Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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

COMMENTS ON RESEARCH STUDIES ON MEDIA OWNERSHIP

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SUMMARY

The peer reviewed studies that the FCC released on July 31, 2007 demonstrate what numerous other analyses and reports in this six-year old record already show: cross-ownership of a newspaper and television station in the same community results in more local news. The studies demonstrate that this is the case across all markets, despite the growing competition that newspapers and television stations are facing from the profusion of new media entrants.

Study No. 2 ("Ownership Structure and Robustness of Media") reviews the competition among media outlets and owners, updating a similar study that the FCC prepared in 2002, although this time utilizing data covering more of the nation and adding information on the Internet. *Study No. 2* shows that, while overall ownership of more traditional outlets has remained fairly stable during the period at issue, the newspaper industry, unique among all other sectors, has suffered a decline in the number of outlets. At the same time, the combined penetration of multichannel video providers, a group that does not face any restrictions on local television ownership, has continued to grow. When these latest results are combined with the FCC's earlier analysis and the market-by-market reviews that parties such as Media General have placed in the record, the evidence overwhelmingly demonstrates the vibrant diversity and competitiveness which compel repeal of the newspaper/broadcast cross-ownership rule in markets of all sizes.

Study No. 3 ("Television Station Ownership Structure and the Quantity and Quality of TV Programming") and *Study No. 4* ("News Operations") - *Section I* ("The Impact of Ownership Structure on Television Stations' News and Public Affairs Programming") together show that newspaper/broadcast cross-ownership has a positive effect on the quantity and quality of local news. *Study No. 6* ("The Effects of Cross-Ownership on the Local Content and Political

Slant of Local Television News"), which also looked at local news, found a similar increase by cross-owned properties, including an increase, in particular, in coverage of state and local politics, candidate coverage, candidate speaking, and polls. *Study No. 6* also found no significant relationship between the editorial endorsements of the cross-owned newspapers or the campaign contributions of the parent companies with the "political slant" of the television stations. The study actually found some evidence that "political slant" of local news is associated with the average partisan voting preferences in a local market.

These three peer reviewed studies on news programming echo the results of a long chain of analyses dating back to the FCC staff's own review of the subject in 1973. With varying approaches, methodologies, and data sets, these studies -- with but one exception that, as Media General discusses, has been analytically discredited -- show that cross-ownership serves the public interest by resulting in more and qualitatively better local news.

These latest studies demonstrate once and for all that the FCC lacks any empirical basis upon which it can rely to support continuation of the 32-year old ban on newspaper/broadcast cross-ownership. They also make it even more clear that the ban is harming the public interest by depriving communities of the increased production of news that would result from its repeal. Missing from all these studies is any indication that the results are dependent on market size. Given the overwhelming evidence, now confirmed by these peer reviewed studies, the FCC must move without delay to repeal the newspaper/broadcast cross-ownership rule in all markets.

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COMMENTS ON RESEARCH STUDIES ON MEDIA OWNERSHIP

Media General, Inc. ("Media General"), by its attorneys, hereby submits its comments on the 10 studies examining various aspects of the current media marketplace that were released by the FCC on July 31, 2007.[1] Of the 10 studies, four include information of relevance to the FCC's review of the newspaper/broadcast cross-ownership

[1] FCC Public Notice, "FCC Seeks Comment on Research Studies on Media Ownership," DA 07-3470, released July 31, 2007. The FCC extended the deadline for the filing of initial comments until today. *Order*, DA 07-4097, released September 28, 2007.

rule.[2] Overall, these four studies confirm what the FCC found in 2003 and what the United States Court of Appeals for the Third Circuit affirmed in 2004, namely, that the total ban on newspaper/broadcast cross-ownership no longer serves, if it ever did serve, the public interest.[3]

Together, these four studies also demonstrate that the FCC lacks any empirical basis on which it can rely to continue implementation of the newspaper/broadcast cross-ownership rule as being necessary in the public interest as the result of competition. Individually, as shown below, these studies paint the picture of a vibrant, competitive, and diverse media market, one that has changed radically since the rule was adopted over 32 years ago, and they confirm that repeal of the ban is, in fact, in the public interest. Communities of all sizes will benefit if the rule is repealed. It is time for the Commission to act.

