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Report to Congressional Committees

March 2016

LOCAL MEDIA ADVERTISING

FCC Should Take Action to Ensure Television Stations Publicly File Advertising Agreements

GAO-16-349

GAO Highlights

Highlights of GAO-16-349, a report to congressional committees

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LOCAL MEDIA ADVERTISING

FCC Should Take Action to Ensure Television Stations Publicly File Advertising Agreements

Why GAO Did This Study

Television stations, which provide free, over-the-air programming, and MVPDs, which provide subscription television services, compete with other local media for advertising revenue. FCC rules limit the number of local stations an entity can own in one market to promote competition and other public interests. Some station owners created joint sales agreements to potentially cut costs. In 2014, finding that such agreements confer influence akin to ownership, FCC adopted rules that require that where such agreements encompass more than 15 percent of the weekly advertising time of another station, they will count toward FCC's ownership limits. MVPDs also have arrangements ("interconnects") for jointly selling advertising in a local market.

GAO was asked to examine the role of advertising agreements in local media markets. This report examines (1) the prevalence and characteristics of such agreements, and (2) stakeholders' perspectives on these agreements. GAO examined publicly available joint sales agreements and interviewed FCC officials and media, public interest, academic, and financial stakeholders about their views. Stakeholders were selected to represent a range of companies and from those who submitted comments on FCC's rules, among other reasons.

What GAO Recommends

FCC should review joint sales agreements filed in stations' public files to identify missing agreements and take action to ensure the files are complete. FCC said it would take action to ensure compliance with its public file requirement.

View GAO-16-349. For more information, contact Mark L. Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

What GAO Found

Agreements among station owners allowing stations to jointly sell advertising—known as "joint sales agreements"—are mostly in smaller markets and include provisions such as the amount of advertising time sold and how stations share revenue. Some of these agreements also included provisions typical of other types of sharing agreements. The Federal Communications Commission (FCC) requires each station involved in a joint sales agreement to file the agreement in the station's public inspection file. According to FCC, these files are meant to provide the public increased transparency about the operation of local stations and encourage public participation in ensuring that stations serve the public interest. GAO reviewed all joint sales agreements found in stations' public files and identified 86 such agreements among stations. GAO also found inconsistencies in the filing of these agreements. Specifically, 25 of these agreements were filed by one station but not by others involved in the agreements. FCC addresses compliance with this filing requirement through its periodic reviews of station licensing and in response to complaints. However, FCC officials said neither of these approaches has identified agreements that should be filed but have not been, and FCC has not reviewed the completeness of stations' joint sales agreement filings. If stations with joint sales agreements are not filing these agreements as required, a member of the public reviewing such a station's public file would not see in the file that the station's advertising sales involve joint sales with another station. Most multichannel video programming distributor (MVPD) stakeholders GAO interviewed said that interconnects exist in most markets. These arrangements allow an advertiser to purchase advertising from a single point to be simultaneously distributed to all MVPDs in a local market participating in the interconnect.

Stakeholders GAO interviewed—including station owners, MVPDs, media industry associations, and financial analysts—said that joint sales agreements and interconnects can provide economic benefits for television stations and MVPDs, respectively. Joint sales agreements allow stations to cut advertising costs, since one station generally performs this role for both stations. For example, some station owners said they used the savings from joint sales agreements and other service-sharing agreements to invest in and improve local programming. Some selected station owners and financial analysts said that stations in smaller markets are more likely to use joint sales agreements because stations in smaller markets receive less advertising revenue while having similar costs as stations in larger markets. Other stakeholders, including public-interest groups and academics, raised concerns about how these agreements may negatively affect local markets. For example, some public-interest groups said that using these agreements reduces competition in the local market and allows broadcasters to circumvent FCC's ownership rules. MVPDs stated that interconnects allow MVPDs to better compete with broadcasters for local advertising revenue by increasing the potential reach of an advertisement to subscribers of MVPDs participating in the interconnect. Some small MVPDs raised concerns that large MVPDs that manage interconnects may impose unfair terms as a condition of their participation in the interconnect. However, large MVPDs said they do not engage in such practices.

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Abbreviations

DMA	designated market area
FCC	Federal Communications Commission
FNPRM	Further Notice of Proposed Rulemaking
JSA	joint sales agreement
local station	local broadcast television station
MVPD	multichannel video programming distributor
RTDNA	Radio Television Digital News Association

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U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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March 10, 2016

The Honorable Fred Upton
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Greg Walden
Chairman
The Honorable Anna G. Eshoo
Ranking Member
Subcommittee on Communications and Technology
Committee on Energy and Commerce
House of Representatives

Local broadcast television stations (local stations) use public airways to broadcast their signals and by law must operate in the public interest. The Federal Communications Commission (FCC), which is responsible for regulating local stations, has long-standing policy goals to promote the public interest by encouraging competition, localism, and diversity.[1] Guided by these policy goals, FCC established media ownership rules that, among other things, limit the number of local television stations an entity can own or control in local markets and nationally. FCC is also responsible for monitoring and reporting to Congress on the status of

[1]FCC has defined these three policy goals as follows. Competition: FCC seeks to create a marketplace in which broadcast programming meets the needs of consumers and has stated that competition drives stations to invest in better local programming. When reviewing competition in local television markets, FCC considers competition for viewers and advertisers. Diversity: FCC seeks to maintain and enhance diversity based on the idea that diverse ownership among media outlets increases the number of viewpoints in broadcast content compared to what would otherwise be the case in a more concentrated ownership structure. Localism: FCC seeks to ensure that each station meets the needs and issues of the community that it is licensed to serve with the programming that it offers. See *In the Matter of 2014 Quadrennial Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996,* Further Notice of Proposed Rulemaking and Report and Order, 29 FCC Rcd 4371, 4377, ¶ 14, 4381, ¶ 22 (2014) *(2014 Quadrennial Review FNPRM and Report and Order).*

competition among companies that provide subscription television services through cable (e.g., Comcast), satellite (e.g., DIRECTV), or telecommunications networks (e.g., AT&T), which are referred to as "multichannel video programming distributors" (MVPD). Currently, there are no similar ownership limits on MVPDs, although FCC has attempted to prescribe limits that were overturned by the courts.[2]

Local stations and MVPDs both sell advertising in local markets that also include newspapers, direct mail, and, more recently, Internet-based media. Some local-station owners have entered into agreements to share resources with other stations, which may allow stations to realize economic efficiencies. One type of these agreements is the joint sales agreement (JSA), under which one local station sells the advertising time for another local station, usually within the same local market. Additionally, in some local markets, MVPDs have also entered into arrangements known as "interconnects" to pool a portion of their advertising time to be sold by a single MVPD, often the largest one in the market. Some policymakers have raised questions about how sharing agreements such as JSAs may affect competition and programming among competing local stations.

By statute, FCC is required to review its media ownership rules every 4 years and determine whether any of its rules remain necessary in the public interest.[3] FCC completed its last such review in 2007, releasing its decision in 2008. In 2010, FCC initiated but did not complete a review of its media ownership rules. In 2014, FCC initiated another review of its

[2]FCC is required by law to prescribe rules and regulations that, among other things, establish "reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest." 47 U.S.C. § 533(f)(1)(A). FCC first prescribed rules in 1993, but in 2009, the United States Court of Appeals for the D.C. Circuit found that FCC's rule that prevented an individual cable operator from serving more than 30 percent of MVPD subscribers nationwide was arbitrary and capricious and vacated the rule. Specifically, the court found that FCC had failed to demonstrate that allowing a cable operator to serve more than 30 percent of all cable subscribers would threaten to reduce either competition or diversity in programming. *Comcast Corp. v. FCC,* 579 F.3d. 1, 10 (D.C. Cir. 2009).

[3]Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-112 (Feb. 8, 1996), as amended by the Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3, 100 (Jan. 23, 2004). FCC began its 2010 review in 2009; in April 2014, in announcing the 2014 review, FCC incorporated into the new review the record from the 2010 review. We did not review FCC's efforts to review its media ownership rules within the scope of this report.

media ownership rules into which FCC incorporated the record from the review begun in 2010. This review is still ongoing. However, in 2014, in an accompanying ruling, FCC found that a station that entered into a JSA to sell more than 15 percent of the weekly advertising time of another station in the same market could exert significant influence over that other station—influence akin to ownership. FCC therefore adopted the rule that in such situations, FCC would count the station whose advertising was being sold toward the ownership limits of the station selling the advertising.[4] In its order issued with the new rule, FCC stated that JSAs should not be used to circumvent its local-station ownership rules, which are designed to protect competition.[5] The new JSA rules are currently in effect. However, stations with existing JSAs that would result in a violation of the local station ownership rules have until October 1, 2025, to come into compliance.[6] Representatives of the broadcast television industry brought suit against FCC over the new rules in 2014, claiming, among other things, that FCC acted improperly by promulgating rules that require that certain JSAs be counted towards a local station's ownership limits without determining whether FCC's ownership rules remain in the public

[4]47 C.F.R. § 73.3555 note 2(k).

[5]*2014 Quadrennial Review FNPRM and Report and Order,* 29 FCC Rcd at 4538, ¶ 359.

[6]Stations with JSAs existing at the time FCC issued its rules that result in violations of the local station ownership rules originally had until June 2016 to come into compliance, but the STELA Reauthorization Act of 2014 extended the date of compliance to December 2016, Pub. L. No. 113-200, § 104, 128 Stat. 2059, 2063 (Dec. 4, 2014). The Consolidated Appropriations Act, 2016, enacted on December 18, 2015, further extended the compliance deadline to October 1, 2025. Pub. L. No. 114-113, div. E, title VI, § 628, 129 Stat. 2242. Additionally, legislation that would exempt existing JSAs from FCC's new rules was approved by the Senate Committee on Commerce, Science and Transportation on June 25, 2015. S. 1182, 115th Cong. (2015).

interest and without considering the public-interest benefits of JSAs.[7] The lawsuit is ongoing.

You asked us to review issues related to local media advertising markets. This report examines (1) what available information indicates about the prevalence and characteristics of advertising sales agreements among local stations or MVPDs and (2) selected stakeholders' perspectives on the impacts of advertising sales agreements among local stations or MVPDs.

