ORIGINAL FILE

Before the
FEDERAL COMMUNICATION COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Policy Implications	)	MM Docket No. 91-221
of the Changing Video Marketplace	)	

REPLY COMMENTS OF THE OFFICE OF COMMUNICATION
OF THE
UNITED CHURCH OF CHRIST

RECEIVED
SEP 23 1992
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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September 23, 1992

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SUMMARY

The Office of Communication stands by the integrity of its study which indicates that group owners rely more on syndicated programming, and that the greatest increase in the amount of local produced news after 1984 can be attributed to individually owned stations. Based upon the record of group ownership programing patterns subsequent to the repeal of the seven station rule there is no basis for the belief that savings from economic efficiencies will be reinvested in local informational programming.

Broadcasters have attempted to downplay the significance of OC's study, but have failed to respond to the Commission's invitation to provide an independent analysis of their own.

As the only systemic market research on the record, OC's study provides a basis for either abandoning the rulemaking, or making acquisitions above the current cap <u>contingent</u> upon increased investment in local informational programming. The Commission cannot rely upon marketplace forces or the "goodwill" of broadcasters to implement its public interest goals.

The significance of OC's findings have been substantiated by Dr. Stewart Hoover of the University of Colorado at Boulder. Dr. Hoover has concluded that the five markets selected for OC's survey have not been proven by critics as non-representative of the marketplace as a whole. He further states,

> <u>it is my opinion that the findings of [OC's] study stand as the only empirical data available.</u> And, their force and effect is to suggest that the notion that relaxation of ownership standards could have a positive or even neutral effect on provision of local public service - is seriously flawed reasoning.

With respect to the Commission's proposed relaxation of the local ownership rules, independent research indicates that group owners will expend less on local newscasts to the extent that they are able to dominate market competition. Studies by Stephen Lacy of Michigan State University support OC's contention that the incentive to invest in local news will disappear if stations in the same market are permitted to combine ownership. As stations combine their respective market share through joint ownership they will become less vulnerable to competition and will reduce expenditures on locally produced news.

The Office of Communication also disputes the claim that individual stations maintain editorial autonomy in the context of joint news operations. The information and new reporting sharing that broadcasters describe in their comments constitutes an admission that editorial autonomy is compromised on a regular basis. A single owner cannot avoid biasing news assignments and information sharing in the process of coordinating joint news gathering.

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REPLY COMMENTS OF THE OFFICE OF COMMUNICATION
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I. INTRODUCTION.

The Office of Communication of the United Church of Christ ("OC/UCC") respectfully submits the following Reply Comments in response to the Commission's Notice of Proposed Rulemaking, FCC 92-209, released June 12, 1992 ("NPRM").

II. THE COMMISSION'S PROPOSAL TO DEREGULATE THE LOCAL AND NATIONAL MULTIPLE OWNERSHIP RULES CANNOT BE RATIONALIZED ON THE BASIS OF THE PUBLIC INTEREST.

Throughout this proceeding the Office of Plans and Policy, the Commission, and broadcast interests[1] have maintained that relaxed group ownership rules will permit licensees to exploit economic efficiencies and serve the public by providing "new, diverse, and locally produced programming." NPRM para. 11, (emphasis provided). OC has consistently disputed this premise on the basis of empirical research which suggests that group

[1]. NPRM para. 11; "Broadcast Television in a Multichannel Marketplace", Office of Plans and Policy Working Paper # 26, DC 91-817, (1991) at 2 and 170; NAB at 3, CBS at 15, Cap/Cities at 10.

owners rely more upon syndicated programming to provide news and public affairs. OC/UCC Comments filed Nov. 21, 1991; OC/UCC Comments filed August 24, 1992 ("Comments of OC/UCC") at 10.

OC's conclusions are based upon a survey of five markets which adequately represent the market as a whole. As the only systematic research on the record, OC's study must be considered, for policy making purposes, as evidence that further relaxation of the group ownership rules would be to the disadvantage of the public interest.

A regulatory scheme that fails to make reinvestment in public interest programming a prerequisite for increased group ownership provides no assurance that the goals of localism, diversity and public interest programming will be met. Marketplace forces that focus attention on bottom-line considerations will incline licensees to apply profits to the payment of debt service, shareholder dividends, and the cost of entertainment programming. Local news operations will be shut down in an effort to reduce costs and fund station acquisitions.