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[2] The newspaper/broadcast cross-ownership rule is codified at 47 C.F.R. § 73.3555(d) (2003). The four studies upon which Media General comments are as follows: Kiran Duwadi, *et. al.*, "Media Ownership Study Two: Ownership Structure and Robustness of Media," DA 07-3470A3, as revised September 2007 ("*Study No. 2*"); Gregory Crawford, "Television Station Ownership Structure and the Quantity and Quality of TV Programming: FCC Media Ownership Study #3," DA 07-3470A4, July 2007 ("*Study No. 3*"); Daniel Shiman, "FCC Media Study 4: "News Operations" – Section I: 'The Impact of Ownership Structure on Television Stations' News and Public Affairs Programming,'" DA 07-3470A5, July 2007 ("*Study No. 4 – Section I*"); "The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News," DA 07-3470A7, as revised September 2007 ("*Study No. 6*")

[3] 2002 Biennial Review, R*eport and Order and Notice of Proposed Rulemaking*, 18 FCC Rcd 13620, 13747-13767 (2003) ("*July 2003 Decision*"), *aff'd and remanded sub nom, Prometheus Radio Project v. FCC,* 373 F3d 372, 398-400 (3d Cir. 2004), *cert. denied, Media General, Inc. v. FCC*, 545 U.S. 1123 (2005).

1. *Study No. 2* **("Ownership Structure and Robustness of Media")**

Study No. 2 builds on a somewhat similar study that the FCC commissioned and released in 2002.[4] That earlier study compared the availability and ownership of media in 10 different markets at three different points in time -- 1960, 1980, and 2000. The *2002 Ownership/Outlet Study* showed that the overall trend in the number of outlets and owners in certain representative markets had been one of significant growth among all media except newspapers. Nothing in that study supported retention of the newspaper/broadcast cross-ownership rule, and nothing indicated repeal was unjustified.

Study No. 2 similarly supports repeal of the newspaper/broadcast cross-ownership rule and does so based on a much more geographically expansive data set. The *2002 Ownership/Outlet Study* had relied upon data from selected Arbitron radio markets; *Study No. 2* utilizes Nielsen Designated Market Areas and very ambitiously presents the ownership data for every DMA in the country, thus covering a much larger percentage of the nation than the FCC had attempted to canvas in 2002.[5] *Study No. 2* also adds information on the availability and penetration of the Internet. It utilizes data for four years -- 2002, 2003, 2004, and 2005 -- and expands upon and updates the data before the FCC in 2003 when it determined that the record warranted repeal of the newspaper/broadcast cross-ownership rule.

Study No. 2 shows that there has been no decrease in the competition faced by the newspaper industry, concluding that "[m]edia ownership was fairly stable over the period

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[4] Scott Roberts, *et al.*, "A Comparison of Media Outlets and Owners for Ten Selected Markets (1960, 1980, 2000)," September 2002, FCC Media Bureau Staff Research Paper, 2002-1 ("*2002 Ownership/Outlet Study*").

[5] *Study No. 2* at 2.

studied."[6] Despite this overall stability, *Study No. 2* found that the newspaper industry, unique among all other sectors, *suffered a decline in the number of outlets*.[7] At the same time, *Study No.* 2 found continuous growth in the combined penetration of multichannel video providers, with whom newspapers and television stations directly compete but who are not in any way restricted from owning newspapers in the same community.[8]

The authors of *Study No. 2* make available on the FCC's website the granular data that they collected for every DMA in the nation.[9] The information they report for the six DMAs in which Media General operates newspaper/broadcast cross-ownerships echoes what Media General has long known: all six markets are extremely competitive and diverse.[10] The totals that *Study No. 2* presents, taking varying market definitions into account, are similar to those Media General has diligently collected and filed with the FCC in three separate proceedings over the last almost six years.[11]

According to *Study No. 2*, the Tampa-St. Petersburg-Sarasota, FL DMA (#13) has 14 full-power television outlets; the Roanoke-Lynchburg, VA DMA (#67) has eight; the Tri-Cities, TN-VA DMA (#91) has seven; and each of the Myrtle Beach-Florence, SC

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[6] *Id.* at 2.

[7] *Id.* at 3, 9, 11.

[8] *Id.* at 10.

[9] Available at http://www.fcc.gov/ownership/studydata/2007/study02data.zip (last visited October 2, 2007) ("*Study No. 2 Related Data*").

[10] The six markets in which Media General operates cross-ownerships and the television outlets and daily newspapers it owns in each are set forth in Appendix A. The cross-ownership is grandfathered in Tampa, Florida. In the other markets where the rule is implicated, the cross-ownerships are operated pursuant to temporary waivers.

[11] Appendices 9-14 of Comments of Media General, Inc. in MB Docket No. 06-121 (Oct. 23, 2006); Appendices 9-14 of Comments of Media General, Inc. in MB Docket No. 02-277 (Jan. 22, 2003); Appendices 9-14 of Comments of Media General, Inc. in MB Docket No. 01-235 (Dec. 3, 2001).