To determine the prevalence and characteristics of JSAs among local stations, we obtained and analyzed all local television JSAs found in the stations' public inspection files on FCC's website.[8] To provide assurance that our review of JSAs was as comprehensive as possible, we also purchased data on JSAs from BIA/Kelsey, a media research and consulting firm, which we compared with the JSAs we identified in the stations' files; we did not identify any additional JSAs that were not available in the stations' public inspection files. We assessed the reliability of using BIA/Kelsey's JSA data for this purpose by obtaining information from BIA/Kelsey about how the data were collected and maintained and determined that the data were sufficiently reliable for this purpose. We examined the filings of JSAs in stations' public inspection files to determine if any JSAs were filed in one station's folder but missing from the folder of another station involved in the JSA. We evaluated FCC's efforts to ensure completeness of stations' JSA filings based on FCC's rules and stated expectations for stations' public files and federal

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[7]*See Howard Stirk Holdings v. FCC, No. 14-1090, D.C. Cir*. (filed June 18, 2014)(transferred to the U.S. Court of Appeals for the Third Circuit, Nov. 24, 2015). The litigation is a consolidation of petitions filed by two broadcasters, a national association representing broadcasters, and Prometheus Radio Project challenging FCC's order that provides that FCC will count local stations in the same market brokered under a JSA that encompasses more than 15 percent of the weekly advertising time for the brokered station toward the brokering station's permissible ownership total. The litigants allege, among other things, that FCC violated the Telecommunications Act of 1996 by issuing the JSA rule prior to determining if the broadcast ownership rules are still in the public interest, that no record evidence supports FCC determination that TV JSAs for over 15 percent of weekly advertising time confer control or influence over brokered local stations, and that FCC's decision to attribute JSAs but not shared service agreements was arbitrary and capricious.

[8]Television stations are required to file a number of documents in their public station files, including copies of active JSAs. 47 C.F.R. § 73.3526(e)(16). These files are available online from FCC's website at https://stations.fcc.gov/ (accessed Nov. 5, 2015).

internal control standards related to information and communications.[9] To determine the prevalence and characteristics of interconnects among MVPDs, we interviewed FCC officials and the following selected stakeholders:

- eight local station owners that we selected to represent companies of various sizes and those that do and do not have JSAs;[10]
- five MVPDs selected to represent cable, satellite, and telecommunications providers and two companies selling advertising on their behalf;
- five media industry associations selected because they represent broadcasters, large and small MVPDs, and advertising sellers;
- two public interest groups and two academic stakeholders selected because they filed comments in FCC's JSA rulemaking or were recommended by other stakeholders;[11] and
- five financial analysts selected based on our prior work and our research on their backgrounds.[12]

[9]GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

[10]We excluded local station owners that are party to the lawsuit over FCC's JSA rulemaking.

[11]Initially, we also sought information about JSAs among broadcast radio stations. FCC adopted rules in 2003 that made radio stations' JSAs attributable under FCC's ownership rules. Broadcast radio stakeholders we interviewed told us that JSAs are not common among radio stations, since they are subject to FCC's radio JSA rule and because FCC's radio ownership limits are less strict than those for television. We contacted owners of broadcast radio stations, but most of these companies either did not respond to our requests for interviews or told us they had little or no information about radio JSAs. We were able to conduct interviews with the Radio Advertising Bureau and Salem Media Group, a radio-station owner. In reviewing a 2013 FCC report on radio station filings, we identified only four JSAs between radio stations. Due to the limited available information about radio JSAs, we have excluded them from our analysis and have focused on television JSAs and MVPD interconnects.

[12]Our prior work includes a 2014 media ownership report in which we found that FCC evaluated broadcaster agreements—including JSAs—that occur in the context of a merger or acquisition, but that FCC had not collected data or completed a review to understand the use and effects of broadcaster agreements. In that report, we recommended that FCC determine whether it needed to collect additional data to understand the prevalence and context of broadcast agreements and whether broadcaster agreements affect its media policy goals of competition, localism, and diversity. FCC agreed with the recommendation and noted that it had taken initial steps to address the recommendation, including proposing disclosure of sharing agreements. GAO, *Media Ownership: FCC Should Review the Effects of Broadcaster Agreements on Its Media Policy Goals*, GAO-14-558 (Washington, D.C.: June 27, 2014).

FCC does not regulate nor collect data on interconnects. Further, MVPD stakeholders told us that the written agreements that identify the terms of interconnects are confidential. Consequently, our information about interconnects is largely testimonial.[13] Our interview results are not generalizable because we did not select these stakeholders using a representative sample, and some stakeholders we contacted, particularly public-interest stakeholders, declined to be interviewed.

To determine selected stakeholders' perspectives on advertising sales agreements among local stations and MVPDs, we reviewed filings in two FCC proceedings: 1) FCC's rulemaking on television JSAs and 2) FCC's review of a 2014 proposed merger between Comcast and Time Warner Cable.[14] We analyzed filings that stated specific benefits or concerns related to JSAs or interconnects. We also interviewed FCC officials and the eight local station owners, five MVPDs, five broadcast and MVPD industry and advertising associations, five financial analysts, two public-interest groups, and two academics previously mentioned about their perspectives on JSAs and interconnects. Due to the ongoing litigation related to the 2014 FCC order pertaining to television JSAs and ownership limits under the broadcast ownership rules, we did not evaluate FCC's efforts related to the JSA rulemaking, nor did we evaluate FCC's efforts to review its media ownership rules for this report.[15]

For contextual information, we purchased and analyzed local media advertising-revenue and market-share data from BIA/Kelsey.[16] We

[13]Furthermore, many of the stakeholders we interviewed—including the public-interest groups, academics, and some financial analysts—were not knowledgeable about interconnects. Our information about interconnects is based mostly on interviews with selected MVPDs and their industry associations and financial analysts. FCC officials told us they had not studied interconnects and could provide only limited information about them.

[14]We examined filings in the merger proceeding because some commenters discussed interconnects in their filed comments. In April 2015, FCC terminated its proceeding considering this merger after the applicants notified FCC they had terminated the planned transaction.

[15]We did not address these matters due to our policy to avoid addressing the merits of matters pending in litigation.

[16]These data covered 12 categories of local media: broadcast radio, broadcast television, newspapers, MVPDs, direct mail, magazines, print yellow pages, online yellow pages, online, out-of-home, mobile, and e-mail.

obtained these data for each of the 210 Nielsen-defined local television markets—known as designated market areas (DMA)—for years 2011 and 2014. We chose these years because 2014 would be the most recent year of complete data and 2011 would provide a comparison year during the economic recovery. We assessed the reliability of BIA/Kelsey's data for the purpose of providing contextual information about local media market shares by discussing these data with industry stakeholders and obtaining information from BIA/Kelsey about how they collect and maintain the data. We determined that the data were sufficiently reliable for this purpose. See appendix I for more information about our scope and methodology.

We conducted this performance audit from April 2015 to March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Television

Consumers access television through two principal types of media.[17] The first is through local broadcast television stations, which provide free over-the-air programming for reception in consumers' households by television antennas. Many local stations are affiliated with major broadcast networks, while others are independent stations that are not affiliated with a broadcast network. The second platform for accessing television services is through MVPDs, which are cable, satellite, or telecommunications companies that provide services through a wired platform or via satellite and charge their customers a subscription fee. MVPDs' programming includes so-called "cable" networks, such as CNN or ESPN, and also the local stations, which they carry or retransmit

[17]Increasingly, consumers also have other options, such as Internet-based television services that allow streaming of programs online and through Internet-connected televisions. These services are not within the scope of our review.

through agreements with the local stations.[18] These two forms of media have some similarities but also key differences, as described in table 1.

Table 1: Characteristics of Local Broadcast Television Stations and Multichannel Video Programming Distributors (MVPD) Services

Characteristics	Local broadcast television stations	MVPDs
Distribution	Local stations provide free over-the-air programming, which can be captured through an antenna.	MVPDs distribute programming to paid subscribers through cable, satellite, or telecommunications services.
Programming	Many local stations are affiliated with broadcast networks that provide some of the stations' programming; the most watched stations tend to be affiliated with one of the four major networks (e.g., ABC, CBS, FOX, or NBC). Local stations also produce their own content (such as local news) and purchase syndicated programs (such as game shows).	MVPDs offer various selections of cable networks (e.g., ESPN) and premium cable networks (e.g., HBO). MVPDs also provide local stations in their channel lineups.
Service area	Local stations are licensed by FCC to broadcast to a defined geographic area. For stations with a large coverage area, this is typically an entire town or metropolitan area and the surrounding area beyond.	Cable providers are required to obtain a franchise authorization for each jurisdiction they serve. Franchise areas vary in size, but they typically cover a town or relatively small jurisdiction.[a] Traditionally, cable providers served geographic areas that did not overlap; however, this has evolved as satellite and telecommunications providers have entered the market with service areas that overlap cable providers and each other.
Household use	11.4-million U.S. households had broadcast-only television in 2013, as reported by FCC based on Nielsen estimates. Local broadcast stations are also available to MVPD subscribers.	104.4-million U.S. households used an MVPD service in 2013, as reported by FCC based on Nielsen estimates.
Ownership	Some local stations are owned by larger companies that own many stations across many markets (subject to FCC ownership limits), while others are under single-ownership.	MVPDs include national companies that have millions of subscribers across markets, like Time Warner Cable or Verizon, as well as smaller companies with fewer than 1,000 subscribers.

Source: GAO analysis of information from FCC and media industry sources. | GAO-16-349

[18]MVPDs provide local stations in their channel lineups in accordance with federal statutes and regulations. The *must carry* rule enables each commercial and noncommercial television broadcast station to require cable operators in its local market to carry its signal. 47 U.S.C. § 534(a); 47 C.F.R. § 76.56. Under the *carry-one carry-all* provision, any satellite operator that chooses to serve a particular local area (by carrying an in-market local station) must also carry upon request the signal of all television broadcast stations located within the same local market. 47 U.S.C. § 338; 47 C.F.R. § 76.66. Alternatively, commercial stations may give up the guarantee of carriage provided by those two rules and instead negotiate agreements with MVPDs, including potential compensation, through a process known as *retransmission consent*. 47 U.S.C. § 325(b); 47 C.F.R. § 76.64.

[a]The governmental entities that grant franchises vary by state. Telecommunications MVPDs have taken different approaches to franchising. Specifically, like traditional cable companies, Verizon chose to secure franchises from the relevant jurisdictions where it introduced FiOS service. In contrast, AT&T asserted that its U-verse service is not subject to local franchise regulation as a traditional cable television service, but is generally authorized by statewide franchises. According to FCC, the two major satellite MVPDs offer services to most of the land area of the United States, excluding some portions of Alaska.

Television Advertising

Television advertising time may be sold at either the national or local level.[19] National advertising time is sold by broadcast or cable networks—both of which produce and aggregate programming that will be aired nationally—to advertisers looking to reach audiences across the country. The advertisements are inserted with the programming that broadcast and cable networks provide to local stations and MVPDs, respectively. In contrast, local advertising time is sold to companies wanting to reach a local audience. This advertising time may be sold to local businesses—such as a car dealership or restaurant—or it may be sold to a national business—such as a car manufacturer or a large restaurant chain—that is purchasing local advertising time to reach a particular local audience. While local stations or MVPDs often directly sell local advertising time to local businesses, national advertising sales representatives may arrange the sale of local advertising time to national businesses.