Research by other media scholars call into question the efficacy of relaxing the duopoly rules. According to recent studies, expenditures for local television news will decline to the extent that common ownership in the same market reduces competition.

Although the Commission attempts to rationalize relaxation of the multiple ownership rules on the basis of the public interest, its reasoning is <u>not</u> based upon empirical research and is disputed by the record evidence.

A. THE RECORD OF THIS PROCEEDING CONTAINS NO EVIDENCE TO SUPPORT THE PREMISE THAT SAVINGS FROM ECONOMIC EFFICIENCIES WILL BE REINVESTED IN NEW, DIVERSE, AND LOCAL PROGRAMMING.

The NPRM and the comments of broadcasters contain virtually no evidence to support the claim that relaxed group ownership rules will advance the public's interest in localism, diversity and informational programming.[2] The burden of proof is upon those that initiated this theory to support it with systematic research.

The comments of broadcasters are non-responsive to the Commission's invitation to provide "independent studies" that compare the expenditures of group and independent broadcasters.[3] At most, their comments attempt to downplay the relevance of the OC's study on the basis that it does not represent the entire marketplace. As noted in the next section such criticisms are unfounded.

As the only empirical data on the record, OC's study provides a basis for either abandoning the proposed rulemaking or modifying it with safeguards that will ensure that the public interest goals are met. Anything short of making acquisitions above the current caps contingent upon reinvesting in local informational programming will jeopardize the Commission's core public interest goals.[4]

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[2]. id.

[3]. NPRM page 7 note 23.

[4]. The Commission has referred to "localism, diversity, the availability of nationwide service and the public interest standards for broadcasters" as "core Commission goals". Notice

The decision to reinvest in local informational programming should not be optional, if indeed, the Commission wishes to promote local informational programming. The proposed rules fail to take into consideration marketplace forces that will influence licensees to exploit economic efficiencies in a manner different from that described in the NPRM. To the extent that highly leveraged financing is used to acquire new stations additional pressure will be placed on station owners to meet debt obligations. In order to attract equity capital financing stations will have to maximize their profit margins and use net income to pay share holder dividends. Station managers will be more inclined to select programming based upon the need to increase market share as opposed to fulfilling their public service obligation. Given various factors that inhibit reinvestment in local informational programming the Commission should not rely upon marketplace forces to implement public interest objectives.

The Commission should adopt mandatory standards for public interest programming to be adhered by group owners that exceed the current cap of 12 television stations. In its comments filed in 1991 and 1992, OC recommended that the Commission adopt rules in five areas.[5] Adoption of such rules would safeguard

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of Inquiry, 6 FCC Rcd 4961 (1991) para. 2.

[5]. The Commission should adopt rules in the following areas:

1) Minimal requirements for _locally_ produced non-entertainment programming. The standards should set forth both _quantitative_ and _qualitative_ requirements that licensees and citizens can easily interpret for the purpose of evaluating programming performance;

localism and at the same time advance the Commission's goal favoring nationwide availability.

B. OC's RESEARCH ON THE PROGRAMMING PATTERNS OF GROUP OWNERS IS BASED UPON A SURVEY OF FIVE MARKETS THAT ADEQUATELY REPRESENT THE MARKET AS A WHOLE.

OC's study is based upon a quantitative analysis of five markets that compares the news and public affairs programming of group owned and individually owned stations in five markets in 1984 and the same five markets in 1989. Contrary to the views of NAB and Cap/Cities the conclusions drawn from this survey are generalizable to the market as a whole. NAB at 10, Cap/Cities at 10.

Dr. Stewart Hoover, Associate Professor at the University of Colorado at Boulder, concludes the following,

> Until there is a serious analysis of why these five markets might be so unusual as to be non-representative of the trends as a whole, <u>it is my opinion that the findings of [OC's] study stand as the only empirical data available.</u> And, their force and effect is to suggest that the notion that relaxation of ownership standards could have a positive or even neutral effect on provision of local public service - is seriously flawed reasoning.

Attached letter of Dr. Stewart Hoover, September 11, 1992 (emphasis provided).