DMA (#103), the Columbus, GA DMA (#128), and the Panama City, FL DMA (#154) has six.[12] As Media General showed in its comments filed in this proceeding on October 23, 2006, the Columbus, Georgia and Myrtle Beach-Florence, South Carolina DMAs actually each have seven and eight full-power television stations, respectively, due to the launch of a recent competitor and the existence of non-commercial stations licensed to the DMA that were not included in the final tallies for those markets as reported in *Study No. 2*.[13]

In its 2001, 2003, and 2006 comments, Media General also provided the FCC with extensive data on additional media outlets in each of its convergence markets. These outlets, such as weekly newspapers, collegiate publications, local magazines, and locally based Internet sites, all compete day-in and day-out for audience, and often for advertising support, with Media General's properties and add to the high levels of diversity in each of Media General's six convergence markets.[14] When these results are combined with the

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[12] *See Study No. 2* at 5 (citing BIA *Financial Network, BIA MAPro database)* and *Study No. 2 Related Data*. The relative rankings of each DMA noted above are drawn from "Nielsen Media Research Local Market Universe Estimates," effective Sept. 22, 2007, available at http://www.nielsenmedia.com/nc/nmr_static/docs/2007-2008_DMA_Ranks.xls (last visited October 2, 2007).

[13] Appendices 12, 13 of Comments of Media General, Inc. in MB Docket No. 06-121 (Oct. 23, 2006)

For radio, *Study No. 2* lists many more stations than the substantial number Media General has tallied and filed with the FCC on three separate occasions because Media General's comments relied upon the geographically more narrow Arbitron market definitions. *Study No. 2* reports the same numbers of daily newspapers in each of Media General's six convergence markets, with the exception of Tampa where *Study No. 2* lists eleven, two more than Media General had reported. In counting cable systems, an extremely difficult task given the lack of congruence among data sources, *Study No. 2*'s tallies very roughly parallel the large number Media General reported, listing an even higher total, however, in five out of Media General's six convergence markets.

[14] Appendices 9-14 of Comments of Media General, Inc. in MB Docket No. 06-121 (Oct. 23, 2006); Appendices 9-14 of Comments of Media General, Inc. in MB Docket No. 02-277 (Jan. 22, 2003); Appendices 9-14 of Comments of Media General, Inc. in MB Docket No. 01-235 (Dec. 3, 2001).

FCC's latest findings, both overall and in Media General's markets, in particular, the evidence overwhelmingly demonstrates the vibrant diversity and competitiveness which compel repeal of the newspaper/broadcast cross-ownership rule in markets of all sizes.

2. *Study No. 3* ("Television Station Ownership Structure and the Quantity and Quality of TV Programming")

***Study No. 4* ("News Operations") - *Section I* ("The Impact of Ownership Structure on Television Stations' News and Public Affairs Programming")**

Study No. 3 and *Study No. 4 - Section I* echo the large volume of evidence already filed in this and the predecessor ownership dockets demonstrating that newspaper/broadcast cross-ownership has a positive impact on the quantity and quality of local news. This evidence consists of empirical studies dating back to 1973 and the "real world" experiences in the existing cross-ownership situations around the country that are chronicled in the record.

Study No. 3 analyzes the impact of ownership structure in local television markets on news quantity and quality, particularly with respect to seven enumerated categories of TV programming -- local news and public affairs, minority, children's, family, indecent, violent, and religious.[15] Quantity is measured by the amount and type of programming produced, its availability to households, and actual viewing patterns.[16] Quality is measured by ratings and by the number of advertising minutes.[17] Building on the station ownership

[15] *Study No. 3* at 2, 12-14.

[16] *Id.* at 14-17.

[17] *Id.* at 17-18 The number of advertising minutes is a measure highly questioned by the peer reviewer. Letter from Lisa George, Assistant Professor, Hunter, The City University of New York, to Michelle Connolly, Chief Economist, FCC at 3 (Aug. 30, 2007), available at http://www.fcc.gov/mb/peer_review/prstudy3.pdf (last visited Oct. 21, 2007). The ratings data alone are sufficient to make the case that the newspaper/broadcast rule should be repealed.

data from *Study No. 2*, *Study No. 3* analyzes information on every program provided by every major broadcast television station and cable network for two weeks of every year between 2003 and 2006, thus offering an extremely comprehensive data set across all U.S. markets.[18] While *Study No. 3* reaches varying conclusions on different categories of programming, its conclusions as they relate to newspaper/broadcast cross-ownership could not be clearer. The "strongest findings" in the entire report are for local news: *"television stations owned by a parent that also owns a newspaper in the area offer more local news programming."*[19] As discussed below, this conclusion echoes numerous other studies in this six-year old record and the demonstrated performance of Media General's cross-owned stations over the same period.