The amount of advertising time available for a local station to sell during a given hour depends on the type of program airing at that time. Specifically, a local station sells all of the advertising time during the programming it produces, such as local news. In our 2014 report on media ownership, we found that advertising aired during local news in particular represents a substantial portion of a broadcast station's revenue.[20] A local station also sells a portion of the advertising time

[19]MVPDs make a further distinction between regional advertising sold by an interconnect at the designated market area (DMA) level, and local advertising sold by an MVPD within the portion of the market served by that MVPD. For our purposes, we are considering both of these forms as advertising to be local, since they are sold at the local-market level as opposed to the national level.

[20]GAO-14-558. According to the 2013 Radio Television Digital News Association (RTDNA)/Hofstra University survey of 1,377 television stations, news represented an average of about 49 percent of station revenue, with that percentage increasing as market size decreased. RTDNA is a professional organization serving the electronic news profession. RTDNA members include local and network news executives, news directors, producers, reporters, digital news professionals, educators, and students. The RTDNA/Hofstra University Survey is an annual survey of operating television stations.

during programming it receives from its affiliated broadcast network, generally about 2 ½ to 3 minutes per hour, and may sell a portion of the time during syndicated programming, which is programming such as game shows and reruns produced nationally but aired on a station-by-station basis. Advertising on cable networks is mostly sold by the cable networks themselves; however, MVPDs also sell a small portion of the advertising time on the cable networks that they distribute, about 2 minutes per hour according to MVPDs we spoke to for this report. No advertising time on the local stations that MVPDs retransmit is available to MVPDs to sell, nor do MVPDs sell advertising time on premium cable channels that do not carry advertising, such as HBO. Table 2 presents example scenarios of how local and national advertising is sold and shown through both local stations and MVPDs. This table does not include information about how joint sales agreements among local stations and interconnects among MVPDs affect local advertising sales, which is discussed later in the report.

Table 2: Examples of Local Advertising Time Sales on Broadcast and Multichannel Video Programming Distributor (MVPD) Television

	Broadcast television	MVPD television
National advertiser advertising nationally	A national fast-food restaurant chain purchases advertising time from a broadcast network during a network show, such as a prime-time drama. The advertisement is shown during that program on all local stations affiliated with the network.	A national fast-food restaurant chain purchases advertising time from a cable network during a program. The advertisement is shown during that program on all MVPDs that carry that cable network in their channel lineups.
National advertiser advertising locally	A winter coat manufacturer wishes to market its product in cities with colder climates. It works with an advertising sales representative to purchase advertising time from local stations in the Chicago, Buffalo, and Boston markets during either the stations' local programming or the programming the stations obtain from their affiliated broadcast networks. The advertisement is shown only on local stations in those three markets.	A winter coat manufacturer wishes to market its product in cities with colder climates. It works with an advertising sales representative to purchase advertising time from MVPDs serving Chicago, Buffalo, and Boston during programs on cable networks carried by the MVPDs in these markets. The advertisement is shown only during programs on cable networks in those markets.
Local advertiser advertising locally	A car dealership in Seattle wants to advertise a sale. It purchases advertising time from a local station during either the station's local programming or the programming the station obtains from its affiliated broadcast network. The advertisement is shown only on that local Seattle station.	A car dealership in Seattle wants to advertise a sale. It purchases advertising time from an MVPD that serves Seattle to run advertisements during programs on various cable networks. The advertisement is shown only during programs on cable networks carried by that local Seattle MVPD.

Source: GAO analysis of FCC and media industry information. | GAO-16-349

Some broadcast stations and MVPDs have entered into agreements regarding the joint-selling of advertising, which have become more

prevalent in recent years, according to media-industry stakeholders we spoke to.

- JSA: An agreement between local stations in which one station is authorized to sell advertising time on the other station.[21] We refer to the station selling the advertising as the "sales-agent station" and the station that turns over its advertising time to be sold by the other station as the "customer-station." JSAs are specifically defined by FCC rules.[22]
- Interconnect: An arrangement among MVPDs in the same market in which one MVPD—typically the largest MVPD in the market—sells a portion of the local advertising time for all MVPDs participating in the interconnect and simultaneously distributes that advertising across all such MVPDs in a coordinated manner. Although interconnects were traditionally an arrangement between cable providers, in recent years, telecommunications and satellite providers have also participated in them.[23] Interconnects are not defined by FCC.

Some local stations also have other agreements, called shared service agreements, for sharing other functions such as news production, administrative, and operational services. For example, stations can enter into an agreement to share news-gathering resources, such as helicopters, reporters, and cameramen, or can enter into an agreement wherein one station produces another station's local news. Our 2014 report on media ownership found that stations may have several agreements in place, such as a shared service agreement and JSA, or a single agreement that includes components typical of different types of agreements. Stations are not required to disclose shared service agreements in their public files. However, in 2014, FCC proposed new

[21] Although most JSAs we reviewed have one sales-agent or one customer-station, some JSAs have multiple stations identified as either the sales-agents or customer-stations.

[22] 47 C.F.R. § 73.3555 Note 2 (k). The JSAs and FCC used various other terms for the stations involved in JSAs. For example, the sales-agent is sometimes referred to as the "broker," and the customer-station is sometimes referred to as the "brokered" station or the "licensee."

[23] As explained later in this report, satellite MVPDs have an indirect relationship with interconnects.

rules that would define shared service agreements and require their filing.[24]

Other Local Media in Local Markets

In addition to television, there are a number of other outlets competing for advertisers looking to purchase advertisements in local markets, including radio, print media (such as newspapers and magazines), out-of-home advertising (such as billboards or advertising on buses), and Internet-based media (such as advertising through mobile devices or on websites). Local media advertising generated approximately $136 billion in revenue in 2014, a slight decrease from the $139 billion (2014 dollars) in 2011, according to data from BIA/Kelsey, a media research and consulting firm.[25]

The geographic scope of local media markets are defined by Nielsen, a company that measures television viewership—a critical metric for determining advertising rates. Nielsen has divided the country into 210 local television markets, known as DMAs, ranked in size from the largest (New York, N.Y.) to smallest (Glendive, Mont.).[26] Based on information from the stakeholders we interviewed about these markets, we will refer to the 25 largest markets (those ranked 1 through 25) as "large" markets, those ranked 26 through 100 as "medium" markets, and those ranked 101 through 210 as "small" markets.[27]

[24]*2014 Quadrennial Review FNPRM and Report and Order*, 29 FCC Rcd at 4523, ¶¶ 330, 331. As of December 17, 2015, the proceeding remains open. Another type of agreement, local marketing agreements, allow one or more parties other than the station's owner to purchase blocks of time and then provide programming and sell advertising in that block of time. We did not include local marketing agreements within the scope of this review. Our prior report on media ownership examined other types of sharing agreements among television stations, including shared service agreements and local marketing agreements. See, GAO-14-558.

[25]We adjusted the 2011 revenue estimate to 2014 dollars to account for inflation. The nominal revenue estimate for 2011 was $132 billion.

[26]Nielsen allocates each U.S. county to a DMA based on factors such as viewing patterns and MVPD distribution. In some cases, counties are split between markets, and there are also some counties in Alaska not assigned to a DMA. *See In the Matter of In-State Broadcast Programming: Report to Congress Pursuant to Section 304 of the Satellite Television Extension and Localism Act of 2010*, 26 FCC Rcd 11919, 11921-11922, ¶ 5 & fn.10 (2011).

[27]Households are not evenly distributed among these local market groups. According to Nielsen's 2014 DMA rankings, about half of U.S. households are within the top 25 DMAs.

FCC Oversight

FCC assigns licenses for local stations to use the airwaves on the condition that licensees serve the public interest.[28] FCC's regulation of local stations is guided by long-standing policy goals to encourage competition, diversity, and localism. To advance these policy goals, and based on statutory requirements to serve the public interest, FCC has implemented rules that limit the number of stations an entity can own or control locally and nationally. Under FCC's ownership rules, a single entity can own two local stations in the same DMA if the relevant service contours—the boundary of the area a station serves—do not overlap or, if they do overlap (1) at least one of the stations is not ranked among the top-four stations in terms of audience share and (2) at least eight independently owned and operating full-power commercial or noncommercial television stations would remain in the DMA.[29] Because larger markets tend to have more stations, this limit tends to affect smaller markets more than larger ones, since an owner of a local station interested in acquiring a second station in a small market would be less likely to be able to meet these criteria. As previously discussed, FCC is required by statute to review its media ownership rules every 4 years and determine whether any such rules remain necessary in the public interest.[30] FCC's most recent review related to its media ownership rules was completed in 2008.

FCC has also noted that arrangements other than outright ownership could exert similar influence as ownership. To address such issues, FCC developed attribution rules to determine what interests should be counted when applying these media ownership limits.[31] In 2004, FCC sought comment on whether the use of certain television JSAs warranted attribution—that is whether the customer-station should be counted or attributed to the sales-agent station that sells advertising for that station for the purpose of applying FCC's media ownership limits. FCC sought additional comment on this issue in its 2010 media ownership review. In 2014, FCC promulgated a final rule declaring that if a JSA provides that one station sells more than 15 percent of the weekly advertising time of another station located in the same market, both stations will be counted

[28]47 U.S.C. § 301(d).

[29]47 C.F.R. § 73.3555(d).

[30]Pub. L. No. 104-104, § 202(h), as amended by Pub. L. No. 108-199, § 629.

[31]47 C.F.R. § 73.3555, notes.

toward the ownership limit of the owner of the station selling the advertising (i.e., the sales-agent station).[32] The rule is currently in effect; stations with JSAs existing at the time FCC issued the rule that result in violations of FCC's media ownership limits have until October 2025 to amend or void their agreements or otherwise come into compliance with FCC's ownership rules. As previously discussed, the rule is subject to ongoing litigation. FCC also has rules for stations to file certain documents with FCC and to maintain public inspection files that include documentation about the licensing and operation of each station. According to FCC, the purpose of the public inspection files is to make information more readily available that the public already has a right to access so that the public will be encouraged to play a more active part in dialogue with broadcast licensees. These rules include requirements for stations to file JSAs with FCC if the JSA is attributable under FCC's attribution rules and to file all current JSAs, regardless of attribution status, in the stations' public inspection files.[33] Local television stations' public inspection files are available online through FCC's website.

JSAs Are Mostly in Smaller Markets, but Some JSAs Were Missing from Stations' Public Files; Some Stakeholders Reported That Interconnects Are Mostly in Medium- to Large-Size Markets

[32]FCC made a similar attribution rule pertaining to JSAs among radio stations in 2003. In our review, we found few instances of JSAs between radio stations, and stakeholders told us they are rarely if ever used given differences in the ownership rules for radio.

[33]47 C.F.R. §§ 73.3256(e)(16), 73.3613(d)(2).

JSAs Are Mostly in Smaller Markets and Cover Similar Terms

We found 86 JSAs among local-station owners in our review of JSAs available from stations' online public inspection files.[34] A little more than a third of DMAs had a JSA, with 98 percent of JSAs we identified being among stations in medium or small markets (see table 3).

