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Review of the Commission’s Broadcast)	
Ownership Rules and Other Rules Adopted)	MB Docket No. 06-121
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
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2002 Biennial Regulatory Review)	MB Docket No. 02-277
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Newspapers)	
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Local Markets)	
)	
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)	
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Build on Earlier Studies)	

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INTRODUCTION AND SUMMARY

COMMENTERS

The Consumer Federation of America, Consumers Union and Free Press (hereafter Consumer Commenters) respectfully submit these comments in response to the publication by the Federal Communications Commission (FCC or the Commission) of 10 studies in the ongoing media ownership proceeding. Consumer Commenters have been the leading providers of sound, scientific information in the media ownership proceeding, one of the few commenters that has provided original research on a broad range of issues affecting both traditional and alternative media. The commenters have consistently argued that the public interest is best served through ownership diversity, and that strict ownership limits promote diversity, competition, and localism.¹ In these comments we supply a thoroughgoing critique of the FCC studies based on policy relevant definitions and concepts as well as a rigorous approach to statistical analysis that we have developed and consistently applied throughout this proceeding.

SUMMARY:

THE FCC'S RESEARCH AGENDA: ADMINISTRATIVE ABUSE, NEGLECT AND "JUNK SCIENCE"

Consumer Commenters will show that the FCC's official studies in this proceeding are an ad hoc collection of inconsistent, incompetent and incoherent pieces of research cobbled together to prove a foregone conclusion. Overwhelming evidence suggests that the Commission wanted to dramatically relax or eliminate the newspaper cross ownership rule, so it put together a series of studies it thought would support its preconceived notion. A paper written in June of 2006 by the FCC's then-Chief Economist, Leslie Marx, leaves little in doubt as to the motivations of the agency. She wrote: "This document is an attempt to share some thoughts and ideas I have about how the FCC can approach relaxing newspaper-

¹ Prometheus Radio Project v. FCC; 373 F.3d 372, 401, n. 6 (2004) (relying on Comments of Consumer Federation of America, MB Docket02-277 at 41 (Jan. 2, 2003) regarding ownership and diversity); Comments of Consumers Union, Consumer Federation of America and Free Press, *In the Matter of 2006 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, October 23, 2006; Reply Comments of Consumers Union, Consumer Federation of America and Free Press, *In the Matter of 2006 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, January 16, 2007; Complain Under the Data Quality Act, of Consumers Union, Consumer Federation of America and Free Press, *In the Matter of 2006 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, September 11, 2007 (seeking the institution of a credible peer review process).

broadcast cross-ownership restrictions.”² The Commission’s research agenda appears to be based on this document and aimed at accomplishing its stated goal. As a consequence of this results-driven, narrow focus on eliminating the cross ownership rule, the Commission’s research is deeply flawed in fundamental ways. In its haste to deregulate, the agency completely ignores the objective realities of core public interest goals supported by media ownership limits.

First, the process by which the studies were conceived and executed was flawed at every stage, leading to studies that are substantively weak and methodologically tainted. The Commission did not ask the right questions and it was so hell-bent on supporting its predetermined result that basic data definitions, the framing of policy and research questions and the implementation of statistical methodologies do not stand close scrutiny.

Second, the claim that relaxing the cross ownership rule is in the public interest is not supported by a proper analysis of the FCC’s own data—a new and expanded data set collected for this round of studies. Once definitions are corrected and policy relevant variables included in properly specified statistical models, there is no support in the FCC data to relax media ownership limits. In fact, the FCC’s data show the opposite result. Newspaper-broadcast cross-ownership results in a net loss in the amount of local news that is produced across local markets by broadcast stations. The Commission has studied the impact of these mergers only at the station level, rather than at the market level. At the market level, cross-ownership results in the loss of an independent voice as well as a decline in market-wide news production. This finding obliterates the conclusions of the recent studies on cross-ownership as well as the basis for the Commission’s argument for relaxing the rule in the *Prometheus* case.

Third, the Commission failed to address pressing localism issues in its 2003 Final Order, declaring its intention to rectify the situation with a Broadcast Localism Task Force. Four years later, the initial work of that task force was completely ignored in the studies commissioned by the FCC. The vast majority of localism and diversity issues identified by the Commission for further study have not been explored in any meaningful way. It appears that the FCC is only interested in window dressing when it comes to substantive analysis of the public interest benefits of a diverse and independent local media system.

Fourth, in its 2003 Final Order, the Commission ignored minority ownership issues – the under-representation of minorities and females and the lack of diversity in the media – so totally that it elicited a stern reprimand from the court. Unfortunately, over the course of four years, the FCC has failed to rectify the situation in its research agenda. In fact, the Commission has never bothered to create an accurate census of the gender and race of broadcast licensees based on its own data—relying instead on summary data that are hopelessly inadequate. Instead, it commissioned last minute studies that attempted to gloss over its own inattention to the issue. The authors of both studies were hamstrung by the

² <http://www.fcc.gov/ownership/materials/newly-released/newspaperbroadcast061506.pdf>

Notably, the public was obliged to file a Freedom of Information Act request in order to obtain this document.

absence of usable data on minority ownership. At the same time, the commission's flawed data on minority and female ownership was allowed to infect all of the major statistical studies of the broadcast media. Closer examination of corrected data shows that relaxation of media ownership limits reduces minority ownership. The obvious contradiction between permitting further media consolidation and promoting minority ownership begs the question of whether the Commission is ignoring this central policy issue in order to avoid inconvenient realities that derail its preset agenda.

On the whole, despite months of research, the Commission has never provided any compelling evidence that public interest limits on media ownership should be relaxed. On the contrary, the data collected show the opposite—the ownership limits protect the quantity and quality of local news. Further, the Commission has ignored the key questions of localism and diversity, avoiding any substantive analysis of consolidation's impact on minority ownership based on an accurate count of minority owners. Throughout, the Commission has followed a process that was ends-oriented from the start, never deviating from a research plan that traded objectivity and the public interest for blind faith in deregulation.

SYNOPSIS:

PART I: THE FCC'S INADEQUATE, RESULTS DRIVEN RESEARCH AGENDA

Consumer Commenters respond to the research studies commissioned by the FCC first by addressing the process by which they were conducted. These comments not only demonstrate that the body of research is woefully inadequate to address the central questions in the implementation of Congress' stated goals for media policy – to promote competition, localism and diversity – but Part I also shows that the outcome of the research was the result of biased, tainted process. The FCC research barely scratches the surface of the many concerns that underlie these three policy goals. The extremely narrow focus of the research and the failure of the agency to pursue fruitful lines of research that it had opened after the remand of the June 2003 Final Order in the omnibus media ownership proceeding make it clear that this research cannot stand as the basis for altering current policy.

Worse still, the research agenda behind the current studies was set in a blatantly, results-driven process that calls the objectivity of the entire undertaking into account and the peer review of the research did not follow required procedures. As a result, the research is methodologically flawed and analytically feeble. The Chief Economist established a research agenda with the express purpose of designing studies “that might provide valuable inputs to support a relaxation of newspaper-broadcast ownership limits.”³

The research is also plagued with many data and methodological problems, problems that might have been solved if the FCC had conducted a proper peer review of the research. In violation of OMB guidelines on implementation of the Data Quality Act the FCC

³ Ibid.

disseminated the research studies as “influential scientific information” prior to the conclusion of peer review. The peer review itself was haphazard, hidden from the public and not in compliance with the guidelines. In some cases, peer reviewers offered valuable critiques. In others, the peer review was purely perfunctory and meaningless. In no case was the peer review thorough and none of the peer reviewers attempted to reproduce the results of the studies they examined. The resulting studies are not “influential scientific information;” a better description is “junk science.” The designation “influential scientific information” should be removed and the FCC should not rely on the studies in its decision making.

Chapter I. Understanding and Measuring Localism and Diversity

In Chapter I, we explore the wide range of issues that the FCC’s Broadcast Localism Initiative had teed-up and the research to which it gave rise in the 2003-2004 period. The Commission failed to address pressing localism issues in its 2003 Final Order and declared its intention to rectify the situation with a Broadcast Localism Task Force. The credibility deficit incurred as a result of studying policies after they have already been made was, unfortunately, not closed by the resulting commitment to the process of the Task Force. The multi-faceted and complex issues that make up the concept of “localism” identified in this period were the subject of ongoing research at the agency for only a short period. The research became the center of controversy when the studies seeking to examine some of the concepts empirically were not released by the agency. It is not because the Bureau economists were off the mark on the substance of their inquiry. This very rich concept of localism is well grounded in prior actions of the agency. The problem was that the findings in the localism research were contrary to the outcomes desired by the leadership at the agency.

The record of public hearings, filed comments and even the FCC own internal analyses identify numerous issues and concerns about localism and diversity, but the FCC dropped these lines of analysis and implemented a new set of research studies upon which we are now focused. These studies, in direct contrast to the broad scope of inquiry conducted previously in the 2003-2004 period, were so determined to relax or eliminate the cross-ownership limits that the research fails to address the key policy questions or present an objective assessment of the data. Over four years later, the initial, very good work of that Task Force was completely ignored by the authors of the studies commissioned by the FCC this year. The vast majority of issues identified have not been explored in any meaningful way. The Commission has never explained why it abandoned a serious commitment to studying localism. In fact, the removal of the early studies from circulation resulted in a controversy when these so-called “spiked” studies were leaked to the Senate Commerce Committee. The resulting Inspector General’s report did not persuasively address why the Commission chose to terminate this research nor even identify the present whereabouts of the data set upon which the research was conducted. The history of the Localism Task Force and the disappearance of any true inquiry into the issues it identified speak volumes about the bankruptcy of the Commission’s process.

Chapter II. A New, Results-Driven Research Agenda

Chapter II examines the specific research agenda laid out by the Chief Economist's memo which served as the blueprint for the Commission's ten studies. The evidence shows quite clearly that the research agenda was set with an outcome in mind. It was results-driven, a research agenda that was intended to provide ammunition to dramatically relax the limitation on newspaper-TV cross-ownership. Three of the studies target the newspaper-TV cross-ownership policy and pursue the research hypotheses offered by the Chief Economist. Our review of the overall approach identifies a number of weaknesses and biases that then play out in the substantive discussions of the specific studies, which are analyzed in the remainder of the comments. We do not here identify small problems at the margins which tweak the integrity of this research. We identify fatal errors that undermine the policy conclusions of these studies.

The studies suffer from four major categories of problems.

- They omit analyses that are critical to the policy issues before the Commission.
- They omit important variables that bear on the policy issues before the Commission.
- They are based on poorly defined and inadequately documented statistical models.
- The underlying data is unrepresentative or the variables are poorly defined.

Upon close examination, the analytical errors in these studies results in flawed, unsupportable conclusions. They do not support the research hypotheses of the Chief Economist. Ironically, the data assembled in order to conduct the ends-oriented research agenda point to the opposite conclusions to those posited by the Chief Economist. Doubly ironic, this is precisely what happened to the Commission when it undertook its first study of localism during the Task Force of 2003-2004.

Chapter III. Policy, Process and Methodological Flaws in the FCC Media Ownership Research

Chapter III follows the failure of the Commission to implement a sound research agenda through three other phases. First, we discuss the FCC's failure to conduct a proper peer review of the 10 studies. This is not only a violation of the Data Quality Act, it also facilitates a flawed research agenda by shielding the studies from appropriate criticism. Second, the report of the Inspector General's investigation into studies in the 2003-2004 period that the agency failed to make public is considered in light of the behavior of the agency with respect to the 10 studies it did publish. The primary claims the Commission asserts to justify not publishing the research done during the 2003-2004 period deal with methodological and data concerns. We demonstrate that this is a preposterous ruse, pointing out that several of the FCC's 10 studies use precisely the same methodology and data as the earlier research. The primary difference between the studies that were not published and

those that were is that the former contained inconvenient findings with respect to the preconceived notions and intentions of the Commission to relax limits on media ownership. Third, the chapter concludes with an outline of the methodological flaws in the research identified by those peer reviewers that offered substantive critiques. Since the studies were published before the peer reviews, the authors were not in a position to respond and adjust their methods and arguments accordingly. To do justice to the public record, we conducted the suggested lines of analysis identified by the peer reviewers as necessary in Parts II and III of our comments.

PART II. DOING IT RIGHT AND FILLING THE GAPS: EXTRACTING GOOD DATA FROM THE FCC’S BIASED RESEARCH FRAMEWORK

The flaws in the underlying data and statistical methods could be cited as rendering the studies “irrelevant,” but in Part II we proceed in the opposite direction. We build correct analyses based on the data from the original studies that show that the conclusions of the original studies are either wrong or irrelevant. One of the positive externalities of the 10 studies is the creation of a usable data set for the public to use to conduct policy analysis of its own. When we reanalyze the data from the perspective of the multifaceted and rich definition of localism and diversity—which the FCC had been developing in 2003-2004—and we apply a consistent analytic approach, we find that there is no support in the data for a relaxation of the cross-ownership limits. Every one of the research hypotheses that the Chief Economist framed to support the relaxation of the rule is refuted by the FCC’s own data. The underlying data, when extracted from the biased research framework and analyzed in a proper policy framework with correctly defined variables and consistently rigorous statistical methods, thoroughly contradicts the major policy implications of the studies as published by the Commission.

In a true public interest analysis, the data shows that the limitation on cross-ownership promotes “the widest possible dissemination of information from diverse and antagonistic sources” both in the quantity of news and the diversity of opinions available in local media markets. Contrary to the evidence the Commission has relied upon for years to argue for relaxing the rule, increased market concentration actually *reduces* the amount of TV news available across the market. Conversely, greater local ownership increases the amount of news available. In short, Part II shows that the Chief Economist’s plan to commission “some studies that might provide valuable inputs to support a relaxation of newspaper-broadcast ownership limits” fell flat on its face. Limits on cross-ownership are in the public interest. The chapters in Part II are comprised of our analysis of the FCC’s data that fills in the gaps ignored by the 10 studies and corrects the errors that they have made.

