

# Changes in Ownership Attribution Rules

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The Commission has modified or clarified several aspects of its attribution and multiple ownership rules that apply to broadcasting, cable and the multipoint distribution service.

The Commission's fundamental approach to whether an otherwise non-attributable ownership interest is attributable remains the "Equity/Debt Plus" (EDP) rule. Under that rule, an interest is attributable if it exceeds 33% of the total asset value of a station (aggregating both equity and debt) and where the investor either supplies over 15% of a station's total weekly broadcast programming or has an attributable interest in another broadcast station, newspaper or cable system in the same market.

**Valuing an Entity's "Total Assets"** - The Commission has now clarified that for purposes of the EDP rule a company's "total assets" should be based upon a valuation method relevant at the time an application or ownership report is filed. Thus, for a transfer of control or license assignment or an ownership report filed after consummation of a transfer or assignment, the sales price is to be used. Otherwise, book value (as defined under standard financial accounting practices), fair market value or some other value may be used. The Commission cautions, though, that it reserves the right to review these determinations, and so applicants should retain the documentation upon which the value has been based.

**Changes in Equity and Debt Interest** - The Commission notes that an individual's percentage of a company's total capital may change over time, with the result that a previously compliant interest may end up exceeding the 33% benchmark. This could occur, for example, when a loan is repaid and is no longer part of a company's total debt plus equity. The Commission notes that all parties are required to remain in compliance with its benchmark, but will provide a reasonable time (no more than 12 months) from the time of a sudden, unforeseeable change within which to achieve compliance. The Commission cautions that scheduled loan repayments would not be deemed sudden or unforeseeable.

**Treatment of Options, Warrants and Loan Guarantees** - Until exercised, options and warrants are not counted. However, the amount of consideration paid for an option or a warrant would be included in the holder's equity or debt investment in a licensee. Similarly, a guarantor's financial contributions, including, for example, amounts placed into escrow as security in connection with a guaranty, would be counted.

**The Multiplier** - The Commission will use a "multiplier" in applying the EDP rule to indirect interests. However, interests in excess of 50% will not be deemed 100% control (as is done in other attribution calculations). Thus, for example, if investor A has a total debt and equity interest in corporation B of 60%, and corporation B, in turn, owns 40% of a licensee, then investor A's interest in the licensee would be 24% (60% times 40%) for purposes of applying the EDP rule and would not be deemed attributable. The same multiplier process will apply not only to corporations but also to partnerships, limited liability companies and other forms of organizations.

**Officers and Directors** - For purposes of the EDP rule, all officers and directors of an entity are deemed to have a cognizable interest in that entity and all of its subsidiaries regardless of the size of their investment (if any).

**Single Majority Shareholder Exemption** - The Commission has eliminated the rule which previously exempted from attribution all minority interests in a company having a single owner of more than 50%. However, to avoid disruption of current ownership patterns and investments, the Commission will grandfather all minority interests in existence as of December 14, 2000 until such time as the interest is assigned or transferred.

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