MEMO# 6867

April 18, 1995

INSTITUTE COMMENT LETTER SUPPORTS LIBERALIZATION OF FCC BROADCAST MEDIA ATTRIBUTION RULES

1 See Memorandum to Compliance Committee No. 10-95, Investment Advisers Committee No. 15-95, SEC Rules Committee No. 27-95 and Unit Investment Trust Committee No. 19-95, dated February 22, 1995. April 18, 1995 TO: COMPLIANCE COMMITTEE No. 18-95 INVESTMENT ADVISERS COMMITTEE No. 21-95 SEC RULES COMMITTEE No. 59-95 UNIT INVESTMENT TRUST COMMITTEE No. 43-95 RE: INSTITUTE COMMENT LETTER SUPPORTS LIBERALIZATION OF FCC BROADCAST MEDIA ATTRIBUTION RULES
____ As we previously reported, the Federal Communications Commission recently issued a Notice of Proposed Rulemaking seeking comments on several issues relating to the FCCGs broadcast media attribution rules.1 Among other things, the FCC requested further comments on its 1992 proposal to increase the attribution benchmark (i.e., the level of ownership at which an entity becomes subject to the FCCGs multiple ownership rules) for certain passive investors (including mutual funds) from 10 percent of a broadcast companyGs voting stock to 20 percent. The Institute has filed a comment letter with the FCC expressing its continued support for this proposal. A copy of the letter is attached. In the letter, the Institute indicated that it is unlikely that an individual mutual fund would own more than 10 percent of any one broadcast company. The letter noted, however, that the FCCGs rules require that funds under common management be aggregated for purposes of applying the attribution benchmark, and it would not be unusual for aggregate fund investments to reach the 10 percent level. The letter stated that increasing the attribution benchmark for passive investors to 20 percent likely would lead to additional investment by mutual funds in the broadcast industry, but without raising concerns about the possible exertion of undue influence on broadcast companies. In this regard, the letter noted that many mutual funds have investment policies restricting their ownership of the outstanding voting securities of any one issuer to 10 percent, as well as policies prohibiting them from investing for purposes of management or control. In addition, the letter cited Rule 16a-1 under the Securities Exchange Act of 1934 for the premise that certain securities holdings of passive institutional investors such as registered investment companies and registered investment advisers do not involve changing or influencing control of the issuer. On this basis, the InstituteGs letter urged the FCC to increase the attribution benchmark for passive investors to 20 percent. The letter also recommended that the FCC treat registered investment advisers as passive investors for purposes of the attribution rules. Frances M. Stadler Associate Counsel Attachment