Chapter IV. Market and Station Level Analysis with Properly Defined Variables and Statistical Models

This chapter outlines presents the most significant analysis of the impact of newspaper-broadcast cross-ownership on local news that has been conducted in this

proceeding to date. It addresses the Chief Economist's primary research hypotheses on the supply-side of media markets. This hypothesis states that cross-owned broadcast stations will provide quantitatively more local news than non-cross-owned stations. This was the analytical basis of the Commission's argument to relax the cross-ownership ban in the *Prometheus* case and remains the cornerstone of the rationale for deregulation. At least two of the FCC's new studies attempt to reinforce this argument. There is a certain intuitive logic to the idea that a broadcast station backed by the influx of newsroom resources from a commonly owned newspaper will do more local news. For that reason, and not because of the solid basis of evidentiary support, this argument has resonated for the last few years.

The central problem with the approach in previous studies of this question is the one-dimensional focus of the effect of cross-ownership on the local news output of the cross-owned station, rather than the local news output of the entire market. From the standpoint of the individual citizen, it is the total amount of available news and the diversity of independent voices offering that news in the entire market that matters. While in some cases there may be an increase in news output at the individual cross-owned station (although much of this is sports and weather), examining the question at the market level reveals a *decline* in the total output of local news for the market as a whole. A reanalysis of the data in FCC Studies 3 and 4.1 shows that when analyzed at the proper level (the market) using a complete set of variables and applying the proper statistical approach, cross-ownership does not increase the quantity of local news, which is a necessary but not sufficient condition for relaxing the ownership limits. In fact, we find:

- Cross-ownership reduces the total amount of local news available in the market and
- Cross-ownership does *not* increase the number of stations providing news in a market.
- There is no evidence to support the hypothesis that allowing cross ownership will increase with the quantity of diversity of news available in smaller markets, as hypothesized by the Chief Economist.

The effect of cross-ownership on a marketplace is therefore not only the loss of an independent voice in local news, it is the overall reduction of local news in the community. The importance of this finding should be underlined. Not only has a fundamental assumption of the Chief Economist's research plan failed to pan out, the evidentiary basis offered by the Commission in the *Prometheus* case for relaxing the cross-ownership rule has been invalidated. If the Commission's goal is to maximize the output of local news and the diversity of voices offering it, then clearly cross-ownership limits must be maintained.

Chapter IV then addresses the FCC Study that attempted to analyze "bias" or "slant" in news coverage of the 2006 election. The hypothesized result in the Chief Economist's research agenda was that no bias in reporting would appear based on ownership. This would support the conclusion that ownership does not matter. However, Chapter IV shows that, when the variables are properly defined, there is a clear pattern of bias in the set of cross-owned stations that were grandfathered when the rule was adopted. The bottom line is that

ownership matters and has a direct impact on content. The second major hypothesis in the Commission's research plan failed to find support in the data.

Chapter IV also addresses a hypothesis offered by the Chief Economist regarding market size, curtailment of news production and cross-ownership. The theory was that in small markets the pressure on resources could be alleviated by cross-ownership, which would allow cross owned stations to do more news. Although the FCC did not commission a specific study in this area, the industry has continued to fill the record with these claims. Using the data from several FCC studies and adding data that is readily available from the same sources that the FCC used, we show that the claim that cross-ownership will promote more news output in small markets is not supported. In the end, none of the arguments that cross-ownership increases local news production for a market was verified by the data.

Chapter V. Traditional Media are Still the Dominant Sources of Local News and Information

Chapter V is based on an analysis of FCC Study 1, which is a survey of media usage patterns among a large national random sample of respondents. It shows that traditional media outlets, particularly broadcast TV and newspapers, are overwhelmingly the dominant sources of local news and information. The Chief Economist hypothesized that new media (cable and Internet) might be supplementing or substantially replacing traditional media as the primary source of local news. If this were the case, ownership of traditional media would not matter. The survey results do not support such a claim. This is not the case, and the third major result hypothesized by the Chief Economist fails.

With respect to the importance of news source, traditional media are far more important than alternative media, according to the national survey:

- 89 percent of respondents say traditional media are both their first and second most important sources of local news (i.e. neither Internet nor cable is their first or second most important source of news).
- In contrast, only 3 percent of respondents say alternatives are their first and second most important source of news.

With respect to usage we find an equally powerful result.

- 88 percent of respondents say they use traditional media for local news and current affairs and 46 percent say they use only traditional media and no alternative media.
- In contrast, while 54 percent of respondents say they use alternative media for local news and current affairs, only 1 percent says they use only alternative media.

Econometric analysis shows that: 1) the Internet is not a good substitute for TV; and 2) cable is a complement rather than a substitute.

- One hour of Internet use for news gathering reduces TV use for news gathering by less than two minutes.
- Using the Internet for news lowers the probability that TV will be used for news by about 4 percent.

This chapter concludes with a straightforward presentation of the FCC's survey results that the notion that traditional media have been displaced by new media is baseless. Any policy made on those grounds to relax ownership limits is not in the public interest.

Chapter VI. The Lack of Production of Local News and Information by Alternative Media Outlets

Chapter VI further refutes the assertion that the Internet has led to a wealth of significant competitors for local news by looking at the supply-side of the market. Utilizing the websites cited as competitors by traditional media companies in their FCC filings, we performed a quantitative and qualitative analysis comparing these outlets to the websites of traditional media in the same market. To provide additional evidence, we undertook an exhaustive analysis in two cities, which act as the flagship markets for two large media companies. Our results illustrate the continued dominance of traditional media outlets even in the online space.

For the hyper-local web sites identified by the Newspaper Association of America as competing with newspapers:

- Only 3.6 percent of the stories from the city-specific websites contained original reporting on “hard news” topics such as crime, local governance, education and local politics.
- The median number of unique monthly visitors to the websites of the local newspapers examined in the NAA study was over 50 times as large as the traffic to the alternative web sites. Including the physical space presence of the traditional media outlets would make their viewership almost two thousand times as large.

In our intensive study of city- specific websites in Tampa and Chicago, we find the following:

- Over 70 percent of the stories in our sample of Tampa-specific Web sites were on non-hard news topics such as sports and entertainment.
- The unique visitors to the websites of the two major Tampa newspapers are nearly 90 times as large as the 7,000 visiting the independent Tampa-specific websites.
- More than half of the stories on “hard” news topics in our sample of Chicago-specific websites were hyperlinked to stories on websites owned by traditional media.
- Only 12 percent of the visitors to the independent Chicago-specific websites viewed the site between 2 and 30 times in a month. However, 28 percent of the

visitors to the websites of the dominant Chicago daily newspapers, and 19 percent of the visitors to local TV websites were frequent users, viewing the sites between 2 and 30 times in a month.

Chapter VII. Station Revenues in Large and Small Markets

The National Association of Broadcasters (NAB) has repeated its outrageous claim that the FCC should base its policy decision on an analysis that looks at the financial results for TV stations excluding even numbered years. Using company specific data, our earlier analysis showed that such an approach is absurd, ignoring the fatter years while counting the leaner years. Chapter VII extends this analysis by combining revenue data for a large number of stations with the larger database on markets and stations characteristics and shows that the more recent NAB arguments remain absurd. There is simply no justification for excluding the years of increased broadcast revenues.

The NAB claim that election year revenue is too variable to be used in a policy analysis is simply wrong. Our analysis shows that election year revenues are no more variable than off year revenues, as measured by the coefficient of variation, a standard statistical measure used to compare variability across units of observation. Not only is the variability between odd and even number years almost the same, but the variability has been declining over the past decade, as the revenue has been increasing. Even looking at data for the state and DMA levels, the claim about variability between odd and even years does not hold up. Looking at the differences between “competitive” states or DMAs and others does not alter the conclusion.

Moving beyond the NAB’s silly claims we have examined several models that are policy relevant with respect to the Chief Economist’s claims about how relaxation of media ownership limits might improve the prospects of for stations in small markets. We find no support for the argument that combinations will provide a better financial outlook for these stations.

PART III: CRITIQUE OF THE FCC STUDY METHODOLOGY

Whereas Part II corrects the flaws in the FCC studies, Part III presents the critique of the underlying data and methodology of the FCC studies as disseminated. The FCC published these studies prior to completion of the peer review. However, the peer review suggested a huge number of improvements that could be made in the research. Since the authors were never afforded the opportunity to revise their analyses based on the critiques in the peer reviews, we did it for them. Our analysis in Part III follows the suggestions of the peer reviewers, and we find that the conclusions of the studies, even within the narrow and incorrectly framed research questions the agency asked, do not hold up. If the analysis had been done properly, the studies would not have supported the Chief Economist’s agenda.

Chapter VIII. Critique of Statistical Methods

Combining the concerns of the peer reviewers of the major statistical studies, we find that the reviews suggest a number of methodological approaches should have been applied to test the robustness of the analysis.

- 1) The dependent variable should be modeled for minutes of news, not just percent (applies to Study 3);
- 2) Regressions should be run separately for Big-4 and non-Big-4 stations (applies to Study 3, 4, and 6);
- 3) Standard errors should be clustered to account for non-independence. This could be done by clustering by station or by market (applies to Study 3 and 4; Study 6 did cluster at the station level, and was quite adamant that this is the appropriate treatment);
- 4) Market-Time fixed effects should be included to relax the assumption that time period effects are equal across all markets (applies to Study 3, 4, and 6); 5) Models should be run with parent fixed-effects (applies to Study 3, 4, and 6).

While the peer reviewers focused on statistical methods, we also feel strongly that the models used in Study 3, 4 and 6 had additional flaws related to the substance of the policy issues being studied

- 5) They missed important control variables whose omission may have led to a positive bias on the cross-ownership variable. For example, the airing of local news is strongly correlated with the age of a station and the position of the station on the dial (VHF versus UHF).
- 6) We also feel that certain policy-relevant control variables should have been included in the models: duopoly dummy variable; Local Marketing Agreement dummy variable; and market concentration (HHI) variable. Neither Study 3, 4, nor 6 discussed any model specification tests for omitted variable bias. We present the results of such tests.
- 7) Finally, from a policy perspective, it is extremely important to distinguish between waived and grandfathered newspaper-TV cross-owned stations. We present results on both the aggregate and separated cross-ownership variables.

These seven additional specifications are systematically applied to the statistical models of the studies. The results change the conclusions dramatically:

- When properly specified, the models from each of these three studies indicate no positive impact on the production of local news (or news in study 4).
- In the case of Study 6, which was the only study to examine actual content, we see that there is actually a statistically significant negative relationship between cross-ownership and the output of hard local news content.

These results when viewed in conjunction with the evidence that cross-ownership is associated with less market-level output of local news programming provides a strong case for maintenance of the cross-ownership restriction. The loss of a diverse local voice provides no tangible public interest benefits, but brings substantial harms. On the whole, the FCC's case for relaxing the ban stands on shakier and shakier ground the more analysis is conducted.

Chapter IX. The Weaknesses of Contentless Content Analysis: Flaws in the Methodology for Analyzing the Relationship between Media Ownership and Media Bias

Chapter VIII focused its critique on the statistical methods used in the FCC studies. Chapter IX presents a broader critique of the approach to content analysis which raises concern about the basic conceptualization of implementation of the research, particularly the bias, or slant analysis. The bias analysis embodied in Study 6 can best be described as “contentless content analysis.” Contentless content analysis seeks to ascribe bias, or slant, to a media outlet by defining certain words or issues as liberal or conservative (Democratic or Republican) and then counting the number of times the word or issue is used/covered by the outlet. What is actually said or shown about the issue is not analyzed.

This critique is relevant not only because many of the flaws in the broader approach apply to FCC Study 6, but also because FCC Study 7 invokes the broad findings of “contentless content analysis” to mistakenly claim that ownership does not matter. In addition, the examination of the two leading studies in this radical and controversial style of analysis is particularly relevant since the author of Study 6 is also the author of one of the studies, while the peer reviewer of Study 6 is the author of the other leading study. In fact, the article cited by Study 7 to claim that ownership does not matter was written by the peer reviewer of study 6. It is a small club.

Critiques of the approach from academics and professional journalists identify four major concerns:

- It fails to understand what it means for a reporter to cite a source and to distinguish between ideological opinion in news coverage and reporting.
- The selection of external referents to ascribe ideology to media outlets is inevitably biased.
- Selectivity in coverage of citations leads to bias and questions of unrepresentativeness of the data.
- The creation of single indices to represent complex concepts is flawed.

We show that the use of contentless content analysis is a highly dubious undertaking for all of these reasons.

Chapter X. Critique of Data, Definitions and Analyses

Chapter X demonstrates that the conceptual criticism of contentless content analysis is evident in the empirical specification of the FCC studies. It focuses primarily on mis-defined variables, unrepresentative samples and missing analyses.

Study 6 chose to base its analysis on a single week, the week before the 2006 election. While this is certainly an interesting week, it may not be representative of the other 103 weeks that occur between elections. Study 6 chose to focus on content variables that focus on the national election. While these are important issues, there are a vast array of other issues that better capture the concept of localism. A good case can be made that federal elections and federal issues are very bad indicators of how the media behave in general, particularly when localism is the policy concern.

Several of the political variables are doubtful as measures of the concepts the study attempts to operationalize. For example, the study assumes coverage of the Iraq war is a Democratic issue, but President Bush was out campaigning for Republicans and talking about the Iraq war in many of the states included in the Study 6 analysis. In assessing the political leaning of the DMA during the congressional elections of 2006, the study used the vote for Kerry in 2004, instead of the vote in 2006.

Other problems abound across different studies. Study 4.1, which examines news and public affairs programming on broadcast television, used total news, not local news as its dependent variable and produces results that are inconsistent with the other studies that measure local news. Study 9, which examines the impact of vertical integration on entertainment programming on broadcast and cable, fails to consider fundamental factors that affect the availability of programming and are routinely included in the analysis.