Table 3: Number and Percentage of Joint Sales Agreements (JSA) by Designated Market Area's (DMA) Size, as of August 31, 2015

DMA ranking group	Number of DMAs by ranking group	Number of JSAs among stations in each DMA ranking group	Percentage of JSAs found in each DMA ranking group
Large DMAs (ranked 1-25)	25	3	3%
Medium DMAs (ranked 26-100)	75	39	45%
Small DMAs (ranked 101-210)	110	46	53%
Total	**210**	**86**[a]	**100%**[a]

Source: GAO analysis of stations' JSAs in public inspection files. | GAO-16-349

[a]The number and percentage of JSAs do not sum up because there were two JSAs that included stations from multiple sizes of markets. The total number of JSAs does not match the total number of DMAs with JSAs because some DMAs have multiple JSAs and some JSAs included stations in multiple markets.

The 86 JSAs we reviewed generally covered similar terms. We identified the following key provisions in our review of these agreements:

- *Advertising time*: The JSAs specified the advertising that the sales-agent will sell. In most cases, this included all of the customer-station's advertising time, including local advertising that airs during programming of the local station as well as advertising on the customer-station's website. Four of the JSAs were created since FCC promulgated its 2014 JSA rule, and these JSAs specified that the sales-agent would sell no more than 15 percent of the customer-station's advertising time. This 15 percent is the threshold FCC set in

[34]There are more than 86 JSAs in the public inspection files because an agreement between two stations would typically be filed in both stations' files, in accordance with FCC rules. FCC officials said they have not compiled a list of JSAs and do not have any data on JSAs.

the JSA rule that, if exceeded, would trigger attribution under FCC's ownership rules.[35]

- *Station identification*: All of the JSAs identified the owners of both the sales-agent and customer-stations covered in the agreements and the call signs of the customer stations.[36] About two-thirds (60) of the JSAs also identified the call signs of the sales-agent stations, while a little less than one-third (26) of the JSAs did not identify the call sign of the sales-agent station.[37] According to FCC officials, FCC's rules do not prescribe the way in which parties to JSAs are identified in the agreement, and it is not required that JSAs specifically identify the call signs of the stations involved in the agreements under FCC's rules.
- *Time frame*: The JSAs generally covered 5 to 10 years with extensions based on the consent of both parties. Stations also sometimes filed documents indicating their JSAs had been extended.
- *Revenue sharing*: About half (40) of the JSAs indicated that the sales-agent retains 30 percent of the advertising revenue, while some (9) indicated a different percentage, a flat fee, or a commission. The remaining 37 JSAs had no information about revenue sharing because that information was either redacted or not provided.[38]
- *Control and responsibilities*: All of the JSAs specified that the customer-station retains complete control of the station, including control over the operations, finances, personnel, programming, and responsibilities to meet FCC requirements.[39]

[35]FCC's 2014 JSA rule includes a process under which stations may apply for a waiver to maintain a JSA with advertising sales exceeding 15 percent if the stations can demonstrate that application of the rule would not serve the public interest. According to FCC officials, they have received two requests for waivers under the JSA rule; one which the FCC granted for a temporary period of 9 months, and the other which the applicants withdrew.

[36]A call sign is a series of letters that identifies a local station, such as WUSA, a CBS-affiliated station in Washington, D.C.

[37]As previously discussed, we refer to the station selling the advertising in a JSA as the "sales-agent" and the other station as the "customer-station." Similarly, we refer to the owner of the sales-agent station as the "sales-agent owner" and the owner of the customer station as the "customer-station owner."

[38]FCC's rules specify that stations may redact business-sensitive information from JSAs they file in public inspection files, but must make this information available to FCC if requested. 47 C.F.R. §§ 73.3526(e)(16), 73.3613(d)(2).

[39]FCC rules specify that JSAs must contain a certification by the licensee or permittee of the customer-station verifying that it maintains ultimate control over the station's facilities, including, specifically, control over station finances, personnel and programming, 47 C.F.R. § 73.3555 Note 2 (k)(3).

- *Shared service agreement*: Some of the JSAs included provisions typical of a shared service agreement and were characterized as both a JSA and a shared service agreement.[40] FCC officials and stakeholders told us that JSAs and shared service agreements typically go together, and local station owners said it would be uncommon for a station to have a JSA without an accompanying shared service agreement. However, one station owner told us that its station has a JSA and no shared service agreements.
- *Programming*: About one-third (26) of the JSAs reviewed included a provision for the sales-agent to provide programming for the customer station, generally up to 15 percent of the customer-station's broadcast hours per week.[41]

Some JSAs Were Not Filed in Stations' Public Files in Accordance with FCC Rules

While reviewing JSAs filed in stations' online public inspection files, we found that some JSAs were not filed in both a sales-agent station file and a customer-station file, as required by FCC rules. Specifically, of the 86 JSAs we identified, 23 of them were filed in a customer-station file but not a sales-agent station file and 2 of them were filed in a sales-agent file but not a customer-station file.[42] In most of these cases (20 of the 25 JSAs), the stations involved in the JSAs were specifically identified by their call-signs in the JSAs; in the other 5 JSAs, only the sales-agent station's owner was identified and we had to determine the sales-agent station by contacting the other station named in the JSA or by examining information about station ownership in the same market. Although there

[40]We included in our analysis documents titled "shared service agreements" if they included a provision for the sale of advertising. A few agreements with joint-advertising sale provisions were also filed under other names such as "agreement for the sale of commercial time," which we included in our analysis.

[41]Stations have used another form of sharing agreement, the local marketing agreement, to provide for the provision of programming, along with advertising, by one station for another. As previously stated, we excluded local marketing agreements from our review. In 1999, FCC made television local market agreements attributable under FCC's ownership rules if an entity programs more than 15 percent of another in-market station's weekly programming hours. *In the Matter of Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, 14 FCC Rcd 12559, 12585, ¶ 55 (1999). Some JSAs we reviewed included provisions allowing the sales-agent to provide programming below this 15 percent threshold. If one station uses an agreement to provide more than 15 percent of the weekly programming hours for another same-market station, FCC requires the stations involved to file the agreement with FCC. 47 C.F.R. § 73.3613.

[42]Furthermore, if a JSA was not filed in either a sales-agent or customer-station file, we would have no way to know about it.

may be legitimate reasons for a JSA to be missing—for example, if the JSA had been terminated and removed from one file but not yet from the other—the extent of missing JSAs raises a concern that there may be JSAs that should be filed that have not been.

As previously discussed, FCC's rules require that all current JSAs be filed in stations' public inspection files, which are available online through FCC's website.[43] The purpose of this requirement is to improve transparency of station operations for the public by making documents more readily available that the public already has a right to access. Further, according to FCC, the agency required stations to make this information available so that the public would be encouraged to play a more active part in dialogue with and oversight of broadcast licensees. Consequently, if interested parties look at the public file of a station involved in a JSA, they should expect to find that document in the file so that they may learn about how a station handles its advertising sales. If a station involved in a JSA does not have its JSA in its public inspection file, the transparency over this aspect of the station's operations is lost. The standards for internal control in the federal government state that agency management should ensure there are adequate means of communicating with, and obtaining information from, external stakeholders that may have a significant impact on the agency achieving its goals.[44] As previously stated, FCC's media ownership rules are meant to serve the public interest, and FCC's recent determination that JSAs are a factor in assessing whether stations are in compliance with the ownership rules indicates that JSAs could have a bearing on whether stations are serving the public interest. Furthermore, in October 28, 2014, following the enactment of its JSA rule earlier in 2014, FCC released a public notice reminding stations of their obligation to file all current JSAs in their public inspection files, regardless of whether the station is the sales-agent or the customer-station in the agreement.[45] The notice stated that a station's

[43]47 C.F.R. § 73.3526 (e)(16). This rule applies to full-power and Class A commercial television stations; it does not apply to low-power stations. Id. § 73.3526 (a)(2); see also 47 C.F.R § 74.780, which lists rules that apply to low-power television stations and does not include section 73.3526.

[44]GAO/AIMD-00-21.3.1.

[45]*Media Bureau Announces Requirement to File Certain Television Joint Sales Agreements*, Public Notice, 29 FCC Rcd 13402 (MB 2014).

failure to comply with this rule may result in FCC taking an enforcement action.

FCC officials said they do not monitor the contents of stations' public files on an ongoing basis and have not reviewed stations' JSA filings to ensure they are complete and up to date. They added that they have never identified or compiled copies of JSAs from these publicly available sources, either for attributable JSAs or all JSAs, for this purpose. FCC officials said they typically review compliance with public inspection file requirements in connection with a station's license renewal application or in response to complaints from the public.[46] According to FCC officials, FCC's most recent round of license renewal reviews did not turn up any missing JSAs, and there were no stations self-reporting or petitions from others alleging missing JSAs. However, if FCC has not compiled a list of existing JSAs, it is unclear how it would know whether a JSA is missing when reviewing a file. Additionally, FCC officials said that if they receive a complaint that a public inspection file is incomplete, FCC may investigate and take action, such as contacting the station licensee and instructing it to update the file or issuing an admonishment or fine, as appropriate; however, FCC officials said they have not received any such complaints.

According to FCC officials, this compliance approach reflects the agency's policy objectives of encouraging greater public participation in broadcast licensing. However, FCC's approach puts the burden of discovering the incompleteness of an inspection file on the public, and in the case of a file that is missing a JSA, it is not clear how a member of the public would be likely to know that a JSA is missing without undertaking a review of all stations' JSA files, as we did, in order to uncover whether any other station has put a JSA agreement with that station in its file. Furthermore, FCC officials said that they take seriously the obligation to ensure that licensees comply with FCC rules and to vigorously enforce violations of the public inspection file that are identified as a result of self-disclosure, public complaints, discovery by FCC staff, or in connection with a station's license renewal applications. FCC officials said that the public inspection file is meant to assist the public specifically, rather than

[46]A license term is generally 8 years. During the license renewal process, licensees must certify compliance with the public inspection file rule for the preceding license period, and willful false certifications are punishable by any or all of the following: fine, imprisonment, revocation of the station license, or forfeiture. See 18 U.S.C. § 1001, 47 U.SC. §§ 312(a)(1), 503.

FCC. However, without examining public inspection files to determine if they are complete, FCC may not be fully aware of violations.

If the public is to have the sort of dialogue with and oversight of stations that FCC suggests, then the public should have access to these documents through the public inspection files. FCC's rules specify which documents should be included in the files, and FCC has the authority to take enforcement action against stations that do not follow its rules. Although FCC assured broadcasters that the online public file requirement would not lead to increased FCC scrutiny of the public inspection files,[47] FCC has already reminded broadcasters of their responsibility to file JSAs in public inspection files and that FCC may take enforcement action if stations do not comply.[48] If a member of the public is examining the file of a station that is involved in a JSA but the station has not put the JSA in the file, then it would not be apparent that the station's operations involve another station as provided by a JSA. Specifically, this reduces the transparency around the station's advertising sales, which is a principal source of station revenue. Public-interest stakeholders told us that lack of transparency regarding JSAs and other sharing agreements, particularly over what they do and who is involved, is a primary concern. If JSAs are missing from stations' public inspection files, interested parties may not be able to access this critical piece of information about how stations operate in local markets.

