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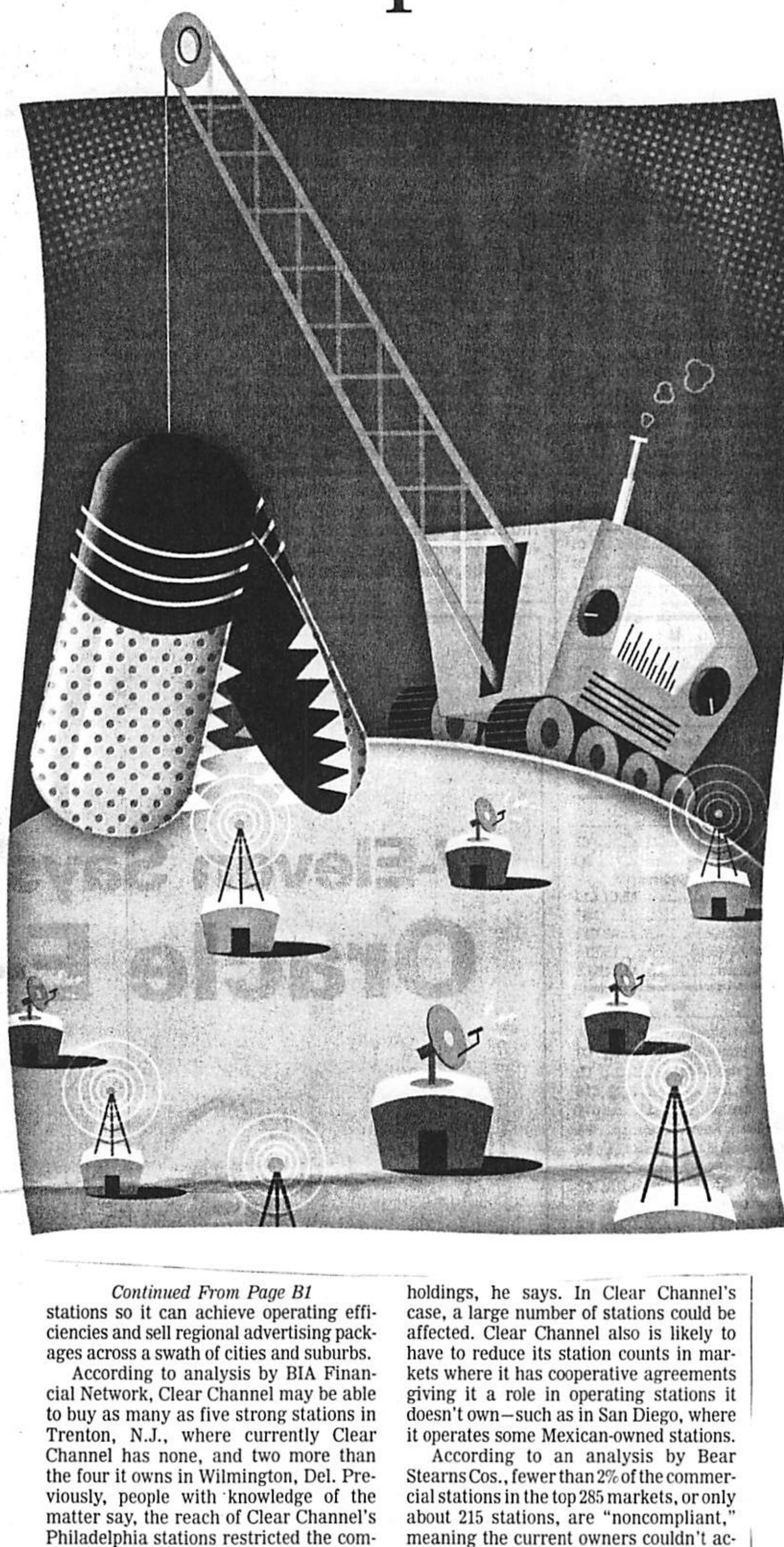
FCC's New Loopholes

Changes in Radio Rules Mean Clear Channel Can Stay Big— And in Some Places Expand

By Anna Wilde Mathews



John Ueland

THE FEDERAL Communications Commission tightened radio ownership rules in June after giant **Clear Channel Communications** Inc. became the focus of complaints about rapid consolidation in the radio industry.

But Clear Channel may fare better than its rivals under the new rules and may still be able to grow.