- In the broadcast space, the study excludes short-run shows. It ignores the cost difference between scripted entertainment and reality shows. As a result, it dramatically underestimates the importance of vertical integration.
- In the cable space, the study ignores the important role that broadcast must carry plays in determining carriage. It fails to identify the tiers on which cable networks are carried.

Ironically, the basic findings demonstrate the important role of vertical integration, but the methodological weaknesses are used to mask the ultimate impact of vertical integration.

PART IV: THE FAILURE OF THE FCC TO FULLY ADDRESS AND PROPERLY ANALYZE MINORITY AND DIVERSITY ISSUES

Given that the Third Circuit in *Prometheus v. The FCC* chastised the FCC for failing to devote adequate attention to minority issues, the neglect of these concerns over a four year period is remarkable. There are two primary areas of neglect.

First, the FCC still has not correctly identified minority and female owners of broadcast outlets. The neglect of minority issues is so pervasive that in the only study of media usage by the public, the FCC failed to attempt to identify Hispanic respondents. The largest and fastest growing minority population in America is invisible in the FCC study of media usage.

Second, the FCC has devoted almost no attention to analyzing the impact of past policy changes or the likely impact of future policy changes on minority ownership. Not only did the Commission do virtually nothing on the analysis for ten years, but when it decided to Commission studies it apparently devoted inadequate resources to the task, at least that is the opinion of one of the peer reviewers.

Chapter XI. The Commission has Failed to Adequately Account for the True Level of Female and Minority Ownership

The utter failure of the FCC to properly account for minority ownership and its inattention to minority issues has been evident for years and caught the attention of the Court in its remand of the Final Order in the media ownership proceeding. Unfortunately, the Commission has done little if anything to rectify the situation. The data set provided for the research studies contains fundamental errors that Consumer Commenters have pointed out in the record. The FCC studies that tried to describe the current state of minority ownership were both highly critical of the FCC's data. Yet, this data was used in the econometric analyses of station ownership, infecting them with its flaws.

The authors of the two external studies of minority issues commissioned by the FCC both abandoned the FCC's data base and were forced to resort to other data bases. Our own efforts to construct an accurate census of minority ownership suggest that the FCC has missed between two-third and three quarters of the stations that are minority/female owned. It is flatly inexcusable that the agency has never bothered to tabulate—using its own data—an accurate count of the race and gender characteristics of broadcast licensees. Instead, it has relied on summary data that is unusable on its face. It is a deeply troubling statement about the Commission's disregard for minority ownership issues.

Chapter XII. The FCC has Failed to Thoroughly Analyze the Impact of Relaxing Ownership Limits on Minority Ownership

The remarkable inability of the FCC to count minority and female owners is exceeded only by its inability and lack of effort to understand the impact of broader media ownership policy on minority ownership. In the three years since the Court reprimanded the Commission for neglecting this issues, the FCC devoted virtually no attention to this issue.

Constructing an accurate data base of minority ownership and examining the impact of the decision to allow duopolies, as well as the impact of market concentration on media ownership, we conclude that relaxation of media limits harms minority ownership. The FCC studies do not contradict this conclusion in any way. In fact, no where has the FCC ever attempted to address the obvious contradiction between permitting further media consolidation and promoting opportunities for minority and female ownership.

This chapter concludes with a critique of the minority oriented studies among the 10 commissioned studies. The main issue is the absence of usable data. The authors of Study 7 recognized this problem and were forced to use a proxy data set. Study 7 relied on a Bureau of the Census count of firms to estimate minority ownership. Unfortunately, Study 7 counted the wrong thing in its analysis. It counted firms, instead of stations, implicitly assuming that majority and minority firms own the same number of stations. That assumption is wrong and leads to a gross under estimate of the under representation of minorities in the ranks of station owners. Study 7 purports to show that the percentage of minority/female ownership in broadcasting is about half of the percentage of minorities/females. When analyzed properly, at the level of stations or revenues, the percentage accounted for by minorities/females is just one-tenth of their percentage in the population.

Study 10 attempted to assess the impact of the decision to allow duopolies and to raise the national cap on minority ownership. It sought to build an accurate data base, although it did not achieve that goal. It was the only study commissioned by the FCC to attempt to explicitly assess the impact of changes in national policy on minority/female ownership. Here the study is supportive of our independent findings. It finds that sales of minority stations were twenty times higher in duopoly markets than in non-duopoly markets. This corroborates the conclusion in our analysis that relaxation of ownership limits has already reduced minority ownership.

The implications of the long standing neglect of minority and female issues, the strongly expressed concerns of the Third Circuit and the failure to deal with them in the recent research are clear. The Commission cannot move forward with changes in ownership limits without gaining a much better understanding on how it will impact minority ownership.

Chapter XIII. Minority Targeted Programming: Still at the Back of the Bus

Chapter XIII examines the issue of minority-targeted programming addressed in Study 3. Moving beyond the cursory analysis in FCC Study 3, Chapter XIII examines the issue of which tiers carry minority-targeted programming and concludes that minority programming is still at the back of the bus – severely underrepresented in carriage compared to the size of the minority population and relegated to expensive tiers on cable networks.

- The 192 networks that are deemed minority-targeted represent about 40 percent of the total number of network, but minority-owned, minority-targeted programming accounts for less than 4 percent of the total carriage.
- The more broadly available programming, which is carried on the expanded basic tier, is dominated by a handful of programmers. Four-fifths of the carriage on expanded basic tiers is accounted for by five networks – three owned by broadcasters (Univision and Telemundo (owned by NBC) and one owned by a cable programmer (Viacom).
- In order to gain access to the 98 percent of the minority-targeted programming, subscribers must pay for extra tiers – an average of almost \$43 per month.

PART I:

THE FCC'S INADEQUATE AND RESULTS-DRIVEN RESEARCH AGENDA

INTRODUCTION

This part of the Consumer Group Comments examines the pattern of research on media ownership at the FCC since the ill-fated effort to relax media ownership limits in 2003. It shows that the agency began to identify and explore the key policy issues in 2003-2005, but then there was a dramatic shift in the research agenda that underlies the most recent round of research. This shift in focus raises questions about its suitability as a basis for modifying the media ownership limits.⁴

This part is divided into three chapters. In the first chapter the overall pattern of research is described and the substance of the research is explored in the period between the publication of the Final Order in the omnibus Media Ownership Proceeding (June 2003)⁵ and the appointment of Kevin Martin as chairman of the Commission. Chapter II examines the research agenda laid out by Chairman Martin's first Chief Economist.⁶ It is the sharp shift in the focus of research between these two periods and the results-driven nature of the most

⁴ For eighty years the policy of the United States has been to issue licenses to broadcast over the public airwaves. Because there are many more people who would like to broadcast than licenses available, the exclusive licenses create a challenge to the fundamental notion of Freedom of Speech. Some people get licenses, while others do not. As a result, the Supreme Court has allowed Congress to require that the holders of those licenses to serve the public interest. That public interest has come to be defined as "competition, localism and diversity." When the Federal Communications Commission, which implements the will of Congress in the broadcast media, writes rules, it must do so in a manner that promotes these three goals.

⁵ *2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rule and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, etc. 18 FCC Rcd 13260 (2003)

⁶ Leslie M. Marx, *Summary of Ideas on Newspaper-Broadcast Cross-Ownership* (June 15, 2006).

recent research agenda that is a source of concern. It narrowed the range of questions asked and biased the answers to the few issues that were investigated. Chapter III discusses how the research went astray as a result of the narrowing of focus, but also the failure of the agency to follow proper procedures in its review and dissemination of its own research. Proper peer review and public involvement would have identified many of the problems and allowed the agency to fix them before the research was completed.

I. UNDERSTANDING AND MEASURING LOCALISM AND DIVERSITY

OVERVIEW OF CHANGING RESEARCH FOCUS

Broadcast Localism

Even before the Third Circuit Court overturned the new media ownership rules in June of 2004 Chairman Powell recognized that there were many concerns that the agency had failed to address in its rulemaking. A couple of months after the FCC issued its new rules in the omnibus media ownership proceeding, the Commission launched a Localism in Broadcasting Initiative and created a Localism Task Force to carry it out. While Chairman Powell defended the recently adopted rules, he acknowledged that there was more work to be done.

Our exhaustive ownership review demonstrated that the United States boasts the most diverse media marketplace in the world and is by no means concentrated and the rules adopted in that proceeding are well-designed to prevent any media company from having excess power over competition or viewpoints. During the proceeding and in the months that followed, however, we heard the voice of public concern about the media loud and clear. Localism is at the core of these concerns and we are going to tackle it head on...

The Senate Commerce Committee recently held hearings and brought greater attention to the issue of localism in broadcasting. I applaud the Committee's efforts and hope to work in concert with them and the many Members of Congress who support localism...

Toward that end, the Localism Task Force will advise the Commission on steps it can take and, if warranted, will make legislative recommendations to Congress that would strengthen localism in broadcasting...

The Task Force will play a critical role in gathering empirical data and grassroots information on broadcast localism and advising [sic] the Commission on concrete steps that can be taken to promote localism. The Task Force will

- Conduct studies to rigorously measure localism and how it may be affected by existing FCC rules.
- Organize a series of public hearings on localism around the country.
- Advise the Commission on recommendations to Congress this fall relating to the licensing of thousands of additional low power FM radio stations.
- Make recommendations to the Commission within 12 months on how the Commission can promote localism in radio and television.
- Advise the Commission on legislative recommendations to Congress that would strengthen localism.⁷

It was almost a year later, however, after the new media ownership rules had been remanded by the Third Circuit Court⁸ that a Notice of Inquiry was issued “In the Matter of Broadcast Localism.”⁹

The lines of analysis and the shifts in approach to research over the five years since the Final Order are clear in the agency documents made available under pressure, partly in response to a Congressional hearing and partly in response to a Freedom of Information Act request. Exhibit I-1 lists the documents. It focuses on research and does not include announcements about localism hearings or testimonials in response to those hearings. It separates media ownership, cable and advertising research. It also excludes third party documents. It highlights the key break points in the research oriented toward media.

⁷ FCC Chairman Powell Launches “Localism in Broadcasting” Initiative,” August 20, 2003.

⁸ *Prometheus Radio Project, et al, v. F.C.C.*, 373 F.3d 372 (3d Cir. 2004).

⁹ “Notice of Inquiry,” *In the Matter of Broadcast Localism*, MB Docket No. 04-233, June 7, 2004.

Exhibit I-1: Documents in the FCC Shifting Research Agenda

MEDIA

6/15/06	Summary of Ideas on Newspaper-Broadcast Cross-Ownership Spreadsheet
Undated	The Evolving Structure and Changing Boundaries of the U.S. Television Market in the Digital Era
6/1/06	The Evolving Structure and Changing Boundaries of the U.S. Television Market in the Digital Era
Undated	Financial Health of the Newspaper Industry
6/06	<hr/>
6/05	Localism and Welfare
3/05	The Scarcity Rationale for Regulating Traditional Broadcasting: An Idea Whose Time has Passed
Spring 2005	FCC Radio Market Structure and Music Diversity Paper
Undated	FCC Radio Market Structure and Music Diversity Paper
1/14/05	Minority and Female Ownership
11/04	Political Representation, Voter Information, and Government Allocations: A Theory of Optimal Localism
8/04	Preliminary Analysis for Diversity and Localism in Radio Playlists Study
7/2/04	Localism Paper
7/04	Do Local Owners Deliver More Localism
6/17/04	Do Local Owners Deliver More Localism
5/12/04	Do Local Owners Deliver More Localism
3/29/04	Do Local Owners Deliver More Localism
3/26/04	Do Local Owners Deliver More Localism
2/27/04	Do Local Owners Deliver More Localism
2/18/04	Do Local Owners Deliver More Localism
1/15/04	Do Local Owners Deliver More Localism
3/4/04	Defining Localism from an Economics Perspective
2/27/04	Defining Localism from an Economics Perspective
12/03	Defining and Measuring Diversity and Localism
12/03	Media Diversity and Localism: Conference Report at Fordham University
12/03	Statement of Jonathan D. Levy to the conference on Media Diversity and Localism:
3/7/03	<hr/>
3/7/03	Write up re Diversity Index
Undated	Appendix A
Undated	Background on Localism in Broadcasting
Undated	Female Minority Ownership
Undated	Stages 1 through 5
Undated	Cluster Analysis Work Papers - Zip File 4.5 MB
9/03	Review of the Radio Industry, 2003
9/02	Radio Industry Review 2002: Trends in Ownership, Format and Finance
Undated	Review of the Radio Industry
9/02	A Comparison of Media Outlets and Owners for Ten Selected Markets (1960, 1980, 2000)
9/02	A Compilation of Outlets and Owners for Ten Selected Radio Markets (1960, 1980, 2000)
9/02	Broadcast Television: Survivor in a Sea of Competition
9/02	Consumer Substitution Among Media
9/02	On the Substitutability of Local Newspaper, Radio, and Television Advertising in Local Business Sales
Undated	On the Substitutability of Local Newspaper, Radio, and Television Advertising in Local Business Sales
9/02	Program Diversity and the Program Selection Process on Broadcast Network Television
9/02	Radio Market Structure and Music Diversity
9/02	The Measurement of Local Television News and Public Affairs Programs