Interconnects Allow MVPDs in a Local Market to Sell Advertising from a Single Point and Exist in Most Markets, According to Stakeholders

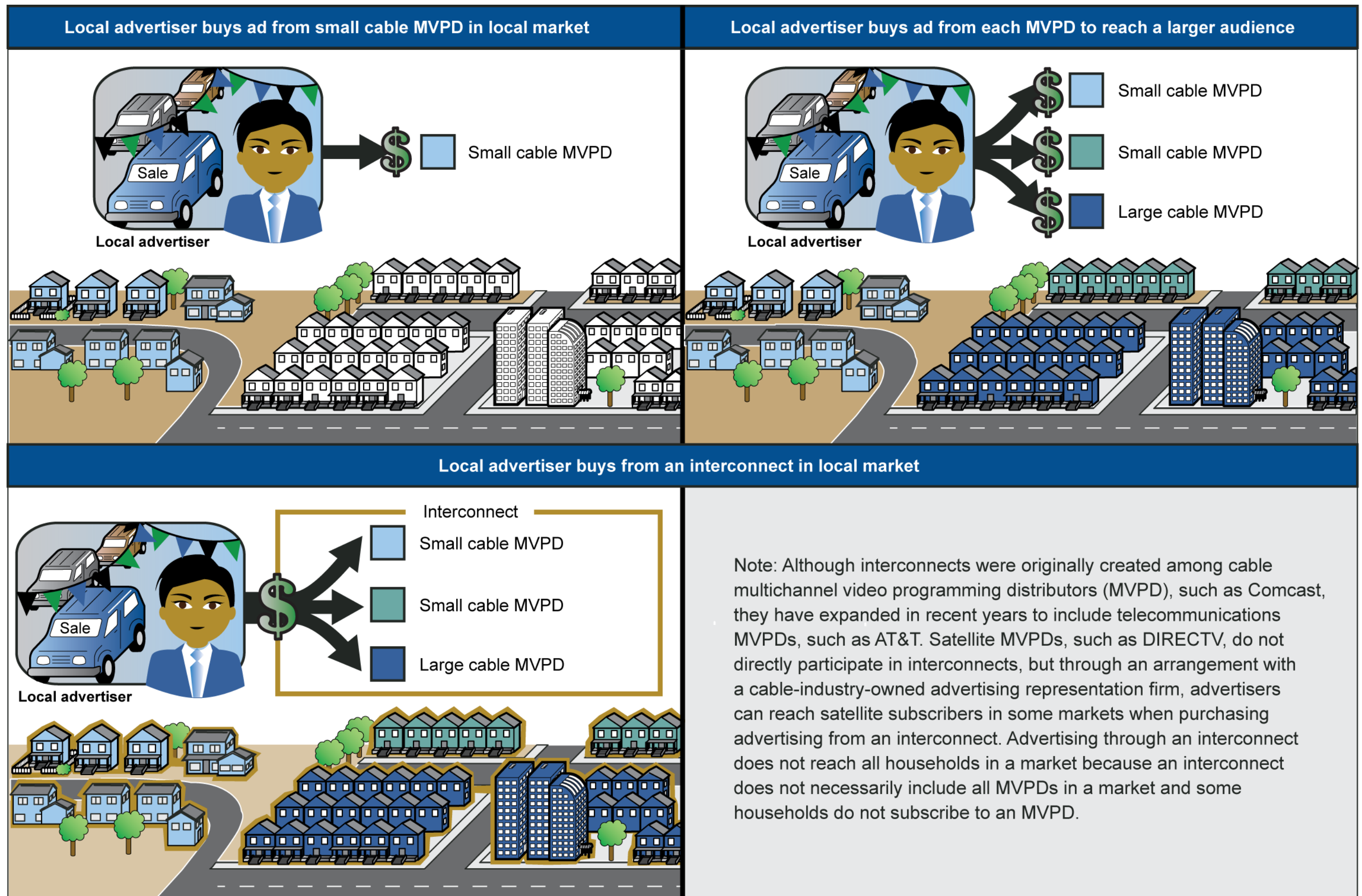
An interconnect involves two or more MVPDs combining a portion of their advertising time in a local market, creating a single-point for advertising sales across multiple MVPDs within a DMA (see fig. 1). Through technological means, these advertisements are then distributed simultaneously across the MVPDs participating in the interconnect. For example, MVPDs told us that an advertiser wishing to purchase advertising time in a local market on a particular cable-network show could, through a single transaction with an interconnect, arrange for its advertisement to air simultaneously during that show on all MVPDs in that

[47]*In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations Extension of the Filing Requirement For Children's Television Programming Report (FCC Form 398)*, Second Report and Order, 27 FCC Rcd 4535, 4564 ¶ 58 n. 187 (2012).

[48]29 FCC Rcd 13402 (MB 2014).

market that are part of the interconnect. Without an interconnect, an advertiser wishing to reach the same audience would have to negotiate separate advertising time purchases for the same times and during the same shows with each MVPD in the local market. Although interconnects were originally created among cable companies, they have expanded in recent years to include telecommunications MVPDs. Additionally, MVPD stakeholders we spoke to explained that while satellite-based MVPDs do not directly participate in interconnects, satellite MVPDs have developed a way to insert local advertising into the programming they provide customers and have begun rolling this capability out in a limited number of markets. Through an arrangement with a cable-industry-owned advertising representation sales firm, advertisers can take advantage of this capability to reach satellite subscribers in some larger markets when purchasing local advertising through interconnects.

Figure 1: Multichannel Video Programming Distributor (MVPD) Advertising Sales within a Designated Market Area (DMA) without and with an Interconnect



Note: Although interconnects were originally created among cable multichannel video programming distributors (MVPD), such as Comcast, they have expanded in recent years to include telecommunications MVPDs, such as AT&T. Satellite MVPDs, such as DIRECTV, do not directly participate in interconnects, but through an arrangement with a cable-industry-owned advertising representation firm, advertisers can reach satellite subscribers in some markets when purchasing advertising from an interconnect. Advertising through an interconnect does not reach all households in a market because an interconnect does not necessarily include all MVPDs in a market and some households do not subscribe to an MVPD.

Source: GAO analysis of MVPD industry information. | GAO-16-349

Stakeholders including two MVPDs, two MVPD advertising representation firms, three industry associations, one broadcast station owner, and one financial analyst provided information on the prevalence of interconnects. Seven of these stakeholders stated that interconnects exist in most markets, while two of these stakeholders indicated that interconnects are found mostly in medium- to large-size markets. According to an association of MVPD advertising sellers, the number of interconnects has increased in recent years as MVPDs realized their benefits and efficiencies, which we discuss later in this report. According to several

MVPD stakeholders, there is no industry-wide definition of an interconnect. Consequently, there are differences in how the term is defined, making it difficult to obtain consistent information on the number of interconnects nationwide.[49]

MVPDs, cable associations, and financial analysts we interviewed identified the following key characteristics of interconnects:

- *Advertising time*: According to MVPD stakeholders we interviewed, interconnects cover only advertising and do not cover other services.
- *Interconnect managers*: According to MVPDs, typically the largest MVPD provider in the market manages the interconnect. For example, one large MVPD told us that it created and manages about one-third of the nation's interconnects and is a participant in interconnects managed by other MVPDs. This MVPD also said that creation and management of an interconnect requires significant investments in personnel and technology. MVPD stakeholders also told us that some interconnects are managed by national advertising representation firms.
- *Revenue sharing*: MVPDs said that revenue from the sale of advertising through an interconnect is generally prorated among the MVPDs in the interconnect based on the amount of inventory provided for sale and their number of subscribers in the DMA.

[49]We attempted to obtain data from multiple sources on the number of interconnects in the United States, but we were unable to obtain a consistent, reliable count of such agreements.

Some Selected Stakeholders Said That Advertising Agreements Provide Economic Benefits, but Others Raised Concerns over the Market Effects of these Agreements

Some stakeholders that filed comments in FCC proceedings and who we interviewed stated that local stations and MVPDs benefit economically from JSAs and interconnects, respectively. However, some stakeholders expressed concerns with how these agreements may impact local markets. Stakeholders we selected to interview included local station owners, MVPDs, industry associations, public-interest groups, academics, and financial analysts.[50]

Station Owners Said That JSAs Allow Stations to Cut Costs, but Other Stakeholders Raised Concerns about Effects on Competition, Diversity, and Localism

According to most of the local station owners that commented in FCC's JSA rulemaking and all that we interviewed, a primary benefit of JSAs, as well as other sharing agreements, is that they allow local stations to cut costs.[51] As previously discussed, a JSA is generally accompanied by a shared service agreement, and they are sometimes the same agreement. Further, in discussing their views, a few station owners told us that while JSAs provide some cost savings, shared service agreements provide most of the savings and that it generally did not make sense to talk about JSAs without also discussing shared service agreements. Consequently, our discussion of stakeholders' views is based on comments about the

[50]Some stakeholders' knowledge regarding JSAs, and particularly interconnects, was limited. For example, comments in the FCC's JSA rulemaking proceeding were mostly from the media industry, and comments in the Comcast/Time Warner Cable merger proceeding related to interconnects were entirely from MVPDs. Further, some stakeholders, particularly public-interest and media advocacy groups, declined to meet with us, with most indicating they were not knowledgeable enough about JSAs or interconnects to discuss them. Of the stakeholders we interviewed, not all had views on both types of agreements, and none of the financial analysts raised concerns with JSAs or interconnects. Considering the limitations with stakeholder knowledge in this area and the fact that our interview results are not generalizable, that a greater or lesser number of stakeholders mentioned a given concern is not necessarily indicative that it is of greater or lesser concern among all stakeholders.

[51]We use "station owners" to refer to both owners of local stations and representatives from related broadcast industry associations that we interviewed (although those associations include members beyond just owners, they represent the same industry segment for the purpose of this discussion).

use of both JSAs and shared service agreements, which we refer to together as “sharing agreements.”

