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

In the Matter of	)	
	)	
2006 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 06-121
	)	
2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 02-277
	)	
Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235
	)	
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	MM Docket No. 01-317
	)	
Definition of Radio Markets	)	MM Docket No. 00-244

REPLY COMMENTS OF MEDIA GENERAL, INC.

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SUMMARY

For the third time in a little over five years, the FCC has once again amassed a record that demonstrates no substantial public interest justification remains for retaining the newspaper/broadcast cross-ownership rule that the FCC adopted in 1975 based on nothing more than a conjectural "hoped-for" gain in diversity. If anything, the initial comments filed in this most recent docket, which Media General synthesizes in these reply comments, further reinforce the harm that retention of the rule is having by limiting the potential for the delivery of increased amounts of high quality local news and placing the continued provision of over-the-air free local news at risk. These latest filings command an immediate repeal of the 1975 Rule.

Most of the content sources to which consumers turn today did not even exist 32 years ago when the FCC adopted the 1975 Rule. As these reply comments review, the parties that oppose repeal of the 1975 Rule overlook that residents in markets of all sizes now have access to an incredibly diverse abundance of news and information, particularly at the local level. This content, which is increasingly becoming more "hyper-local," is provided by "traditional" media utilizing "traditional" delivery means and an extensive array of new technologies, which did not exist 32 years ago. These "traditional" sources are joined by untold numbers of new alternative, "independent" content sources -- in many cases citizen journalists -- which rely solely for transmission on the unregulated technologies and represent a vast array of content that could never have been anticipated in 1975. What the nation is experiencing in "citizen journalism" and the world of "YouTube/Broadcast Yourself" (TM) is an explosion of new content and, with respect to news, a democratization of free, local news and content.

Faced with this abundance, the American consumer is today "platform agnostic," embracing the profusion of multiple sources whenever and wherever they want. The contention

that "diversity," be it local or national, is somehow at risk is fully refuted by the comments Media General synthesizes. This abundance, as numerous commenting parties show, moots any need for the FCC to engage in analysis of "shares" or "weighting" of sources.

Opponents of repeal again put forth a number of tired myths about cross-ownership. As Media General shows in these reply comments, cross-owned outlets do not simply recycle stale content from one platform to another. Cross-owned content is not centrally dictated, and cross-owned properties do not result in staff reductions. In an attempt to reverse the FCC's 2003 finding that cross-ownership results in more and better local news, opponents of reform also offer several "studies." As a review of these "studies" by Dr. Jerry Hausman of MIT shows, they suffer serious methodological flaws. Even when these infirmities are overlooked, however, the "studies" actually support the FCC's 2003 localism conclusion.

The rapidly accelerating "competition for eyeballs" generated by unregulated media and the resulting audience fragmentation require that repeal of the 1975 Rule come promptly. The initial comments, as reviewed in this synthesis of the submissions, document the hard economic realities that local television stations and daily newspapers face today. The "traditional" media are struggling just to keep up with new media and new user-generated community conversations. Common sense alone teaches that new technology has moved the debate far beyond the old parameters or supposed links -- or not -- between "diversity of ownership" and "diversity of viewpoint." The trends in audience decline and the resulting adverse financial impact are reversible, as Media General has found in the six markets where it operates cross-owned properties. Anything short of repeal of the 1975 Rule would represent continued government-mandated inefficiency.

Legally, no reason remains to retain any vestige of the 1975 Rule. As these reply comments discuss and Media General has argued in previous comments, repeal is mandated by Section 202(h) of the 1996 Act, general principles of administrative law, and the Constitution.

The established benefits from eliminating any newspaper/broadcast cross-ownership restriction should be available in all markets, large and small. The empirical studies in the record show absolutely no reason to differentiate or draw a line based on market size. Not only is good local journalism expensive to produce and deliver in all markets, but local media players, such as Media General, are clearly among those competing for audience and advertisers against large national entities, some of which are regulated by the FCC, and other new entrants totally unfettered by FCC restrictions. Equally important, locally-focused media in small markets and the consumers that they serve are just as entitled to the demonstrated benefits of common ownership as their counterparts in larger markets.

For over 32 years, the 1975 Rule has depended on a number of myths. Rather than look to those who, without empirical evidence, continue to ply these myths, the FCC should focus on the real world practices and difficulties of the broadcast stations it regulates. These realities and the public interest, particularly the public interest in guaranteeing the provision of free local news and content, compel the complete elimination of the 1975 Rule and make clear that the FCC should take no further action beyond repeal.

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REPLY COMMENTS OF MEDIA GENERAL, INC.

Media General, Inc. ("Media General"), by its attorneys, hereby submits its Reply Comments in the above-referenced dockets and urges the Commission to act expeditiously to repeal the 32-year old newspaper/broadcast cross-ownership rule, a regulatory artifact of a bygone era when most of the content sources to which consumers turn today did not even exist.[1]

[1] 47 C.F.R. § 73.3555(d) (2002) (the "1975 Rule"). Reply comments in this proceeding had been due on December 21, 2006. By *Order*, DA 06-2514 (rel. Dec. 15, 2006), the Chief of the Media Bureau extended the reply comment deadline until today. *See also Order*, DA 06-1663 (rel. Sept. 18, 2006); *2006 Quadrennial Regulatory Review – Review*

As demonstrated in the initial comments that Media General filed, and as corroborated by the overwhelming weight of the evidence provided in the comments of other parties in this proceeding and the extensive record upon which the Commission relied in 2003 when it repealed the 1975 Rule, this regulation has failed miserably to meet the goals the FCC speculated it would advance over 30 years ago and instead has deleteriously hampered publishers and broadcasters alike in their efforts to provide news and innovative information services that address the demands of their ever-changing communities. These regulatory failures are clearly shown by the synthesis of comments Media General provides in this reply filing.

The parties that oppose repeal of the 1975 Rule overlook that residents in markets of all sizes today have access to an incredible abundance of diverse sources of news and information, particularly increasing new sources of hyper-local content. This content is generated and provided not just by "traditional" media using both their "traditional" modes of delivery and a whole host of new technologies but by untold numbers of new alternative, "independent" content purveyors -- in many cases citizen journalists -- who rely exclusively on the new unregulated technologies to distribute news and information.

The rapidity with which American consumers have embraced and popularized these new technologies and the obvious and dramatic impact they have had on political discourse should remove any lingering Commission concern about repeal. The American public has

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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 in MB Docket Nos. 06-121 and 02-277, and MM Docket Nos. 01-235, 03-317, and 00-244, 21 FCC Rcd 8834 (2006) ("*2006 Ownership FNPRM*"). As it has previously done, out of an abundance of caution, Media General incorporates by reference its filings in the earlier dockets noted in this proceeding's caption.

become truly "platform agnostic." Today, as one study succinctly described, "'[t]he world of centralized, one-way and scheduled media is fading fast. Consumers want media on their own terms and technology has empowered them to do that.'"[2]

The comments also show -- just as Media General's experience in the six markets where it operates commonly-owned newspapers and television stations has demonstrated -- that such properties serve the public interest day in and day out, and the opponents of repeal offer no credible case or empirical evidence of documented harms from cross-ownership. These cross-owned properties deliver more and higher quality news to their communities and offer "fresh," new content over their various platforms. Opponents of repeal offer "studies," which they claim show that cross-owned properties do not deliver more local news and information. As shown below, however, their econometric materials and "results" are unreliable and actually demonstrate that cross-owned properties are indeed more likely to provide increased news and information. These "studies" also fail methodologically and factually in their attempts to quantify the effect repealing the rule would have on diversity in certain geographic markets. In addition, cross-owned properties, contrary to other generalized concerns, do not make cuts in news staffs; in fact, as has been true in Media General's case, employment of news and content-based staff has grown in all cross-owned markets. In addition, the opponents of repeal do nothing to undercut the FCC's conclusion in 2003 that these benefits of convergence are best achieved through common ownership.

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[2] Comments of Newspaper Association of America in MB Docket No. 06-121 (Oct. 23, 2006) ("NAA Comments") at 37, *quoting* American Society of Newspaper Editors and Newspaper Association of America, *Growing Audience: Understanding the Media Landscape: Executive Summary* at 6 (2006), at

Even more importantly, since 2003, audience fragmentation among video suppliers and circulation declines faced by daily newspapers make repeal of the 1975 Rule essential. The comments document the hard economic realities faced today by local television stations and daily newspapers. As Media General has found, however, the downward trends in audience and financial performance are reversible through cross-ownership. Given the state of competition -- most of it unregulated -- confronting television broadcasters and daily newspapers, anything short of complete repeal of the 1975 Rule would help presage "failure by regulation."

Given the extensive record, statutory principles, particularly those of administrative law, and Constitutional concerns leave the FCC no choice but to repeal the 1975 Rule. With invalidation of the underlying public interest rationales that the FCC once speculated had supported the 1975 Rule, its retention cannot withstand further judicial scrutiny. The FCC found repeal warranted in 2003, and changing course at this point would require clear and compelling evidentiary support, which is miserably lacking on this record. The FCC should once and for all acknowledge that fact by promptly repealing the 1975 Rule.

I. Commenting Parties Confirm That Residents of Markets of All Sizes Have Access to an Incredible Abundance of Diverse Sources of News and Information, Particularly New Sources of Hyper-Local Content.

In 2003, the FCC unhesitatingly found that today's media marketplace is characterized by an abundance of sources of news and information, including at the local level, and found that new local rules for the ownership of radio and television stations -- not a blanket prohibition on newspaper/broadcast cross-ownership -- were sufficient to

http://www.growingaudience.com/downloads/GALandscapeExecSummary.pdf (last visited Jan. 5, 2007).

rebut concerns about availability and diversity.[3] In affirming this finding, the United States Court of Appeals for the Third Circuit made two points: "that diverse viewpoints from other media sources in *local* markets (such as cable and the Internet) compensate" for viewpoints that might be lost to newspaper/broadcast consolidation and that "record evidence suggests that cable and the Internet supplement the viewpoint diversity provided by broadcast and newspaper outlets in *local* markets."[4] Nonetheless, opponents of repeal once again have taken a very narrow approach to examining the availability of local content and, based on this and other misguided notions, contend that repeal of the 1975 Rule would result in a diminution of news and information, particularly at the local level.[5]

As much as this long-ago discredited challenge ignores FCC and court review of the extensive records already amassed on this issue as of 2003, it totally disregards the amazing changes in content delivery that have occurred in the last four years. As the initial comments in this latest proceeding make clear, "traditional" media, including broadcast, newspapers, and cable, continue to provide a wealth of local content. At the same time

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[3] 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, *Report and Order and Notice of Proposed Rulemaking*, 18 FCC Rcd 13620, 13647-48, 13766 (2003) ("*2003 Report and Order*"), *aff'd and remanded sub nom.*, *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004) ("*Prometheus*"), *cert. denied Media General, Inc. v. FCC*, 525 U.S. 1123 (2005).

[4] *Prometheus*, 373 F.3d at 400 (emphasis supplied).

[5] *See, e.g.*, Comments of Office of Communication of United Church of Christ, Inc., National Organization for Women, Media Alliance, Common Cause, Benton Foundation in MB Docket No. 06-121 (Oct. 23, 2006) ("UCC Comments") at ii, 40; Comments of Consumers Union, Consumer Federation of America, and Free Press in MB Docket No. 06-121 (Oct. 23, 2006) ("Consumers Union Comments") at 18; Comments of the Donald McGannon Communication Research Center in MB Docket No. 06-121 (Oct. 23, 2006) ("McGannon Comments") at 2; Comments of the American Federation of Labor and Congress of Industrial Organizations and the Department for Professional Employees, AFL-CIO, in MB Docket No. 06-121 (Oct. 23, 2006) ("AFL-CIO Comments") at 52-54.

new, "non-traditional" media, including the Internet, offer an even greater abundance of content, particularly at the local level, and help justify repeal of the 1975 Rule. As shown below, given this abundance, the concept of "share" or trying to "weight" the importance of one type of outlet versus another becomes irrelevant, and no credible evidence in the record offers any reason to retain the 1975 Rule.

A. "Traditional" Media, Including Cable, Continue To Provide a Wealth of Local Content.

Broadcasters, newspaper publishers, and cable operators provide locally generated content in such quantities that Americans cannot even begin to take advantage of all of it. Even with time-shifting and place-shifting tools, there is more than the average consumer can consult in a day.

Local Broadcast News. As noted in initial comments, Media General's six cross-owned stations provide between 20-1/2 hours and almost 32 hours (31 hours and 55 minutes) of *local* news per week.[6] The National Association of Broadcasters' comments tell a similar story based on the performance of stations that participated in the FCC's recent localism proceeding; these stations reported airing at least 20 hours of news per week, with the majority airing between 25 to 40 hours per week.[7]

This commitment is evident in markets of all sizes. As NAB reports, for example, nearly 40 percent of each weekday schedule on the South Dakota, Nebraska, and Wyoming

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[6] Comments of Media General, Inc. in MB Docket No. 06-121 (Oct. 23, 2006) ("Media General Comments"), Vol. 2, Statement of Adam Clayton Powell, III, at Exhibit A, p. 3 (WFLA-TV) and Exhibit D, p. 4 and Tab 1 (WBTW(TV)). S*ee also,* pages 47-48 *infra.*

[7] Comments of the National Association of Broadcasters in MB Docket No. 06-121 (Oct. 23, 2006) ("NAB Comments") at 59 (*citing* Reply Comments of the National Association of Broadcasters in MB Docket No. 04-233 (Jan. 3, 2005) at 5). Chairman Martin has made clear that the docket from the localism proceeding will be incorporated in this proceeding. *2006 Ownership FNPRM,* 21 FCC Rcd at 8838.

television stations owned by small-market operator Duhamel Broadcasting is devoted to news and public affairs programming; the stations carry over seven hours a day of network news and public affairs and about two and a half hours each weekday of *local* news and public affairs programs.[8] Comments filed by numerous other broadcasters in this proceeding show how they are continuing to provide impressive schedules of local news despite expensive DTV construction, rising operational costs, and declining network compensation.[9] At the same time, they continue to offer public affairs programming,[10] and, as the recent election season demonstrated, substantial on-air political coverage serving their local communities.[11] As most television broadcasters would agree, "local news, in essence, is the broadcaster's franchise."[12]

If anything, since the FCC last reviewed this issue, local broadcast news operations have become more "hyper-local," using increasingly taxed resources to deliver coverage that their viewers are unlikely to get elsewhere, such as video of local high school sports, local pageants and festivals, local weather emergencies and disasters, and local charities.[13] In these hyper-local initiatives, television stations are also taking advantage of new

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[8] NAB Comments at 59 n. 143 (*citing* FCC Broadcast Localism Hearing, Rapid City, SD, Statement of William F. Duhamel at 2 (May 26, 2004)).