CABLE

9/13/06	Competing on Quality: Two-Sided Markets, the Sutton Paradigm, and the Multichannel Video Industry: A Graphical Approach
Undated	Competing on Quality: Two-Sided Markets, the Sutton Paradigm, and the Multichannel Video Industry: A Graphical Approach
11/05	Vertical Integration and Market Foreclosure in the Multichannel Video Industry: An Update
Undated	Vertical Integration and Market Foreclosure in the Multichannel Video Industry: An Update
8/05	Estimation of Switching Costs: Several Methods and the Multichannel Video Industry
2/05	The Implicit Marginal Valuation of Cable Service in the US
Undated	The Implicit Marginal Valuation of Cable Service in the US
9/04	Vertical Ownership and Vertical Control: A Model of the Cable Television Industry
3/9/04	Vertical Ownership and Vertical Control: A Model of the Cable Television Industry
Undated	Buyer Size and Bargaining Power: An Experimental Analysis
Undated	Research on the United States Multichannel Video Industry at the Federal Communications Commission
Undated	The Market for Subscription Television Service in the US
2/24/03	Pivotal Buyers, Vertical Ownership, and Endogenous Most-Favored Nation Clauses in the Cable Industry
9/02	Asymmetric Bargaining Power and Pivotal Buyers
9/02	Most Favored Customers in the Cable Industry
5/1/02	Cable Model

ADVERTISING

12/03	Empirical Aspects of Advertiser Preferences and Program Content of Network Television
9/02	A Theory of Broadcast Media Concentration and Commercial Advertising
9/02	Consolidation and Advertising Price in Local Radio Markets
Undated	Consolidation and Advertising Price in Local Radio Markets
9/02	On the Substitutability of Local Newspaper, Radio, and Television Advertising in Local Business Sales
Undated	On the Substitutability of Local Newspaper, Radio, and Television Advertising in Local Business Sales

Source: <http://www.fcc.gov/ownership/additional.html>

In late 2002 and early 2003, the Commission initially started churning out updates and extensions of the research it had undertaken as part of the omnibus media ownership proceeding. The culmination was a rewrite of the Diversity Index. In late 2003 and early 2004, the emphasis shifted to the complex definition of localism and the empirical investigation of the concept. However, with the establishment of the “Broadcast Localism Initiative,” we find that in late 2003 and 2004 the FCC set out to develop a research agenda that was responsive to many concerns raised in its public forums, Congressional hearings and in the proceeding record about the FCC’s approach to oversight of the broadcast media industry. The efforts to better define and measure one of the central policy goals Congress established for the broadcast media – localism – were bearing fruit at the conceptual and empirical levels.

The December statements at the Fordham University conference on “Media Diversity and Localism: Meaning, Metrics, and the Public Interest” mark a transition. A version of the critical empirical paper “Do local Owners Deliver More Localism,”¹⁰ was presented at that conference, as a personal paper, in addition to two other statements about localism and the FCC approach to measuring diversity.¹¹

The research that appears to have been stimulated by the localism initiative reflects an effort to engage in a rich, theoretical and empirical discussion of localism and pursue issues that had not been pursued by the Commission previously. A complex definition of localism was

¹⁰ Peter Alexander and Keith Brown, “Do Local Owners Deliver More Localism? Some Evidence from Local Broadcast News,” presented to the Conference on Media Diversity and Localism: Meaning, Metrics, and the Public Interest, Donald McGannon Communication Research Center, Fordham University, December 15-16, 2003.

¹¹ Sherille Ismail, “Defining and Measuring Diversity and Localism,” Senior Counsel, Office of Strategic Planning, Federal Communications Commission, Panel 1, December 15, 2003; Royce Sherlock, “Defining and Measuring Diversity and Localism,” Federal Communications Commission, Panel 1, December 15, 2003. More information is available at <http://www.fordham.edu/images/undergraduate/communications/conferencereport.pdf>.

offered in a working paper¹² that seems to have synthesized prior FCC policy on localism, as well as reflecting the concerns expressed in comments about localism. The “Broadcast Localism Notice of Inquiry” uses many of the concepts from the paper, as well as those from earlier commission inquiries.

The paper prepared by the Industry Analysis Division of the Media Bureau entitled “Defining Localism from an Economics Perspective” presents an interesting contrast to the later, narrow focus of the Chief Economist. It identified a dozen “Basic Types of Concerns Expressed about Localism” and ten “Examples of ‘local’ programming”.¹³ Combining the two lists, we find about two dozen aspects of localism. “Defining Localism from an Economics Perspective” went on to identify four factors that might result in a failure of the market to adequately supply localism.

This line of analysis was formalized in another FCC paper “Political Representation, Voter Information, and Government Allocations: A Theory of Optimal Localism”¹⁴ and a published paper that acknowledges interaction with and encouragement from the FCC (“Localism and Welfare”).¹⁵

The empirical research that appears to have been pursued over the course of the next two years started to address several of these more refined aspects of localism – quantitatively

¹² Daniel Shiman, “Defining Localism from an Economics Perspective,” IAD, Media Bureau, March 4, 2004.

¹³ *Id.*, Pg. 6-8.

¹⁴ Nodir Adilov, Peter J. Alexander and Keith Brown, “Political Representation, Voter Information and Government Allocations: A Theory of Optimal Localism,” November 29, 2004. Two of the authors are identified as employed by the media bureau, but the document contains a disclaimer that the ideas are those of the authors “and do not necessarily reflect those of the Federal Communications Commission staff or Commissioners.”

¹⁵ Simon P. Anderson, “Localism and Welfare,” June 2005.

assessing several aspects of the localism issue, in particular, the quantity of local news, and the issue of local-on-location were investigated.

While several versions of “Do Local Owners Deliver More Localism” were presented and published,¹⁶ it became the center of controversy in 2006. The paper was never released by the FCC, but a copy was obtained by Senator Boxer.¹⁷ As described below, the paper found that local ownership increases localism and that consolidation does not, conclusions that conflicted with the inclination of the FCC to relax ownership limits. The failure of the agency to publish the paper led to charges that the research was being suppressed.

Chairman Powell, who had initiated the broadcast localism efforts, resigned in late January 2005 and was replaced by Kevin Martin in March 2005. At this time, all of these developments came to a halt. The studies were never published, leading to the controversy over “suppression” of the studies and, more importantly, the research ceased for about a year. The research agenda, set by Chairman Martin’s first appointed Chief Economist, which emerged a year later, headed in a very different direction.

The new research agenda that emerged in 2006, as the FCC released its Notice of Proposed Rulemaking, abandoned the earlier lines of analysis and set out on a radically different agenda with a laser focus on eliminating the newspaper-TV cross-ownership rules. In the rush to get rid of the newspaper-TV cross-ownership rule, the new research agenda devoted little attention to defining and operationalizing the goals of the Communications Act. This tunnel

¹⁶ See for example, “Do Local Owners Deliver More Localism? Some Evidence from Local Broadcast News,” presented to the Conference on Media Diversity and Localism: Meaning, Metrics, and the Public Interest, Donald McGannon Communication Research Center, Fordham University, December 15-16, 2003.

¹⁷ John Eggerton, “Boxer Produces Another Unpublished Report,” *Broadcasting & Cable*, September 18, 2006, available at <http://www.broadcastingcable.com/article/CA6373194.html>.

vision ignored interesting efforts by the FCC to understand its policy goals in the period after the court remanded its new media ownership rules. The agenda led to research projects that are results-driven. Simply put, the Commission started from the result it wanted and worked backwards.

Other Shifts in Research Focus

There were several other shifts in focus beyond the clear shift in the localism research that are notable when compared to the new research agenda. Another shift in the approach to research appears in the studies of the radio market that were conducted in 2004 and 2005. The FCC shifted from its earlier analysis of formats to analyzing radio play lists. These studies pointed in a direction similar to the localism studies. Consolidation diminished diversity of play lists in some aspects. This line of analysis was largely abandoned after Chairman Martin took over.

There are other notable aspects of the pattern of research. Advertising research stopped in 2003. It, too, was pointing in directions that were a challenge to the agencies deregulatory agenda. These, too, were never published and this line of analysis was abandoned.

There is very little research on minority issues in the list of documents. A separate Advisory Committee on Diversity for Communications in the Digital Age was established in mid-2003 to “make recommendations to the Federal Communications Commission regarding policies and practices that will further enhance the ability of minorities and women to participate in the telecommunications and related industries.”¹⁸ It heard numerous presentations and adopted a long list of recommendations (few of which have been adopted by the Commission) but conducted little research.

¹⁸ Advisory Committee on Diversity for Communications in the Digital Age: Charter.

Before we analyze the new media research agenda laid out in the Martin era, it is important to understand the substance of the body of research that was emerging at the FCC in late 2003 through early 2004.

A BROAD AND NUANCE DEFINITION OF BROADCAST LOCALISM

Conceptualizing Localism

“Defining Localism from an Economics Perspective” divided about two-dozen different localism concerns into three categories, Local Coverage, Tastes of the Community, Local Origination.¹⁹ We see a fourth category – Local Political Discourse. In Exhibit I-2 the different types of localism concerns are allocated across these four categories. The Broadcast Localism NOI identifies nine major areas of concern – Communications with Communities, Nature and Amount of Community Responsive Programming, Political Programming, Underserved Audiences, Disaster Warnings, Network Affiliation Rules, Payola and Sponsorship Identification, Voice Tracking and National Playlists. There is a parallel in this list to an effort by the Commission to identify the various aspects of broadcast policy over 40 years earlier. The FCC made reference to this earlier undertaking in the Broadcast Localism Notice of Inquiry, as did a background localism document.²⁰ The earlier inquiry was more broadly defined so it included concerns about entertainment, children’s programming and service to minorities.

¹⁹ Daniel Shiman, “Defining Localism from an Economics Perspective,” IAD, Media Bureau, March 4, 2004.

²⁰ “Background on Localism in Broadcasting,” which became the introductory material for the Broadcast Localism NOI.

Exhibit I-2: Localism as a Complex Set of Concerns

	<u>Coverage of local affairs</u>	<u>Sensitivity to local tastes</u>	<u>Opportunity for local involvement</u>	<u>Facilitation of local political discourse</u>
2004 Localism Paper	Community news police, traffic, weather, sports Emergencies & events Education about local institutions Local religious Local advertising PSAs in public interest	What listeners want Avoid offence Tailored to local taste	Local control in Use of local resources Working in industry Locally originated programming Outlet for local talent	Public affairs Expression of group interests Community, political, religious group discussions Local political view Local call-in and talk Public access
1960 <i>En Banc Inquiry</i>	Weather, sports & market reports News programs Children's, religious & entertainment	Service to Minority groups	Development and use of local talent	Public affairs Opportunity for local self-expression Political Broadcasts Editorializing by licensees

Sources: 2004 Localism paper = *Defining Localism from an Economics Perspective*, Daniel Shiman, IAD, Media Bureau, March 4, 2004; 1960 En Banc Inquiry = *Report & Statement of Policy Res: Commission En Banc Programming Inquiry*, 44 F.C.C. 2303, 2314 (1960) cited in Broadcast Localism NOI, note 32.

While some of the programming issues identified in the earlier inquiry can be defined as single issues (e.g. children's programming), the service to minorities concerns cut across a number of the "localism" concerns and the diversity issues appear both in localism and diversity. While the Commission was handling these issues separately, the Broadcast Localism Order identifies underserved audiences as a concern within the scope of localism. Thus, a parallel set of minority concerns would cover the same issues as identified for localism, but focused on minorities, for example,

- minority targeted programming,
- that is sensitive to local minority tastes,
- opportunities for minority employment in the media,
- minority ownership and control of outlets

- use of minority talent,
- origination of minority programming,
- opportunities for minority groups to express themselves, and
- have their issues presented in the media

Based on ‘Defining Localism from an Economic Perspective’ and the Broadband Localism NOI, Exhibit I-3 identifies approximately 100 issues/community/media concerns that the localism and diversity policy can address. Arguably, one might look at the impact of competition policy on each of the localism and minority issues. To capture the importance of competition, we list it as a separate category that “crosses” localism and minority concerns broadly.

“Defining Localism from an Economics Perspective” went on to identify four factors that might result in a failure of the market to adequately supply localism (see Exhibit I-4).

The conclusion to “Defining Localism from an Economics Perspective” was ambivalent about the answer to the question “Is Localism under-produced?”

Note that in some areas, the free market probably produces sufficient localism e.g. there are stations that specialize in providing local news, weather and sports. Economic theory suggests that in certain areas of broadcasting, there could be less localism than is desirable.²¹

A similarly ambiguous conclusion was reached by “Localism and Welfare.”

²¹ Shiman, 2004, p. 21.

EXHIBIT I-3: THE MULTIFACETED AND INTERACTING CONCEPTS OF BROADCAST LOCALISM, DIVERSITY AND COMPETITION

LOCALISM		DIVERSITY	
TELEVISION	RADIO	Underserved Groups	
TELEVISION	RADIO		
<p><u>Coverage of local affairs</u> Community news (police, traffic, weather, sports) Emergencies & events Education about local institutions Local religious Local advertising PSAs in public interest</p> <p><u>Sensitivity to Local tastes</u> What listeners want Avoid offence Tailored to local taste</p> <p><u>Opportunity for local involvement</u> Local ownership/control Use of local resources Working in industry Locally originated programming Outlet for local talent</p> <p><u>Facilitation of local political discourse</u> Public affairs Expression of group interests Community, political, religious group discussions Local political view Local call-in and talk Public access Editorializing</p>			
<p>COMPETITION</p> <p>Market structure News & public affairs Children’s programming Entertainment Advertising Affiliate relations Payola, Voice tracking Playlists</p>			

Exhibit I-4: Why Markets May Not Meet the Need for Broadcast Localism

<u>Merit goods</u>	<u>Single price</u>	<u>Scale economies</u>	<u>Externalities</u>
Intrinsically non-market goods	Inability to price discriminate Uneven value of local or infrequent programming Competition can reduce attention to local issues	Cost of tailoring Infrequent, important events	Free riders Undervalue some local goods (e.g. emergency)

Sources: 2004 Localism paper = *Defining Localism from an Economics Perspective*, Daniel Shiman, IAD, Media Bureau, March 4, 2004;

In each market, the mass producer advertises more and has a larger market share, so the disparity is largest in the smallest markets. For a given number of markets served by local producers, the equilibrium quality may be too low, suggesting that inducements to improve quality may be beneficial. However, there is not a clear-cut case that the global producer makes it too difficult for local producers to compete; indeed, the converse may be the case because the global producer is too soft in competing in local markets. The argument for intervention may therefore have to be made on the grounds of positive externalities created by the provision of local broadcasting.²²

Another conceptual paper identified institutional reasons that localism is important.