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2) A standardized format for issues-programs lists;

3) A clear definition of the term "issue-responsive programming";

4) A requirement that stations provide a narrative statement on each issue selected to be addressed by means of issue-responsive programming, as well as an explanation of the procedure used to identify issues of critical social importance facing the local community;

5) a set of penalties ranging from financial forfeitures to license revocation for licensees that violate any of the standards listed above.

The argument that OC's sampling size is too small is a red herring. As Dr. Hoover points out, even those surveys that are large enough to be considered "statistically significant" are subject to the criticism that their findings are not generalizable for the entire market. What is important is that the five markets included in the survey reasonably represent the market as a whole and do not contain extreme aberrations that would bias the data. None of the commenters have challenged the study on the basis that the markets selected do not represent a good cross-section of the national market.

As indicated by the chart below the markets are sufficiently diverse both in terms of geographical location and market size. Two of the markets are in the top fifty ADI (Portland and Memphis) and three are in the 100 to 150 ADI market range (Corpus Christi, Sioux City, and Peoria). The markets are not concentrated in any one part of the country. Rather, they are taken from four regions of the country - two are from the North Central region, one from the South East, one from the South, and one from the North West region. All of the markets have a mix of independently and group owned stations.

	1984 ADI Market	1989 ADI Market	Region
Portland, Ore	23	27	NW
Memphis	38	41	SE
Corpus Christi	125	122	South
Peoria, Ill	100	110	North Central
Sioux City	135	128	North Central

Such a diverse sampling is not skewed towards any extreme market trend and should be viewed as a significant representation of the marketplace as a whole.

The results of OC's research show that group owners devoted 5.3 percent of their air time to syndicated news in 1984 (the year that the Commission eliminated the 7 station cap) and 11.1 percent in 1989 (See Comparison of Local and National Informational Programming in appendix). Syndicated news comprised only 3 percent of the air time of individually owned stations in 1989.

A control group of licensees (that <u>decreased</u> the number of their stations under commonly ownership after 1984 and had <u>less</u> economic efficiencies in 1989) devoted more air time to local news in 1989 than in 1984. Over the five year period they increased their locally produced news by 2.5 percentage points and <u>decreased</u> their reliance upon syndicated news by 3.2 percentage points.

With respect to local news, individually owned stations dramatically increased their local news after 1984 such that by 1989 it was almost equal to the amount aired by group owners. Indivdually owned and group owned stations devoted 6.2 and 7.3 percent of their programming to local news respectively.

After 1984 individually owned stations increased the amount of air time devoted to local public affairs by 1.8 percentage points. Group owned stations increased their local public affairs by .5 percentage points.

The reverse trend was found for syndicated public affairs. Group owned stations increased their reliance on syndicated programming by 7.4 percentage points. Individually owned stations increased syndicated programming by 2.2 percentage points.

Overall the data shows that there are significant differences in the programming patterns between individual and group owned stations. Group owned stations tend to rely more upon syndicated programming, and the greatest increase in local produced programming was exhibited by individually owned stations after 1984 - the year the Commission repealed the seven station cap. The rules proposed will not advance the goal of local programming and poses a threat to the very type of station that is most responsible for producing local programming - individually owned stations.

These findings are supported by a second OC study that examined approximately 20 markets in each of the years 1974, 1979, 1984 and 1989.[6] This larger study has an error margin of .05. The results of that study show that during the fifteen year period after 1974, when many stations came under common ownership, syndicated public affairs increased significantly as locally produced public affairs decreased. The proportion of local news also decreased during the 15 year period. The results of the five market survey are consistent with the trend analysis of twenty markets.

The results of OCs research are also substantiated by

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[6]. "The Public Cost of TV Deregulation: A Study of the Decline of Informational Programming on Commercial TV", attached to OC/UCC Comments filed November 21, 1991.

research conducted by scholars of the newspaper industry. Group ownership has been found to impact adversely upon news coverage, quality, and diversity in the newspaper industry.[7]

The following addresses the itemized concerns raised by NAB (NAB at 11):

1) Quantitative measures. Reliance upon quantitative measures has been sanctioned by the Commission as an objective method of assessing programming performance. NAB's argument contradicts previous objections by the broadcast industry that qualitative measures constitute a subjective intrusion upon the programming decisions of licensees.

2) Omission of station breaks. The omission of station breaks is irrelevant. The amount of air time devoted to such breaks is too insignificant to change the results of the study. From a comparative standpoint the findings are not biased since station breaks have been eliminated for both group owned and individually owned stations.

