

1 a controlling interest in on the day before the
2 date on which the established broadcaster and
3 the emerging broadcaster submit the applica-
4 tion for the Program under subsection (c);

5 (B) a cap, expressed in terms of a dollar
6 amount, on the gross revenue that an emerging
7 broadcaster may earn during the calendar year
8 ending most recently before the date on which
9 the established broadcaster and the emerging
10 broadcaster submit the application for the Pro-
11 gram under subsection (c); and

12 (C) a requirement for the established
13 broadcaster to have a controlling interest in—

14 (i) if any incubated station under such
15 relationship will be a radio broadcast sta-
16 tion, any class of AM or FM radio broad-
17 cast station; and

18 (ii) if any incubated station under
19 such relationship will be a television broad-
20 cast station, any class or assignment of tel-
21 evision broadcast station.

22 (2) Criteria for the incubation activities that an
23 established broadcaster shall perform as part of such
24 relationship. Such activities shall include the provi-
25 sion by the established broadcaster to the emerging

1 broadcaster of training, financing, or access to re-
2 sources.

3 (3) A minimum duration of 2 years for such re-
4 lationship.

5 (c) APPLICATION PROCESS.—

6 (1) JOINT APPLICATION.—The Commission
7 shall require an established broadcaster and an
8 emerging broadcaster who propose to enter into a
9 qualifying incubation relationship under the Pro-
10 gram to submit to the Commission a joint applica-
11 tion for participation in the Program.

12 (2) PROCESS, FORMS, AND MATERIALS.—The
13 Commission shall develop an application process and
14 related forms and materials necessary to carry out
15 the Program.

16 (3) APPLICATION REVIEW PROCESS.—

17 (A) DEADLINE.—

18 (i) IN GENERAL.—Except as provided
19 in clause (ii) and subparagraph (B), the
20 Commission shall approve or deny an ap-
21 plication for participation in the Program
22 not later than 90 days after the date of the
23 submission of the application.

24 (ii) ADDITIONAL TIME NEEDED BY
25 COMMISSION.—If the Commission deter-

1 mines that, because an excessive number of
2 applications have been filed at one time,
3 the Commission needs additional time for
4 employees of the Commission to process
5 the applications, the Commission may ex-
6 tend the deadline described in clause (i) for
7 not more than 45 days.

8 (B) OPPORTUNITY FOR APPLICANT TO
9 CURE DEFICIENCY.—If the Commission deter-
10 mines that an application is materially defi-
11 cient, the Commission shall provide the appli-
12 cants a 15-day period to cure the defect before
13 denying the application. If such period would
14 extend beyond the deadline under subparagraph
15 (A) for approving or denying the application,
16 such deadline shall be extended through the end
17 of such period.

18 (C) EFFECT OF DENIAL.—Denial of an ap-
19 plication for participation in the Program shall
20 not preclude the applicants from resubmitting
21 the application or any applicant from submit-
22 ting a new application for participation in the
23 Program at a later date.

24 (4) CERTIFICATIONS.—The Commission shall
25 require each applicant submitting an application for

1 participation in the Program to certify to the Com-
2 mission in the application that, as of the date of the
3 submission of the application—

4 (A) the applicant intends to participate, in
5 good faith, in the Program; and

6 (B) in the case of an emerging broad-
7 caster, the applicant would be unable, without
8 the qualifying incubation relationship proposed
9 in the application—

10 (i) in the case of any incubated sta-
11 tion in which the applicant has a control-
12 ling interest as of such date, to continue to
13 successfully operate such station; and

14 (ii) in the case of any incubated sta-
15 tion in which the applicant proposes to ac-
16 quire a controlling interest after such date,
17 to acquire such controlling interest.

18 (d) WAIVER OF LOCAL OWNERSHIP RULES.—

19 (1) IN GENERAL.—If the Commission makes
20 the determination described in paragraph (2) with
21 respect to an established broadcaster and an emerg-
22 ing broadcaster, the Commission shall grant to the
23 established broadcaster a waiver of paragraph (a) or
24 (b) of section 73.3555 of title 47, Code of Federal
25 Regulations (or any successor regulation) to the ex-

1 tent necessary to permit the established broad-
2 caster—

3 (A) to hold a cognizable interest in any in-
4 cubated station under the qualifying incubation
5 relationship; and

6 (B) to hold a cognizable interest in—

7 (i) if the established broadcaster held
8 a controlling interest in an AM or FM
9 radio broadcast station on the day before
10 the date on which the established broad-
11 caster and the emerging broadcaster sub-
12 mitted the application for the Program
13 under subsection (c), 1 radio broadcast
14 station in excess of the number of radio
15 broadcast stations in which the established
16 broadcaster is permitted to hold a cog-
17 nizable interest under section 73.3555(a)
18 of such title in a radio market that is—

