FM services for LMAs. We also decided that TV station LMAs should be kept at the station and be made available for inspection upon request by the Commission.

64. The NPRM sought comment on the prevalence of TV LMAs, whether they presented the same types of competitive and diversity concerns that the Commission found in the radio context, and whether they should be subject to some limitations. Few commenters addressed LMAs, and those who did comment on this issue basically expressed two divergent general views: (1) That TV LMAs should remain unregulated absent evidence of abuse, irrespective of whether new TV multiple ownership rules are adopted; or (2) that if the Commission did adopt rules governing TV LMAs, such rules should be no more restrictive than those governing radio LMAs. The Commission seeks further comment and specific information on this matter to enable us to choice between these views and

adopt appropriate guidelines for TV LMAs.

65. Specifically, the Commission solicits specific quantitative data about TV LMAs, indicating the number of such agreements currently in existence. If such comment is not received, it may be necessary for the Commission to conduct a survey to obtain this quantitative data. Also do TV LMAs serve the same purposes as radio LMAs or are there significant differences between them? What benefits accrue to the parties involved in TV LMAs? What benefits accrue to the public from TV LMAs?

Analysis and Tentative Proposals

66. The Commission believes that, to ensure that TV stations using LMAs comply with the TV multiple ownership rules, regardless of whether such rules are modified, some guidelines may be necessary. We tentatively propose to treat LMAs involving television stations in the same basic manner as radio station LMAs. That is, time brokerage of another television station in the same market for more than fifteen percent of the brokered station's weekly broadcast hours would result in counting the brokered station toward the brokering licensee's national and local ownership limits. If the local TV multiple ownership rules are not relaxed, such an attribution provision would preclude TV LMAs in any market where the time broker owns or has an attributable interest in another TV station. Additionally, TV LMAs would be required to be filed with the Commission in addition to the existing requirement that they be kept at the stations involved in an LMA. Furthermore, the TV LMA guidelines would allow for "grandfathering" TV LMAs entered into prior to the adoption date of the FNPRM, subject to renewability and transferability guidelines similar to those governing radio LMAs.

67. To test the appropriateness of these proposals, the Commission seeks comment on the following issues. Are there any compelling reasons why the Commission should not apply the existing radio LMA guidelines, including the filing requirements, the limitation on program duplication, and the ownership attribution provisions, to TV LMAs? If the radio ownership attribution rule applies to TV LMAs, should the Commission use the fifteen percent benchmark that it used in the radio context, or is some other percentage more appropriate? What effects, if any, should LMAs have on the renewal expectancy of TV stations? What effects, if any, would these