[9] *See, e.g.,* Comments of Belo Corp. in MB Docket No. 06-121 (Oct. 23, 2006) ("Belo Comments") at 22-27; Comments of Gannett Co., Inc. in MB Docket No. 06-121 (Oct. 23, 2006) ("Gannett Comments") at 25-27; Comments of Hearst-Argyle Television, Inc. in MB Docket No. 06-121 (Oct. 23, 2006) ("Hearst-Argyle Comments") at 26;.

[10] NAB Comments at 63-64.

[11] NAB Comments at 64-65, Attachment L; Belo Comments at 15; Comments of Bonneville International Corporation in MB Docket No. 06-121 (Oct. 23, 2006) ("Bonneville Comments") at 14-15.

[12] Comments of Belo Corp., in MB Docket No. 04-23 (Nov. 1, 2004) at 18.

[13] *See, e.g.,* Belo Comments at 14, 16; "Local TV Looks to Web; Stations Have the Assets, Relationships to Succeed Online," *Television Week*, May 1, 2006, at 14.

platforms like second digital channels, podcasting, and the Internet to expand their local coverage.[14]

Hyper-Local Newspaper Coverage. The comments show that newspapers are similarly launching hyper-local initiatives. These new ventures have taken many forms, including new daily, weekly, and other special-interest publications; web publication; podcasting; and enlistment of "citizen journalists." To counterbalance declining circulation trends, a number of newspapers have launched free local publications over the past several years intended to complement their subscription services and boost readership, particularly among younger readers, by delivering more accessible and more local content. Examples include Belo Corp.'s *Quick* in the Dallas area; the Washington Post Company's *Express* in the Washington, DC area; Tribune Company's *amNewYork* in the New York City area; the Copley Press' *Today's Local Paper* in San Diego; and Morris Communication's *Blufton (S.C.) Today*, which is home delivered.[15] Free weeklies also have sprung up in numerous communities.[16] Newspaper companies are also launching new Spanish-language publications and hyper-local inserts, such as *Neighbors*, which are tailored weekly

[14] *Id. See* Declaration of Peter E. Howard, attached as Appendix 1 ("Howard Declaration"). *See also, e.g.,* WXAA-TV (Albany, NY), at http://www.fox23news.com/rss/default.aspx#Podcasts (last visited Jan. 5, 2007); Channel 9 News Podcasts, WCPO.com (Cincinnati, OH) at http://www.wcpo.com/video/podcast/ (last visited Jan. 5, 2007). Local news is going mobile, not just with podcasting and cell phone platforms, but even on screens in taxis. "Clear Channel Outdoor and NBC Universal will show ads and programs," *Communications Daily*, Jan 8, 2007 at 15.

[15] Belo Comments at 14; NAA Comments at 25; "Free AM, Metro papers pressing paid dailies," *Crain's New York Business*, Apr. 18, 2005, at 4, available at http://www.lexis.com; "Blufton, S.C., Will Get Its Own Hometown Newspaper Next Month," *Savannah Morning News*, Mar. 10, 2005, available at http://old.savannahnow.com/stories/031005/2873994.shtml (last visited Jan. 10, 2007); J. Saba, "The Free Market," *Editor & Publisher*, Mar. 1, 2005, available at http://www.lexis.com.

[16] *Id.* (Gannett launches nine free weeklies, including *Spark* in Wilmington, Del.).

magazine inserts that Belo Corp. distributes to 16 local communities as part of *The Dallas Morning News*.[17]

Newspapers' hyper-local initiatives have also taken advantage of the Internet, which allows newspapers to supplement their traditional coverage with expanded and in-depth features focused on specific locations or community niches, both in print and video form. Recent reports have highlighted Gannett's efforts to have its newsrooms around the country beef up "hyper-local," street-by-street reports and to focus first on delivering this new content over the web, with the print distribution second.[18]

Newspapers are also utilizing Wi-Fi and mobile technologies to give their readers on-the-road access. Two different approaches are available: newspapers can build a network of hotspots and pay a local Internet provider to link them to the Internet or partner directly with a municipality or local Internet provider.[19] *The Boston Globe*, for example, followed the latter course and now offers four free "Pulse Points" -- or localized Wi-Fi hotspots -- around town where users can access the newspaper's website and, at two of the spots, get free Internet access. Content available at each "Pulse Point" is tailored specifically to the surrounding neighborhood, and the *Globe* is expanding the number of "Pulse Points" in the city.[20] The *Milwaukee Journal Sentinel* has partnered with the city

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[17] *See* "Neighbors: Your Stories, Your Photos, Your News" at http://www.dallasnews.com/sharedcontent/dws/news/longterm/stories/120806neighbors.a216353.html (last visited. Jan. 13, 2007).

[18] "A Newspaper Chain Sees Its Future, and It's Online and Hyper-Local," *The Washington Post*, Dec. 5, 2006, available at http://www.washingtonpost.com/wp-dyn/content/article/2006/12/03/AR2006120301037.html (last visited Jan. 10, 2007). *See generally* Howard Declaration.

[19] "Wi-Fi's Reach," *Presstime*, Aug. 2006, at 44, available at http://www.lexis.com.

[20] *Id.*; Get to the Point, at http://bostonglobe.com/community/services/pulsepoints.stm (last visited Jan. 13, 2007).

and offers 22 neighborhood-specific websites that list local information, such as parking rules, trash pickup schedules, election information, and school attendance boundaries.[21] *The Pilot*, in Southern Pines, North Carolina, offers a two-tiered Wi-Fi network, which allows anyone to surf the web for free, whether they subscribe to the paper or not, or to pay a fee to the paper's newly founded Internet service company and receive high-speed access and a print subscription to the paper at the same time.[22]

NAA's Comments note that 39 of the nation's Top 40 daily newspapers now offer video on their websites, including some full-blown newscasts.[23] As the experience of Media General and other parties shows, newspapers' local video initiatives, however, are not just limited to the Top 40 markets. In the Fort Myers-Naples, Florida market (DMA #66), *The Naples Daily News* recently began producing "Studio 55," a half-hour webcast featuring "hyper-local" news focused specifically on news in Naples; the DMA's local broadcast affiliates are focused primarily on news in Fort Myers, located approximately 40 miles to the north.[24] As NAA's comments detail, the news programs "Studio 55" offers can be viewed twice daily either online or on a Comcast cable channel or downloaded on iTunes.[25] Similarly, in Wilmington, Delaware, *The News Journal* webcasts daily and

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[21] *Id.*; MyCommunityNOW, at http://www.mycommunitynow.com/ (last visited Jan. 13, 2007).

[22] *Id.*; *see also* D. Woronoff, "Pilot Excited About Year Ahead," available at http://www.thepilot.com/stories/20070102/news/columns/20070102woronoff.html (last visited Jan. 13, 2007).

[23] NAA Comments at 56 n. 225, *citing* A. Romano, *The Paper Chase: Stations Play Catch Up With Newspapers Online*, Broadcasting & Cable, Aug. 14, 2006 at 14.

[24] NAA Comments at 56; http://www.naplesnews.com/studio55/ (last visited Jan. 10, 2007). *See* C. Salter, "Hyper-Local Hero," *Fast Company*, Issue 110, Nov. 2006, p. 94, available at http://www.fastcompany.com/magazine/110/open_hyper-local-hero.html (last visited Jan. 16, 2007), discussing a number of hyper-local initiatives around the nation.

[25] NAA Comments at 56.

evening local news shows, which fill an important local news void since Delaware lacks any full-service television stations providing local news.[26] *The (Norfolk) Virginia Pilot* has launched Hampton Roads TV, a portal offering local video that focuses on hyper-local stories aimed at 18-34 year olds.[27]

At the same time, many newspaper hyper-localism initiatives have begun to rely, some to a greater extent than others, on user-generated content or "citizen journalism." Gannett Co., Inc. garnered a fair bit of press since initial comments were filed for its decision to "radically chang[e]" its approach to gathering and presenting news by incorporating reader-created "citizen journalism," mining online community discussions for stories, and creating Internet databases of calendar listings and other non-news utilities.[28] The plan also involves recruiting and relying on local residents who have a specific expertise journalists may lack -- "reader experts" -- in the reporting of a story. For example, at *The News-Press* in Fort Myers, Florida, Gannett enlisted the help of retired engineers, accountants, and government insiders to review documents and data to determine why it cost so much to hook up water and sewer service to new homes in the area; the investigative report that was published resulted in the lowering of fees by 30 percent and the ouster of a local official.[29]

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[26] *Id.*

[27] *Id.*

[28] F. Ahrens, "Gannett To Change Its Papers' Approach," *The Washington Post*, Nov. 7, 2006, at D-1.

[29] F. Ahrens, "A Newspaper Chain Sees Its Future, and It's Online and Hyper-Local," *The Washington Post*, Dec. 4, 2006, available at http://www.washingtonpost.com/wp-dyn/content/article/2006/12/03/AR2006120301037.html (last visited Jan. 10, 2007).

Many other newspaper publishers in large and small markets around the country, including Media General, are offering user-generated content, most commonly on their websites. Noteworthy examples include *The Lima (Ohio) News* with several county-specific, citizen-media websites; *The Washington Post* with its "Sponsored Blogroll"; and *The Bakersfield Californian*'s launch of *The Northwest Voice*, a biweekly community-generated platform that began online and now also is available in print form.[30] The recently launched *Blufton (S.C.) Today*, noted earlier, has a substantial amount of reader-generated content.[31] Recently, the Denver Newspaper Agency, publisher of *The Denver Post* and *Rocky Mountain News*, began syndicating its online platform YourHub.com, so newspapers now have the option of adopting a citizen-journalism format designed expressly for their needs; the tool allows newspapers to roll out hyper-local, citizen-journalism platforms in their markets within 30 days.[32] The use of video captured by cell phone and provided to media outlets of all types is transforming news.[33]

Local Cable. Although the FCC in its *2003 Report and Order* recognized that cable systems contribute to diversity, in the end it failed to include cable in the metric it developed to govern its proposed regulation of newspaper/broadcast cross-ownership.[34] Now, almost four years later, based on the comments filed in this proceeding, the FCC can

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[30] "Monetizing Citizen Media," *Presstime*, Nov. 2006, at 38.

[31] *Id.*

[32] "Denver's 'YourHub' Goes National," *Editor & Publisher*, May 1, 2006, available at http://www.lexis.com.

[33] D. Bauder, "Cell-phone videos transforming TV news,' Associated Press, Jan. 7, 2007, available at http://news.yahoo.com/s/ap/20070107/ap_on_en_ot/tv_phone_videos (last visited Jan. 16, 2007).

[34] *2003 Report and Order*, 18 FCC Rcd at 13765, 13782. The FCC made clear it was excluding cable principally because it lacked "reliable data on this point." *Id.*

no longer ignore the significant contribution that cable makes as a source of local news and information.[35] As NAA points out, in an increasing number of markets, cable operators are offering local news through video-on-demand ("VOD"); those efforts include VOD newscasts, for example, in Toledo, Los Angeles, Philadelphia, Baltimore, San Francisco, Denver, and Salt Lake City.[36]

Overall, the number of local and regional news networks available over cable continues to grow. As the FCC's most recent *Video Competition Report* documented, of the 96 regional programming networks identified in that proceeding's comments, 45, or 46.9 percent, were regional news networks.[37] As Hearst-Argyle's comments further document, a recent Radio and Television News Directors Foundation report shows that apparently 41 percent of television households nationwide are reached collectively by some 40 local and regional cable news channels.[38] The report also provides information on more than 25 state public affairs networks bringing viewers specialized reports on issues unique to residents of their states, a number the report indicated was to expand to at least 35 such networks by now.[39] In citing trends for the new year, *The New York Times* flagged

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[35] *Sinclair Broadcast Group, Inc. v. FCC*, 284 F3d 148, 165 (D.C. Cir. 2002) makes clear that the burden is on the FCC to credibly explain why exclusion of non-broadcast media, particularly cable, is "'necessary in the public interest' under § 202(h) of the 1996 Act," in its review and finalization of broadcast ownership rules.

[36] NAA Comments at 32 n.127.

[37] *Twelfth Annual Report, Annual Assessment of the Status of Competition in the Market for The Delivery of Video Programming*, 21 FCC Rcd 2503, 2587 (2006).

[38] Hearst-Argyle Comments at 20, *citing* Radio and Television News Directors Foundation, Cable News: A Look at Regional News Channels and State Public Affairs Networks (2004), available at <http://www.rtnda.org/resources/cable.pdf>.

[39] *Id.*

hyperlocalism and featured PlumTV, new local channels carried on cable systems in resort areas around the country and focused on upscale activities and places of local interest.[40]

Cable systems almost universally offer local content through multiple PEG access channels mandated by local franchise agreements. As Hearst-Argyle's comments further document, the Alliance for Community Media, a group representing PEG programmers, testified at last year's FCC meeting in Keller, Texas, that it represents approximately 3,000 PEG centers nationwide, which in turn provide an outlet for 250,000 community organizations to bring local programming to their communities.[41] "These '[l]ocal PEG programmers produce 20,000 hours of new programs per week -- that's more programming than all of the broadcast networks combined.'"[42]

And, proving that politicians recognize the importance of local content delivered by cable, in election after election around the country this past fall, they turned to cable spots to get their message across to voters. Post-Election Day estimates have placed cable's share of the 2006 political advertising pie at approximately $250 million for local and spot advertising sales -- "virtually double" cable spending in the last election cycle.[43]

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[40] L. Manly, "Seeking to Cash in on the Hyperlocal," *The New York Times*, Dec. 31, 2006, at Sec. 4, p. 3.

[41] Hearst-Argyle Comments at 21.

[42] *Id.*

[43] "Bullish Ad Forecast in Changing Landscape," *Multichannel News*, Nov. 27, 2006, available at http://www.multichannel.com/article/CA6394537.html?display=Special+Report (last visited Jan. 10, 2007). *See also* "The Making of a Revenue Stream 2006: Election day is tomorrow. But the results are already in. Local cable won," *Multichannel News*, Nov. 6, 2006, available at http://www.multichannel.com/article/CA6388454.html?display=Top+Stories (last visited Jan. 10, 2007); A. Schatz, "As TV Campaign Spending Grows, Cable Outlets Attract More Dollars," *The Wall Street Journal*, Aug. 28, 2006, at A1, available at http://www.lexis.com.

B. New "Non-Traditional" and "Independent" Media, Including the Internet, Offer an Additional and Increasing Wealth of Local Content That Helps Justify Repeal of the 1975 Rule.