3) Margins of error. As discussed above, based upon an independent analysis the study methodology is adequate to measure differences in programming trends for policy making purposes. The selection of markets is sufficiently diverse to represent the marketplace as a whole.

4) Increased number of television stations. The litmus test for the Commission's theory is whether group owners exploit economic efficiencies by devoting a greater percentage of air-time to local informational programming. The study conducted by OC shows that group owners rely mostly upon syndicated programming. The increase in informational programming attributed to new television stations coming on the air is entirely irrelevant.

The comments of NAB also refer to a letter addressed to

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[7]. Litman, and Bridges, "An Economic Analysis of Daily Newspaper Performance," Newspaper Research Journal, Spring 1986, pages 9-26; Donohue, Olien, and Tichenor, "Reporting Conflict by Pluralism, Newspaper Type and Ownership," Journalism Quarterly, (Autumn 1985) pages 489-499; and Demers. David P., Corporate Structure and Emphasis on Prifit and Product Quality at U.S. Daily Newspapers," Journalism Quarterly, (Spring/Summer 1991) pages 15- 26.

Senator Inouye concerning OC's study of 20 markets. Enclosed with these comments is OC's letter to Senator Inouye in response to NAB's letter (see appendix).

C. INDEPENDENT STUDIES INDICATE THAT THE PROPOSED DUOPOLY RULES WILL HINDER COMPETITION AND CAUSE STATIONS TO INVEST LESS IN LOCAL NEWS PROGRAMMING.

Recent studies have used competition as a control variable to measure the allocation of financial resources to local news programming.[8] Stephen Lacy of the School of Journalism, Michigan State University, has concluded that "as competition intensified for local newscasts, the resources allocated to news departments increased."[9] Similar newspaper studies substantiate these findings. Lacey at 2.

The implication is that under non-competitive circumstances,

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[8]. Studies of both newspaper and local television news competition indicate that competition can lead to a greater expenditure on the newsroom and increased local coverage. For research on local television news competition see Lacey and Bernstein, "The Impact of Competition and Market Size on the Assembly Cost of Local Television News," Mass Comm Review, (1992); Lacey, Atwater and Qin, "Competition and the Allocation of Resources for Local Television News," Journal of Media Economics, (Spring 1989) pages 3-14 ("Lacey"); Lacey, Atwater, Qin, and Powers, "Cost and Competition in the Adoption of Satellite News Gathering Technology," Journal of Media Economics (Spring 1988) pages 51-59. For research on newspaper competition see, White and Andsager, " Winning Newspaper Pulitzer Prizes: The (Possible) Advantage of Being a Competitive Newspaper," Journalism Quarterly, (Winter 1990) pages 912-919; Everett and Everett, "how Readers and Advertisers Benefit from Local Newspaper Competition," Journalism Quarterly, (Spring 1989) pages 76-79; and Sylvie, G., "A Study of Civil Disorder: The Effect of News Values and Competition on Coverage by Two Competing Daily Newspapers," Newspaper Research Journal, (Winter 1991) pages 98-113.

[9]. Lacey at 11. Lacey's analysis is based upon a survey of 212 TV news department budgets completed by their news directors.

the re-investment in local television news can be expected to decline. Even under circumstances of slight competition the reduction in news investment is the same as when there is no competition at all. Lacey at 4.

Under the duopoly rules proposed by commenters such as CBS, the top competitors within a market will be permitted to combine their ownership, and the new jointly owned station would dominate the local marketplace. Under such circumstances both the dominant and less competitive stations will expend less on news programming.

Intensity of competition in the Lacey study was measured by the station proximity in terms of market share during the local evening newscast. According to Lacey, if stations are in close proximity, the leading station will act to repel competition by investing more in each newscast. Similarly, if a station is not far behind the leader it will spend more in an attempt to take the lead.[10]

Lacey chose not to use a market concentration index (ie. number of stations in the market), such as the Herfindahl-Hischman index, on the theory that station managers tend to react to the nearest competitor, rather than the overall market. Secondly, market concentration indexes do not necessarily

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[10]. Stations that had a slight ratings lead or stations that were only slightly behind the ratings leader for the early evening newscast spent more money per newscast than did station with a large ratings lead or that were far behind the leader in ratings.
Lacey at 11.

represent the level of competition. Market concentration can be correlated with lack of competition, "if stations in an oligopoly market colluded on what to broadcast or what to spend on news-gathering." Lacy at 7.