Study No. 4 – Section I similarly validates what Media General has long known about the positive effects of newspaper/broadcast cross-ownership. Like *Study No. 2* and *Study No. 3*, this study, based largely on data from *Study No. 2*, utilizes a large cross-section of station ownership and programming information from across the country. Specifically, it reviews the programming of "virtually all analog broadcast television stations in the U.S." for sample periods in each year between 2002 and 2005.[20] Using a three-way group fixed effects model to control for unobserved market-specific, broadcast network-specific and time-specific factors in this data, *Study No. 4 – Section I* also found

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[18] *Study No. 3* at 7.

[19] *Id.* at 26.

[20] *Study No. 4 – Section I* at I-2, I-26.

that *TV stations provide more news programming if they are cross-owned by a newspaper* -- 18 minutes more per day, or an 11 percent increase.[21]

The findings of *Study No. 4 – Section I* are consistent with other empirical results that Media General has highlighted in its comments. In at least seven instances from 1973 to 2006 that Media General cites, empirical analysis has shown that the presence of newspaper/broadcast cross-ownership results in more and better news at the cross-owned television station and frequently induces an overall increase in television news broadcasts by all television stations in the relevant market. These analyses, beginning with the FCC staff's own study in 1973 and continuing through to Economists Incorporated's last review of the issue in December 2006, are discussed at length in Media General's comments filed on October 23, 2006.[22] Importantly, not only do these studies show a positive effect on the quantity and quality of news in the market, but they also fail to support any differentiation based on market size. Even the FCC's 1973 study failed to support such line drawing;

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[21] *Id.* at I-1, I-27. The study also found that each additional co-owned station in the same market is associated with 24 minutes more per day of news programming, or a 15 percent increase. *Id.*

[22] Comments of Media General, Inc. in MB Docket No. 06-121 at 23-29 (Oct. 23, 2006). For convenience, an excerpt of these pages is attached to this filing as Appendix B.

Study No. 4 – Section I at I-3 to I-8 also provides an extensive review of some of these same studies as well as additional ones examining the impact of the Commission's ownership rules on news programming and identifies only one study which concluded that in-market newspaper/television cross-ownership was not associated with an increase in local news. *Id* at I-6 – I-7. This one study -- "Newspaper/Television Cross-Ownership and Local News and Public Affairs Programming on Television Stations: An Empirical Analysis," by Professor Michael Yan (2006) -- has been thoroughly discredited by Professor Jerry Hausman of the Massachusetts Institute of Technology. "Statement of Professor Jerry Hausman, Massachusetts Institute of Technology, Concerning Studies Submitted in FCC MB Docket 06-121," attached as Appendix 1 to Reply Comments of the Newspaper Association of America in MB Docket No. 06-121 (Jan. 16, 2007). In his review, Professor Hausman criticizes Professor Yan's econometric methods and actually finds that Professor Yan's study shows that cross-ownership leads to more local news.

stations in the seven largest markets were specifically excluded from the study, which found that, on average, television stations owned by newspapers offered more news, non-entertainment, and overall local programming than other television stations.[23]

In market after market, Media General's convergence properties have shown that cross-ownership with a newspaper brings more local television news. In Tampa, since 2000, WFLA-TV has added two and one-half hours of local news each week -- an additional 30 minutes of local news each weekday -- and now offers almost 32 hours of local news per week (31 hours and 55 minutes).[24] In Roanoke, WSLS(TV) has added five hours a week since becoming co-owned with daily newspapers; WJHL-TV in Tri-Cities has added 7.5 hours a week, WRBL(TV) in Columbus, Georgia five hours a week, and WMBB((TV) in Panama City 30 minutes a week. WBTW(TV) in Myrtle Beach-Florence, at the time convergence began, already had the greatest amount of weekly local news (20.5 hours) among Media General's five cross-ownerships outside of Tampa; under cross-ownership, that high total at WBTW(TV) has remained constant, and the station has added an additional half-hour of public affairs programming each week.[25] *Study No. 3* and *Study*

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[23] Amendment of Section 73.34 [sic], 73.240, and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations, *Second Report and Order*, 50 FCC 2d 1046, 1078 n.26, and Appendix C, *recon.* 53 FCC 2d 589 (1975), *modified by Nat'l Citizens Committee for Broad. v. FCC,* 555 F.2d 938 (D.C. Cir. 1977), *aff'd in part and rev'd in part, FCC v. Nat'l Citizens Committee for Broad.*, 436 U.S. 775 (1978).

[24] Reply Comments of Media General, Inc. in MB Docket No. 06-121 at 48 (Jan. 16, 2007).

[25] *Id.* The totals for these five stations 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

No. 4 – Section I now confirm that Media General's experience is not unique. Cross-ownership brings clear and unmistakable public interest benefits that warrant prompt repeal of the

32-year old ban.