All of the station owners we interviewed said that the savings from these sharing agreements help financially struggling stations survive when they might otherwise go out of business, with some owners saying this is particularly the case with stations in smaller markets. Some station owners and financial analysts told us that as local stations are facing increased competition for advertising revenues from other media, such as Internet-based media and MVPDs, stations rely on sharing agreements to cut costs. Our analysis of BIA/Kelsey local advertising revenue data showed that the market share of Internet-based media increased from 11 percent in 2011 to 17 percent in 2014—a percentage comparable to the market share for broadcast television, which was 15 percent in 2014 (up slightly from 13 percent in 2011). This share is higher than the market share of MVPDs, which was about 5 percent in both years.[52] (For more results of our analysis of this market data, see app. II.) Most media industry stakeholders and financial analysts whom we interviewed consistently identified the growth in Internet-based media as a major change in local advertising markets in recent years, coming at a time when market shares for other types of media, such as radio and newspapers, have been relatively flat or in decline.

Furthermore, two station owners and two financial analysts told us that stations in smaller markets are more likely to use JSAs than stations in larger markets because local stations earn less advertising revenue in small markets than in large markets, while they said their costs are roughly the same regardless of market size.[53] Our analysis of BIA/Kelsey estimates of local advertising revenue supports this revenue claim. Specifically, stations in the 25 largest DMAs had average revenue of $28.0 million per station in 2014—more than nine times the $3.0 million average revenue per station in the smallest DMAs (those ranked 101 to 210). According to some station owners and financial analysts, stations view JSAs and shared service agreements as a means of remaining financially viable in small markets. In contrast, a local station owner that

[52]We collapsed four of BIA/Kelsey’s media categories—mobile, online, Internet yellow pages, and email—into the “Internet-based media” category.

[53]Our 2014 media ownership report also noted that costs of operating a television station are similar regardless of market size, see GAO-14-558.

has stations in larger markets said that there is no need for JSAs in markets like Los Angeles or New York.

In addition to cutting costs and helping local stations remain financially viable, station owners also told us that the associated cost savings from sharing agreements enable stations to make investments that help them compete with other local media and provide benefits to the stations and their communities, thereby supporting FCC's goals of enhancing competition, diversity, and localism. Benefits station owners cited include:

- *Investments in diverse programming*: Some station owners filing in FCC's JSA rulemaking (6 of 18) and whom we interviewed (4 of 10) said that sharing agreements allow them to enhance the diversity of local programming. For example, representatives from Univision, a Spanish-language network and a station owner, told us the company has used JSAs and shared-service agreements with another station owner, Entravision, to establish and expand Univision's second Spanish-language network, UniMás. Under this arrangement, Entravision provides services for Univision's stations that carry UniMás programming: According to Univision representatives, the resulting cost savings have allowed it to launch UniMás in six markets, growing the network faster than it could have without sharing agreements.
- *Increased local news coverage*: According to some station owners that filed comments in FCC's JSA rulemaking and that we interviewed, producing local news is expensive and stations find it financially challenging to produce local news, particularly in smaller markets. Most station owners that filed FCC comments (10 of 18) and most that we interviewed (7 of 10) said JSAs and shared service agreements allow local stations to air local news when they would otherwise be unable to or to expand or improve their existing news coverage. For example, one owner of a small-market station told us its JSA and shared service agreement with a larger station owner in the same market have allowed both stations to share resources, thereby reducing costs and improving their news services.
- *Improved services*: Some station owners that filed FCC comments (8 of 18) and that we interviewed (4 of 10) said JSAs enable stations to improve service quality. For example, one station owner told us that savings associated with its JSA allowed the station to upgrade its broadcast to high definition, which helped the station better compete for advertising dollars, since many advertisers will not buy advertising unless it is in high definition.

FCC itself has acknowledged that JSAs may have benefits. Specifically, in the order FCC released with its 2014 JSA rules, FCC stated that cooperation among local stations may have public-interest benefits under some circumstances, particularly in small to mid-sized markets. FCC also stated that JSAs may, for example, facilitate cost savings and efficiencies that could enable the stations to provide more locally oriented programming.[54]

Conversely, some stakeholders raised concerns about how JSAs and shared service agreements may affect local markets. For example, one of the four public-interest groups that filed comments in FCC's JSA rulemaking, as well as the two public-interest groups and one of the two academic stakeholders we interviewed, said that JSAs do not support the long-standing policy goals to encourage competition, diversity, and localism. Stakeholders raised concerns about JSAs in the following areas:

- *Undue influence*: One MVPD association, one labor union, and two public interest groups that filed comments in FCC's JSA rulemaking and one MVPD, both public-interest groups, and both academic stakeholders we interviewed said that JSAs and other sharing agreements create the potential for undue influence over station operations. Specifically, according to some of these stakeholders, such influence could occur because the agreements create a financial interest. With JSAs, this is because the sales-agent station sells the customer station's advertising, which is a principal source of the customer station's revenue. Furthermore, one MVPD, two public-interest groups, and two labor unions that filed FCC comments, as well as both of the public-interest groups and one of the two academic stakeholders we interviewed, said JSAs and other sharing agreements allow station owners to circumvent FCC's media ownership rules. As previously discussed, FCC's ownership rules limit the number of local stations an entity can control in a local market.
- *Reduced competition for advertising*: According to most public-interest groups (three of four) that filed FCC comments and two of the ten

[54]The order also states that "these potential benefits" did not affect FCC's "assessment of whether television JSAs confer significant influence such that they should be attributed" for purposes of applying the broadcast ownership rules. According to FCC, any such potential benefits "should be assessed in determining where to set the applicable ownership limit, i.e., how many television stations a single entity should be permitted to own, operate, or control in a local television market." *2014 Quadrennial Review FNPRM and Report and Order* 29 FCC Rcd at 4537-4538, ¶ 358 (2014).

MVPDs, both of the public-interest groups, and one of the two academic stakeholders we interviewed, local stations' use of JSAs effectively reduces competition for advertising dollars in local markets because, for example, stations within a JSA may combine their sales forces and no longer compete with each other for advertising revenue. Some of these stakeholders raised the concern that this reduced competition may create negative impacts in the market, such as allowing stations with JSAs to capture more of the local advertising market, putting other stations without JSAs at a disadvantage.

- *Reduced diversity*: Both public-interest groups and one of the academic stakeholders we interviewed said that sharing agreements reduce diversity in local markets, including diversity in terms of programming or station ownership. For example, an academic stakeholder told us that the use of such agreements results in the same entity effectively controlling the content of one or more stations.
- *Reduced localism*: According to one of the four public-interest groups and the one academic stakeholder that filed FCC comments, as well as both of the academic stakeholders we interviewed, the use of sharing agreements can lead to the reduced provision of local news. For example, an academic stakeholder said in its FCC filing that JSAs and shared service agreements have negatively impacted the Syracuse market, because two stations consolidated operations under these agreements and in the process cut one of the station's news operations.

MVPDs Said Interconnects Allow Their Advertising Time to Reach More of the Local Market, but Other Stakeholders Raised Concerns about Effects on Competition

According to 9 of the 10 MVPD stakeholders we interviewed,[55] a primary benefit of an interconnect is to aggregate the available advertising time among various MVPDs in a local market. This enables MVPDs to collectively reach a greater number of households in that market than any single MVPD could reach with its advertising time. Six of these MVPDs said this increased reach enables MVPDs participating in interconnects to better compete with other local media, particularly local broadcast television stations, since it enables them to have a market reach that is closer to that of a local station. Further, four MVPDs also told us that this increased reach makes MVPDs' advertising time more valuable to advertisers. According to some MVPD stakeholders, without interconnects, the reach of each MVPD's advertising time would include only that MVPD's subscribers, which could be a small percentage of

[55]MVPD stakeholders include MVPDs, MVPD industry associations, and advertising representation firms that sell advertising on behalf of MVPDs.

households in the local market. As a result, according to three MVPDs, sometimes advertisers would not purchase MVPD advertising time. Nine of the ten MVPD stakeholders said that aggregating advertising inventory through interconnects also enhances the efficiency of advertising sales by enabling advertisers to buy advertising time across a number of MVPDs in a given local market through a single purchase.

MVPD stakeholders we interviewed also noted that interconnects can reduce costs. Two MVPDs we interviewed and two larger MVPDs that filed comments in FCC's Comcast/Time Warner Cable merger proceeding said interconnects allow some MVPDs to cut costs because one MVPD manages the advertising sales and technological implementation of the interconnect for all of the participating MVPDs, whereas without an interconnect, each MVPD would maintain a sales staff.

In contrast, smaller MVPD stakeholders that commented in the Comcast/Time Warner merger proceeding and some stakeholders we interviewed raised concerns about interconnects. Specifically, 6 of the10 station owners we interviewed told us MVPDs have an unfair competitive advantage over local stations because, for example, FCC regulates station owners' JSAs but not MVPDs' interconnects. Four of these station owners noted that MVPDs are therefore allowed to take advantage of efficiencies and savings through their own type of advertising sales agreement, while local stations face regulatory constraints in doing so. Additionally, five small MVPD stakeholders and an advertising representation firm that works with small MVPDs that commented in the Comcast/Time Warner merger proceeding said that larger MVPDs that manage interconnects treat smaller MVPDs unfairly—or have the potential to—by applying conditions to the smaller MVPDs' participation in interconnects, such as excluding some smaller MVPDs from interconnects if the smaller MVPDs use an advertising representation firm that competes with the large MVPD's national advertising arm. Four small MVPDs and an MVPD advertising representation firm that submitted comments in the Comcast/Time Warner merger proceeding said that excluding MVPDs from interconnects decreases revenue for the excluded MVPDs. Two larger MVPDs that provided comments in the merger proceeding, however, indicated that they do not engage in such practices.

Conclusions

While opinion differ on how JSAs among local stations and interconnects among MVPDs affect the media landscape, FCC has defined JSAs and required that they be placed in local stations' public inspection files. Moreover, in 2014, FCC issued a rule that requires that where a JSA

encompasses more than 15 percent of another station's weekly advertising time, the JSA will count toward the local-station ownership limit. FCC requires that each broadcast television station with a JSA file the JSA in its public inspection file, including in the station's online file on FCC's website—regardless of whether the station is the sales-agent station or the customer station. This requirement is intended to improve the transparency of local stations' operations so that the public can have a more active role in assessing stations' operations in their local markets. However, we found that a considerable number of JSAs filed by customer stations were not also filed by a sales-agent station—and that FCC has not taken sufficient steps to determine the extent to which broadcast television stations are complying with this rule. If stations that use JSAs as part of their advertising operations have neglected to file or update their JSAs in their public inspection files, interested parties may be unaware that the stations have such arrangements and therefore lack insight into this aspect of local television operations. Consequently, the transparency of local television markets is diminished, preventing the public from effectively assessing and engaging stations with regard to local stations' public interest obligations.

Recommendation

We recommend that the Chairman of FCC review JSAs filed in stations' public inspection files to identify stations involved in those JSAs and take action to ensure that each station involved has filed its JSA as required.