Local voter-relevant information is particularly important in representative democracies such as the United States, for several reasons. First, the locally representative United States Congress is separate from the Executive Branch. Unlike most European parliamentary democracies where the representative branch and executive branch are the same, the locally elected US congressional representatives serve in a different body than the national elected US executive. Second, the United States is large and extremely diverse, and the locally elected representatives therefore serve far more divergent interests than locally elected representatives in many other representative democracies. These interests can also diverge heavily from those of the national elected executive, even if the representative and executive belong to the same political party. Finally, the United States Congress is bicameral, with two equally-powerful legislative bodies, the House of Representatives and the Senate. One of those legislative bodies, the Senate, gives equal representation to each of the fifty states, regardless

²² Simon P. Anderson, "Localism and Welfare," June 2005.

of their size... Thus certain institutional and demographic attributes in the United States imply a need for information that is locally relevant.²³

This political explanation for the importance of localism rests on the complex structure of the national government and the great diversity of a large continental nation. It does not note additional factors such as the federal structure and the relatively great importance that the U.S. places on local government to set policies that affect people's lives.

The analysis focuses on “a system of ‘asymmetric’” political representation such as exists in the United States. Noting in particular, the division of political representation in the United States between the Senate and House of Representative,” it compares

a model of voters' media access and government allocations. This allows us to model the pattern of media access across political jurisdictions that generates the optimal distribution of government expenditure. We compare this to an equilibrium that reflects basic features of political representation in the United States, and find, perhaps surprisingly, that greater media access can lower social welfare in some cases, if politically “over-represented” citizens have “too much” media access.²⁴

Whether one states the proposition as ‘politically “over-represented” citizens with “too much” media access’ or as ‘politically “under-represented” citizens with “too little” media access, it is clear that media and political structure matter. The central policy goal has been to strive for a media system that affords access to the media in a manner that allows local groups to identify and express their needs and have those needs met.

Localism Research

This broad conceptualization influenced the empirical work that was undertaken in this period. “Do Local Owners Deliver More Localism?” cites the “Localism Task Force”

On August 20, 2003, the Federal Communications Commission (FCC) announced the launch of a “Localism Task Force” to evaluate the performance of

²³ Adilov, Alexander and Brown, 2004.

²⁴ Id., p. 4.

broadcasters in local markets. At that time, FCC Chairman Michael Powell stated:

I created the Localism Task Force to evaluate *how broadcasters are serving their local communities*. Broadcasters must serve the public interest, and the Commission has consistently interpreted this to require broadcast licensees to air programming that is responsive to the interests and needs of their communities (Italics added)...

One of the challenging questions facing media policymakers today involves reaching firm conclusions regarding the relationship between ownership characteristics and programming provisions that can effectively guide policy decision making. In short, very little is known about the effect of ownership structure on content, and even less about the effect of ownership structure on the local focus of content.

To help fill this void, we construct a measure of localism, analyze the actual output of local broadcast stations, and relate our measure of local content back to ownership structure.²⁵

The new research included an effort to measure the ideas of localism and diversity in a more comprehensive and precise way. The data set underlying the suppressed study was actually used to address two different television output measures. One output measure was the quantity of local news. The second output measure was the diversity of the output of local and national news. Essentially, the database counted the number of minutes devoted to different types of stories. The localism measures are straightforward counts— the number of total news seconds, the number of local news seconds and the number of local-on-location news seconds.

The diversity measure is more controversial. The primary variable used was actually much more a measure of variety than diversity. If one station devoted 30 seconds each to two different stories, both were counted as contributing to variety. However, if two stations devoted 30 seconds each to the same story, that was not counted as contributing to diversity at all. Only if a station that “duplicated” the coverage of a story devoted more time to it, did it count as diversity and only the incremental time counted. “[I]f any two or more local news stations

²⁵July 2004 version, p. 1.

broadcasts cover the same story on the same day only the seconds beyond the collective average of the respective overlapping broadcasts are counted as adding to diversity.”²⁶ This is at odds with the fundamental definition of diversity as the Supreme Court interprets it. “Antagonistic” reporting of the same events is essential to creating the “cross-lights”²⁷ that reveal truth. This measure severely undercounts that essential concept. Nevertheless, it too contradicts the FCC’s conclusions.

In some specifications, a more appropriate measure of diversity was used. This “total DMA diversity” “counts the total time devoted to all unique stories covered.”²⁸ This measure of diversity produced even more robust results confirming the negative effect of concentration on diversity.

The primary finding of the localism study was that local ownership matters in the production of local news:

The estimates presented in Section 4 suggest that local ownership may have significant implications for local content. In particular, local ownership appears to increase total, local and local on-location news seconds. Moreover, the

²⁶ Peter J. Alexander and Brendan M. Cunningham, “Same Story, Different Channel: Broadcast News and Information,” October 4, 2004.

²⁷ This is Judge Learned Hand’s characterization of the issue in the District Court decision that led to the Supreme Court ruling in *Associated Press*. “It is only by cross lights from varying directions that full illumination can be secured.” Justice Frankfurter elaborated in his concurrence in *Associated Press*: I find myself entirely in agreement with Judge Learned Hand that ‘neither exclusively, nor even primarily, are the interests of the newspaper industry conclusive, for that industry serves one of the most vital of all general interests: the dissemination of news from as many different sources, and with as many different facets and colors as is possible. The interest is closely akin to, if indeed not the same as, the interest protected by the First Amendment: it presupposes that right conclusions are more likely to gathered out of a multitude of tongues, then through any authoritative selection. To many this is, and always will be, folly, but we have staked upon it our all.’”

²⁸ Alexander and Cunningham, p. 15.

increase in total news seconds from local ownership appears to be almost entirely driven by an increase in local news.²⁹

Owned-and-operated broadcast television stations produce less local news, but do not air significantly less total news or local on-location news. Therefore, it appears that owned and operated stations substitute non-local news for local news (that is not on location). This might indicate substitution of network feeds for on-location content.³⁰

Consolidation in the national television market does not improve the performance of the broadcast station owners. This finding emerges in both the localism and diversity studies:

As a local owner acquires television stations in more DMAs, they produce less total news. The large (albeit statistically insignificant) point estimates from the local news and on-location local news regression indicate that the decrease in total news may be primarily driven by decreases in local and local on-location news seconds.³¹

In short, our estimate suggests that increasing concentration appears to diminish diversity in local broadcast news both at the firm and market level. This result is robust to the measure of diversity used in estimation and emerges after controlling for possible endogeneity in market structure.³²

Conglomeration across media types does not improve the performance of the broadcast station owners:

While newspaper ownership is not a significant factor, a local television station owner who owns a within-DMA radio station appears to produce significantly less local news, possibly because they substitute local radio news for local television news.³³

Our theoretical research suggests that media variety allows consumer to insure against the idiosyncratic nature of information from particular sources. Moreover, the empirical evidence we have assembled suggests that concentrated media markets exhibit more homogeneity in the information conveyed to consumers.

²⁹ Anonymous, “Do Local Owners Deliver More Localism? Some Evidence from Local Broadcast News” (Federal Communication Commission, draft dated June 17, 2004), p. 14.

³⁰ *Id.*, p. 15.

³¹ *Id.*, p. 15.

³² Peter J. Alexander and Brendan M/Cunningham, “Diversity in Broadcast Television: An Empirical Study of Local News,” *International Journal of Media Management* 6:177.

³³ “Do Local Owners Deliver More Localism? Some Evidence from Local Broadcast News,” p. 14.

Such concentration can, therefore, inhibit the ability of individuals to derive a more stable payoff from media consumption.

This finding implies that regulatory policy designed to protect and encourage competition simultaneously helps satisfy a second policy objective: diversity.³⁴

Specifically, using the relative station-level diversity metric, we find that as the structure of the market becomes more concentrated, relative diversity of local news content is diminished. Importantly, this result is not robust to an instrumental variables specification. However, using the total market diversity metric, HHI is significant in OLS and robust to instrumental variable transformation. Since the total market diversity metric is arguably superior to the incremental metric as a measure of overall diversity, this result is useful – it suggests that total diversity within a DMA is sensitive to the level of concentration. Since we find that market structure plays an equally important role in determining product variety in national broadcasts, we are fairly confident of this finding.³⁵

The final sentence of the above citation indicates that the negative impact of concentration on diversity in local news also occurs for national news, even though the weak definition of diversity is used: “In particular, we find that concentration displays a negative and significant relationship with national news broadcast variety.”³⁶

One can hardly imagine a clearer set of findings that suggest that consolidation has a negative effect on localism and diversity. These findings take on added significance because they were a re-analysis of a data set that had received a great deal of attention in the media ownership proceeding. The Project on Excellence in Journalism had originally compiled the data set and done some analysis, which was filed in the proceeding.³⁷ The data was re-interpreted and

³⁴ Peter Alexander and Brendan M. Cunningham, “Public and Private Decision Making: The Value of Diversity in News,” in Philip Napoli (Ed.), *Media Diversity and Localism: Meaning and Metrics* (Lawrence Earlbaum, 2007), p. 94.

³⁵ Peter J. Alexander and Brendan M. Cunningham, “Same Story, Different Channel: Broadcast News and Information,” October 4, 2004, p. 24.

³⁶ *Id.*, p. 20.

³⁷ Project for Excellence in Journalism, “Does Ownership Matter in Local Television News: A Five Year Study of Ownership and Quality,” April 29, 2003; “Economists Inc.’s ‘Critique’ of the Recent Study on Media Ownership: A Response by the Project for Excellence in Journalism”.

attacked by various parties. PEJ complained that the FCC had misinterpreted the results in its decision.

The PEJ study was dismissed by the Commission as follows: “Whether or not the PEJ study is unbiased, its result appear statistically insignificant, the underlying data have not been made available, and therefore, cannot be considered reliable or convincing evidence.”³⁸ Having dismissed the study as fundamentally flawed, the FCC cautioned, when it cited the study in the cross-ownership discussion that “ We use PEJ’s filing here solely as a source of anecdotal evidence, not as a statistical study, and do not base our conclusions regarding the newspaper/broadcast cross-ownership rule upon it.”³⁹ The irony of the Commission even mentioning a study it had so brutally criticized is magnified by the fact that in original and the reply comments the PEJ reached exactly the opposite conclusion that the FCC did,

The closest the PEJ Study comes to what the FCC might or might not do is this rather general observation: “The data strongly suggest regulatory changes that encourage heavy concentration of ownership in local television by a few large corporations will erode the quality of news Americans receive.”⁴⁰

The re-analysis by the FCC economist was just the type of statistical analysis that the PEJ had done and it supported the PEJ’s own conclusions, pointing in the opposite direction from the earlier FCC interpretation.

There is a direct link between the advertising research and the localism research. This was made clear in one of the academic versions of the localism research

Stromberg (2004b) found that the expansion of radio in the 1930s helped rural Americans capture an increasingly greater percentage of government transfers, whereas Stromberg (2004a) suggested that advertiser supported, increasing returns to scale technology (e.g. television) induces the production of news targeted to large groups that are valuable to advertisers while ignoring smaller

³⁸ Order, ¶573.

³⁹ Order, ¶345.

⁴⁰ Reply Comment, “Economists Inc.’s ‘Critique’ of the Recent Study on Media Ownership: A Response by the Project for Excellence in Journalism,” March 18, 2003, p. 1.

fringe groups. George and Waldfogel (2002) document a similar phenomenon for newspapers in which consumption reflects strong preference externalities. Because these media are the means by which politicians convey information to voters, preference externalities can introduce bias into public policy.⁴¹

Advertising Research

The advertising argument here is a variant on one of the market structural reasons that the marketplace may generate inadequate production of local news and coverage. The general proposition was

Programs that are particularly valuable to a small part of the community, or are very valuable to everyone on an irregular basis, will be socially desirable (benefits > costs), but not produced.⁴²

The advertising variant of the statement in the last of the advertising studies at the FCC is as follows:

In this paper, we explore an as-yet empirically unexplored market imperfection in media markets, namely that arises out of advertisers preferences for programming. If advertisers prefer certain types of programming, then many viewers may not receive their preferred programming from advertiser-supported media. Depending on the advertisers' welfare gain and the viewer[s] welfare loss, this may lead to a suboptimal pattern of programming. This unique market distortion has important public policy implications for two reasons:

1. The advertiser-supported broadcast television market is a dominant source of mass entertainment and advertising in the U.S. In 2002, there was over \$41 billion in broadcast television advertising revenue in the U.S. alone.
2. The broadcast television market represents the largest private provision of a public good in the modern United States.⁴³

⁴¹ Peter J. Alexander and Brenden M. Cunningham, "Diversity in Broadcast Television: An Empirical Study of Local News," *International Journal of Media Management* 6 (3&4), p. 177.

⁴² Shiman, 2004, p. 12.

⁴³ Keith S. Brown and Roberto J. Cavazos, "Empirical Aspects of Advertiser Preferences and Program Content of Network Television," December 2003, p. 4.