When opponents of repeal of the 1975 Rule claim in their comments that the rule is necessary to ensure the provision of diverse, local content, they again ignore that media platforms that are not owned by newspapers, broadcasters, or cable operators, particularly those utilizing the Internet, are providing a wealth of constantly changing, up-to-the-minute local news and information on a round-the-clock basis.

As commenting parties noted, the United States Supreme Court almost 10 years ago had already recognized the diverse sources of content available over the Internet:

> Finally, unlike the conditions that prevailed when Congress first authorized regulation of the broadcast spectrum, the Internet can hardly be considered a "scarce" expressive commodity. It provides relatively unlimited, low-cost capacity for communication of all kinds .... This dynamic, multifaceted category of communication includes not only traditional print and news services, but also audio, video, and still images, as well as interactive, real-time dialogue. Through the use of chat rooms, any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox. Through the use of web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer.[44]

Since then, as the comments show and as news reports remind us daily, the Internet has become one of Americans' primary sources of news. As Gannett Co., Inc. notes, this is true particularly for local news; today, 36 percent of Americans utilize the Internet for *local* news.[45]

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[44] *Reno v. ACLU*, 521 US 844, 870 (1997), *as quoted in* Hearst Argyle Comments at 22. *See also* NAB Comments at 12, 42.

[45] Gannett Comments at 19, *citing* Harris Poll #35, Harris Interactive Inc., "Most Americans Who Are Online Use Internet for News, But Most Say This Does Not Reduce Their Use of Other News Media" (May 19, 2004), http://www.harrisinteractive.com/harris_poll/index.asp?PID=464 (last visited Jan. 10, 2007).

The comments provide page after page describing the abundance of "independent" Internet sites -- those not owned by "traditional" media outlets -- that provide local news and information. NAA breaks these sites into three categories -- advertiser-supported local sites, many of which are affiliated with a network of other local sites; so-called "placeblogs" or "metroblogs," which focus on a particular region, city, town, or neighborhood; and neighborhood message boards; NAA provides scores of examples of each category from around the country.[46] Tribune Company provides a similarly lengthy list of examples that, with few exceptions, does not duplicate NAA's list.[47] Belo Corp. offers examples from Dallas where it operates cross-owned WFAA(TV) and *The Dallas Morning News.*[48] Bonneville cites examples of additional local blogs, particularly those in smaller communities.[49] Hearst-Argyle provides statistics showing how Americans in great numbers are making use of this local content.[50]

Perhaps the best evidence for the FCC, however, is not just the wealth of this diverse content, but the impact it is having on political discourse. The comments and news reports document instance after instance in which the content available over "independent" or alternative websites and blogs, and frequently provided by local citizen journalists, has made a difference in recent political races or on political issues. Examples in which this often local content has made a huge difference include the following:

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[46] NAA Comments at 60-64.

[47] Comments of Tribune Company in MB Docket No. 06-121 (Oct. 23, 2006) ("Tribune Comments") at 21-26.

[48] Belo Comments at 11.

[49] Bonneville Comments at 9-10.

[50] Hearst-Argyle Comments at 23-25.

1. Most famously, the Senator George Allen "macaca" incident, in which video shot in a small Southwestern Virginia town and posted to the Internet spawned an avalanche of political fallout and eventual defeat for an incumbent Republican U.S. Senator.[51]

2. Former Senator Conrad Burns of Montana similarly fell victim to unflattering local video posted to the web by his opponent's campaign.[52]

3. Senator Joseph Lieberman lost his party's primary and nomination in spring 2006 after video circulating on the web showed President Bush kissing him on the cheek.[53]

4. A local Missouri political ad featuring Michael J. Fox became an online sensation when Rush Limbaugh mocked it on his radio show, causing over two million views and bringing national attention to one state's U.S. Senatorial race.[54]

5. Rep. Mark Foley found his political career ended when his amorous emails to a Congressional page were posted to the web by a self-proclaimed Washington "whistle-blower" and the controversy was intensified by postings from a local Oklahoma blogger who happened to reside near one of the former Congressional pages.[55]

6. Last year, underfunded politicians, such as U.S. Senatorial candidate Kweise Mfume of Maryland, turned to YouTube to distribute their video and reach out to voters.[56] More recently, Presidential contender Gov. Tom Vilsack announced he will produce a weekly show with Blip.tv that will follow his campaign for the 2008 Democratic Presidential nomination.[57]

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[51] A. Shatz, "In Clips on YouTube, Politicians Reveal Their Unscripted Side," *The Wall Street Journal* at A1 (Oct. 9, 2006).

[52] *Id.*

[53] J. Poniewozik, "The Beast with a Billion Eyes," *Time*, Dec. 25, 2006 - Jan. 1, 2007, at 64, available at http://www.time.com/time/magazine/article/0,9171,1570808,00.html (last visited Jan. 10, 2007).

[54] *Id.*

[55] L. Grossman, "Power to the People," *Time*, Dec. 25, 2006 - Jan. 1, 2007, at 44, available at http://www.time.com/time/magazine/article/0,9171,1570816,00.html (last visited Jan. 10, 2007).

[56] J. Ward, "Mfume Talks to Voters Via YouTube," *The Washington Times*, Aug. 31, 2006, at B2.

[57] "Ia. Gov. Tom Vilsack will produce a weekly show," *Communications Daily*, Dec. 14, 2006, at 14.

7. Also last year, local coverage of the Duke University lacrosse/alleged rape case took off across local and other blogs.[58]

8. Blogs have also influenced traditional media reporting, such as when a blogger questioned a CBS news story on President Bush's military record and helped cost Dan Rather his network career.[59]

9. Similarly, repeated focus by blogs on remarks Sen. Trent Lott made at former Sen. Strom Thurmond's 100th birthday party caused the national press corp to take notice and led to the Senator's loss of his initial position as Majority Leader.[60]

10. This month, two seats at the federal district court trial of I. Lewis "Scooter" Libby have been allocated by court officials to bloggers.[61]

11. As NAA points out, perhaps the most relevant testament to the power of the Internet, whether utilized at the national or local level, is the Third Circuit's acknowledgement of the "nearly two million" submissions to the FCC prior to its July 2003 Report and Order.[62] As NAA explains, "the success of these organizations in publicizing and spurring public participation in the FCC's proceeding via the Internet by itself confirms NAA's contention herein that the Internet now serves a vital and ever-expanding role in disseminating news and information to consumers."[63]

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[58] *See, e.g.,* http://durhamwonderland.blogspot.com/ (blog of K.C. Johnson, with links to other related blogs) (last visited Jan. 10, 2007); L. Adamic and N. Glance, "The Political Blogosphere and the 2004 U.S. Election: Divided They Blog" (Mar. 4, 2005), available at http://www.blogpulse.com/papers/2005/AdamicGlanceBlogWWW.pdf (last visited Jan. 10, 2007).

[59] L. Grossman, "Power to the People," *Time*, Dec. 25, 2006, at 44-45, *supra* note 55.

[60] *Id.*; N. Shachtman, "Blogs Make the Headlines," WiredNews.com, Dec. 23, 2002, available at http://www.wired.com/news/culture/0,1284,56978,00.html (last visited Jan. 10, 2007); D. Goodgame & K. Tumulty, "Lott: Tripped Up By History," CNN.com, Dec. 16, 2002, available at http://archives.cnn.com/2002/ALLPOLITICS/12/16/timep.lott.tm/ (last visited Jan. 10, 2007).

[61] A. Sipress, "Too Casual To Sit on Press Row? Bloggers' Credentials Boosted With Seats at the Libby Trial," *The Washington Post*, Jan. 11, 2007, at D-1.

[62] *See Prometheus*, 373 F.3d at 386.

[63] NAA Comments at 9 n. 25.

The impact of alternative or independent, and frequently user-generated, content on the Internet has not just been limited to the world of political discourse. Confirmation of the emergence of the Internet and citizen journalism, in particular, as potent social forces, comes from *Time* magazine's selection of "You" and user-generated content disseminated by platforms such as YouTube as 2006's "Person of the Year."[64] The titles and subtitles of the two lead articles by themselves make the point:

> -- "Power to the People: You control the media now, and the world will never be the same. Meet the citizens of the new digital democracy."[65]
>
> -- "The Beast with a Billion Eyes: On the Web, anyone with a digital camera has the power to change history."[66]

In reporting on the strong impact of these developments, *Time* cites numerous indicia. Users of YouTube alone upload 65,000 new videos to the site every day; whereas a year ago, they watched 10 million often locally generated videos a day, they now watch 100 million a day.[67] Services like Outside.in, which collect and filter reports on local neighborhoods, would not have had much to aggregate 40 years ago; today, they draw upon "the expertise of thousands of amateurs" -- the 'placebloggers' who have emerged in the past few years to write about the neighborhoods and the issues that are most important to

[64] *Time*, Dec. 25, 2006 - Jan. 1, 2007, at 38-80.

[65] L. Grossman, "Power to the People," *Time*, Dec. 25, 2006 - Jan. 1, 2007, at 42-59, *supra* note 55.

[66] J. Poniewozik, "The Beast with a Billion Eyes," *Time*, Dec. 25, 2006 - Jan. 1, 2007, at 63-64, *supra* note 53.

[67] J. Cloud, "The YouTube Gurus," *Time*, Dec. 25, 2006 - Jan. 1, 2007, at 70, available at http://www.time.com/time/magazine/article/0,9171,1570795,00.html (last visited Jan. 10, 2007).

the people living in them."[68] As the founder of Outside.in noted, without the "placebloggers," launching his site would have been impossible 10 years ago: "It would have been like trying to launch Google back when there were still only a few hundred websites."[69]

As the comments and these recent reports note, the most popular sources of news and information have become previously unknown individuals. For example, today "one of the world's most prolific and influential book reviewers" is a former Georgia librarian who has posted almost 13,000 book reviews to Amazon.com:

> [She] is part of a quiet revolution of the way American taste gets made. The influence of newspaper and magazine critics is on the wane. People don't care to be lectured by professionals on what they should read or listen to or see. They're increasingly likely to pay attention to amateur online reviews, bloggers and Amazon critics like [her]. Online critics have a kind of just-plain-folks authenticity that the professionals just can't match.[70]

Similarly, in an overseas trend likely to be reproduced here, otherwise average individuals have become "reporters of the year." In South Korea, for example, a website called OhMyNews -- described as *The Washington Post* produced entirely by bloggers -- named a Korean housewife who last year posted 60 reports its Citizen Reporter of the Year for 2005. As *Time* said, "more and more journalists are starting to look like her."[71]

Just as consumers face such abundance of content that their dilemma becomes what should receive their attention, the Commission is equally overwhelmed with evidence of

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[68] S. Johnson, "It's All About Us," *Time*, Dec. 25, 2006 - Jan. 1, 2007, at 80, available at http://www.time.com/time/magazine/article/0,9171,1570805,00.html (last visited Jan. 10, 2007).

[69] *Id.*

[70] L. Grossman, "Power to the People," *Time*, Dec. 25, 2006 - Jan. 1, 2007, at 50-51, *supra* note 55.

[71] *Id.* at 59.

the abundance and political influence of alternative and independent content on the web. For the FCC, the challenge becomes which and how much to cite in support of repeal of the 1975 Rule.

C. **Given the Abundance, Particularly of Locally Available Content, Any Weighting or Concept of Share Is Irrelevant to the FCC's Analysis.**

The abundance of news and information sources, particularly at the local level, is thus beyond debate. Consumers have more choices -- from among "traditional" and "non-traditional" outlets -- than they have time to utilize.

The FCC has from the beginning defined viewpoint diversity as "availability" of sources, a position it affirmed in the *2003 Report and Order.*[72] Based on this precept and given the abundance that has come to characterize today's media landscape, a number of commenting parties contend that the FCC's approach to ensuring adequacy of diversity should focus on the number of sources of local news and information; relative popularity -- or any evaluation based on share or reach -- is totally irrelevant to an analysis of whether any restriction should remain.[73]

As these commenting parties note, weighting outlets, in fact, is antithetical to the concept of diversity, which at its core focuses on availability of outlets and not their popularity. "Weighting" would unnecessarily discount voices of dissent. Under the Commission's approach, it should matter only that different voices have the means and

[72] *2003 Report and Order*, 18 FCC Rcd at 13627 ("Viewpoint diversity refers to the availability of media content reflecting a variety of perspectives.").

[73] Belo Comments at 17; Gannett Comments at 32; NAA Comments at 89-92; Comments of Smaller Market Television Stations in MB Docket No. 06-121 (Oct. 23, 2006) ("Smaller Market TV Comments") at 22-23.

opportunity to speak, and regulatory review should seek to maximize their ability to do so. Such an approach is particularly appropriate given that regulated outlets now face intense competition for viewers and advertising dollars from outlets that are wholly free of any regulatory constraint.

Indeed today, consumers find themselves distracted by too many outlets. Studies have shown that, in a typical day, more than a dozen different forms of media vie for consumers' attention.[74] The options only increase with time shifting and place-shifting technologies. As a result, one-third of the time that consumers spend using media, they are actually using two outlets at once.[75] Ultimately, it is access and the availability of outlets that are critical to diversity, and weighting is not only irrelevant but antithetical to making sure that even the most unpopular voices are heard. Moreover, an approach based on a broad market definition of outlets -- any avenue of local information and content, no matter what its popularity, transmission medium, or voice (institutional or individual) -- obviates the need for the FCC to make constitutionally suspect choices and conserves agency resources.

As one scholar on media ownership has recognized, this approach is consistent with First Amendment goals.

> In the market for ideas, the original objective is to preserve individual freedom from political or religious tyranny. Given that objective, it makes no sense to measure concentration using revenue or audience weights,

[74] NAA Comments at 38 n. 154, *citing* Center for Media Design, Ball State University, *Middletown Media Studies: The Media Day* at 12, 14 (Fall 2005).

[75] NAA Comments at 38-39, citing Center for Media Design, Ball State University, *Middletown Media Studies: Concurrent Media Exposure* (Fall 2005) at 16.

> because any channel that is available to a given citizen is equally valuable as a potential source of politically significant material to that citizen.[76]

In the end, this scholar concludes that, as long as "ensuring that citizens have as much access as possible to conflicting views" remains the FCC's goal or objective, then its best analytical approach is to "count[] the noses of independent sources, without regard for their current economic success."[77]

Media General has every confidence that, were the FCC to employ a test based on availability of sources, it would find more than sufficient availability of diverse sources of local news and information in all markets, large and small, Such analysis based on access and availability leads logically to only one result -- repeal of the 1975 Rule.