Agency Comments

We provided a draft of this report to FCC for review and comment. We received written comments from FCC, which are reproduced in appendix III. In response to our recommendation, FCC stated that it shares our concern that potential noncompliance with FCC's JSA filing requirement could affect the transparency of local television markets. Further, FCC stated it will take action to help ensure that broadcasters are aware of and in compliance with their public file obligations regarding JSAs and that any noncompliance is disclosed to FCC, as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the FCC Chairman, and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or goldsteinm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Mark L. Goldstein
Director, Physical Infrastructure Issues

Appendix I: Objectives, Scope, and Methodology

The objectives for this report were to examine (1) what available information indicates about the prevalence and characteristics of advertising sales agreements among local broadcast television stations (local stations) or multichannel video programming distributors (MVPD), and (2) selected stakeholders' perspectives on the impacts of advertising sales agreements among local stations or MVPDs.

To determine the prevalence and characteristics of advertising sales agreements—specifically joint sales agreements (JSA)—among local broadcast television stations (local stations), we obtained and analyzed all JSAs found in the stations' public inspection files on the Federal Communications Commission's (FCC) website.[1] We identified documents as JSAs if they were labeled as such or if they were a shared service agreement that included provisions for the joint-sale of advertising.[2] We excluded duplicate copies of the same JSA in our analysis, a JSA that we determined had expired according to the date in the JSA, and documents filed in a JSA folder that were not JSAs, such as local marketing agreements and shared service agreements that did not have an advertising component.[3] According to FCC officials, although stations are required to place copies of their JSAs in their public inspection files, FCC officials have not independently verified whether each station has done so, and the officials said that they were not aware of any JSAs that were mislabeled or misfiled. To provide assurance our review of JSAs was as comprehensive as possible, we also purchased JSA data from BIA/Kelsey, a media research and consulting firm. BIA/Kelsey developed its JSA data by reviewing information in the trade press, analyzing FCC filings, and through direct contact with television stations to ask for information such as the presence of JSAs. We compared BIA/Kelsey's

[1]Television station licensees are required to file a number of documents in their public station files, including copies of active JSAs. These files are available online from FCC's website at https://stations.fcc.gov/ (accessed Nov. 5, 2015).

[2]Some JSAs were titled "Agreement for the Sale of Commercial Time," but like documents labeled "JSA," dealt with the joint-sale of advertising, so we included these documents in our analysis.

[3]Local marketing agreements allow one or more parties other than the station's owner to purchase blocks of time and then provide programming and sell advertising in that block of time. In 1999, an FCC order made local marketing agreements attributable under FCC's media ownership rules if an entity programs more than 15 percent of another in-market station's weekly programming hours. *In the Matter of Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, 14 FCC Rcd 12559, 12585, ¶ 55 (1999).

data against the JSAs we were able to identify in stations' public inspection files and did not identify any additional JSAs in this data that were not available in the file. We assessed the reliability of using BIA/Kelsey's JSA data for the purpose outlined here by obtaining information from BIA/Kelsey about how the data were collected and maintained and determined that the data were sufficiently reliable for this purpose. We analyzed the JSAs we obtained from FCC to determine their characteristics such as which stations and owners were party to the agreements, their date and duration, and advertising sales provisions. We also analyzed the filings of JSAs in stations' public inspection folders to identify if any JSAs were filed in one station's folder but missing from the folder of another station involved in the JSA. Where JSAs did not mention a specific sales-agent station, we identified the probable station by reviewing publicly available information about television station owners or contacting another station involved in the JSA and examined the public inspection files of those stations. We evaluated FCC's efforts to ensure completeness of stations' JSA filings based on FCC's rules and stated expectations for stations' public files and federal internal control standards related to information and communications.[4]

To determine the prevalence and characteristics of advertising sales agreements—specifically interconnects—among MVPDs, we interviewed selected stakeholders (as listed later in this section) about their knowledge of the prevalence and characteristics of interconnects. We attempted to obtain data on the number of interconnects in the United States from various media industry sources; however, we were unable to establish the reliability of these data due to differences in the methodologies between the various sources that made the numbers inconsistent.

To assess selected stakeholders' perspectives on advertising sales agreements among local stations and MVPDs, we reviewed filings in two FCC proceedings: 1) the proceeding for FCC's rulemaking on television joint sales agreements and 2) FCC's review of a 2014 proposed merger

[4]GAO/AIMD-00-21.3.1.

between Comcast and Time Warner Cable.[5] We analyzed filings that stated specific benefits or concerns related to JSAs or interconnects. We also interviewed FCC officials and the following stakeholders about their perspectives on JSAs and interconnects:

- eight local station owners that we selected to represent companies of various sizes and those that do and do not have JSAs;[6]
- five MVPDs selected to represent cable, satellite, and telecommunications providers and two companies selling advertising on their behalf;
- five media industry associations selected because they represent broadcasters, large and small MVPDs, and advertising sellers;
- two public interest groups and two academic stakeholders selected because they filed comments in the FCC JSA rulemaking or were recommended by other stakeholders;[7] and
- five financial analysts selected based on our prior work and our research on their backgrounds.

Table 4 is the list of stakeholders we interviewed.[8]

[5]We reviewed comments filed in the FCC JSA rulemaking docket since the beginning of 2014. We examined filings in the merger proceeding because some commenters discussed interconnects in their filed comments. In April 2015, FCC terminated its proceeding to consider this merger after the applicants notified FCC they had terminated the planned transaction.

[6]We excluded local station owners that are party to the lawsuit regarding FCC's JSA rulemaking.

[7]Initially, we also sought information about JSAs among broadcast radio stations. FCC adopted rules in 2003 that made radio stations' JSAs attributable under FCC's ownership rules. Broadcast radio stakeholders we interviewed told us that JSAs are not common among radio stations, since they are subject to FCC's radio JSA rule and because FCC's radio ownership limits are less strict than those for television. We contacted owners of broadcast radio stations, but most of these companies either did not respond to our requests for interviews or told us they had little or no information about radio JSAs. We were able to conduct interviews with the Radio Advertising Bureau and Salem Media Group, a radio-station owner. In reviewing a 2013 FCC report on radio station filings, we identified only four JSAs between radio stations. Due to the limited available information about radio JSAs, we have excluded them from our analysis and have focused on television JSAs and MVPD interconnects.

Table 4: Stakeholders Interviewed from the Following Organizations

Local broadcast television station owners	• Bristlecone Broadcasting • Comcast NBCUniversal[a] • GOCOM Media • Gray Television • Schurz Communications • Sinclair Broadcast Group • Tougaloo College • Univision
Multichannel video programming distributors (MVPD) and related advertising sellers	• AT&T[b] • Comcast NBCUniversal[a] • DIRECTV[b] • DISH Network • NCC Media[c] • Time Warner Cable • Viamedia[c]
Media industry associations	• American Cable Association • National Association of Broadcasters • National Cable & Telecommunications Association • Television Bureau of Advertising • Video Advertising Bureau
Public interest groups[d]	• Common Cause • National Hispanic Media Coalition
Academics	• Georgetown University Institute for Public Representation • University of Delaware Center for Community Research and Service
Financial analysts	• Jefferies • Brean Capital • Wells Fargo • MacQuarie Securities • Evercore

Source: GAO. | GAO-16-349

[a]Comcast NBCUniversal appears twice because the company is both an MVPD and an owner of broadcast television stations, and we discussed both of these aspects with representatives of the company.

[8]Additionally, we contacted a number of other stakeholders that either did not respond to our requests or declined to be interviewed, generally because they indicated they were not knowledgeable about the subject. This included broadcast television station owners (ION Media and Tribune Company), one MVPD (Verizon), and public interest and media advocacy groups (Free Press; Public Knowledge; Multicultural Media, Telecom and Internet Council; and National Association of Black Owned Broadcasters).

[b]AT&T acquired DIRECTV in 2015; however, we are listing them separately, as we met with them separately.

[c]NCC Media and Viamedia are advertising representation firms that sell advertising on behalf of MVPDs.

[d]We have categorized these organizations as public interest groups, although their specific missions differ. National Hispanic Media Coalition describes itself as a media advocacy and civil rights organization for the advancement of Latinos; Common Cause describes itself as a nonpartisan, grassroots organization that serves the public interest.

For contextual information about the advertising revenue and market shares of local media, we purchased data from BIA/Kelsey on the estimated local advertising revenue of 12 types of local media: broadcast television stations, broadcast radio stations, MVPDs, newspapers, magazines, direct mail, out-of-home (a category of advertising that includes billboards and other signs in public places), yellow pages, online (i.e., websites), mobile, email, and Internet yellow pages.[9] Since 2009, BIA/Kelsey has released nationwide forecasts for local media advertising with estimates of local advertising for these 12 media categories. BIA/Kelsey allocated its national estimates to each of the 210 Nielsen-defined local television markets, known as “designated market areas” (DMA), based on county-by-county demographic and economic data and BIA/Kelsey’s internal estimates on various media.[10] BIA/Kelsey checked its estimates with publicly available information on many of the public companies that are part of its media categories. BIA/Kelsey stated that the resulting data should be considered as approximate estimates to provide a general view of local advertising markets and changes in those markets. We obtained these data for each of the 210 DMAs for years 2011 and 2014. We chose these years because 2014 would be the most recent year of complete data and 2011 would provide a comparison year during the economic recovery.

Prior to purchasing the data from BIA/Kelsey, we researched potential sources of such data by interviewing stakeholders and reviewing our prior work on media ownership. We solicited proposals from companies that we identified as potentially having the data we needed and evaluated

[9]We used different terms than BIA/Kelsey to describe some of these categories in this report and also collapsed some categories for analysis purposes.

[10]BIA/Kelsey used the demographic and economic data to make adjustments to its estimates to account for market-specific differences. For example, if the per-capita retail expenditures in a given market were above average, BIA/Kelsey increased its estimate for retail advertising in that market. BIA/Kelsey also made adjustments to reflect spending in some local markets during years with election-related spending based on the competitiveness of local races.

these proposals to determine which would meet our requirements. We assessed the reliability of BIA/Kelsey's data for the purpose of providing contextual information about local media market shares by discussing these data with industry stakeholders and obtaining information from BIA/Kelsey about how they collect and maintain the data. We determined that the data were sufficiently reliable for this purpose.

As previously discussed, several broadcast television entities have filed an ongoing lawsuit against FCC over the 2014 JSA rule. This lawsuit alleges that FCC evaded its legal obligations by not completing its review of its media ownership rules and that FCC violated its statutory obligations by promulgating the JSA rule on the basis of these ownership rules. Due to this lawsuit, we limited the scope of our review. Specifically, we did not evaluate FCC's efforts related to the JSA rulemaking, nor did we evaluate FCC's efforts to review its media ownership rules.