Focusing on advertising and entertainment programming, the authors do not mention the important link to public policy that flows from the fact that television is the primary means of mass political communications. The pattern of communications that is set by the entertainment driven market structure affects the availability of communications for political discourse. The finding of the advertising study provides empirical evidence of the link:

We find that, even when adjusting for audience size and demographic composition, advertisers pay a premium for spot advertising on sitcoms, and pay a discount for advertising on “darker” programming like news magazines and police dramas. As a result, the television broadcast networks air a disproportionately high amount of sitcoms.⁴⁴

Another particularly important finding of the advertising research is that “The estimated elasticities of substitution show weak substitutability between local media.”⁴⁵

This parallels an evaluation of substitutability between media for consumers offered in the published version of “Do Local Owners Deliver More Localism.” The FCC economist who was the author of the above observations on diversity and localism characterized the FCC’s weak findings on substitutability in an academic article as follows:

Perhaps surprisingly, empirical evidence regarding substitutability between various media (e.g. television, radio, Internet, newspaper) for media consumers is scant... Waldfogel finds statistically significant positive relationships, implying complementarities, in his data, noting that people who use media of one type tend to use more total media in general.

The significant coefficient from Waldfogel’s (2002) six regressions of media substitutability yield the following results: (a) 1 hour of Internet use subtracts, on average, approximately 4 minutes of broadcast television viewing; (b) for each instance of Internet news use, broadcast television news use is reduced by approximately 2½ minutes; (c) for every 1% increase in the cable penetration rate, the rate of increase in daily newspaper circulation per capita decline by 18%; and (d) if daily newspaper circulation increases in number by 1, weekly newspapers decrease in number by 8.

⁴⁴ Id., pp. 4-5.

⁴⁵ C. Anthony Bush, *On the Substitutability of Local Newspaper, Radio and Television Advertising in Local Business Sales*, September 2002, p. 2.

The strongest results from Waldfogel's (2002) effort suggest that consumers may substitute between broadcast television and Internet use, although the magnitude of substitution appears to be modest.⁴⁶

CONCLUSION: A MULTI-FACETED, EMPIRICALLY-BASED CONCEPT OF LOCALISM AND DIVERSITY

The research stimulated by the "Broadcast Localism Initiative" produced,

- a multifaceted conception of localism,
- a theoretical framework that identified a variety of explanations of why markets might not produce the optimal level of localism, without reaching a definitive conclusion on whether markets would fail, and
- substantial empirical evidence that the concerns about inadequate localism and the impact of market structure on localism are well founded.

After a year hiatus, under the new chairman and a new Chief Economist, the research agenda changed dramatically, as described in the next section.

⁴⁶ Peter Alexander and Brendan M. Cunningham, "Public and Private Decision Making: The Value of Diversity in News," in Phil Napoli, (Ed.), *Media Diversity and Localism: Meaning and Metrics* 2007, pp. 83-84. This is the published version of the paper presented at the December 2003 Fordham University diversity conference.

II. A NEW, RESULTS-DRIVEN RESEARCH AGENDA

CHOOSING THE RESULTS FIRST

A paper authored by the FCC's then Chief Economist, Leslie M. Marx, obtained in response to a Freedom of Information Act data request, shows that rather than continuing these lines of research, the agency set out to prove what it wants. The paper entitled "Summary of Ideas on Newspaper-Broadcast Cross-Ownership,"⁴⁷ starts from the premise that the cross-ownership restrictions should be relaxed declaring "**This document is an attempt to share some thoughts and ideas I have about how the FCC can approach relaxing newspaper-broadcast cross-ownership restrictions.**"⁴⁸ The question of whether the ownership restrictions should be relaxed was not broached in the document. As discussed below, the Chief Economist's analysis was riddled with biased assumptions and framing of research questions.

The purpose of the Chief Economist's paper was to frame the issue and design research intended to support the foregone conclusion. The section entitled *Economic Studies to Support Newspaper-Broadcast Cross-ownership Limits* makes no bones about the purpose of the studies, opening with the following sentence: "**In this section I discuss some studies that might provide valuable inputs to support a relaxation of newspaper-broadcast ownership limits.**"⁴⁹

Moreover, after presenting a strategy for framing the analysis in a manner that is most conducive to the foregone conclusion, it identified specific studies that would best accomplish the task. Many of the thoughts and ideas put forward by the Chief Economist are really interpretations and arguments that belong in a final rule. By putting them up front and using

⁴⁷ Leslie M. Marx, "Summary of Ideas on Newspaper-Broadcast Cross-Ownership," June 15, 2006.

⁴⁸ *Id.*, p. 3.

⁴⁹ *Id.*, p. 14.

them to structure the research, the whole process becomes tainted. In short, the research is results-driven not an objective analysis.

As a consequence of this results-driven approach, key assumptions and hypotheses are biased in favor of finding what the Chief Economist wanted (see Exhibit II-1).

The Chief Economist's paper went on to identify researchers who might be recruited for the job. In the end, several of the studies and the researchers that the Chief Economist identified ended up on the list of studies that the FCC has commissioned.

Perhaps the ultimate irony is that the results that the Chief Economist at the FCC wanted were, in fact, contradicted by existing research that the FCC had conducted in the wake of the judicial rejections of its efforts relax the cross-ownership restriction. In essence, this was a determined effort to match its own science.⁵⁰

The Chief Economist's paper was divided into two main sections after the introduction – Overall Approach and Economic studies to support newspaper-broadcast cross-ownership limits. This remainder of this chapter follows that framework, identifying the key biases in each section.

⁵⁰ The expression was used by Vice President Cheney in the course of an intervention in an environmental dispute, in which the Vice President pushed a strategy that urged the Environmental Protection Agency to “match the science” as a basis for reversing a policy on water use. Jo Becker and Barton Gellman, “Leaving No Tracks,” *Washington Post*, June 27, 2004, Available at http://blog.washingtonpost.com/cheney/chapters/leaving_no_tracks/index.html.

EXHIBIT II-1: BIASED ASSUMPTIONS, RESEARCH HYPOTHESES AND CONTRARY EVIDENCE

INCORRECT OR BIASED HYPOTHESIS/ASSUMPTION	ALTERNATIVE HYPOTHESIS/ASSUMPTION	CONTRADICTIONARY EVIDENCE
Overall Approach		
Focus on a narrowing the range of medium-sized markets where limits might apply	Analyze full range of possibilities	
Selecting low threshold based on antitrust		Supreme Court rulings indicate that the Communications Act has a different standard
Using averages to set bright line thresholds and a lax standard lead to claim that ¾ of TV markets are competitive	Case by-case approach	Average challenge (HHI =3712) affords much less protection than no average challenge (HHI=2472); Even FTC applies different standards to different industries (oil industry HHI=1400); Using tradition standards, three-quarters of TV markets are highly concentrated; almost none are unconcentrated
Assuming competition. “If a TV market is competitive, the whole market is competitive”	The competitiveness of the whole market depends on the relative importance of the market segments and the structure of the non-TV markets	The large number of newspaper monopoly and near monopoly markets and the importance of newspapers call this incorrect assumption into question
Individual Studies		
Focus on quantity and quality	Focus on competition, diversity and localism	Suppressed study shows negative impact of concentration
Find “no harm”	Promote “widest possible dissemination”	
“A study that shows that few consumers use newspapers and TV (or radio) as their primary and secondary sources of information for local public affairs would suggest that newspaper-TV (or newspaper radio) cross-ownership would have little effect on the diversity of information available in consumers’ primary and secondary sources of information”		The Nielsen data shows that TV and newspapers are overwhelmingly the dominant sources of news and information The assumption of substitution between media is contradicted by prior FCC research Key role of newspapers in supply-side of the news market is ignored
“A study that finds evidence that TV stations in small markets tend to shut down their news divisions would suggest cross-ownership in small markets would not reduce and would potentially increase dissemination of local news”	The link between cross-ownership and “avoided” curtailment is entirely conjectural, not empirical	Some stations in large and small markets have curtailed news, while others in large and medium markets have increased news, so the assumed linkage between market size and quantity of output is questionable.

THE OVERALL APPROACH

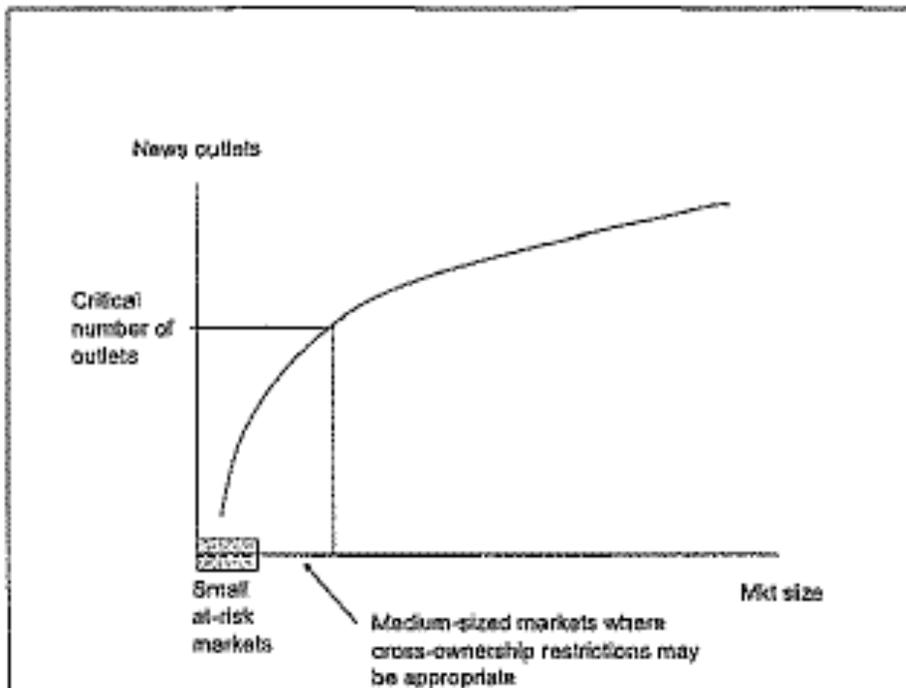
Narrowing the Focus to Get Rid of the Rule

The overall approach was defined as follows:

In markets with a large number of independent media outlets (particularly news outlets), we would not expect cross-ownership to harm competition, diversity or localism. And, in very small markets, cross-ownership may be necessary to guarantee the survival of the news outlets that currently exist. This leaves us with the question of whether cross-ownership restrictions are appropriate for medium-sized markets.

The Chief Economist considered two scenarios. The first identifies a small range of medium-sized markets where cross-ownership might be prohibited because there is not enough competition (as in large markets) and survival of the TV news operations is not in doubt (as in small markets) (see Exhibit II-2).

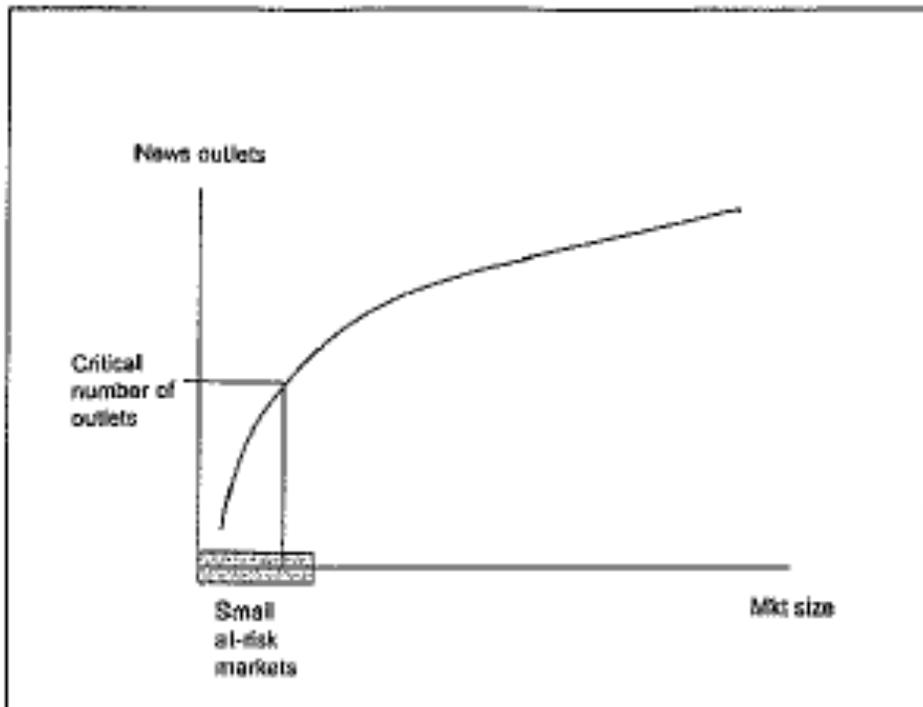
Exhibit II-2: Small Number of Middle-Sized Markets Appropriate for Cross-Ownership Restriction Contemplated by the Chief Economist



Source: Leslie M. Marx, "Summary of Ideas on Newspaper-Broadcast Cross-Ownership," June 15, 2006, p. 4.

The second scenario kept the same threshold for the critical number of outlets for competition but assumed the range of small markets at risk would be much larger, thereby eliminating the medium-sized markets where cross-ownership restrictions may be appropriate (see Exhibit II-3).

Exhibit II-3: No Markets Where Cross-Ownership is Appropriate Scenario Contemplated by the Chief Economist



Source: Leslie M. Marx, "Summary of Ideas on Newspaper-Broadcast Cross-Ownership," June 15, 2006, p. 5.