Systematic research contradicts the belief that joint news operations will benefit the public. CBS at 27, NAB at 18. As commonly owned stations begin to dominate local markets and become less vulnerable to competition, the incentive to invest in local news will be absent. Joint news operations will result in less diverse news coverage as single news crews replace multiple crews reporting for independent stations. Instead of spending more, there will be fewer equipment purchases. Stations have been found less likely to purchase satellite news gathering vehicles as the intensity of competition decreases. Lacey, Atwater, Qin, and Powers, supra note 8. The belief that joint ownership will facilitate sharing the cost of an ENG truck is unfounded. NAB 18.

Investment in local news programming is a function of intensity of competition. Therefore, any rule modification that would permit two or more strongly competitive stations to combine ownership would undermine the public interest.[11]

OC remains firmly opposed to any relaxation of the current duopoly restrictions. However, in the event that the Commission

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[11]. The NPRM at paragraphs 19 to 20 proposes alternative modifications to the duopoly rules. They include limiting combinations to UHF stations, allowing UHF-VHF combinations where six independent stations would remain, and limiting the number of combinations according to a marketplace concentration index.

persists in its deregulatory policy, OC recommends that under no circumstances should VHF or VHF-UHF combinations be permitted. Furthermore, any modification of the rules should not be based upon a market concentration index. As noted above, concentration indexes are unreliable measures of competition, and in the case of oligopoly markets can be associated with collusion in news reporting.

III. THE COMMISSION SHOULD NOT DEREGULATE THE RADIO/TELEVISION CROSS-OWNERSHIP RULES. JOINT NEWS OPERATIONS POSE A THREAT TO DIVERSITY. DEREGULATION WILL CONTRIBUTE TO FURTHER CONCENTRATION OF CONTROL IN THE HANDS OF MEDIA CONGLOMERATES.

Various broadcasters have urged the Commission to relax it radio/television cross-ownership rule. NAB at 26; CBS at 29. On one hand they say that radio-television combinations share information and coordinate reporting in order to save money. On the other hand, they assert that joint news operations maintain a different editorial policy for each station. CBS, for example, says that its

> ...radio television [combinations] enjoy significant cost savings...[by] contribut[ing] to each other's programming....[N]ews operations are in regular contact, routinely sharing information, materials, interviews and reports... .[These] jointly owned CBS television and radio stations...-have separate editorial policies...

CBS 31 - 32.

The comments of CBS and others are misleading. The joint news operations described by broadcasters constitute evidence that editorial autonomy is compromised on a <u>frequent</u> basis under waiver policy currently in force. The biased views of a single owner must influence the news assignments and information sharing that it manages. OC, therefore, opposes any relaxation of the current waiver policy for the one-to-a-market rule.

Broadcasters also attempt to rationalize eliminating the cross-ownership ban with the myth that there has been an "explosion" in the number of media outlets. Broadcasters attribute diversity to the increasing number of VCRs, multi-channel video services, and emerging technologies, but ignore the growing pattern of cross-ownership. Any increase in the number of media outlets has been negated by the domination of the market by media conglomerates.

Some media giants own properties in 6 or more areas (See Appendix for list of U.S. COMPANIES WITH MULTIPLE MEDIA HOLDINGS[12]). Cap/Cities, for example, owns 21 radio stations, 8 television stations, television and radio networks, numerous newspapers and magazines, 3 cable networks, and a movie production. Media properties controlled by Cox Enterprises include 7 television stations, 14 radio stations, 24 cable systems, 24 newspapers, a cable network and a movie distributorship. In addition to its 575 cable systems Time-Warner owns seven magazines, 2 cable networks, 7 magazines and a book publisher. Gannet owns 175 daily and non-daily newspapers in addition to 10 television and 15 radio stations.