II. The Comments Are Replete With Examples of How Cross-Owned Properties Serve the Public Interest, and Opponents Fail To Present Any Documented Harms To Defeat the Notion That the Benefits of Convergence Are Best Advanced Through Cross-Ownership.

Opponents of repeal of the 1975 Rule again put forth a number of tired myths about cross-ownership: cross-owned outlets merely recycle used content from one platform to another; cross-owned content is centrally dictated; and cross-owned properties result in staff reductions.[78] And, in perhaps their boldest move, opponents of reform attempt to undercut the Commission's determination in 2003, as affirmed by the Third Circuit in

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[76] B. Owen, "Confusing Success with Access: 'Correctly' Measuring Concentration of Ownership and Control in Mass Media and Online Services," The Progress & Freedom Foundation Release 12.11, July 2005, at 2, available at http://www.pff.org/issues-pubs/pops/pop12.11owen.pdf (last visited Jan. 10, 2007).

[77] *Id.* at 20.

[78] *See, e.g.*, Comments of the American Federation of Television and Radio Artists in MB Docket No. 06-121 (Oct. 23, 2006) ("AFTRA Comments") at 11-13, 21-22; Consumers Union Comments at 16; Comments of Communications Workers of America, The Newspaper Guild/CWA, National Assoication of Broadcast Employees and Technicians/CWA in MB Docket No. 06-121 (Oct. 23, 2006) ("CWA Comments") at 8-12; AFL-CIO Comments at 55.

2004, that cross-owned properties deliver a greater quantity and higher quality of news programming.[79] As shown below, however, the opponents' claims are wholly unsubstantiated and contradicted by evidence amassed over the last five years. Even when they offer what are denominated as "studies," opponents' showings suffer from fatal methodological and substantive flaws, as attested by Dr. Jerry Hausman of the Massachusetts Institute of Technology ("MIT"), and, in the end, these "studies" actually support the localism conclusion that the FCC reached in 2003. In short, the opponents of repeal have failed to present any documented harms that should deter the FCC from again repealing the 1975 Rule, and, this time unlike 2003, take no further action beyond repeal.

A. Cross-Owned Properties Utilize the Unique Attributes of Each Medium To Serve Consumers Best, Delivering "Fresh" New Content Over Each Outlet That Is Far From "Homogenized."

Opponents of repeal argue that cross-owned properties merely recycle the same content from outlet to outlet, contending that the practice frequently results in homogenized and, at times, "stale" content that in no way serves the public interest. The allegations also include charges that, in companies with outlets in different markets, the content delivered over cross-owned outlets is somehow "centrally directed" and less locally-determined.[80] Unsurprisingly, no specific facts in the record support these contentions.

First, the allegations ignore the prior conclusions of the FCC and the United States Court of Appeals for the Third Circuit. The latter specifically upheld the conclusion that a blanket prohibition on newspaper/broadcast cross-ownership is not necessary to ensure

[79] Consumers Union Comments at 18; McGannon Comments at 2.

[80] *See, e.g.,* AFTRA Comments at 17-20; AFL-CIO Comments at 18-20, 35-36.

diversity in local markets because the evidence did not establish that commonly owned outlets "necessarily speak with a single, monolithic voice."[81]

As Media General's experience shows and other commenting parties confirm, jointly owned and operated outlets do not sacrifice their journalistic and editorial autonomy.[82] As the attached statement of Media General's vice president for broadcast news demonstrates, Media General, for example, has found that it can compete effectively even against giant, global players in the media industry by focusing on the delivery of a balanced and objective local news product on each of its outlets in each of its markets; such coverage, in Media General's experience, attracts readers, viewers, and subscribers.[83] As he explains, to ensure the highest quality local news product, Media General requires the employees at each of its local outlets to make their own journalistic decisions based on their on-the-spot perceptions of the needs and interests of the communities they serve.[84] Because of this same, market-driven commitment to localism, Media General's outlets also practice editorial independence.[85] Simply, Media General has found avoiding "top down" news gathering and editorial practices to be good business because only that operating principle allows its local platforms to reflect local concerns. Media General knows that there is no "real world" connection between "diversity of ownership" and "diversity of viewpoint."

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[81] *Prometheus,* 373 F.3d at 399-400 (*quoting 2003 Report and Order*, 18 FCC Rcd at 13762-13763).

[82] Gannett Comments at 26, 30; Belo Comments at 16; NAA Comments at 81-84.

[83] Statement of Daniel J. Bradley, Vice President of News for the Broadcast Division of Media General, Inc., attached as Appendix 2, at 3.

[84] *Id.* at 3-4.

[85] *Id.* at 3.

The comments of both Belo Corp. and Gannett Co., Inc. similarly document that jointly owned and operated outlets do not sacrifice their journalistic and editorial autonomy. Belo's commonly owned WFAA-TV and *The Dallas Morning News* do not coordinate their opinions or viewpoints.[86] Gannett reports that the different staffs at cross-owned KPNX-TV and *The Arizona Republic* are given freedom to choose their own news and informational content for each media outlet.[87] While the staffs have always been fully autonomous, they have become even more so recently because, over time, they have gained a better sense of when collaboration works and when it does not. Indeed, as Gannett reports, the publications' independence from each other has at times resulted in controversy between the two newsrooms.

In reporting on a survey of its members, NAA's senior vice president for public policy notes that these individual instances are representative of the practices of its members. The respondents reported that, notwithstanding their sharing of resources, the editorial posture/news judgment of their cross-owned newspapers and broadcast properties is made independently by each outlet, based on journalistic principles, technical capabilities, and relevance to their respective audiences.[88] The responses also echoed Gannett Co., Inc.'s report of occasional controversy, confirming that co-owned daily newspapers and broadcast stations tend to compete vigorously with each other, taking each other to task for perceived errors, omissions, and/or differing points of view.[89]

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[86] Belo Comments at 16.

[87] Gannett Comments at 30.

[88] Statement of Paul J. Boyle, Senior Vice President for Public Policy for the Newspaper Association of America, attached to NAA Comments, at 2-3.

[89] *Id.* at 3.

Opponents of repeal also seem to function under the misimpression that websites owned by media companies or cross-owned outlets, in particular, merely republish the content of the more "traditional" outlets with which they are associated, recycling "stale" content, and certainly not contributing to the diversity of news and information in a locale.[90] Again, the parties favoring repeal of the 1975 Rule tell a different story, and tell it with hard facts.

As the attached declaration of Media General's vice president for interactive services explains, these criticisms, while perhaps somewhat accurate in the 1990s, represent a complete misunderstanding of how such Internet operations operate today.[91] As he states, websites now present a significant volume of material that is totally unique to those sites, is never published in a newspaper or broadcast on television, and, in many cases, is produced entirely by reporters who are independent of the traditional media outlets or is contributed by website users.[92] As he shows in detail, and any review of the outlets would reveal, these sites do not, as one commenting party alleges about several sites, including Media General's tbo.com in Tampa, merely "repurpose the newspaper content on the website."[93] Gannett Co. Inc.'s comments similarly report on the unique content delivered over its Phoenix website, azcentral.com, which draws on the resources of co-owned KPNX-TV and *The Arizona Republic*, but does so in a manner that greatly

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[90] AFTRA Comments at 12-13; AFL-CIO Comments at 55-56; CWA Comments at 24-26.

[91] Howard Declaration, attached as Appendix 1, at 2.

[92] *Id.*

[93] CWA Comments at 25.

differentiates, supplements, and constantly updates the information that the other two outlets disseminate.[94]

In its comments, NAA reviews the practices of numerous newspaper-operated websites around the country. NAA documents how they are able to provide more innovative and in-depth coverage of any given issue, as well as coverage of a far greater number of issues at any one time, than their "traditional" print platforms would provide.[95] One newspaper publisher even webcasts its daily news staff meetings and posts original source materials.[96] Others provide legislative voting records, political background, and additional information that is too extensive to be included in reports by "traditional" outlets.[97] The newspapers, whether cross-owned with television stations or operating singly, "are increasingly turning to the Internet to offer their local markets a richer variety of news, information, and community platforms."[98]

B. Opposition "Studies" Fail To Demonstrate That Cross-Owned Television Stations Do Not Deliver Local News in Greater Quantity and of Higher Quality Than Non-Cross-Owned Stations.

As Media General noted in its initial comments, the FCC in 2003 found that the 1975 Rule "is not necessary to promote broadcasters' provision of local news and information programming and . . . the rule actually works to inhibit such programming."[99] The United States Court of Appeals for the Third Circuit found the evidence upon which the FCC relied in this regard -- including the FCC's Media Ownership Working Group

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[94] Gannett Comments at 28-29.

[95] NAA Comments at 55-59.

[96] *Id.* at 57.

[97] *Id.* at 58.

[98] *Id.* at 59.

Study No. 2002-7 ("The Measurement of Local Television News and Public Affairs Programs") and findings by the Project for Excellence in Journalism -- persuasive on this issue. The Third Circuit agreed with the FCC that newspaper/broadcast combinations provide more and higher quality local news and information, thereby promoting localism.[100] As Media General further noted in its initial comments, more than a handful of other studies conducted over three decades, one of which was prepared by the FCC staff at the time the 1975 Rule was adopted, show consistently that television stations owned by newspapers offer more and higher quality non-entertainment programming; they also establish that the presence of a commonly owned television station in a market raises the bar for all competing broadcast players in the market.[101]

In their latest comments, parties opposing repeal of the 1975 Rule present what they call "studies," attempting to refute the conclusion regarding localism that the FCC reached in 2003 and the Third Circuit affirmed in 2004.[102] The first study by Michael Yan is entitled "Newspaper/Television Cross-Ownership and Local News and Public Affairs Programming on Television Stations: An Empirical Analysis" ("Yan Study").[103] The second by Mark Cooper and S. Derek Turner is entitled "Consolidation and

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[99] *2003 Report and Order*, 18 FCC Rcd at 13752-53 (emphasis supplied).

[100] *Prometheus*, 373 F.3d at 398-99.

[101] Media General Comments at 23-29.

[102] McGannon Comments at 2; Consumers Union Comments at 18; UCC Comments at 65. On December 29, 2006, the FCC also posted a number of FCC internal working papers and drafts related to media ownership issues on the agency's website. J. Eggerton, "FCC Releases, Withholds Ownership Documents," *Broadcasting & Cable*, Jan. 5, 2007, available at http://www.broadcastingcable.com/index.asp?layout=articlePrint&articleID=CA6404744 (last visited Jan. 16, 2007). Media General, out of an abundance of caution, reserves the right to address these materials in subsequent *ex parte* filings.

[103] Attachment to McGannon Comments.

Conglomeration Diminish Diversity and Do Not Promote the Public Interest: New Evidence" ("Cooper/Turner Study").[104]

As explained by Professor Hausman of MIT, both studies fail to present a complete review of their data, specifications, and results, [105] and the analytical techniques used in each study are sufficiently flawed to render the interpretations provided in them unreliable.[106] To the extent the underlying data in each study can be interpreted, however, they consistently support a finding that cross-ownership leads to more local news.[107]

In the Yan Study, the summary statistics that are presented suggest possible bias in the sample, and some of the sample statistics appear wrong.[108] None of the sample statistics can be confirmed without the underlying data -- concerns which are sufficient in themselves to render the study unreliable. Nonetheless, even accepting Yan's results at face value, many reinforce the FCC's findings. Contrary to the contentions of the party that submits it, the Yan Study first finds unconditional means for local news of cross-owned stations are much greater than for other stations.[109] (In this context, "unconditional means" refers to the average of the amount of news programming carried by stations in the

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[104] Consumers Union Comments at 301-29, *Compendium* study # 16.

[105] "Statement of Professor Jerry Hausman, Massachusetts Institute of Technology, Concerning Studies Submitted in FCC MB Docket 06-121" ("Hausman"), attached to Reply Comments of the Newspaper Association of America in MB Docket No. 06-121 (Jan. 16, 2007) at ¶ 6. Dr. Jerry Hausman reviews the Yan Study and the Cooper/Turner Study and thoroughly discredits them. Media General, with the permission of NAA, hereby incorporates Dr. Hausman's report by reference.

[106] *See* Hausman generally.

[107] *Id.* at ¶¶ 18 and 23.

[108] *See* Yan Study at Table 2. Note that nearly 50 percent of observations are VHF stations and the average market size is 909,000 residents.

[109] Hausman at ¶¶ 8-9.

sample regardless of whether they carry any news or not.) Second, he then shows cross-ownership is a significant determinant of whether a station will offer any local news.[110]

The Yan Study focuses on attempting to measure the variability in the quantity of local news conditional on a station offering some local news in the first place. The study's analytical techniques are so flawed that the measured results are useless.[111] The FCC's conclusion that cross-owned stations offer more local news than other stations was reached through comparison to all stations and not just those that carried local news. The FCC's comparison was unconditional. This is the correct approach because there is remarkably little variability in the quantity of local news broadcast by those stations that do offer local news. (Depending on the market, stations typically offer at least a half-hour of late evening news in either the 10 pm or 11 pm hour and either a half-hour or hour at dinnertime. Nationwide, there is some variability in the early evening offerings and in weekend newscasts.) Even so, the Yan Study finds that cross-owned stations have 242 more minutes of local news per week than other stations.[112] Professor Hausman finds that this result, even if the econometric results were correct, supports a finding that cross-ownership leads to more local news.[113]

The Cooper/Turner Study claims that "[t]he evidence clearly supports the conclusion that there is no direct relationship between cross-ownership and the amount of local news or public affairs,"[114] a conclusion that Dr. Hausman roundly rejects as

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[110] Hausman at ¶¶ 13-14.

[111] Hausman at ¶¶ 11-12.

[112] Yan Study at Table 4.

[113] Hausman at ¶ 14.

[114] Cooper/Turner at 321.

contradicted by the study's data.[115] Cooper and Turner's own results, when correctly interpreted, almost always find that cross-ownership leads to more minutes of both news and local public affairs programming.[116] That the estimated coefficients are sometimes not statistically significant arises because of the very limited sample size of their data, not because of findings of very small estimated coefficients or estimated coefficients that change sign depending on the specifications.[117] Cooper and Turner appear to be using the same data as Yan, but even that is somewhat unclear.

In short, despite the fanfare with which they are presented, neither the Yan Study nor the Cooper/Turner Study refutes MOWG Study No. 2002-7, upon which the FCC and Third Circuit relied in reaching their conclusions that the 1975 Rule harms localism and which has not been methodologically discredited. If anything, the underlying data of the Yan and Cooper/Turner Studies, when properly interpreted, support the FCC study's conclusion that cross-owned properties deliver more local news. Given the MOWG report and the half dozen other empirical studies cited in Media General's initial comments, the FCC has more than sufficient evidence to reject opponents' argument that the agency's 2003 localism finding must be reexamined.