Explaining this scenario, the Chief Economist wrote:

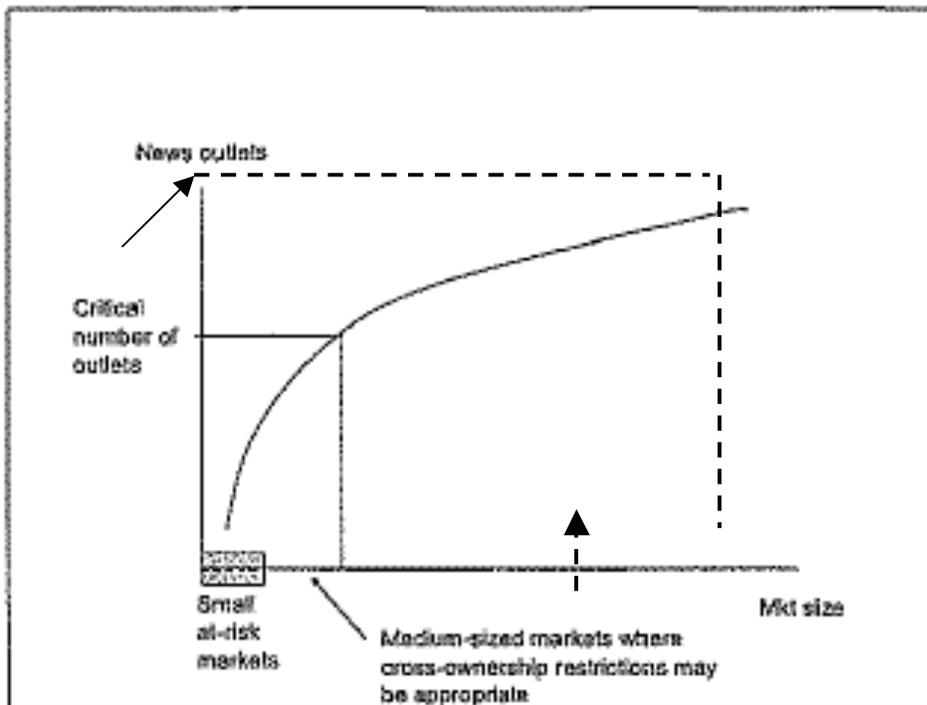
In the case of the above figure, there is no range of market sizes where cross-ownership restrictions are appropriate. The very small markets are at risk for media failures in the absence of cross-ownership, and the larger markets have sufficient numbers of media outlets that cross-ownership would not be expected to have a detrimental effect on competition, diversity or localism.⁵¹

⁵¹ Marx, p. 5.

The Other Possibility

Having presented these two cases, the Chief Economist declared” [w]e need to determine which figure applies, and if it is the former, we must define the boundaries of medium sized markets.”⁵² The Chief Economist never considered the third possibility that the critical number of outlets necessary to ensure competition, diversity and localism might be higher, thereby expanding the range of middle-sized markets where cross-ownership limits may be appropriate (see Exhibit II-4). In fact, it is possible as shown below, that by standard definitions of competition, there are few, if any, markets in which cross-ownership would not harm competition, diversity and localism.

Exhibit II-4: Scenario Ignored by the Chief Economist: Higher Critical Number of Outlets Necessary to Ensure Competition, Diversity and Localism



⁵² Marx, p. 5.

The reason that the Chief Economist never considered the third case may have been that she assumed that an extremely small number of outlets are necessary to ensure competition, as will be shown in the next section

Identifying the “critical number of outlets”: Selling Democracy Short

The Chief Economist begins the discussion of the critical number of outlets to define a competitive market by acknowledging the existence of the Department of Justice/Federal Trade Commission *Merger Guidelines*,⁵³ but then blows past the *Guidelines* to identify an extremely small number of outlets that are necessary to find a market competitive.

Ironically, the Chief Economist only mentions that the *Merger Guideline* “describes markets with HHIs greater than 1800 as highly concentrated.” The HHI,⁵⁴ measure, used to describe market concentration is calculated by taking the market share of each firm in the market, squaring it and summing all the results. The Chief Economist cites the relevant language about mergers in highly concentrated markets as follows:

Mergers producing an increase in the HHI of more than 50 points in highly concentrated markets post-merger potentially raise significant competitive concerns, depending on the factors set forth in Section 2-5 of the Guidelines. Where the post-merger HHI exceeds 1800, it will be presumed that mergers

⁵³ Department of Justice/Federal Trade Commission *Merger Guidelines*, 1997.

⁵⁴ William G. Shepherd, *The Economics of Industrial Organization* (Englewood Cliffs, NJ: Prentice Hall, 1985), p. 389, gives the following formula for the Herfindahl-Hirschman Index (HHI):

$$H = \sum_{i=1}^n S_i^2 \times 10,000$$

where

n = the number of firms

S_i = the share of the ith firm.

The HHI is calculated based on ratios rather than percentages and the decimals are cleared by multiplying by 10,000. For ease of discussion the Court adopts the convention of describing the calculation in percentages.

producing an increase in HHI of more than 100 points are likely to create or enhance market power or facilitate its exercise.⁵⁵

The Chief Economist never mentions the threshold for moderately concentrated markets and the relevant language about mergers in that region that the *Guidelines* offer:

b) Post-Merger HHI Between 1000 and 1800. The Agency regards markets in this region to be moderately concentrated... Mergers producing an increase in the HHI of more than 100 points in moderately concentrated markets post-merger potentially raise significant competitive concerns depending on the factors set forth in Sections 2-5 of the *Guidelines*.⁵⁶

The Chief Economist expresses no interest in ensuring markets that are unconcentrated.

Instead she moves in the opposite direction:

This suggests that an HHI of 1800, or rounding up a bit, perhaps 2000 might be a reasonable threshold. However, recent articles by Malcolm Coate of the FTC show that the FTC tends not to follow the guidelines, but rather tends to use higher thresholds for the competitiveness of a market. In Coate's data, the average post-merger HHI for the mergers that were challenged based on the theory of "collusion" was 3775, and the average for mergers that were not challenged was 2472. This suggests that perhaps an HHI above 3000 is an appropriate threshold. Coate states, "a collusion case with a post-merger HHI of 3712 has a 50% chance of a challenge."

The Chief Economist settles on an HHI of 3700 as the threshold below which cross-ownerships mergers are to be allowed, over twice the highly concentrated threshold and almost four times the moderately concentrated threshold:

In order to have a concrete number to work with, in what follows I use an HHI of 3700 as the threshold for markets to be competitive (markets with lower HHIs would be considered competitive and markets with higher HHIs would not). Obviously, the analysis could be repeated using different thresholds.⁵⁷

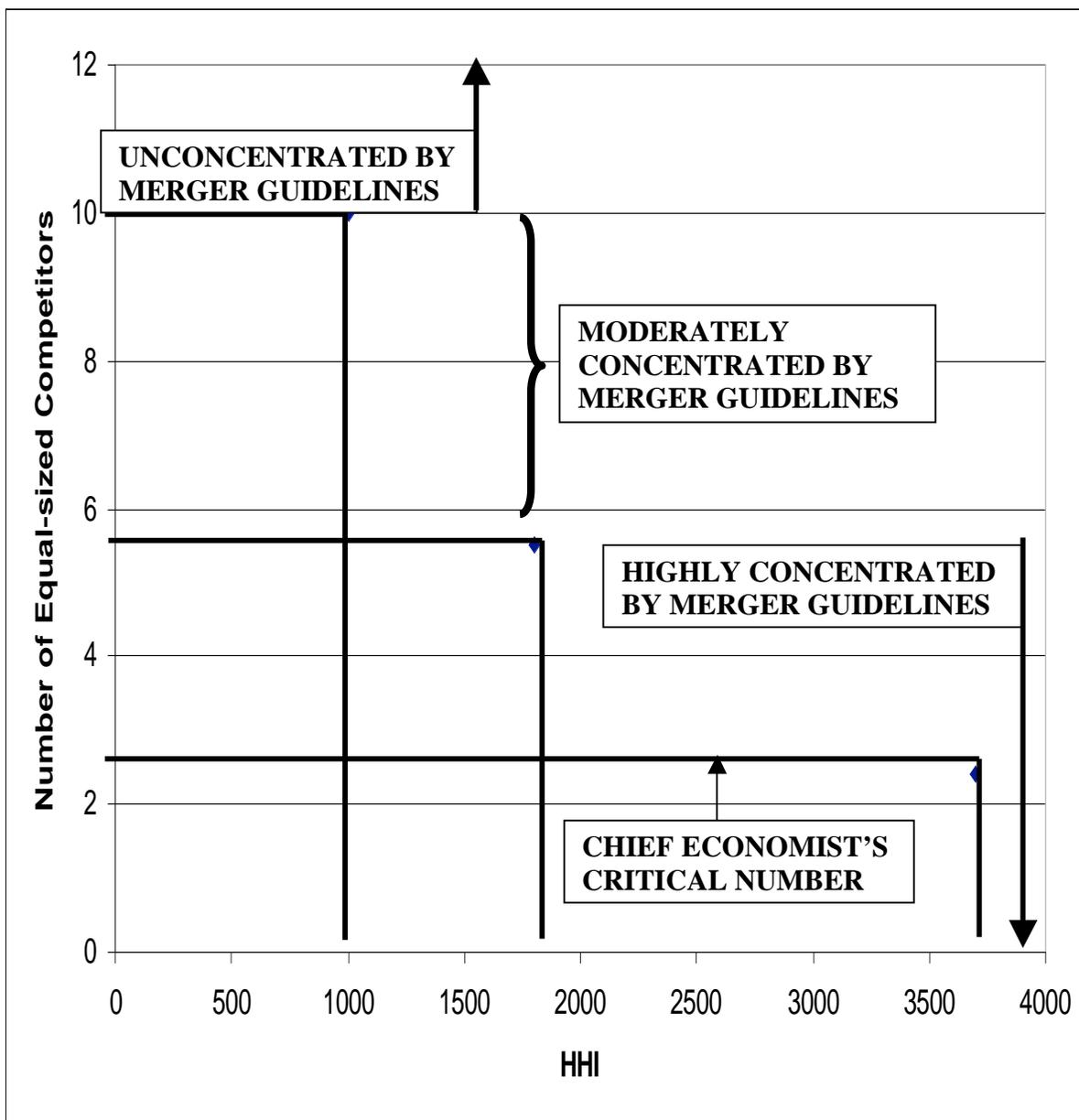
In essence, what the Chief Economist has done is declared that markets with the equivalent of 2.4 equal-sized outlets are sufficiently competitive to find that cross-ownership is not a threat to competition, diversity or localism, as shown in Exhibit II-5.

⁵⁵ U.S. Department of Justice, *Horizontal Merger Guidelines*, revised April 8, 1997.

⁵⁶ *Id.*

⁵⁷ Marx, p. 8.

Exhibit II-5: Choosing an Extremely Low Threshold for Competition



The HHI index can be converted to a number of equal-sized firms by simple arithmetic.⁵⁸

For example, in a market with 10 equal-sized firms, each firm would have a 10 percent market

⁵⁸ The HHI can be converted to equal-sized equivalents as follows:

$$\text{Equal-sized voice equivalents} = (1/\text{HHI}) * 10,000.$$

share. The HHI would be 1,000, which is the threshold for a moderately concentrated market. The threshold for a highly concentrated market falls at approximately at the equivalent 5.5 equal-sized firms. It is important to remember that it is not only the number of firms that counts, but their size. A market with one firm that had a 55 percent market share, four firms with 10 percent each and one with 5 percent would have an HHI of 3450, almost twice the level of 5.5 equal-size firms ($HHI = (55)^2 + (10)^2 + (10)^2 + (10)^2 + (10)^2 + (5)^2 = 3450$).

The Chief Economist never questions whether it is right or wrong for the FTC to ignore its own *Guidelines*. Even if a case could be made that a “collusion theory” is appropriate for the FTC under the Clayton Act, it is highly doubtful that a “collusion theory” is appropriate for the FCC under the Communications Act. The Supreme Court has declared a very aggressive goal for and standards by which FCC regulation of media outlets is judged – “the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.”⁵⁹ In cases leading up to the current proceeding, the courts have declared that the efficiency criteria that are paramount in antitrust cases, like the ones conducted by the FTC, can take a back seat to concerns about democracy. As the D.C. Circuit stated in remanding the FCC’s duopoly rule,

An industry with a larger number of owners may well be less efficient than a more concentrated industry. Both consumer satisfaction and potential operating cost savings may be sacrificed as a result of the Rule. But that is not to say the Rule is unreasonable because the Congress may, in the regulation of broadcasting, constitutionally pursue values other than efficiency – including in particular diversity in programming, for which diversity of ownership is perhaps an aspirational but surely not an irrational proxy. Simply put, it is not unreasonable – and therefore not unconstitutional – for the Congress to prefer having in the aggregate more voices heard.⁶⁰

⁵⁹ *Associated Press v. United States*, 326 U.S. 1, 20 (1945) (hereafter *Associated Press*).

⁶⁰ *Fox v. FCC*, pp. 12-13.

The standard of 2.4 equal-sized firms is remarkably low if the aspiration is the “widest possible dissemination of news and information from diverse and antagonistic sources,” as suggested by Exhibit II-6. The first column of Exhibit II-6 locates the Chief Economists threshold in comparison to the *Merger Guidelines*. The threshold is well above the highly concentrated level. The second column in Exhibit II-6 locates the threshold in terms of general market structural characterizations found in the general literature.⁶¹ The Chief Economist's threshold is a very tight oligopoly, barely more than a duopoly.

The Impact of Choosing a Low Threshold

The implication of the extremely low threshold for the policy conclusion is readily apparent in the Chief Economist's discussion of actual television market HHIs, as shown in Exhibit II-7. The HHIs shown are for TV advertising revenue. The Chief Economist chose TV because “I would argue that if a TV market, taken by itself, is competitive, then the market for local news and information, which would include TV as well as local newspapers and radio, is certainly competitive.”⁶² This assumption will be challenged below, but for the moment, we

⁶¹ William G. Shepherd, *The Economics of Industrial Organization* (Englewood Cliffs, NJ: Prentice Hall, 1985).

⁶² Marx, p. 5.