During the past decade mergers and aquisitions have speeded up the pace of concentration of control and marketplace domina-

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[12]. Source of data on media conglomerates is the 1992 edition of the Broadcasting and Cable Marketplace, Form 10K reports filed with the Securties Exchange Commission, and the 1992 edition of the Directory of Corporate Affiliations.

tion. According to one media scholar the number of media giants that control half of the media businesses has decreased from 46 in 1981 to 23 in 1989.[13]

In the forthcoming 4th edition of his book, The Media Monopoly, Dr Ben Badikan provides the result of research that examines the number of media outlets and the program content of radio stations in the local market.[14] Dr. Badikan found that half of the 80 radio stations that serve the San Francisco market have essentially three distinct formats (top 40, album rock, and adult contemporary). Twenty nine percent of all the stations have an adult contempory format. Clearly, the potential of 80 radio stations to serve the diverse ethnic, religious and cultural needs of people residing in the San Francisco community has not been realized.

The Commission must not equate the "explosion" in the number of media outlets to diversity of program content. The standard practice of nationally owned chains is to homogenize their programming in order to reduce the cost of production. A policy that would permit radio and television stations in the same market to merge ownership would only lead to further homogenization and reduced diversity of program content.

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[13]. Badikan, Ben H., The Media Monopoly, Beacon Press, Boston, 3rd edition, pages 4 and 21.

[14]. Badikan, Ben H., The Media Monopoly, Beacon Press, Boston, 4th edition, (expected to be released in early 1993).

IV. CONCLUSION.

Based upon the forgoing the Office of Communication recommends that proposed relaxation of multiple ownership and cross-ownership rules be abandoned or modified to safeguard the public interest.

Respectfully Submitted,

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September 23, 1992

APPENDICES

Letter of September 16, 1991 to Senator Inouye.

Letter of September 11, 1992 from Professor Stewart Hoover.

Graphs Comparing the Programming Patterns of Group and Independently Owned Stations.

List of U.S. Companies With Multiple Media Holdings.

UNITED CHURCH OF CHRIST
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DR. BEVERLY J. CHAIN, Director

September 16, 1991

The Honorable Daniel K. Inouye
Chairman, Senate Subcommittee
on Communications
227 Senate Hart Office Building
Washington, D.C. 20510

Dear Senator Inouye,

I would like to commend your leadership of the Senate Subcommittee on Communications for holding hearings on the public service obligations of broadcasters. It is important that Congress exert its legislative authority when the Federal Communications Commission abdicates its duty to enforce the public interest. Due to the FCC's deregulatory policies, citizens have been unable to challenge the license renewal of stations that have reneged on their public service obligations.[1] The broadcast industry has become a servant unto itself rather than their community of license.

A study of informational programming before and after deregulation was recently completed by the Office of Communication ("OC/UCC"). The study found that the decline in informational programming is a nationwide trend - far from a few stations characterized in the Markey hearing as "bad" broadcasters. The study entitled, The Public Cost of TV Deregulation: A Study of the Decline of Informational Programming on Commercial TV was submitted for the record of the Subcommittee's hearing on June 20th.

The study recommended that Congress require the FCC to reenact anti-trafficking rules and establish quantitative guidelines for locally produced community service programming. Such legislation would go a long way towards restoring accountability to the operation of licenses granted on condition that they serve

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1. In denying a citizen petition-to-deny, the Commission recently said that, "[petitions] based soley on the failure to present amounts of non-entertainment programming will not be appropriate." In Re Renewal Application of Certain Commercial Stations Serving Philadelphia, FCC 91-176, released July 5, 1991 para. 5. Fifteen minutes of informational programming bradcasted at 6:00 am five days a week was characterized as "more than adequate" by the Commission. In Re Renewal Application of Certain Commercial Stations Serving Philadelphia, 5 FCC Rcd 3847 (1990) para. 14.

the public interest, convenience, and necessity. In the absence of such legislation, issue-responsive programming that is the hallmark of a democratic society will continue to decline as it has for the past 10 years.

OC/UCC has demonstrated that television broadcasters have disregarded their obligation to operate as trustees of the public's airwaves. These obligations cannot be fulfilled by non-programming services such as fundraising and promotional activities highly touted by the industry (see America Thanks America, by NAB).

Studies have shown that Americans are less knowledgeable about politics now than they were twenty years ago; they also vote less (OC/UCC Study page 23). The ability of the general public to participate intelligently in the democratic process depends upon their ability to access media that provides information from diverse points of view.