In two other "studies," Cooper also attempts to demonstrate that conditions in numerous DMAs, including Myrtle Beach-Florence, South Carolina, and Panama City, Florida, in which Media General operates cross-owned properties, do not warrant further

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[115] Hausman at ¶ 23.

[116] Hausman at ¶¶ 21-22.

[117] Hausman at ¶ 23.

relaxation of the 1975 Rule.[118] His "studies," which parallel development of the ill-fated Diversity Index in 2003, attempt to use the quantitative tools of merger analysis to examine the impact of the rule's relaxation on diversity. As was true in 2003 and as the Third Circuit affirmed in 2004, such an approach is riddled with inappropriate assumptions and methodological infirmities from the get-go.

The *Merger Guidelines* utilized by the Department of Justice and Federal Trade Commission[119] are designed primarily to articulate the analytical framework these agencies apply in determining whether a merger is substantially likely to lessen competition within the context of *economically meaningful* indicia and markets. In the first instance, it is far from clear whether Cooper has defined an economically meaningful market. Moreover, there is no evidence that cross-ownership lessens economic competition. Indeed, as shown above, there is no evidence to dispute the FCC's 2003 conclusion that cross-ownership restrictions lead to a reduction in the quantity and quality of local news.

When the federal antitrust agencies apply the *Merger Guidelines*, the issue in question is the ability to restrict output and raise prices post-merger. It is not clear how that question of an output reduction or a price increase translates to the issue of diversity and local content. The empirical evidence adduced to date and the market-by-market reviews provided by Media General and other practitioners of convergence demonstrate that merged, or cross-owned, firms do not cut back on news. It is not apparent what a

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[118] Consumers Union Comments at 439-58, 507-19, *Compendium* studies 24 and 29, respectively.

[119] U.S. Department of Justice and Federal Trade Commission, *Horizontal Merger Guidelines*, April 8, 1997.

restriction in output even means in the context Cooper examines. It seems unlikely that a cross-owned newspaper and television station would reduce the amount or quality of the news on a cross-owned television station to increase readership of the newspaper since most lost viewership would likely be captured by other stations in the market. Indeed, there is no evidence that if quantity or quality of news somehow decreased on the station, newspaper readership would increase. Viewed in this manner, the ability to restrict output does not make sense either on a theoretical or "real world" basis.

In their analytical specifics, Cooper's "studies" suffer from at least three problems. First, he seems to view the *Merger Guidelines*' thresholds as hard and fast boundaries. In reality, these values are merely used as a triage procedure to quickly separate mergers into those that the authorities are likely to investigate and those that they are not. Any actual investigation goes beyond simple calculations and examines a myriad of other market characteristics, yielding numerous examples in which the agencies have allowed mergers even when the thresholds are exceeded.

Second, Cooper's measure of share, which is based on audience, is inappropriate when considering diversity. In Cooper's case, he measures share based on newspaper circulation, television ratings, and an undeterminable radio audience method. He apparently does not include TV stations that do not have news or radio stations that do not label their format as "news" or a news-variant, representing a substantial undercounting. These flaws aside, as shown above, each voice should count equally in measuring diversity -- weighting is irrelevant. Consumers avail themselves of any outlet and, in fact, can simultaneously get news from multiple sources. Assigning shares, even if possible with consumers' simultaneous review of multiple sources, measures popularity, not availability.

Third, Cooper undercounts sources of news and opinion on many levels. Not only is his likely radio count mistakenly low based on his use of format monikers, but he incorrectly assumes that, just because a station of any type does not offer news, it never presents an opinion. In addition, a single outlet may also present multiple opinions, as any reader of a newspaper's editorial and opinion pages can attest. For the two Media General markets Cooper mentions, the details of his data are not presented; nonetheless, his outlet count appears very low. For instance, for Panama City, Florida, The Center for Public Integrity alone lists 17 licensed television stations, 32 licensed radio stations, and 10 newspapers within 100 miles; for Myrtle Beach-Florence, the Center lists 22 licensed television stations, 40 licensed radio stations, and 11 newspapers within 100 miles.[120]

Availability of outlets is the key, and Cooper's market-specific "studies" offer no reason to defer repeal of the 1975 Rule. Instead, they strongly caution against borrowing tools from one discipline to attempt to make measurements in an entirely different subject area.

C. Contrary to Generalized Concerns, Cross-Owned Properties Do Not Make Drastic Staff Cuts.

The fact that cross-owned properties deliver more news and information creates new opportunities for employees, particularly those that work in television station news rooms. To Media General, convergence has never been merely about achieving cost-savings and budget cutting. Rather, Media General has found that through convergence it can deliver better, faster, deeper news to its communities; increase audiences and ratings;

[120] *See* http://www.publicintegrity.org/telecom/default.aspx.

and, as a result, improve its financial bottom line. Contrary to opponents of repeal of the 1975 Rule,[121] convergence has never been about reducing staff.

As Media General's market-by-market descriptions in its initial comments showed, each of its six convergence stations has increased newsroom employment since convergence began and, in four out of six instances, overall employment has also increased:

-- In Tampa, where Media General owns the *Tampa Tribune* and WFLA-TV, as of January 31, 2000, the television station employed 89 persons in its news department and 189 overall. As of December 31, 2005, WFLA-TV had increased these numbers to 91 news employees and 221 employees overall.[122]

-- In the Roanoke-Lynchburg, Virginia DMA, where Media General operates two newspapers and WSLS-TV, the station, when Media General acquired it in 1997, had 33 news employees and 86 total employees. At the end of 2005, WSLS-TV's news staff had increased by over 30 percent to 44. During the same period, the station's overall number of employees had increased from 86 to 102.[123]

-- In the Tri-Cities, TN/VA DMA, in January 1998, when Media General acquired the *Bristol Herald Courier* and began convergence initiatives with WJHL-TV, the television station had 83 total employees and 30 news department employees. By the end of 2005, Media General had added four employees in the station's news department, and 10 employees overall.[124]

-- In August 2000, when Media General acquired the *(Florence, S.C.) Morning News* and commenced convergence efforts, WBTW(TV) had a news department of 36 individuals. As of the end of 2005, Media General had added an additional employee to the department,

[121] *E.g.* AFL-CIO Comments at 55.

[122] Media General Comments, Vol. 2, Statement of Adam Clayton Powell, III, at Ex. A, p. 3.

[123] *Id.* at Ex. B, p. 5.

[124] *Id.* at Ex. C, p. 5.

bringing the total to 37, while overall employment at the station had decreased slightly.[125]

-- Between the time Media General's convergence initiatives began in August 2000 in the Columbus, Georgia DMA and the end of 2005, Media General increased the size of WRBL(TV)'s news department from 28 to 31. This increase in the size of the station's news department occurred despite a decrease in the overall number of employees at the station.[126]

-- In the Panama City, Florida DMA, where Media General operates WMBB(TV) and the *Jackson County Floridan*, the total number of employees at WMBB(TV) increased from 67 to 70, from the time convergence began in 2000 until the end of 2005. During the same period, the number of employees in WMBB(TV)'s news department increased from 30 to 37.[127]

With these totals, there can be no dispute that opponents' fear-mongering about employee cutbacks is not valid. They fail in their attempt to draw a causal link between cross-ownership and employee reductions.

D. The Efficiencies and Operational Synergies Produced by Newspaper/Broadcast Combinations Cannot Be Fully Achieved Through Joint Ventures.

In 2003, in the course of deciding to repeal the 1975 Rule, the FCC recognized that "[t]he benefits of combined ownership are not likely to be achieved through joint ventures as opposed to combined ownership."[128] No party contested this finding on appeal. Nonetheless, in attempting to get the FCC to reverse its repeal of the 1975 Rule despite its judicial affirmation, opponents once again contend that the FCC need not allow cross-

[125] *Id.* at Ex. D, p. 4.

[126] *Id.* at Ex. E, p. 4.

[127] *Id.* at Ex. F, p. 5.

[128] *2003 Report and Order*, 18 FCC Rcd at 13755-56.

ownership because various business combinations that stop short of ownership are acceptable substitutes.[129]

The FCC's determination was based on economic analysis, which was supplemented by additional studies and facts in the record. As discussed below, these studies have shown that while operation as a joint venture may permit businesses to achieve some of the benefits resulting from common ownership, the organizational shortcomings and limitations inherent in joint ventures make them less efficient and imperfect substitutes for common ownership. Recent "real life" experiences confirm these findings. Only by eliminating the 1975 Rule and allowing parties to recognize the full benefits and synergies of common ownership can the public interest be served most effectively.

In a study prepared for Media General, Professor James K. Gentry, Ph.D., former Dean of the University of Kansas School of Journalism, noted that the challenges associated with convergence, such as bringing expanded and enhanced local news to a community, require a comprehensive set of organizational talents and abilities.[130] Key among them is strong, forceful leadership essential for combining the historically divergent cultural and institutional perspectives that have long typified print and electronic journalism. Bridging this divide in professional attitudes also requires a system for effective communication, development of strategic plans, employee training, and understanding.[131] In Professor Gentry's opinion, without common ownership, the success

[129] *E.g.*, UCC Comments at 64-65.

[130] Statement of Professor James K. Gentry, Ph.D., at 10-12, attached as Appendix 4 to Comments of Media General, Inc. in MM Docket No. 01-235 (Dec. 3, 2001) ("Gentry Statement"). (Pages are unnumbered; page 1 begins immediately after the "Summary.")

[131] Gentry Statement at 11.

of converged activities is likely to be dependent on such serendipitous factors as the sheer force of personality.[132] As a result, full convergence, in which news and other informational content expands and improves, is "extraordinarily difficult to achieve without common ownership," according to Professor Gentry.[133]

Support for these conclusions is found in studies by Stanley M. Besen and Daniel P. O'Brien of Charles River Associates upon which the FCC relied in 2003 and which Professor Gentry cited.[134] According to these studies, joint ventures confront three classes of issues that hinder their ability to achieve efficient results.[135] First, joint ventures encounter the costs of agreeing on a common course of action and reaching agreements. Delays and stalemates may occur as each participant attempts to influence selection of the course of action that it finds most favorable.[136] Contracts are expensive to prepare, and given the uncertainties of joint operation, the participants may insist upon conditions and safeguards to protect against a broad range of contingencies.[137]

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[132] *Id.* at 11-12.

[133] *Id.* at 12.

[134] *2003 Report and Order*, 18 FCC Rcd at 13755-56, *citing* Besen and O'Brien, *An Economic Analysis of Efficiency Benefits from Newspaper/Broadcast Station Cross-Ownership*, appended as Exhibit C to Gannett Comments in MM Docket No. 01-235 ("Gannett/Besen Analysis"); Gentry Statement at 11 n. 23 (*citing* Gannett/Besen Analysis and Stanley M. Besen and Daniel P. O'Brien, "An Economic Analysis of the Efficiency Benefits from Newspaper-Broadcast Station Cross-Ownership," Jul. 21, 1998 ("Chronicle/Besen Analysis"), filed as Exhibit B to Comments of the Chronicle Publishing Co., Inc., MM Docket No. 98-35 (filed Jul. 21, 1998). *See also* Comments of NAA in MM Docket No. 01-235 (Dec. 3, 2001) at 48-52, *citing* Kent Mikkelsen, Economists Incorporated, "Horizontal and Vertical Structural Issues and the Newspaper-Broadcast Cross-Ownership Ban," (Dec. 2001), attached as Appendix IV to Comments of NAA in MM Docket No. 01-235.

[135] Chronicle/Besen Analysis at 16; Gannett/Besen Analysis at 15.

[136] Chronicle/Besen Analysis at 16; Gannett/Besen Analysis at 15.

[137] Chronicle/Besen Analysis at 17; Gannett/Besen Analysis at 15-16.

Second, in joint ventures, participants may have incentives to withhold information about the value of their own productive input or to understate the value and overstate the costs of the components about which they have the most knowledge, all in order to garner a greater share of the profits.[138] Third, joint ventures may create incentives for each participant to take actions that are not in the best interest of the joint venture -- or what has been dubbed the "shirking" problem.[139] Each participant has an incentive to "under-provide" quality or other productive inputs to the venture because, in doing so, it receives all the benefits of the joint venture but at less cost.

Common ownership has the potential to mitigate each of these three problems.[140] First, agreement on the parameters of production is reached cheaply because management decides and establishes them.[141] Any resulting disputes are handled "quite naturally" by the structure of authority that already exists.[142] The second problem -- that of withholding information -- is reduced because, within one firm, it is easier for key decision-makers to obtain the information that they need; senior management is free to monitor the activities of each participating division on an unrestricted basis, and the central authority, if necessary, can specify what information should be shared.[143] Finally, while it can be prohibitively

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[138] Chronicle/Besen Analysis at 17-18 (*citing* P. Milgrew and J. Roberts, *Economics, Organization and Management*, Chapter 5 (Prentice Hall 1992)); Gannett/Besen Analysis at 16-17 (*citing* same).

[139] Chronicle/Besen Analysis at 18-19; Gannett/Besen Analysis at 17-18.

[140] Chronicle/Besen Analysis at 21; Gannett/Besen Analysis at 20.

[141] Chronicle/Besen Analysis at 21-22; Gannett/Besen Analysis at 20.

[142] Chronicle/Besen Analysis at 22; Gannett/Besen Analysis at 20.

[143] Chronicle/Besen Analysis at 22-23; Gannett/Besen Analysis at 20-21.

costly to specify in the joint venture contract all the actions that each participant will take, "shirking" does not have the opportunity to arise in a common ownership scenario because of the ease with which a central authority can monitor the actions performed through the common enterprise.[144]

Media General's "real world" experiences have paralleled these observations. Absent cross-ownership, the joint ventures it has pursued have generally involved higher than expected costs, less than complete communications between participants, less than full "buy-in" from different participants, and have not succeeded.[145] On the other hand, in its convergence markets, where it has operated properties through cross-ownership, the combinations have been able to establish collaborative working relationships that have quickly increased and improved the news and information delivered to the market.