19 (I) comparable to the radio mar-
20 ket of any radio broadcast station
21 that is an incubated station under the
22 qualifying incubation relationship, as
23 determined by the Commission; and

24 (II) selected by the established
25 broadcaster;

1 (ii) if the established broadcaster held
2 a controlling interest in a television broad-
3 cast station on the day before the date on
4 which the established broadcaster and the
5 emerging broadcaster submitted the appli-
6 cation for the Program under subsection
7 (c), 1 television broadcast station in excess
8 of the number of television broadcast sta-
9 tions in which the established broadcaster
10 is permitted to hold a cognizable interest
11 under section 73.3555(b) of such title in a
12 DMA that is—

13 (I) specified in paragraph (3)(A);

14 and

15 (II) selected by the established
16 broadcaster; or

17 (iii) if the established broadcaster held
18 a controlling interest in an AM or FM
19 radio broadcast station and a television
20 broadcast station on the day before the
21 date on which the established broadcaster
22 and the emerging broadcaster submitted
23 the application for the Program under sub-
24 section (c), either (at the option of the es-
25 tablished broadcaster)—

1 (I) 1 radio broadcast station in
2 excess of the number of radio broad-
3 cast stations in which the established
4 broadcaster is permitted to hold a
5 cognizable interest under section
6 73.3555(a) of such title in a radio
7 market determined in the same man-
8 ner as under clause (i); or

9 (II) 1 television broadcast station
10 in excess of the number of television
11 broadcast stations in which the estab-
12 lished broadcaster is permitted to hold
13 a cognizable interest under section
14 73.3555(b) of such title in a DMA de-
15 termined in the same manner as
16 under clause (ii).

17 (2) DETERMINATION OF COMMISSION DE-
18 SCRIBED.—The determination described in this
19 paragraph is a determination that an established
20 broadcaster and an emerging broadcaster have en-
21 tered into and are carrying out a qualifying incuba-
22 tion relationship under the Program in accordance
23 with an application approved by the Commission
24 under subsection (c) and are in compliance with the

1 other requirements for the Program established by
2 the Commission.

3 (3) SPECIFICATION OF DMAS.—

4 (A) IN GENERAL.—The DMAs specified in
5 this subparagraph are—

6 (i) if the highest-ranked DMA in
7 which an incubated station under the
8 qualifying incubation relationship is lo-
9 cated is ranked not lower than 25, all
10 DMAs;

11 (ii) if the highest-ranked DMA in
12 which an incubated station under the
13 qualifying incubation relationship is lo-
14 cated is ranked lower than 25 but not
15 lower than 75, the DMAs ranked lower
16 than 25; and

17 (iii) if the highest-ranked DMA in
18 which an incubated station under the
19 qualifying incubation relationship is lo-
20 cated is ranked lower than 75, the DMAs
21 ranked lower than 75.

22 (B) DMA RANKINGS.—For purposes of
23 subparagraph (A), a DMA ranking refers to the
24 rankings of DMAs based on the number of tele-
25 vision households, as determined by Nielsen

1 Media Research and published most recently be-
2 fore the granting of the waiver in the Nielsen
3 Station Index Directory and Nielsen Station
4 Index United States Television Household Esti-
5 mates or any successor publication.

6 (4) TERMINATION; REVOCATION.—

7 (A) TERMINATION.—In establishing the
8 Program under subsection (a), the Commission
9 shall by regulation specify when a waiver grant-
10 ed under paragraph (1) shall terminate.

11 (B) REVOCATION.—Except as provided in
12 paragraph (5), the Commission shall revoke a
13 waiver granted under paragraph (1) if the Com-
14 mission determines that the established broad-
15 caster and the emerging broadcaster are not
16 carrying out the qualifying incubation relation-
17 ship in accordance with the application ap-
18 proved by the Commission under subsection (c)
19 or are not in compliance with the other require-
20 ments of the Program established by the Com-
21 mission.

22 (5) TRANSFER OF INCUBATED STATION.—

23 (A) IN GENERAL.—The transfer by an
24 emerging broadcaster of a controlling interest
25 in an incubated station to another person shall

1 not terminate the qualifying incubation rela-
2 tionship under the Program or affect any waiv-
3 er granted to an established broadcaster under
4 paragraph (1), if—

5 (i) such other person meets the re-
6 quirements for an emerging broadcaster
7 under the Program;

8 (ii) such other person and the estab-
9 lished broadcaster continue, with respect to
10 such station, to carry out the qualifying in-
11 cubation relationship in accordance with
12 the application approved by the Commis-
13 sion under subsection (c) and to comply
14 with the other requirements of the Pro-
15 gram established by the Commission; and

16 (iii) if the original emerging broad-
17 caster retains a controlling interest in any
18 incubated station under the qualifying in-
19 cubation relationship, such emerging
20 broadcaster and the established broad-
21 caster continue, with respect to any such
22 station, to carry out the qualifying incuba-
23 tion relationship in accordance with the ap-
24 plication approved by the Commission
25 under subsection (c) and to comply with

1 the other requirements of the Program es-
2 tablished by the Commission.