3. *Study No. 6* ("The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News")

Study No. 6 reviews the late evening newscasts for three nights (Wednesday, Friday, and Monday) during the week prior to the 2006 general election for every cross-owned television station in the country and for the other major network-affiliated stations in each of those same markets. Based on this extensive volume of data, *Study No. 6* found as follows:

> The within-market comparison reveals that cross-owned newspaper\television combinations devote more time to news, as well as several categories of local news. In particular, cross-owned stations contain on average about 1-2 minutes more news coverage overall, or 4%-8% more than the average for non-cross-owned stations; cross-owned stations show 7%-10% more local news than do non-cross-owned stations (regardless of whether sports and weather segments are included in this comparison). Further, on average, cross-owned stations also broadcast 24%-27% more coverage of state and local politics and provide about 25% more candidate coverage, candidate speaking time and poll coverage (although the latter effects are not precisely estimated).[26]

Study No. 6 additionally reported that "there is little consistent and significant difference in the partisan slant of cross-owned stations and other major network-affiliated stations in the

Comments of Media General, Inc., in MB Docket No. 06-121, 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)) (Oct. 23, 2006).

[26] *Study No. 6* at 29.

same market."[27] The study also found no significant relationship between the editorial endorsements of the cross-owned newspapers or the campaign contributions of the parent companies with the "political slant" of the television broadcasts. The study did, however, reveal some evidence that "the partisan slant of local news in each market is associated with the average partisan voting preferences in the local market." The author of *Study No. 6* notes that this result is consistent with other recent studies that have concluded that, in fact, local market forces shape the political slant of local news coverage.[28]

Again, the results of this empirical study accord with Media General's consistent experiences in its six cross-owned markets. As shown above, the quantity of local news and public affairs has increased with convergence. Moreover, as shown in great detail in Media General's comments filed on October 23, 2006, its television stations are at the forefront of political discourse in each of their markets, providing not only local news but political debates, candidate forums, "Town Hall" meetings, poll analyses and in-depth political coverage and analysis. Indeed, the entire second volume of Media General's October 23, 2006, comments provides a market-by-market review of public interest benefits that was prepared by Professor Adam Clayton Powell III. This 100+-page report details the ways in which cross-ownership has improved not only the coverage of political issues but also the presentation of breaking news, the development of investigative and enterprise pieces, the depth of local "sourcing," and coverage of extreme weather events and other crisis-related news.[29] Included in the report are example after example of in-

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[27] *Id.*

[28] *Id.*

[29] Vol. 2 of Comments of Media General, Inc., in MB Docket No. 06-121, Statement of Adam Clayton Powell, III (Oct. 23, 2006).

depth coverage of local and state elections and other issues that have truly made a difference in the community.

At the same time, Media General's comments demonstrate that these cross-owned properties, and those owned by other groups, do not speak with one voice.[30] The comments include charts showing the inconsistent and varying positions taken by editorials published by the newspapers owned by Media General; Gannett Co., Inc.; Tribune Company; Cox Newspapers, Inc.; and the New York Times Company. Over and over again, the record demonstrates that ownership does not influence or predict viewpoint.[31]

The FCC itself has acknowledged this disconnect between ownership and content. In reviewing the comments filed in the proceeding leading up to its *July 2003 Decision*, the FCC recognized that "evidence shows that the link between common ownership of newspapers and broadcast outlets and common viewpoint is tenuous, ill-defined, and difficult to measure."[32] The FCC has drawn similar conclusions in its Dual Network proceeding in 2001, its liberalization of the local radio ownership rule prior to its statutory relaxation in 1996, and, even earlier, its relaxation of the radio/television or "one-to-a-market" rule in 1989.[33] *Study No. 6*'s review and analysis of "political slant" now confirms the wisdom of these earlier findings of a lack of connection between ownership and viewpoint.

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[30] Comments of Media General, Inc., in MB Docket No. 06-121 at 34-39 (Oct. 23, 2006).

[31] *Id.* at 37-38 and Appendix 6.

[32] *July 2003 Decision*, 18 FCC Rcd at 13767.

[33] *Amendment of Section 73.658(g) of the Commission's Rules -- The Dual Network Rule, Report and Order*, 16 FCC Rcd 11114, 11131 (2001); Revision of Radio Rules and Policies, *Notice of Proposed Rulemaking*, 6 FCC Rcd 3275, 3276 (1991) (citations omitted); *Amendment of Section 73.3555 of the Commission's Rules, the Broadcast*

4. Conclusion

Two things are apparent. First, these latest studies demonstrate once and for all that the FCC lacks any empirical basis upon which it can rely to support continuation of the ban on newspaper/broadcast cross-ownership. Second, these most recent FCC studies make it even more clear that the ban is hurting the public interest by depriving communities of the increased production of news that would result from its repeal.