Opponents of repeal of the 1975 Rule cite, as an example of a model for industry collaboration, the recent experiment between Bonneville International Corp., licensee of several Washington, DC area radio stations, and *The Washington Post* -- "Washington Post

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[144] Chronicle/Besen Analysis at 23; Gannett/Besen Analysis at 21. Furthermore, a commonly owned firm has certain advantages that are not available to a joint venture. The relationships that develop among employees and their peers as well as between employees and the firm create what has been recognized as "associational gains." Chronicle/Besen Analysis at 23 (*citing* O. Williamson, *Markets and Hierarchies: Analysis and Antitrust Implications* 44 (The Free Press 1975)); Gannett/Besen Analysis at 22 (*citing* same). The resulting responsibility to behave as "team players" reduces the problems of disagreements, protection of private information, and "shirking" that all arise in joint, non-commonly owned ventures. Chronicle/Besen Analysis at 24; Gannett/Besen Analysis at 22. In addition, commonly owned properties find it much easier to use internal promotion as an employee incentive. The scope of disagreements about the timing, beneficiaries, and salaries associated with promotions is dramatically diminished with commonly owned enterprises relative to joint ventures. Chronicle/Besen Analysis at 24; Gannett/Besen Analysis at 22.

[145] For instance, its joint venture in Winston-Salem, discussed in the Gentry Statement at 12, was terminated several years ago.

Radio."[146] This endeavor involves joint branding and appearances by *The Washington Post* writers who are interviewed by the radio station anchors. Bonneville continues to own, operate, and control the two radio stations that are involved.

What the opponents of repeal do not report is that the venture, although launched with much publicity, has to date been somewhat of a dud. In the first period for which audience results were available, the participating stations ranked 21 among approximately 40 local stations during the April to June 2001 period -- "in the low range of what we expected," according to one of the venture's architects.[147] One quarter later, the results were slightly worse with the stations "remain[ing] mired in the middle of the pack, finishing 22 out of 35 ranked stations, dropping a spot from the spring."[148]

In its Comments, Bonneville, licensee of the stations involved in the joint venture, itself admits that the transaction costs involved in the arrangement have been "very high and would be prohibitive for many parties interested in moving newspaper[s] to the broadcast platform." As Bonneville concludes, "*Washington Post Radio* should not be taken as evidence that there is no need to revise the Newspaper Rule."[149]

III. Anything Short of Repeal Would Represent Government-Mandated Inefficiency, in the Face of No Competitive Threat, and Would Likely Presage "Failure by Regulation" and Public Interest Harms, Particularly to Localism.

As noted above, the FCC has already found that the 1975 Rule inhibits the delivery of local news and, therefore, harms the statutory goal of localism. Relying on diversity to

[146] UCC Comments at 64.

[147] "WTWP Radio Gets Off to a Slow, But Game Start," *The Washington Post*, Jul. 22, 2006, at C1.

[148] "The Ratings Heat Up for Top 40 Radio Stations," *The Washington Post*, Oct. 19, 2006, at C7.

[149] Bonneville Comments at 15.

justify retention of any vestige of the 1975 Rule, as Media General pointed out in its initial comments and as other parties agree, would now clearly have the same effect by threatening the continued provision of free, over-the-air local news. In 2003, the FCC already found no competitive need for the 1975 Rule and, despite musings about advertising concentration, opponents offer nothing to contradict this finding.[150] Retention of the 1975 Rule would thus represent government-mandated inefficiency, a mistake that will lead to "failure by regulation."

A. Commenting Parties Make Clear That Broadcast Stations and Daily Newspapers Now Face Immense Competition and Hard Economic Realities That Threaten Their Level of Service, If Not Their Existence.

Newspapers. For the last 20 years, daily newspapers have experienced declining average daily circulation.[151] As NAA points out, while the decline has been at the rate of one percent a year since 1990, the losses accelerated in 2005; circulation went down 2.6 percent for daily newspapers and 3.1 percent for Sunday newspapers, with no improvement expected in 2006 figures.[152] According to sources cited by NAB in its comments, only 40 percent of consumers now report reading a newspaper "yesterday,"

[150] Nor could they. Empirical analysis continues to show that repeal of the 1975 Rule will have no adverse effect on advertising rates, even in small and medium sized markets. M. Baumann, Economists Incorporated, "Behavioral Analysis of Newspaper-Broadcast Cross-Ownership Rules in Medium and Small Markets: An Update," December 2006, attached as Appendix 3.

[151] F. Ahrens, "Gannett To Change Its Papers' Approach," *The Washington Post*, *supra* note 28, at D-3.

[152] NAA Comments at 41, *citing Pew 2004 Fact Sheets - Newspaper Page* (p. 1 of 8), at http://www.pewtrusts.com/pdf/journalism_state_of_media_2004_facts.pdf (last visited Jan. 11, 2007) and *Project for Excellence in Journalism State of the Media Study*, at http://www.stateofthenewsmedia.org/2006/narrative_newspapers_intro.asp?media=3 (last visited Jan. 11, 2007).

whereas the figure was 71 percent in 1965 and 58 percent in 1994.[153] These sources show that "'the key factor driving the circulation losses' is the 'movement of readers, especially young ones, to online alternatives -- a pressure that is likely only to increase.'"[154] Among consumers under the age of 30, only 24 percent read a newspaper on a typical day, causing one observer mentioned in NAB's Comments to state, "'the average age for heavy consumers of print and broadcast news is now less than 10 years short of Social Security eligibility,' while '[y]oung people are turning away from mainstream journalism in all of its forms except one -- the Internet.'"[155]

Given declining readership, newspaper advertising revenue -- which, according to NAA accounts for 75 to 80 percent of average newspaper earnings -- has "taken a substantial hit."[156] A report from last week noted that:

> [W]hile newspapers are selling more online ads, the growth isn't fast enough to make up for setbacks in print. During the first nine months of 2006, Internet ad revenues, including search ads rose 35 percent to $12.1 billion, according to PricewaterhouseCooper data compiled for the Interactive Advertising Bureau. During the same period, the local newspaper industry's ad revenues slipped 4% to $17.5 billion, according to TNS Media Intelligence.[157]

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[153] NAB Comments at 52, *citing* Pew Research Center for the People and the Press, *2006 News Consumption and Believability Study* at 2 (Jul. 30, 2006) ("*2006 Pew News Study*").

[154] NAB Comments at 52 n. 126 (citations omitted).

[155] NAB Comments at 52, *quoting* J. Ziomek, *Journalism Transparency and the Public Trust*, A Report of the Eighth Annual Aspen Institute Conference on Journalism and Society, at 3 (2005).

[156] NAA Comments at 42, *citing* J. Bosman, "Online Newspaper Ads Gaining Ground on Print," *The New York Times*, June 6, 2006, at C-1.

[157] J. Angwin, "Newspapers Set To Jointly Sell Ads on Web Sites," *The Wall Street Journal*, Jan. 10, 2007, at A-1, A-15.

NAA's Comments track the corresponding response of the financial community as it diverts investment away from newspaper stocks.[158]

Broadcast. Broadcast stations, like daily newspapers, are facing increasing economic difficulties because of competition from new media, rising operational costs, and cuts in network compensation. As NAB notes, research from last summer shows that regular viewership of local television news has fallen from 77 percent in 1993 to only 54 percent in 2006.[159] Between 1997 and 2003, early evening local news programs lost 16 percent of their share of the available audience, and these losses continued through 2005, although at a slightly slower rate.[160] NAB's own research shows medium and small market television stations have experienced substantial declines in the viewing shares of their late night local newscasts over the past 10 years.[161] A recent academic study cited by NAB found similar results attributable to the Internet's "significant displacement effect" on broadcast television for daily news.[162]

NAB's Comments also track the erosion in advertising dollars from local television stations as advertising migrates to cable and the Internet[163] and the possible impact declining revenue sources will have on local news.[164] "'[T]he continuing profitability of a

[158] NAA Comments at 42-43.

[159] NAB Comments at 51, *citing 2006 Pew News Study* at 1, 12.

[160] NAB Comments at 51-52, *citing* Project for Excellence in Journalism, *The State of the News Media: An Annual Report on American Journalism, Local TV/Audience*, at 2-3 (2006).

[161] NAB Comments at 52, *citing* Attachment H to its comments.

[162] NAB Comments at 51, *citing* J. Dimmick, Y. Chen and Z. Li, *Competition Between the Internet and Traditional News Media: The Gratification-Opportunities Niche Dimension*, 17 J. Media Econ. 19, 31 (2004).

[163] NAB Comments at 32.

[164] *Id.* at 95.

local news operation is now highly uncertain.'"[165] At the same time that audience fragmentation and advertising erosion is occurring, empirical proof submitted by NAB shows that the costs of starting up and maintaining local television news operations in medium and small markets continue to rise, particularly due to increased salary and benefit costs for news personnel.[166] Meanwhile, acquisition of alternative programming, such as syndicated fare, represents a lower cost and higher profit option than news production. Faced with declining financial conditions, small and medium market television stations may find reducing their delivery of free local news inevitable given these lower cost options.[167] RTNDA's most recent survey of news staffing and profitability, which NAB cites, confirms these concerns. In this survey, only 44.5 percent of all TV news operations showed a profit, down from 62 to 63 percent in the late 1990s.[168]

B. Cross-Ownership Offers an Opportunity for Newspapers and Broadcast Stations To Continue To Offer High Quality Local News.

Faced with the trends documented above, it is no wonder that daily newspaper publishers and television licensees have looked to cross-ownership as a solution, and, in many instances, particularly in small and medium sized markets, they have found a means to reverse the downturn and profitably provide their communities with more and better local news.

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[165] *Id. quoting* Smith Geiger, *Newsroom Budgets in Midsize (51-100) and Small Markets (101-210)* at 2 (Dec. 2002) ("*Newsroom Report*"), attached as Attachment D to Comments of the National Association of Broadcasters in MB Docket No. 02-277 (Jan. 2, 2003).

[166] *Id. quoting Newsroom Report* at 2, 13, 15.

[167] *Id.* at 95-96.

[168] *Id.* at 96, *citing* B. Papper, *News, Staffing and Proftiability Survey*, *Communicator* at 36 (Oct. 2005).

The stories of existing cross-owned properties set forth in the initial comments are the best evidence on this point. In market-after-market, the cross-owned stations operated by Belo, Gannett, Media General, Morris, and Tribune are news leaders, delivering an unquestioned wealth of local free news content to their communities. All make the point that this success is directly related to cross-ownership.[169]

As NAB points out, "even in the less competitive marketplace of the late 1990s," a study that it commissioned found that permitting cross-ownership of newspapers and broadcast stations "'would have a positive economic impact upon these businesses'" by increasing "'operating cash flow'" between "'9% and 22%'" and "'could have a significant impact on efficiency of operations in smaller markets, especially for marginally performing newspapers and television stations.'"[170] As NAB notes, the study concluded that efficiency gains from joint ownership of newspapers and broadcast stations would be "most significant" in proportional terms for small market radio and television stations "'where even small cost savings can create a sharp increase in operating profits.'"[171]

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[169] Belo Comments at 13-16; Gannett Comments at 25-26, 31; Media General Comments at 7-22; Comments of Morris Communications Company, LLC in MB Docket No. 06-121 (Oct. 23, 2006) ("Morris Comments") at 13-21; Tribune Comments at 1-2. NAA also provides numerous other examples. NAA Comments at 66-79.

[170] NAB Comments at 115, *citing* Bond & Pecaro, *A Study To Determine Certain Economic Implications of Broadcasting/Newspaper Cross-Ownership* ("*Bond & Pecaro*"), attached as Appendix B to Comments of the National Association of Broadcasters in MM Docket No. 98-35 (Jul. 21, 1998) at 5, 26.

[171] *Id.* At 115, *citing Bond & Pecaro* at 5. NAB also notes additional small market benefits of liberalizing media ownership. "Commenters in earlier proceedings specifically attested that group ownership has permitted radio owners to program stations to appeal to modestly-sized minority communities in medium and small markets such as Charleston, WV and Omaha, NE. *See, e.g.,* Comments of West Virginia Radio Corp. and Journal Broadcast Corp. in MM Docket Nos. 01-235 and 96-197 (Dec. 3, 2001)." NAB Comments at 83 n. 197.

Media General's experience echoes the positive benefits of cross-ownership. Through cross-ownership, for instance, the *Tampa Tribune* has been able to level off circulation declines in key parts of its market. Since convergence began, WFLA-TV in Tampa has added two and one-half hours of local news a week -- thirty additional minutes of news each weekday -- and now offers almost 32 hours of local news per week (31 hours and 55 minutes). Ratings have repeatedly demonstrated that the station is Florida's leading provider of local news. The quantitative evidence is most graphic, however, in Media General's smaller market combinations, where four of its five cross-owned television stations now deliver appreciably more local news and public affairs programming than they were offering prior to convergence.[172] In the one exception among the five, a market in which the television station was already delivering the most local news of all the non-grandfathered stations at the time Media General acquired it, the news total has simply remained the same, although the station has added an additional half-hour of public affairs programming each week. Thus, its overall total of local news and public affairs programming has increased since convergence began, and all five non-grandfathered stations have increased their news and public affairs programming since Media General acquired them.

[172] The totals are as follows:

Station	Prior to Convergence	Fall 2006	Increase
WSLS(TV) (Roanoke)	17 hrs, 35 mins	22 hrs, 35 mins	5 hrs
WJHL-TV (Tri-Cities)	18 hrs, 47½ mins	26 hrs, 17½ mins	7 hrs, 30 mins
WBTW(TV) (Myrtle Beach)	20 hrs, 30 mins	20 hrs, 30 mins	Constant
WRBL(TV) (Columbus)	16 hrs, 45 mins	21 hrs, 45 mins	5 hrs
WMBB(TV) (Panama City)	20 hrs, 15 mins	20 hrs, 45 mins	30 mins

Media General Comments, Vol. 2, Statement of Adam Clayton Powell, III, at Exhibit A, p. 3 and Tab 1 (WFLA-TV), Exhibit B, p. 5 and Tab 1 (WSLS-TV), Exhibit C, p. 4 and Tab 1 (WJHL-TV), Exhibit D, p. 4 and Tab 1 (WBTW(TV)), Exhibit E, p. 4 and Tab 1 (WRBL(TV)), Exhibit F, p. 4 and Tab 1 (WMBB(TV)).

There are no documented harms in the record that should prevent the roll-out of these benefits to consumers across the nation. The future of free local news mandates that the prohibition on cross-ownership be repealed, so that newspapers, the only businesses now unable to own television stations, may help television stations deliver better, faster, deeper news.

IV. As Shown in the Comments, Under the 1996 Act and General Administrative Law Principles, the FCC Has No Choice But To Repeal the 1975 Rule.

As discussed in Media General's initial comments[173] and echoed in comments filed by other parties,[174] the FCC already has found, and the Third Circuit has agreed, that the 1975 Rule is not necessary to fulfill the FCC's interest in promoting competition, localism, or viewpoint diversity, and that the 1975 Rule counterproductively harms localism. The FCC found repeal mandated by Section 202(h) of the 1996 Telecommunications Act, and the court agreed.[175]

The *Prometheus* court "sum[med] up" the standard of review that it would apply in any future review of the FCC's actions: "In a periodic review under § 202(h), the Commission is required to determine whether its then-extant rules remain useful in the public interest; if no longer useful, they must be repealed or modified."[176] Nothing in the record that has been amassed this time, the third in a little over five years, shows the 1975 Rule remains "useful" and that any need remains to substitute lessened regulation for the 1975 Rule under § 202(h). The FCC and the court already found the 1975 Rule was

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[173] Media General Comments at 5-7.

