

[US] Federal Communications Commission Approves Transfer of CBS to Viacom While It Proposes to Modify Media Ownership Rules

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On 3 May 2000, the Federal Communications Commission (FCC) approved the transfer of control of the CBS Corporation to Viacom, Inc. The approval will result in the transfer of 38 television stations and 162 radio stations, as well as several translator and satellite stations.

In its order approving the transfer, the FCC granted the combined company twelve months to comply with the FCC's "Dual Network Rule." The Dual Network Rule prevents an entity from owning two or more television networks. Presently, CBS owns the CBS television network, one of the nation's four largest networks, while Viacom owns UPN, one of the nation's two smaller networks.

Additionally, the FCC gave the combined entity twelve months to meet the National Television Ownership Cap, which limits the aggregate number of households reached by a network's owned and operated television stations to 35%. The FCC noted that upon consummation of the merger, the audience reach of the combined entity would be 41%.

Furthermore, the FCC gave the combined entity six months to conform to the Radio-Television Cross-Ownership Rules in several cities where the rules would be violated as a result of the merger. Generally, these rules permit same-market joint ownership of radio and television facilities, but only in a manner proportionate to the number of independently-owned media voices in the market.

Shortly after the FCC released its order approving the merger, on 31 May, 2000, it announced that it would soon release a Notice of Proposed Rulemaking (NPRM) addressing many of the issues presented in the CBS/Viacom merger, including the Dual Network Rule, the National Television Ownership Cap and several rules impacting Local Radio Ownership Rules. The FCC announced that in its NPRM it would propose modifying the Dual Ownership Rule to permit ownership of one of the four major networks (CBS, ABC, NBC and Fox) and one of the smaller networks (UPN and WB). However, it also announced that it does not intend to modify the 35% National Television Ownership Cap. It remains unclear at this time how such proposed rule changes, if enacted, would impact on the CBS/Viacom merger or future network mergers.

Memorandum Opinion and Order, In the Matter of the Applications of Shareholders of CBS Corporation and Viacom, Inc., FCC 00-155 (3 May 2000).