3 (B) TREATMENT AS SINGLE QUALIFYING
4 INCUBATION RELATIONSHIP.—If, after a trans-
5 fer described in subparagraph (A), the original
6 emerging broadcaster retains a controlling in-
7 terest in any incubated station under the quali-
8 fying incubation relationship, any such station
9 and any station in which a controlling interest
10 has been so transferred shall be treated as
11 being part of a single qualifying incubation re-
12 lationship.

13 (e) EXCLUSION FROM QUADRENNIAL REVIEW.—The
14 Program, any regulations promulgated by the Commission
15 to implement the Program, and any waiver granted under
16 subsection (d)(1) shall not be subject to review under sec-
17 tion 202(h) of the Telecommunications Act of 1996 or sec-
18 tion 11 of the Communications Act of 1934 (47 U.S.C.
19 161).

20 (f) IMPLEMENTATION AND ENFORCEMENT.—The
21 Commission shall implement and enforce this section as
22 if this section is a part of the Communications Act of 1934
23 (47 U.S.C. 151 et seq.). A violation of this section, or a
24 regulation promulgated under this section, shall be consid-

1 ered to be a violation of the Communications Act of 1934,
2 or a regulation promulgated under such Act, respectively.

3 (g) CONSIDERATION IN COMMUNICATIONS MARKET-
4 PLACE REPORT.—Section 13(d) of the Communications
5 Act of 1934 (47 U.S.C. 163(d)) is amended by adding at
6 the end the following:

7 “(4) CONSIDERING EFFECTIVENESS OF BROAD-
8 CAST INCUBATOR PROGRAM.—In assessing the state
9 of competition under subsection (b)(1) and regu-
10 latory barriers under subsection (b)(3), the Commis-
11 sion, with the input of the Office of Communications
12 Business Opportunities of the Commission, shall
13 consider the efficacy of the Broadcast Incubator
14 Program established under section 5 of the Expand-
15 ing Broadcast Ownership Opportunities Act of 2019
16 in promoting competition.”.

17 (h) DEFINITIONS.—In this section:

18 (1) COGNIZABLE INTEREST.—The term “cog-
19 nizable interest” has the meaning given such term in
20 note 1 to section 73.3555 of title 47, Code of Fed-
21 eral Regulations (as in effect on the date of the en-
22 actment of this Act).

23 (2) DMA.—The term “DMA” means a Des-
24 ignated Market Area, as determined by Nielsen
25 Media Research and published in the Nielsen Sta-

1 tion Index Directory and Nielsen Station Index
2 United States Television Household Estimates or
3 any successor publication.

4 (3) EMERGING BROADCASTER.—The term
5 “emerging broadcaster” means a person who—

6 (A) has a controlling interest in a broad-
7 cast station (including any class or assignment
8 of television broadcast station and any class of
9 AM or FM radio broadcast station) that such
10 person would be unable to continue to operate
11 successfully without a qualifying incubation re-
12 lationship under the Program; or

13 (B) plans to acquire a controlling interest
14 in a broadcast station (including any class or
15 assignment of television broadcast station and
16 any class of AM or FM radio broadcast station)
17 that such person would be unable to acquire
18 without a qualifying incubation relationship
19 under the Program.

20 (4) ESTABLISHED BROADCASTER.—The term
21 “established broadcaster” means a person who—

22 (A) has a controlling interest in a broad-
23 cast station (including any class or assignment
24 of television broadcast station and any class of
25 AM or FM radio broadcast station); and

1 (B) is established in the broadcasting in-
2 dustry (as determined by the Commission).

3 (5) INCUBATED STATION.—The term “incu-
4 bated station” means a broadcast station—

5 (A) in which an emerging broadcaster has
6 (or plans to acquire) a controlling interest; and

7 (B) with respect to which an established
8 broadcaster performs (or will perform) incuba-
9 tion activities as part of a qualifying incubation
10 relationship under the Program.

11 (6) PROGRAM.—The term “Program” means
12 the Broadcast Incubator Program established under
13 subsection (a).

Page 12, strike lines 15 through 19.