Further, missing from all of these studies is any indication that the results are dependent on market size. The studies support full repeal of the rule and in no way show that a rule based on market size is defensible. Given the overwhelming evidence that is already in the record and these latest results, which now are confirmed by peer reviews, the FCC must move without any delay to repeal the newspaper/broadcast cross-ownership rule in all markets.

Respectfully submitted,

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Multiple Ownership Rules, Second Report and Order, 4 FCC Rcd 1741, 1744, *recons. denied in part, granted in part*, 4 FCC Rcd 6489 (1989).

Appendix A

Newspapers and Television Stations in Media General Convergence Markets

DMA Rank	DMA Name	Station	Daily Newspaper(s)
13	Tampa-St. Petersburg, FL	WFLA-TV	*The Tampa Tribune* *Highlands Today (Sebring)* *Hernando Today (Brooksville)*
67	Roanoke-Lynchburg, VA	WSLS-TV	*The (Lynchburg) News & Advance* *Danville Register & Bee* *The Reidsville Review* *The (Eden) Daily News*
91	Tri-Cities, TN-VA	WJHL-TV	*Bristol Herald Courier*
103	Myrtle Beach-Florence, SC	WBTW(TV)	*The (Florence) Morning News*
128	Columbus, GA (Opelika, AL)	WRBL(TV)	*Opelika-Auburn News*
154	Panama City, FL	WMBB(TV)	*Jackson County Floridan*

Appendix B

Pages 23-39 from Comments of Media General, Inc.
<u>in MB Docket No. 06-121 (Oct. 23, 2006)</u>

C. Empirical Program Studies Demonstrate That Converged Properties Deliver Increased Quantity and Higher Quality Local and Free Non-Entertainment Programming.

It is not an anomaly that Media General's cross-owned properties deliver a wealth of locally produced news and other non-entertainment programming to their communities. At least seven studies over more than three decades consistently have demonstrated that television stations jointly owned with newspapers are likely to broadcast significantly more news and informational programming than other stations in the same market. The most recent study, one prepared last month updating and expanding upon a similar review in 2001, shows additionally that the total amount of news and informational programming broadcast by all stations in a market is likely to be higher in DMAs that include at least one jointly-owned television and newspaper outlet than in markets where there is no such cross-ownership.

The first of these studies was conducted by the FCC itself and undertaken as part of the proceeding that led to adoption of the 1975 Rule. Published as Appendix C to the *Second Report and Order*, the study, which was conducted in 1973 and based on TV Station Annual Programming Reports filed with the FCC, found that television stations owned by newspapers, on average, offered six percent more local news, nine percent more local non-entertainment programming, and 12 percent more total local programming than other television stations.[26] The FCC described these results as presenting "an undramatic but nonetheless statistically significant superiority in newspaper-owned television stations in a number of program particulars."[27]

The second study was undertaken by A.H. Belo Corporation and submitted in connection with its comments in the 1998 Biennial Regulatory Review urging repeal of the 1975 Rule.[28]

[26] *1975 Second Report and Order*, 50 FCC 2d at 1078 n.26 and Appendix C.

[27] *Id.* at 1078 n.26.

[28] Appendix C, Comments of A.H. Belo Corporation, MM Docket No. 98-35 (July 21, 1998).

Among the stations included in the study was WFAA-TV, Dallas-Fort Worth, Texas, where Belo jointly owns *The Dallas Morning News*. As the study showed, WFAA-TV aired over 60 hours a week of non-entertainment programming, consisting of newscasts, news/information programming (*e.g.,* news "magazines" and morning news programs), public affairs programs, instructional shows, children's educational programming, and religious programs.[29] This total placed WFAA-TV appreciably ahead of the other network affiliates in its market in terms of average hours of non-entertainment programming aired in a week and placed WFAA-TV second among all 17 Belo stations, a second-place showing that was so close that it could be disputed as statistically insignificant, particularly since different calendar weeks were used to measure news output at the various Belo stations.[30]

Third, in a 2001 study commissioned by Media General, media expert Dr. S. Robert Lichter, co-founder of the Center for Media and Public Affairs, found that common ownership has a positive effect on the overall amount of non-entertainment programming broadcast in a market.[31] In his study, Dr. Lichter paired each Media General co-owned DMA with the immediately higher-ranked or larger DMA. None of the higher-ranked DMAs included a commonly owned television station and newspaper. For each market, Dr. Lichter coded and

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[29] *Id.* WFAA-TV specifically broadcast 81.5 hours total of non-entertainment programming, 61.94 hours when discounted for commercials. Its weekly total as a percentage of all programming was 48.5 percent, 36.9 percent when discounted for commercials. These percentages were much larger than the 41.2 percent, 32.0 percent when discounted for commercials, broadcast on average by the other stations in the Dallas-Fort Worth market.