Radio companies generally can keep their current stations under a grandfather clause in the FCC's new guidelines. As a result, Clear Channel, the San Antonio company that is by far the nation's biggest owner of radio stations, can hang onto just about every station it rolled up under the old rules. Yet competitors say the tougher new standards will make it harder for them to replicate Clear Channel's potent collection of stations.

"All [the FCC] did was further entrench them, and gave them more running room," says Lew Dickey, chief executive of **Cumulus Media** Inc., a radio company based in Atlanta. "It makes it more difficult for the rest of us to line up and compete against them on a national level."

Clarke Brown, chief executive of radio operations for **Jefferson-Pilot** Corp. in Greensboro, N.C., says Clear Channel "should be very pleased. ... They're already in a maximum position. This is going to disallow almost anyone from achieving clusters like Clear Channel's in many markets."

But Clear Channel's senior vice president for government affairs, Andrew Levin, says the change, which Clear Channel opposed, doesn't favor his company. "Clear Channel had much more latitude under the old rules than we do today," he said.

The change comes as Clear Channel continues to draw a spotlight—last week, a top Justice Department antitrust official said the agency had two continuing investigations into Clear Channel, but declined to go into detail. The company said it is "cooperating fully" and is "confident the DOJ will find, as it has in the past, that our company is managed with the highest degree of integrity."

Some aspects of the FCC's new media-ownership regulations—which generally made rules for owning radio stations stricter, even while easing those for TV stations—are being challenged in Congress, and radio-industry officials are debating whether to oppose them in court. But if they stand, they seem likely to allow some station-buying opportunities for Clear Channel, along with other radio-station owners.

The buying opportunities are the result of changes in how the FCC defines a radio market. A station's market used to be defined by the area covered by its signal. The new rules rely on market definitions maintained by industry-rating service **Arbitron** Inc., New York, which don't directly take a station's signal strength into account.

That may make it possible for radio companies to buy some stations that would have been tough to acquire before, particularly when two markets are close together. Under the old rules, when a strong signal reached more than one city, it effectively could count against ownership caps in multiple markets. But under the new rules, the owner of the powerful signal might be able to buy more nearby stations because they are considered to be in completely separate markets. Also, companies might be able to pick up stations when Arbitron guidelines for a market change, but the FCC said they would have to wait two years after such an adjustment.

Clear Channel could find some benefits in adjacent-market stations because it has traditionally bought stations in both large and small markets. It also tends to blanket areas with

Please Turn to Page B7, Column 1

Continued From Page B1

stations so it can achieve operating efficiencies and sell regional advertising packages across a swath of cities and suburbs.

According to analysis by BIA Financial Network, Clear Channel may be able to buy as many as five strong stations in Trenton, N.J., where currently Clear Channel has none, and two more than the four it owns in Wilmington, Del. Previously, people with knowledge of the matter say, the reach of Clear Channel's Philadelphia stations restricted the company in Trenton and Wilmington. Similarly, Clear Channel could have new opportunities to buy strong stations in Daytona Beach, Fla., where it currently owns none and could now have six. Under the old rules, its cluster in nearby Orlando limited what it could buy in Daytona, according to the people with knowledge of the matter.

Clear Channel's Mr. Levin says that even under the old rules the company could have purchased more stations in Wilmington, Trenton and Daytona Beach. Their signals simply would have had to be configured so as not to overlap too much with the company's big nearby station clusters.

In addition, companies are extremely limited in their ability to resell station clusters that don't conform to the new rules, sharply reducing the value of those holdings, he says. In Clear Channel's case, a large number of stations could be affected. Clear Channel also is likely to have to reduce its station counts in markets where it has cooperative agreements giving it a role in operating stations it doesn't own—such as in San Diego, where it operates some Mexican-owned stations.

According to an analysis by Bear Stearns Cos., fewer than 2% of the commercial stations in the top 285 markets, or only about 215 stations, are "noncompliant," meaning the current owners couldn't acquire them under the new rules.

Of those, 82 are owned or partially operated by Clear Channel, representing about 6.7% of the company's stations, the report says. The publicly traded company with the next-highest number is Cumulus, with 17, or 6.4% of its total, and New York's **Viacom** Inc. has four, or 2.2%.

The FCC says the radio rules weren't designed to help any particular company. By grandfathering, "we tried to balance two important goals," an FCC official says. "One was respecting the reasonable expectations of companies that had acquired stations lawfully under the old rules, and the other was the policy goal of protecting consumers by promoting competition in radio markets."

—Mark Wigfield contributed to this article.