The marketplace theory of regulation has been embraced by the Commission and broadcasters to the detriment of the American public. For years the Commission argued that competition eliminated the need for regulation. Now new proposals from the Commission (eg. Dockets 91-140 and 91-221) argue that competition is forcing stations out of business. Congress should see to it that the quid pro quo for increased multiple ownership (ergo decreased diversity) is new regulation to protect the public's interest.

We are aware that members of the Subcommittee received a letter from the National Association of Broadcasters that grossly mischaracterized the results of OC/UCC's study. It therefore becomes incumbent upon OC/UCC to attempt to set the record straight. I call your attention to the attachment, Reply to Letter from the National Association of Broadcasters, dated July 3, 1991.

Thank you for your sincere and earnest leadership of the Subcommittee on Communications. I would welcome the opportunity to meet personally and discuss the study and its policy recommendations in more detail.

Sincerely,

Beverly J. Chain
Director

Attachment

Reply to Letter
from the National Association of Broadcasters,
dated July 3, 1991.

According to Mr. Fritz's letter of July 3, 1991, the OC/UCC study is not to be taken seriously because of the methodology employed. Let me first of address the issue of margin of error.

1. Because several factors contribute to margin of error other than sample size, it seemed too complex to include them in the report. As noted on page 13 of the study, however, the differences discussed in the report were statistically significant at the .05 level.

2. The assertion that counting minutes of informational programming fails to acknowledge the changing nature of news begs the question. Combined minutes for news and information programming is lower in 1989 than its was prior to deregulation (see study pages 15 - 18). Likewise, Congress is quire familiar with the thirty second news bite. If repetition os such bites during news coverage of a issue constitutes the best informational programming a station has to offer, then the quality standard Mr, Fritz espouses is seriously called into question.

3. OC/UCC respectfully submits that quality cannot be judged to exist if the amount of programming is de minimus and consists, for example, only of PSA/s for local events. Yet the Commission has established a de facto minimum standard by renewing the license of a TV station in Philadelphia that broadcasts 15 minutes of informational programming at 6:00 am five days a week.[1]

It is time for Congress to take control to protect the public interest and not leave it to the fox to guard the chicken coop.

OC/UCC recognizes that there is always a danger in establishing formal minimum standards or guidelines that programming will never rise above that minimal amount unless accompanied by incentives. On the other hand, in the absence of minimum quantitative standards the amount of informational programming has already gotten as low as it can get.

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1. Such nominal levels of programming were characterized by the Commission as "more than adequate". <u>In Re Renewal Application of Certain Commercial Stations Serving Philadelphia</u>, 5 FCC Rcd 3847 (1990) para. 14.

4. NAB asserts the OC/UCC study shows an increase in news programming since deregulation. To avoid further misinterpretation of the data, I cite the following findings contained in the study:

a. During the 6 am to midnight day-part, local news has increased since deregulation to a level that is less that is was in 1974.

b. Prime time local news has declined since deregulation to levels lower than it was in 1974.

c. Since deregulation, prime time national news has decreased 7 percentage points and approximately two percentage points during the 6 am to midnight day-part.

5. NAB attempts to discredit the study because it did not include so-called "one-minute newsbreaks". OC/UCC notes this omission was more that compensated for by commercial advertisements that were counted as informational programming. Sample data for the post-deregulation portion of the survey (1984 to 1989) included all advertisements broadcasted in conjunction with informational programming. In contrast, the ample data for 1974 and 1979 did not include advertisements. As a result, the comparison of informational programming prior to and after deregulation was biased in favor of broadcasters.

6. NAB alleges that the study neglects to take into account the increase in the number of TV stations since 1974, the first year of the study. Since the study was based on a random sample and includes all minutes of informational programming aired by all stations in the sampled market in 1974, '79, '84, '89, the additional minutes are accounted for. But, if we accept the NAB notion that more stations mean more news minutes that assertion means little to the average viewer. Most stations broadcast news in the same time slots. For the NAB assumption to mean anything we would have to assume that the viewer hops from channel to channel - something every broadcaster tries to avoid - in search of news rather than sticking with the same entertainment program.

7. The final page of the NAB letter argues the case for the public interest side almost more strongly than we have presented it. It amounts to an admission that the public is dependent on TV for news and information and that what they get in public service is not informational programming, but a dollar value placed on PSA's. The public is not willing to settle for that. Airing PSA's has never and should never be allows to substitute for in-depth informational programming on issues of importance to the communities of license.