[30] KTVB, Boise, Idaho aired more non-entertainment programming than WFAA-TV, and its percentages were just slightly higher than WFAA-TV's -- 83.5 percent of the total programming was non-entertainment, 63.46 when discounted for commercials. Different "news weeks" were used for the two stations, and the slight difference may be explainable on that basis.

[31] Samuel Robert Lichter, Ph.D., *Review of the Increases in Markets with Newspaper-Owned Television Stations*, Dec. 2001, at 3 ("Lichter Study"), attached as Appendix 5 to Comments of Media General, MM Docket No. 01-235 (Dec. 3, 2001). Dr. Lichter's qualifications were appended to his study.

categorized the listings using the same six categories utilized in the Belo study, including one additional category for agricultural programming. He then calculated the number of hours of non-entertainment programming presented both in total and on average by the four network affiliated stations in the Media General markets and in the next adjacent, immediately higher-ranked DMAs.[32] Dr. Lichter compared these averages and found significant results that produced a consistent pattern. In five out of six of the comparisons between DMAs with newspaper-owned television stations and DMAs without such stations, the stations in the co-owned DMAs offered appreciably more non-entertainment programming on average than the stations in non-co-owned markets. The differences ranged from a low of one percent greater in the comparison of co-owned Columbus, Georgia, and non-co-owned Yakima, Washington, to a high of 15 percent between co-owned Tri-Cities, Tennessee/Virginia and non-co-owned Davenport, Iowa. Only in the Roanoke, Virginia DMA did the co-owned stations offer less non-entertainment programming than the stations in non-co-owned Lexington, Kentucky.[33]

A fourth study, cited by the FCC with approval in the *July 2003 Decision*, showed that newspaper/broadcast cross-ownership enhances the flow of news and information to the public.[34] Reviewing ratings for news programming on television stations in "grandfathered" combinations, this study found that, on average, the newspaper-owned television stations, during early news dayparts led the ratings in the market, delivered 43 percent more audience share than the market's second-ranked station and a 193 percent larger audience than the third-ranked station. Even in the late news dayparts, which the study noted have their ratings affected by the

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[32] *Id.* at 3.

[33] *Id.* at 4 and Table 1.

[34] Comments of Victor B. Miller and Kevin R. Grunech of Bear Stearns & Co. Inc., MM Docket 01-235, *et al.* (Dec. 3, 2001) ("Miller Comments") at 24-28 & Ex. 8, as *cited in 2003 July Decision*, 18 FCC Rcd at 13761.

varying strength of the lead-in primetime network programming, the stations owned by a newspaper showed an average 17 percent audience advantage over the second-ranked station and an average 134 percent advantage relative to the third-ranked station. Network affiliates of the newspaper-owned stations in the study were spread across all three major networks, and, as the study concluded, "broadcasters with newspaper-television cross-ownership advantages were able to deliver superior ratings regardless of the affiliation of the station."[35]

A fifth study, authored by members of the FCC staff and cited with approval by the United States Court of Appeals for the Third Circuit, sought to measure the news and public affairs broadcast by television stations for purposes of comparing the performance of stations owned by one of the four largest broadcast networks relative to that of their affiliates.[36] At the same time, this study also provided empirical information demonstrating that repeal of the 1975 Rule would be unlikely to harm the delivery of news and public affairs. In fact, it suggests repeal would have beneficial effects.

This FCC study attempted to measure the quantity and quality of news and public affairs programming. For an assessment of quantity, the study tallied the hours of programming aired during the November 2000 sweeps period.[37] For quality, it used three measures: (1) ratings for local evening news programs; (2) awards from the Radio and Television News Directors Association; and (3) an award called the Silver Baton issued at the A.I. Dupont Awards.[38]

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[35] Miller Comments at 25.

[36] Thomas C. Spavins, *et al.*, "The Measurement of Local Television News and Public Affairs," MOWG Study No. 7 (Sept. 2002) ("Spavins Study"), *cited and discussed* in *Prometheus Radio Project v. FCC*, 373 F.3d at 398-99. The study states that the views it expresses do not necessarily reflect those of the agency. The study is not paginated. Citations assume that the first page following the "Executive Summary" is page 1.

[37] Spavins Study at 1.