[174] *E.g.*, NAA Comments at 18; Bonneville Comments at 4-5; Morris Comments at 6-9.

[175] *Prometheus* at 398-400, *citing 2003 Report and Order*, 18 FCC Rcd at 13749, 13754, 13764-66.

[176] *Id.* at 395.

unnecessary to advance competition or localism, and the abundance of sources of news and information, particularly local, has mooted any further FCC concern over "diversity." And, now that review is quadrennial, the FCC's statutory burden to ensure that its rules keep pace with marketplace realities is that much stronger. No one has dared contend, nor could they, that trends suggest a future decrease in abundance somehow warranting four more years of regulation.

Long-established administrative law precedent equally compel total repeal. The FCC itself acknowledged in 1975 that there was no evidence of a competitive harm mandating regulation of newspaper/broadcast cross-ownership, and the "hoped-for" gain in diversity upon which it premised adoption of the 1975 Rule has never materialized. The FCC thus has no choice but to repeal the 1975 Rule. A regulation reasonable in the face of a problem becomes highly capricious when the problem is shown not to exist.[177] Even a statute, the validity of which depends on a premise supported at the time of enactment, becomes invalid subsequently if the predicate disappears.[178]

In fact, changing course at this point and doing anything short of repealing the 1975 Rule would similarly violate administrative law precedent. Any change would require clear and compelling evidentiary support and a detailed and persuasive explanation for altering the direction laid out in 2003.[179] As shown above, nothing in the record warrants a change in the decision to repeal, and nothing warrants action beyond that point, particularly

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[177] *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 36 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 829 (1977). *See Bechtel v. FCC*, 957 F.2d 873, 881 (D.C. Cir. 1992), *cert. denied* 506 U.S. 816 (1992). *See also Bechtel v. FCC*, 10 F3d 875 (D.C.Cir. 1993).

[178] *Geller v. FCC*, 610 F.2d 973, 980 (D.C. Cir. 1979).

[179] *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970).

given, as Media General noted in its initial comments, the constitutional infirmities plaguing the 1975 Rule.

V. **Conclusion.**

As was true in 2003, commenting parties have not raised any legal or factual justification for the FCC to do anything but repeal the 1975 Rule. No justification remains for retaining any form of newspaper/broadcast cross-ownership restriction for the next four years. Indeed, numerous reasons, as set forth above, compel full and immediate elimination in all markets, large and small. Accordingly, the FCC should repeal Section 73.3555(d) of its rules and not replace it with any other restriction.

Respectfully submitted,

MEDIA GENERAL, INC.

By M. Anne Swanson

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of

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January 16, 2007

DECLARATION

I, Peter E. Howard, declare under penalty of perjury that the following is true and correct:

1. I serve as the Vice President for Content/Design of the Interactive Media Division ("IMD") of Media General, Inc. ("Media General").

2. Media General is an independent publicly owned communications company situated primarily in the southeastern United States with interests in newspapers, broadcast television stations, and interactive media. Media General's IMD operates more than 75 online enterprises affiliated with the company's newspapers and television stations.

3. In six of its markets, Media General owns both a television station and a newspaper -- Tampa, Florida, the 12th-ranked DMA; Roanoke-Lynchburg, Virginia, the 68th-ranked DMA; Tri-Cities, Tennessee/Virginia, the 92nd-ranked DMA; Myrtle Beach-Florence, South Carolina, the 105th-ranked DMA; Columbus, Georgia, the 128th-ranked DMA; and Panama City, Florida, the 156th-ranked DMA.

4. In three of these converged markets, Tampa, Tri-Cities, and Myrtle Beach-Florence, the company operates a single combined portal website -- TBO.com in Tampa, tricities.com in Tri-Cities, and scnow.com in Myrtle Beach-Florence. In each of the other converged markets, the television station and the newspaper currently operate separate websites but plan to introduce combined portal websites during 2007.

5. I assumed my current position in February 2006. From 2000 until then, I had been the News Editor of TBO.com in Tampa. I joined Media General in 1995 as a reporter for *The Tampa Tribune* and served as one of the first reporters involved in significant convergence efforts in that market. Prior to joining Media General, I worked as a reporter at *The Providence*

Journal, the *Cape Cod Times*, and *Foster's Daily Democrat* (Dover, New Hampshire). I have worked in the newspaper and on-line news industries for over 25 years.

6. Assertions that websites affiliated with existing media outlets do nothing but rehash content presented in those traditional outlets, although perhaps accurate in the 1990s, represent a misunderstanding of how such internet operations work today. Websites now present a significant volume of information that is totally unique to those sites, is never published in a newspaper or broadcast on television, and, in many cases, is produced entirely by reporters who are independent of the traditional media outlets, or even contributed by website users.

7. With its websites, Media General seeks to provide a "continuous newsroom" to serve residents in each of the company's markets. As part of this initiative, the websites provide real-time reporting of local news on a 24-hour per day, seven-day per week basis. When a breaking news story first develops, brief reports of only a few sentences are often posted to the websites. Later, as events unfold, more comprehensive reports build on these stories and are added to the website. Although print and broadcast outlets may ultimately report on the same events, the great majority of these online reports, and particularly those that are provided early in the cycle of a news event, differ from those that appear in print or broadcast reports. This content is originally, and often solely, presented over the internet.

8. The websites in each of Media General's six convergence markets maintain independent staff to operate the online enterprises associated with the traditional media properties in those markets. These staff produce original local content for their websites and also edit information provided by journalists and reporters affiliated with the existing media outlets in those markets to make it suitable for website publication.

9. TBO.com, Media General's oldest online portal operation, employs 13 staff members dedicated to creating and maintaining the website's content. These employees include a breaking news producer, who writes a half-dozen or more independent news stories each day for the site; this individual is also responsible for preparing original stories on traffic and weather by consulting traditional outside sources such as wire and traffic services and local police information offices. Additional TBO.com staff produce original website content, including multimedia content, such as video or audio clips or Flash animation. In addition to generating independent, web-only content, TBO.com staff also edit information provided by WFLA-TV and *The Tampa Tribune* reporters, at times adding their own original input before posting these reports to TBO.com. As subsequent developments occur affecting these stories, TBO.com employees work with the staffs of the other outlets to make sure the reports are updated. Most of these updates appear exclusively on TBO.com.

10. In the Myrtle Beach Florence and Tri-Cities markets, the scnow.com and tricities.com websites also employ independent reporters to cover and report on events. These reporters prepare numerous multimedia reports available each week only over the internet. In the other markets, where Media General hopes to develop combined portal websites during the coming year, website employees obtain input from reporters at the more traditional media outlets but then take that information and help craft web-specific stories that do not simply mirror the content in the traditional media.

11. Media General's television stations and newspapers have found coverage of high school sports, particularly football, to be important to serving their local communities. During the high school football season, the websites in five of the company's six converged markets provide very extensive high school football coverage, which far exceeds what can be delivered in

print or in television newscasts. This content includes game highlights as well as video of half time shows and fans from most local games.

12. The staffs at Media General's websites are also working to enable and encourage participation by website users, seeking addition to the sites of completely original user-generated content, such as photographs and video, as well as user commentary on stories posted by Media General itself. For example, last year, TBO.com solicited user-generated video and still photographs of the Gasparilla parade, a local event drawing more than 500,000 people. Using this user-generated content, local website staff in Tampa produced a movie of approximately six minutes in length, which was then posted to TBO.com. This video was available exclusively on TBO.com and proved to be very popular with visitors to the site. In further efforts to encourage user-generated content, several markets' local website staff are beginning to incorporate user-generated photos and video of major local events into the websites. In addition, Media General's websites are now introducing a feature called "Reader Reaction," which allows users to submit commentary on any article published on a Media General website. Website employees append this commentary to the article on the website.

13. Journalists in Media General's converged markets also have hosted local weblogs, or "blogs" on local company websites, presenting content and original reporting that does not appear in print or on the television stations in these markets. Many of these blogs also encourage website visitors to submit their own commentary or questions.

14. Through their websites, Media General's outlets are delivering a wealth of information previously unavailable to viewers or readers. Far from being simply a rehash of the information presented in traditional outlets, these sites provide up-to-date information not available anywhere else. The characteristics of the internet allow the local websites to deliver

information to area residents, particularly hyper-local content, more quickly and in greater depth than ever before. At the same time, the websites are increasingly providing viewers and readers with a forum to express their own opinions and comments.

By ______________________
Peter E. Howard

Date: JAN. 12, 2007

DECLARATION

I, Daniel J. Bradley, declare under penalty of perjury that the following is true and correct:

1. I serve as the Vice President of News for the Broadcast Division of Media General, Inc. ("Media General").

2. Media General is an independent publicly owned communications company situated primarily in the southeastern United States with interests in newspapers, broadcast television stations, and interactive media. Media General traces its history in the news business back to 1850 when the *Richmond Dispatch* was founded. Today, the Company owns 25 daily newspapers and 23 broadcast television stations. Media General's mission is to be the leading provider of high-quality local news, information, and entertainment in the Southeast by continuing to build on its position of strength in strategically located markets.

3. Media General also is one of the media industry's leading practitioners of "convergence," the melding of newspaper, broadcast television, and on-line resources in the preparation and dissemination of local news. Media General's News Center in Tampa, Florida (the nation's 12th ranked Designated Market Area (DMA)), is the most advanced convergence laboratory in the nation, and the only one, as far as we are aware, in which the news staffs of a newspaper (*The Tampa Tribune*), a broadcast television station (WFLA-TV), and an on-line operation (TBO.com) are housed under one roof.

4. I began my career in Broadcast Journalism in November 1974 in Toledo, Ohio. I entered this profession as a news photographer, shooting, processing, and editing film for television news stories. I was hired by Media General Broadcast Group as a news photographer in July 1979. I have spent the last 27 years working for Media General in a variety of positions

at WFLA-TV and at the company's headquarters in Richmond, Virginia. Through the years, my career advanced as the company provided ample opportunity for promotion into positions of increasing responsibility. In 1993, I was promoted to the position of News Director at WFLA-TV. As News Director, I worked to develop Media General's convergence strategies as they applied to multi-media news coverage and presentation. I helped develop the concept and oversaw establishment of the Tampa News Center. In 2000, I was promoted to Vice President of News, a newly created position within the Broadcast Division. As the Vice President of News for the Broadcast Division, I work closely with our television station news directors and general managers on a number of issues, including strategic plans designed to build audience share in each of our markets.

5. Convergence has been an unqualified success for Media General in Tampa. WFLA-TV is the highest rated television station in all of Florida. Contrary to prevailing industry trends, convergence has helped level circulation declines at *The Tampa Tribune* in key areas of Tampa and Hillsborough County.

6. Media General has similar convergence efforts underway in five additional markets where it owns television stations and daily newspapers -- Roanoke-Lynchburg, Virginia, the 68th-ranked DMA; Tri-Cities, Tennessee/Virginia, the 92nd ranked DMA; Myrtle Beach-Florence, South Carolina, the 105th-ranked DMA; Columbus, Georgia, the 128th-ranked DMA; and Panama City, Florida, the 156th-ranked DMA.

7. I know that some people contend there is a causal link between diversity of ownership and diversity of viewpoint. We believe the two are completely unrelated. There are two market-based explanations.

8. As I said above, providing high-quality local news to the communities we serve is absolutely core to Media General's mission. We are a small company relative to the giant, global players in our industry; however, we believe we can compete very successfully against even the largest media companies by focusing on our ability to deliver excellent local news in each of our markets.

9. We also know the readers, viewers, and subscribers served by each of our outlets expect balanced news coverage and objective reporting. Each Media General outlet makes its own journalistic decisions based on the needs and interests of the community it serves, and the corporate management and owners of Media General do not dictate the news content of its newspapers, television newscasts, or web stories. Indeed, we could not deliver excellent local news and remain true to our commitments to the communities we serve -- and to our shareholders -- if it were otherwise. The individuals who are best able to identify the needs of the community are the managers and employees who are based in and work in each market.

10. Even in Media General's converged markets, there is no "viewpoint" coordination between the newspapers' editorial page staffs and the employees at the other converged properties; television and web employees are not aware of prospective editorial positions to be taken by the newspapers. This has been and will continue to be the policy of Media General. When its outlets work together, neither directs the content disseminated on the other outlet. By pooling "tips" and contacts, the various outlets are able to cover more stories and do so from many more and different angles.

11. To make decisions based on the needs and interests of the communities they serve, Media General outlets obviously need to ascertain the needs and interests of the residents of their

markets. The company has devoted extensive resources and time, particularly at the local level, to determining these needs and interests.

12. Each year in larger markets, and every second year in smaller markets, local general managers and news directors develop a questionnaire designed to ascertain the concerns of viewers in their markets. In addition to addressing what specific issues are important to the viewers, these questionnaires delve into the viewers' opinions of the local broadcast news media generally and seek suggestions on how media can be more responsive to viewers. Local general managers and news directors then use the results to develop plans for improving their local newscasts and responding to the concerns raised by their viewers. In the three years ending December 31, 2007, Media General estimates that representatives of its stations will have surveyed over 10,000 residents of the company's television markets at a cost of over $1 million.

13. A number of Media General's television stations currently have broadcast segments during their newscasts in which viewers' opinions and criticisms of the stations' news coverage are aired. These segments are the viewers' opportunity to hold the station accountable for the journalistic decisions it has made in its local news coverage or other programming. During 2007, all Media General stations plan to implement similar "Voice of the Viewer" initiatives.

14. Media General's experience proves that the complete elimination of the newspaper/broadcast cross-ownership ban in all markets, large and small, will foster localism, specifically the production of a greater quantity and higher quality of local news.

By Daniel J. Bradley
Daniel J. Bradley

Date: 1/5/06

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of:	)	
	)	
2006 Quadrennial Regulatory Review – Review of The Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 06-121
	)	
2002 Quadrennial Regulatory Review – Review of The Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 02-277
	)	
Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235

"BEHAVIORAL ANALYSIS OF NEWSPAPER-BROADCAST CROSS-OWNERSHP RULES IN MEDIUM AND SMALL MARKETS": AN UPDATE

By Michael G. Baumann

Prepared for Media General, Inc.