We conducted this performance audit from April 2015 to March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

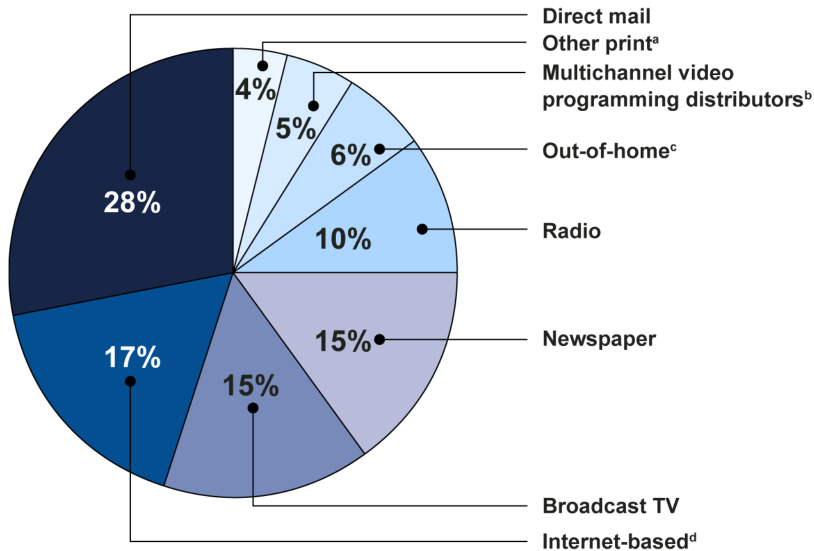
Appendix II: Local Media Advertising Revenue

Revenue from the sale of advertising is earned by a variety of types of local media. Local media advertising generated approximately $136 billion in revenue in 2014, a slight decrease from the $139 billion (2014 dollars) in 2011, according to data from BIA/Kelsey, a media research and consulting firm.[1] The market for local advertising revenue includes a number of different types of media, such as local television and out-of-home venues (which encompasses billboards and ads on buses, among other things). The percentage of local advertising revenue that goes to each type of media is referred to as its market share. Recent changes in the local media landscape have led to some shifts in market share. We obtained data on local advertising revenue from BIA/Kelsey for 2011 and 2014 for 12 types of local media: broadcast television stations, broadcast radio stations, MVPDs, newspapers, magazines, direct mail, out-of-home, yellow pages, online (i.e., websites), mobile, email, and Internet yellow pages. We analyzed these data to identify differences in the local advertising market shares among these various types of local media and how these market shares may have changed in recent years.

According to our analysis of these data, the largest sellers of local advertising in 2014 were direct mail, broadcast television, and newspapers, which each have a market share of about 15 percent or more, based on estimates of their local advertising revenue across all U.S. local media markets. In contrast, MVPDs' market share was about 5 percent in 2014, according to the BIA/Kelsey data. When the market shares of various Internet-based media (mobile, online, email, and Internet yellow pages) are combined, their market share (17 percent) rivals that of the largest local advertising sellers (see fig. 2).

[1]We adjusted the 2011 revenue estimate to 2014 dollars to account for inflation. The nominal revenue estimate for 2011 was $132 billion. BIA/Kelsey representatives also noted that the 2014 estimate includes political advertising, which they said is important to many local television stations.

Figure 2: Estimated Share of Local Advertising Revenue by Local Media Type, 2014



Source: GAO analysis of BIA/Kelsey data. | GAO-16-349

[a]This figure collapses BIA/Kelsey's magazines and print yellow pages categories into "other print."

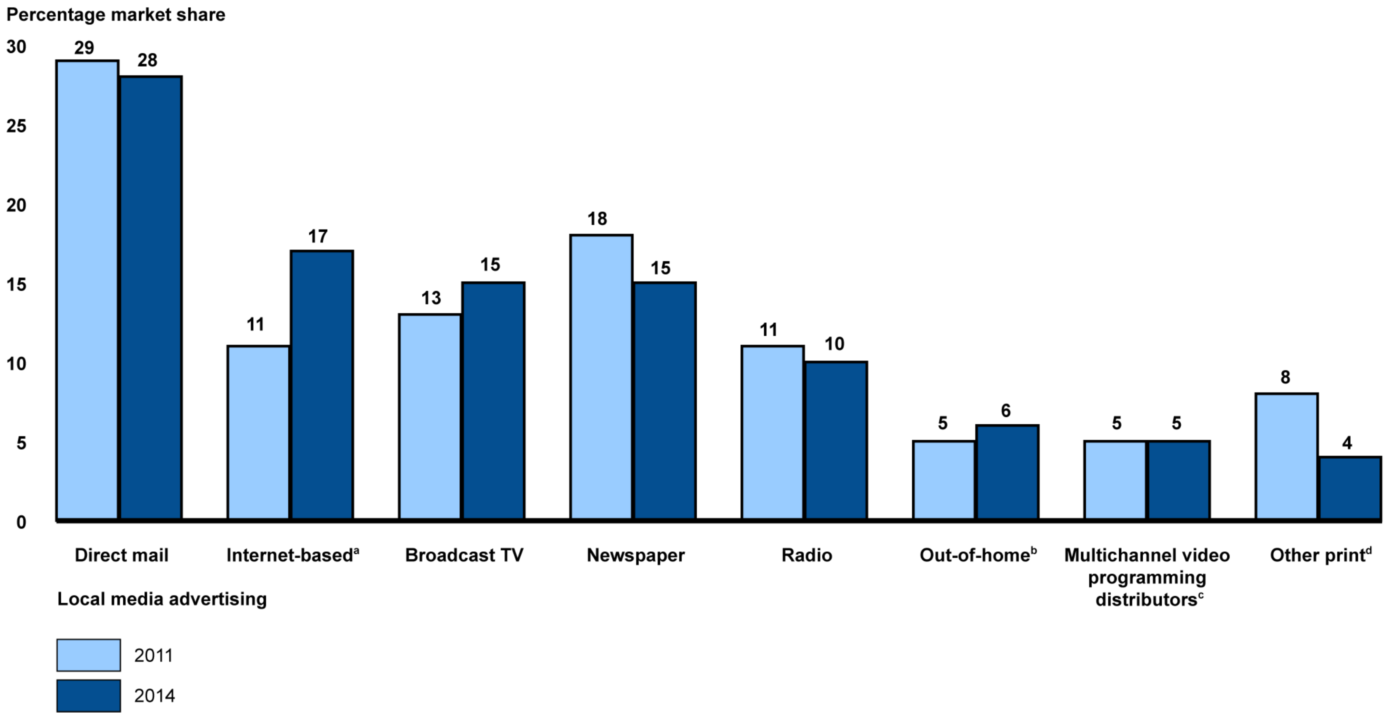
[b]Multichannel video programming distributors are cable, satellite, and telecommunications subscription television services.

[c]Out-of-home is a category of advertising that includes billboards and other displays in public places.

[d]This figure collapses BIA/Kelsey's mobile, online, e-mail, and Internet yellow pages categories into "Internet-based."

Our analysis also revealed some trends in the market shares of these media when comparing estimates for 2011 and 2014. The most significant change in market share in these recent years is among Internet-based media, with a market-share increase from 11 percent in 2011 to 17 percent in 2014 (see fig. 3). Most stakeholders we interviewed similarly identified Internet-based or "digital" media as having significant market growth during this time. Broadcast television's market share grew slightly between 2011 and 2014, and MVPDs' market share was relatively flat between 2011 and 2014, according to the data. Print media (newspapers, magazines, direct mail, yellow pages) and radio all saw market-share declines from 2011 to 2014, according to the data, and two of the financial analysts told us that television market share has flattened in recent years and may soon decline. According to many stakeholders, advertisers shifting their business to Internet-based media accounts for changes in market shares, particularly the declines among print media.

Figure 3: Local Media Advertising Revenue Market Shares, 2011 and 2014



Source: GAO analysis of BIA/Kelsey data. | GAO-16-349

[a]This figure collapses BIA/Kelsey's mobile, online, email, and Internet yellow pages categories into "Internet-based."

[b]Out-of-home is a category of advertising that includes billboards and other displays in public places.

[c]Multichannel video programming distributors are cable, satellite, and telecommunications subscription television services.

[d]This figure collapses BIA/Kelsey's magazines and print yellow pages categories into "other print."

Appendix III: Comments from the Federal Communications Commission

Federal Communications Commission
Washington, D.C. 20554

February 19, 2016

Mark Goldstein, Director
Physical Infrastructure Issues
Government Accountability Office
441 G St, NW
Washington, DC 20548

Dear Mr. Goldstein:

Thank you for the opportunity to respond to the Government Accountability Office (GAO) Draft Report entitled *FCC Should Take Action to Ensure Television Stations Publicly File Advertising Agreements*, GAO-16-349, which reviews issues related to the use of advertising sales agreements in local markets.

The Draft Report identifies an aggregate number of cases in which only one of the parties to a joint sales agreement (JSA) — and not both — placed that agreement in the appropriate station's public inspection file, as required by section 73.3526(e)(16) of the Commission's rules. GAO recommends "that the Chairman of FCC review JSAs filed in stations' public inspection files to identify stations involved in those JSAs and take action to ensure that each station involved has filed their JSAs as required." As noted in the Draft Report, the Commission takes seriously its obligation to ensure that licensees comply with its rules, and it actively enforces violations of the public inspection file rule that are identified as a result of self-disclosure, complaints filed by the public regarding the completeness or availability of the public inspection files, discovery by Commission staff, or in connection with a station's license renewal application.[1] To date, the Commission has not received any complaints from the public concerning the failure of a station to properly file a JSA in its public inspection file and no stations have self-reported any such violations. In addition, the Commission received no petitions to deny alleging missing JSAs in the most recent round of license renewal reviews.

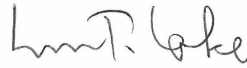
We appreciate GAO's recommendation and share your concern that potential noncompliance with the JSA filing requirement could bear on the transparency of local television markets. The Commission will take action to help ensure that broadcasters are aware of and in compliance with their public file obligations regarding JSAs and that any noncompliance is disclosed to the Commission, as appropriate.[2]

[1] We note that, in their license renewal applications, broadcast licensees must certify compliance with the public inspection file rule for the preceding license period. Willful false certifications are punishable by fine and/or imprisonment (18 U.S.C. § 1001), and/or revocation of the station license (47 U.S.C. § 312(a)(1)), and/or forfeiture (47 U.S.C. § 503).

[2] The Commission previously reminded licensees of the JSA public file requirement. *Media Bureau Announces Requirement to File Certain Television Joint Sales Agreements*, Public Notice, 29 FCC Rcd 13402 (MB 2014).

Thank you, once again, for the opportunity to respond to the Draft Report's recommendation. We look forward to working with you in the future.

Sincerely,



William T. Lake
Chief
Media Bureau

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Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Mark L. Goldstein, (202) 512-2834 or goldsteinm@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Alwynne Wilbur (Assistant Director), Amy Abramowitz, Melissa Bodeau, Michael Clements, Leia Dickerson, Andrew Huddleston, Crystal Huggins, Hannah Laufe, Meredith Lilley, Grant Mallie, Malika Rice, Kelly Rubin, and Larry Thomas made key contributions to this report.

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