[38] *Id.*

Among network affiliates, the study found a "systematic divergence" in performance between stations that were co-owned with a newspaper and all other affiliates.[39] For each quality and quantity measure in the analysis, the newspaper-owned affiliates exceeded the performance of other, non-newspaper network affiliates.[40] In defending the study against criticism of its methods, the United States Court of Appeals for the Third Circuit specifically noted "[t]he six intramarket combinations that were included in the study (grandfathered exceptions to the cross-ownership ban) averaged more local news and public affairs programming as compared to the overall average (26 weekly hours compared to 21.9) and higher ratings for their 5:30 p.m. and 6:00 p.m. news programs (9.8 and 11 compared to 7.8 and 8.2)."[41]

Both the FCC and the United States Court of Appeals for the Third Circuit found that similar conclusions were supported by a sixth study done by the Project for Excellence in Journalism ("PEJ") in which PEJ analyzed five years of data on ownership and news quality.[42] PEJ found that cross-owned stations in the same DMA were more than twice as likely to receive an "A" grade under PEJ's standards as were other stations.[43] As the FCC noted and the court recognized, "newspaper-owned stations 'were more likely to do stories focusing on important community issues and to provide a wide mix of opinions, and they were less likely to do celebrity and human interest features.'"[44] The United States Court of Appeals for the Third Circuit defended the FCC's reliance on this study against criticism from certain parties. The

[39] *Id.* at 4.

[40] *Id.*

[41] *Prometheus*, 373 F.3d at 399 (citation omitted).

[42] Project for Excellence in Journalism, *Does Ownership Matter in Local Television News: A Five-Year Study of Ownership and Quality* (Feb. 17, 2003) ("PEJ Study").

[43] *Id.* at 10.

[44] *Prometheus*, 373 F.3d at 398, *quoting July 2003 Decision,* 18 FCC Rcd at 13755.

FCC had specifically acknowledged that, while results in the PEJ Study were not statistically significant, it was relying upon it as anecdotal evidence,[45] reliance which the court found acceptable "to illustrate its statistical findings."[46]

A seventh and more recent Media General study drives home the point that television stations cross-owned with newspapers deliver an increased and improved news product. Building on the Lichter Study, this latest report by Economists Incorporated sought an updated measure of the non-entertainment programming provided in markets with and markets without newspaper-owned television stations. This study included stations in the six DMAs where Media General operates cross-owned properties as well as cross-owned and other stations in the five additional convergence markets ranked below DMA #92 in order to track, specifically, the effects of cross-ownership in medium and small markets.[47] As was true in the Lichter Study, these eleven DMAs were paired with larger DMAs without cross-owned television stations. Program listings again came from *TV Guide* and, for children's programming, FCC Form 398s; the study measured programming across the same seven categories the Lichter Study had employed. Based on a week of programming in mid-September 2006, this study again found "convergence markets are associated with levels of non-entertainment programming that are, on average, five percent higher."[48]

These seven empirical studies, measuring the effect of common ownership over 33 years and using a variety of empirical approaches, are very significant. Not only do they show

[45] *July 2003 Decision*, 18 FCC Rcd at 13755 n.766.

[46] *Prometheus*, 373 F.3d at 399.

[47] Economists Incorporated, *Review of the Increases in Non-entertainment Programming Provided in Markets with Newspaper-Owned Television Stations: An Update*, Oct. 2006 at 1-2, attached as Appendix 5 ("EI Programming Study").

[48] EI Programming Study at 5.

consistently that a station owned by a newspaper offers more and higher quality non-entertainment programming, but 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, a trend that Media General has noticed in its own experience. Accordingly, it appears that cross-ownership has a positive, market-wide effect on the quantity and quality of non-entertainment programming available to viewers.

IV. The FCC's Concern Over the Impact of Newspaper/Broadcast Cross-Ownership on Diversity Is Misplaced, Cannot Be Measured, and Is Belied by the Tremendous Growth in New Content Providers, Which Bring an Unprecedented Competition for Audiences and Threaten Wholesale Bypass of Broadcast Platforms and the Loss of Local and Free News Content.

A. Three Decades Ago, the Commission Based Adoption of the 1975 Rule on Sheer Speculation That It Would Foster Diversity Rather Than in Response to Any Demonstrable Showing of Harm to Diversity from Common Ownership.

In 1975, the Commission asserted authority under the Communications Act to adopt a rule flatly prohibiting newspaper publishers, who held no spectrum-related assets, from acquiring and operating broadcast stations in markets in which their newspapers are published. Pointedly, the Commission adopted the 1975 Rule, not because it cited any "basis in fact or law for finding newspaper owners unqualified as a group for future broadcast ownership,"[49] but solely because "[w]e think that any new licensing should be expected to add to local diversity."[50]

Although now frequently cited as established fact, this determination represented nothing more than conjecture that the 1975 Rule would improve diversity, conjecture that ignored a number of contrary empirical findings in the record. Even in 1975, the FCC acknowledged that "most" of the commenting parties who had commonly owned newspaper and broadcast facilities

[49] *1975 Second Report and Order*, 50 FCC 2d at 1075.

[50] *Id.*