December 2006

ECONOMISTS INCORPORATED

Introduction

The Commission is again reviewing its rule prohibiting the ownership by a single party of a broadcast television station and a daily newspaper in the same locale.[1] The purpose of this study is to determine whether the advertising rates charged by daily newspapers cross-owned with a local television station are significantly higher than the rates charged by non-cross-owned newspapers, controlling for other factors, in medium and small markets. It also examines whether newspaper advertising rates in Nielsen Designated Market Areas ("DMAs") with a cross-owned newspaper are higher than in DMAs without a cross-owned newspaper, again controlling for other factors.

In analyzing competition, the Commission relies on the standard antitrust paradigm, that cross-ownership may facilitate the creation or exercise of market power, permitting a firm to raise prices. In particular, the Commission has focused on competition among newspapers, television and radio in the sale of advertising. The analysis in this study investigates the relationship between newspaper advertising prices and cross-ownership for a sample of 500 newspapers in medium and small markets, taking into account ownership concentration of advertising in these three media and other relevant factors.

This study updates the analysis presented in earlier studies conducted in 1998 and 2002.[2] Both of these prior studies found no indication that cross-owned newspapers charge higher advertising prices than other newspapers, holding other factors constant. This study, which uses 2005 data, reaches the same conclusion. This study adopts the same methodology used in these previous studies.

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1 *Further Notice of Proposed Rulemaking*, In the Matter of Cross-Ownership of Broadcast Stations and Newspapers, MB Docket No. 06-121.

2 "Structural and Behavioral Analysis of the Newspaper-Broadcast Cross-Ownership Rules," Economists Incorporated, July 1998 and "Behavioral Analysis of Newspaper-Broadcast Cross-Ownership Rules in Medium and Small Markets," Economists Incorporated, January 2002.

Methodology

Newspaper-television cross-ownership is effectively a merger of two media. As explained in the Department of Justice and Federal Trade Commission's *Horizontal Merger Guidelines*, an important step in evaluating the competitive effect of a merger is determining the relevant product market.[3] Starting from the point of view of customers for whom the merging media are good substitutes, the relevant product market should include all the products which a hypothetical monopolist must control in order to profitably raise prices to consumers.[4] One of the Commission's focuses has historically been on television, radio, and newspaper advertising. Although this focus is overly narrow because it excludes other relevant media, it is adopted in this study, in part because the estimation of revenues for other advertising media for a meaningful geographic area is an exceedingly difficult undertaking and is beyond the scope of this paper. The purpose of this analysis is to measure any price effect of cross-ownership holding concentration constant.

The statistical examination of daily newspaper advertising rates contained in this study is referred to as a reduced-form regression analysis. A regression analysis is a statistical method generally designed to test a particular economic hypothesis. The regression analysis is implemented through the formulation and estimation of a model, *i.e.*, a specification of the general relationship between a set of variables. Although a reduced-form model can be derived explicitly from a set of underlying structural equations which separately model supply and demand for advertising, in this analysis the price of advertising for each newspaper is taken to be the result of this underlying equilibrium relationship without specifying the details, and assumed to be related to a set of exogenous variables.

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3 Department of Justice and Federal Trade Commission Horizontal Merger Guidelines, *Federal Register*, Vol.57, No. 176, September 10, 1992.

4 Horizontal Merger Guidelines, § 1.11.

The simplicity of the reduced-form approach places certain restrictions on the choice of explanatory variables. For example, variables such as circulation or total advertising revenues which could plausibly have an effect on price as well as being affected by price (*i.e.*, variables that are endogenous to the underlying system) must be excluded from the estimated equation. Hence, the equation to be estimated is of the following general form:

$$P_i = \alpha_0 + \alpha_1 * X_i + \alpha_2 * Y_j + \alpha_3 * Z_k + \alpha_4 * HHI_j + \alpha_5 * XOWN_i + \varepsilon_i$$

The following categories list the variables that were used in the regression analysis based on the final regression specification adopted in the two prior studies.

P_i = The price per inch of advertising in newspaper i for the daily edition.

X_i = Individual characteristics of newspaper i, such as newsstand price (daily edition), population in the city where newspaper i is published, and dummy variables for Saturday and Sunday editions.

Y_j = Characteristics of the DMA market j in which newspaper i is published. Market level measures include per capita income and the percentage of the population belonging to an ethnic group.

Z_k = Characteristics of the state k in which newspaper i is published, including the price per kilowatt-hour of energy in state k.

HHI_j = A measure of the level of advertising sales concentration in DMA market j, where the market here is defined as radio, television, and newspaper advertising (see discussion on the construction of the HHIs below).

$XOWN_i$ = A dummy variable indicating whether newspaper i is cross-owned.

[Note: all variables except dummy variables are expressed in natural logarithms.]

Data

The 2006 Editor and Publisher *Yearbook* contains data on advertising rates for daily newspapers located in virtually all DMAs. The rate used is the daily open inch rate. The *Yearbook* also was the source for the daily newsstand price and for whether the paper had a Saturday and a Sunday edition.

Information on the population in the city where the newspaper is published is taken from SRDS *Circulation '06* and the 2006 Editor and Publisher *Yearbook*. For newspapers with information on Newspaper Designated Marketing Area (NDM) population, the population is equal to the NDM population. For newspapers with no information on NDM population, the City Zone (CZ) population was used. For newspapers with no information on either NDM or CZ population, the city population was taken from the Market Population 2000 Census as reported in the 2006 Editor and Publisher *Yearbook*.

Characteristics of the DMA in which the paper is published, such as per capita income and percent Hispanic, were taken from data provided by BIA Financial Network ("BIA*fn*"). The price per kilowatt-hour for the state where the newspaper is published was the average retail price of electricity to commercial customers as reported by the Energy Information Administration for May 2005.

Concentration is measured through the use of the Herfindahl-Hirschman Index ("HHI"). This paper adopts the conventions used in the prior studies. For purposes of this analysis, the study focuses on television, newspaper, and radio advertising. This focus is conservative because it excludes other relevant competing media (*e.g.*, cable television, non-daily newspapers, yellow pages, outdoor advertising, direct mail, etc.) due to the fact that estimating advertising revenues for these other media in a meaningful geographic area is exceeding difficult. Also, for purposes of this analysis, the study uses the DMA as a proxy for the relevant media advertising market. Since what advertising media are measurably selling, and advertisers are measurably buying, from a geographic perspective is a DMA or other industry-standard area, it makes sense to focus on such areas when considering the effects of media concentration.

HHIs were calculated based on 2005 advertising revenues attributable to each owner of a radio station, television station, or newspaper in the DMA. BIA*fn* was the source for radio, television, and newspaper advertising revenues. Stations and newspapers were grouped under common ownership based on ownership information from BIA*fn*.

The cross-ownership dummy variable is used to measure the net impact of cross-ownership on newspaper advertising rates. Dummy variables provide a convenient way of testing for differences between two groups of observations, controlling for other factors. The estimated coefficient on the dummy variable $XOWN_i$ in the equation above provides a numerical estimate of the magnitude of the effect of cross-ownership on newspaper advertising rates. A 5 percent statistical test of significance for the coefficient on $XOWN_i$ is equivalent to the test of whether cross-ownership has any incremental, significant effect on newspaper advertising rates, holding other factors constant. Another version of the model was used to study the effect of cross-ownership on newspaper advertising prices within each DMA that has a cross-owned paper. In this version of the model, the $XOWN_i$ variable is replaced by eleven dummy variables, one for each of the DMAs with a cross-owned newspaper.

The focus of this update is to study the effect of newspaper-television cross-ownership on newspaper advertising rates in small and medium markets. To this end, the study focuses on DMAs with less than one-third of a million television households based on Nielsen's 2005-2006 local market universe estimates. As a result, the regression analysis utilizes data on each of the daily newspapers in DMAs 87-210 for which all of the relevant data were available.

Results

The results of the regression analysis examining the effect of cross-ownership on the cross-owned newspapers' advertising prices are presented in Table 1. There are several indications that the estimated model in Table 1 provides an excellent overall fit to the data. First, the regression equation explains a large proportion of the variation in newspaper advertising prices. The R^2 measures how much of the variation in the dependent variable (newspaper advertising price) is explained by the independent variables. The high R^2 value of 0.77 is a strong indicator that this regression has ample explanatory power.[5]

In addition, the signs of the coefficients on each of the independent variables are consistent with what economic theory would predict. For instance, the price of electricity is assumed to be a supply cost factor with regard to the publishing of newspapers, and it has its expected positive sign.

The high value and significance level of the city population coefficient indicate that this variable has the most important positive effect on price. Although newsstand price (daily edition), Saturday edition, and Sunday edition may have both cost and demand effects, the expectation is that they are more an indication of newspaper quality, and thus would be expected to have a positive effect on price.[6] No prior conjecture was made with regard to the effect on price of any ethnic composition variable tried. Clearly, DMA markets with higher per capita income are more attractive to advertisers, which should (and does) have a positive influence on price. The coefficient on the HHI variable is not statistically significant. This could indicate that the relevant market was defined too conservatively. Newspaper, radio, and television, the three advertising media included in calculating the HHIs, also compete with other forms of advertising that were not included.

If cross-ownership were to have a significant, positive effect on prices, allowing for the overall level of concentration, then the cross-owned dummy variable ($XOWN_i$)

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5 The value of the R^2 can range from 0.00 if none of the variation is explained to 1.00 if all of the variation of explained. An R^2 value of 0.77 is generally considered quite high for cross-sectional data.

6 Given the relative infrequency of changes in the edition structure or the newsstand price, these variables are assumed to be not affected by the price of advertising (*i.e.*, they are exogenous to the underlying model).

should appear as a positive significant variable in the regression equation. However, the cross-owned variable was *not* found to be a significant factor in explaining newspaper advertising prices, controlling for other factors. With a t-value of only 0.66, the coefficient is well below the level needed to indicate statistical significance. This finding is consistent with the findings of the two earlier studies that television-newspaper cross-ownership does not adversely affect the price of newspaper advertising.

The regression discussed above investigates whether a cross-owned newspaper has higher advertising rates, other things being equal, than other newspapers. One can also investigate whether cross-ownership tends to increase the level of advertising rates for newspapers throughout the DMA in which a cross-owned newspaper is located. It is possible to estimate a separate effect of cross-ownership for each DMA. This approach allows any potential price effect of cross-ownership to differ for each DMA market with a cross-owned newspaper and television station.

A regression similar to the analysis displayed in Table 1 was run including a separate variable for the effect of cross-ownership in each DMA that had a cross-owned newspaper. The results of the regression are presented in Table 2. At the bottom of Table 2 are the individual coefficients for each of the eleven DMAs in the sample that contain a cross-owned newspaper. For each of the eleven DMAs, the effect of cross-ownership on price is far from being positive and statistically significant, demonstrating that cross-ownership has no adverse effect on advertising prices. The parameter estimates and significance levels for the other variables are qualitatively similar to the results presented in Table 1.

The HHIs as calculated are subject to at least two types of measurement error. First, practical necessity dictated using DMAs, as it was not possible for this study to undertake a detailed study of the exact geographic market for all of the newspapers included in the study and public data are based on certain industry-standard geographic definitions. Second, there may be significant imprecision in the revenue estimates for individual newspapers and television and radio stations.[7] Following the procedures of the prior studies, to account for measurement error the model described above was estimated using instrumental variables (IV). The essence of the IV approach is to find variables which can help to predict the variable which is suspected of measurement error but which are unrelated to the dependent variable. Although the revenue for each of the radio stations, television stations, and newspapers in each DMA is not known exactly, the number of each type of property in each DMA is known. These counts are clearly correlated with the HHIs, and thus are a natural choice to serve as instruments. Thus, the total number of radio stations, television stations, and daily newspapers in each DMA are used in a "first-stage" regression to predict the value of the HHI for that DMA. This predicted value is the one that is used in the final model in Tables 1 and 2.

Conclusion

This study updates two prior studies that examined the effect of cross-ownership on newspaper advertising rates. As did the prior studies, this study finds no reason to believe that cross-ownership is likely to lead to higher newspaper advertising prices. The study focused on small and medium markets using two separate regression analyses using data from DMAs ranked from 87 to 210. The first tested to see if there was a cross-ownership effect on the advertising rates of cross-owned newspapers. The second tested for any potential impact of cross-ownership at the DMA level in each DMA with a cross-owned newspaper. After controlling for other factors, there was no statistically significant difference between advertising prices of cross-owned newspapers and those of other papers or any statistically significant increase in newspaper advertising rates in DMAs containing a cross-owned newspaper.

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7 BIA*fn* estimates gross revenues for the *leading* stations and newspapers in most markets. BIA*fn* utilizes direct mail surveys, telemarketing, market contacts and computer modeling to generate these estimates. BIA*fn* cautions that their revenue figures are "just estimates."

Table 1

Variable	Parameter Estimate	Standard Error	t-Statistic for H_0: Parameter=0
Intercept	-8.233*	1.481	-5.56
Price of Electricity	0.299*	0.087	3.44
Population	0.452*	0.019	23.56
Newsstand Price (Daily Edition)	0.191	0.107	1.78
Saturday Edition	0.228*	0.041	5.49
Sunday Edition	0.145*	0.043	3.40
Percent Population Hispanic	-0.081*	0.015	-5.48
Per Capita Income	0.591*	0.149	3.96
HHI	0.020	0.024	0.85
Cross-Owned	0.073	0.111	0.66

$R^2 = 0.7661$ * denotes statistically significant at the 5% level

Table 2

Variable	Parameter Estimate	Standard Error	t-Statistic for H_0: Parameter=0
Intercept	-8.246*	1.500	-5.50
Price of Electricity	0.316*	0.090	3.51
Population	0.457*	0.019	23.47
Newsstand Price (Daily Edition)	0.187	0.109	1.71
Saturday Edition	0.226*	0.042	5.34
Sunday Edition	0.137*	0.043	3.16
Percent Population Hispanic	-0.080*	0.015	-5.18
Per Capita Income	0.581*	0.152	3.83
HHI	0.025	0.024	1.02
XOWN DMA 87	-0.111	0.123	-0.90
XOWN DMA 88	0.116	0.139	0.84
XOWN DMA 91	0.070	0.151	0.46
XOWN DMA 94	-0.081	0.164	-0.50
XOWN DMA 96	-0.415*	0.210	-1.97
XOWN DMA 107	0.017	0.181	0.09
XOWN DMA 118	0.136	0.133	1.02
XOWN DMA 127	0.016	0.181	0.09
XOWN DMA 157	0.312	0.256	1.22
XOWN DMA 163	0.097	0.212	0.46
XOWN DMA 169	-0.031	0.164	-0.19
$R^2 = 0.7703$	* denotes statistically significant at the 5% level		