Exhibit II-6: Describing Market Structures

Department Of Justice Merger Guidelines Concentration	Type Of Terms Of Equal	Equivalents In Typical Sized Firms	HHI In	4-Firm Share Media Markets	
	Monopoly	1 ^a	5300+	~100	
Chief Economist Threshold →	Duopoly	2 ^b	3000 - 5000	~100	
↑ High	Dominant Firm	4<	>2500		
		5	2000	80	
Moderate	Tight Oligopoly	6	1800	60	
			1667	67	
↓ Unconcentrated	Loose Oligopoly	10	1000	40 ^c	
					Monopolistic Competition
					Atomistic Competition

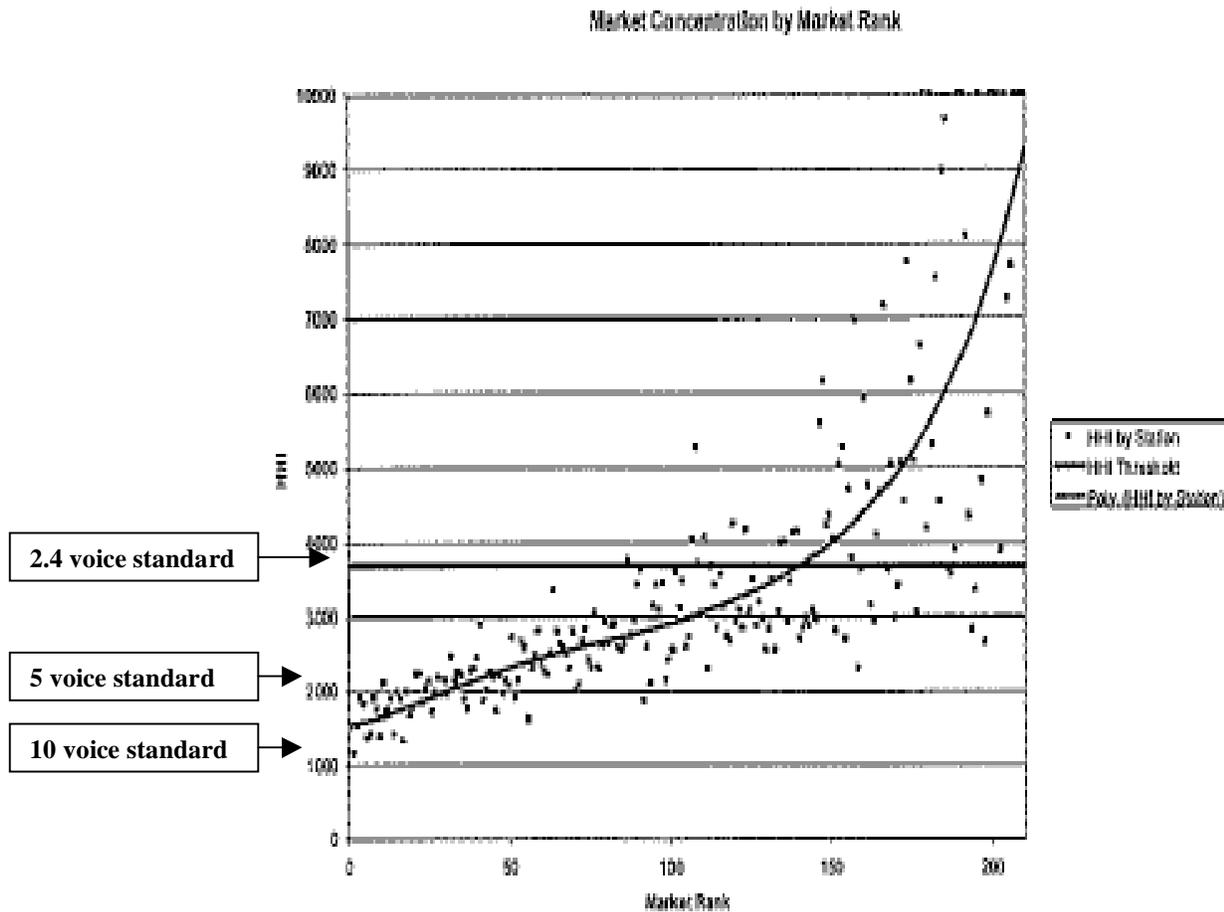
a = Antitrust practice finds monopoly firms with market share in the 65% to 75% range. Thus, HHIs in “monopoly” markets can be as low as 4200.

b = Duopolies need not be a perfect 50/50 split. Duopolies with a 60/40 split would have a higher HHI.

c = Value falls as the number of firms increases.

Sources: U.S. Department of Justice, “Horizontal Merger Guidelines,” revised April 8, 1997, for a discussion of the HHI thresholds; William G. Shepherd, *The Economics of Industrial Organization* (Englewood Cliffs, NJ: Prentice Hall, 1985), for a discussion of four firm concentration ratios.

Exhibit II-7: The Impact of an Extremely Low Threshold for Competition



Source: Leslie M. Marx, “Summary of Ideas on Newspaper-Broadcast Cross-Ownership,” June 15, 2006, p. 8.

examine the implications of the choice of threshold for the policy conclusion based on the Chief Economists calculation of HHIs.

By the standard of 2.4 equal-sized voices, only the 60 smallest markets would not be considered competitive. However, by a standard of an HHI of 2000 (5 equal-sized voices), which the Chief Economist mentions as consistent with the *Merger Guidelines*, but dismisses quickly, one reaches a very different conclusion. By that standard, approximately 180 markets would be considered non-competitive. If the unconcentrated threshold is considered the standard, there are no markets that would be considered competitive.

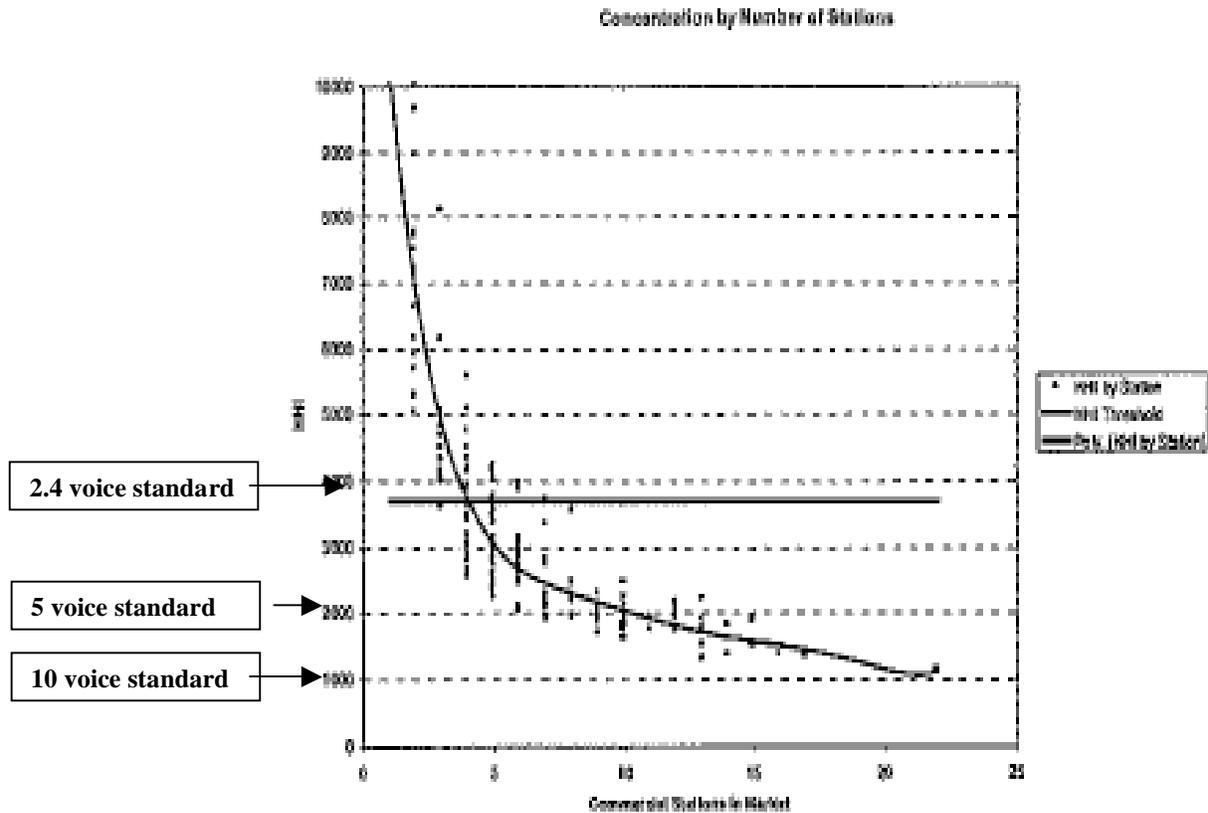
After discussing HHIs, the Chief Economist then examines the relationship between the number of stations in a market and the HHI, in an effort to draw a bright line. Instead of having to calculate the HHI, the FCC would simply declare that in markets with more than some number of stations, cross-ownership is allowed. The Chief Economist chooses six stations because there appear to be only a couple of markets with six or more stations that fall above the target HHI of 3700 (see Exhibit II-8). Note, however, that the vast majority of markets fall above a target HHI of 2000 and all markets fall above a target of 1000. Note also, how important it is to actually take market shares into account when analyzing market structures. For example, consider the markets with 10 TV stations. The HHIs range from about 1500 to 2500, with a mean of about 2000. The average HHI in these 10 station markets is twice as high as it would be in a market with 10 equal-sized stations, suggesting that each market has stations with larger and smaller market shares. Counting stations without taking audiences into account misrepresents market structure and got the FCC in trouble in the last round of this proceeding.⁶³

The Chief Economist's reliance on a backward looking study of FTC challenges to set a forward looking threshold of presumed competitiveness is fundamentally flawed for a number of reasons in addition to the fact that it sets a standard that is inappropriately low under the Communications Act.

The FTC proceeds on a case-by-case basis, examining mergers individually and deciding whether to challenge and/or litigate. The backward looking average of cases where there was a challenge is just that, an average. Many cases were challenged where the HHI fell below the average. Indeed, the Chief Economist notes that the average for cases where the FTC did not

⁶³ Mark Cooper, "When Law and Social Science Go Hand in Glove: Usage and Importance of Local and National News Sources – Critical Questions and Answers for Media Markets," in Philip Napoli (Ed.) *Media Diversity and Localism* (2007).

Exhibit II-8: Competitive Thresholds Defined by Number of Stations



Source: Leslie M. Marx, “Summary of Ideas on Newspaper-Broadcast Cross-Ownership,” June 15, 2006, p. 9.

challenge was 2472.⁶⁴ The Chief Economist is setting a bright line in which the FCC will not examine cases that fall on one side of the line. If the Chief Economist wanted to play it safe, i.e. not allow mergers to go forward in markets where competition was at risk, she should have chosen the no challenge threshold (an HHI of 2400 (rounding down for caution’s sake)). That would have had a dramatic impact on the recommendations. Looking back at Exhibit II-7, that would have moved the threshold from markets ranked above 150 to approximately markets ranked above 60.

⁶⁴ Marx, p. 8.

A document in the FCC database entitled “Merger Challenges Data, Fiscal Years 1999-2003,”⁶⁵ shows that using the backward looking average to set a forward looking bright-line would automatically approve many mergers that should be challenged, even using the lax threshold proposed by the Chief Economist and the FTC economic criteria. Of the 1263 mergers challenged, 29% have a post-merger HHI of less than 3000 and 43 percent have a post-merger HHI of less than 4000, which would be equivalent to the Chief Economists proposal. In other words, the bright line would have given approval to 43 percent of the mergers that the FTC challenged.

Moreover, the FTC treats different industries differently because of their characteristics. For example, in the oil industry the FTC challenged four-fifths of the mergers where HHI’s fell in the range of 1400 to 1799.⁶⁶ It would seem that citizens deserve at least the level of protection for democratic discourse as consumers of gasoline receive. Giving citizens and democracy a little more protection than gasoline, suggests that using the unconcentrated threshold seems reasonable (HHI=1000).⁶⁷

ANALYZING MARKET STRUCTURE

As noted above, the Chief Economist tries to simplify the analysis by focusing on TV markets. This is ironic, since the FCC has had its rules overturned because it failed to

⁶⁵ Federal Trade Commission and the U.S. Department of Justice, December 18, 2003.

⁶⁶ Federal Trade Commission, *Mergers, Structural Change and Antitrust Enforcement* (2004), Table 2-6.

⁶⁷ In Mark Cooper, “The Failure of Federal Antitrust Authorities to Protect American Energy Consumers From Market Power and Other Abusive Practices,” *Loyola Consumer Law Review*, 19:4, 2007, I argue that level of enforcement provided by the FTC to protect gasoline consumers was inadequate because the severe market fundamentals in the oil industry. I show that market power can be exercised in the range of 1000-1400.

systematically look at all sources of information in the market.⁶⁸ The simplification in the Chief Economist's argument biases the analysis toward relaxing the rule.

The central premise of the overall approach is incorrect. The claim that "if a TV market, taken by itself is competitive, then the market for local news and information, which would include TV as well as local newspapers and radio, is certainly competitive," is wrong.⁶⁹ The status of competition in the overall market depends on the relative importance of the other outlets and the structure of the other market segments. A few simple examples demonstrate why this is an empirical question, not something that can be assumed (see Exhibit II-9).

Consider a market with four TV stations with equal market share. This is certainly beyond the Chief Economist's "competitive" level. Assume a monopoly newspaper market, a very common situation in America. Assume that newspapers have a 60 percent weight in the marketplace of ideas, while television has a 40 percent weight. Although the television market is competitive, the combined media market would not be competitive. As shown in section A of Exhibit II-9, its HHI would be above 4000, well above the threshold declared by the Chief Economist.

The assumption that TV market competition ensures overall market competition is incorrect in another sense. Recall that the *Merger Guidelines* are based on **post-merger** market concentration, not pre-merger concentration. Even if the combined pre-merger market is

⁶⁸ *Sinclair Broadcast Group v. FCC*, 284 F.3d 148 (D.C. Cir. 2002).

⁶⁹ Marx, p. 5.

Exhibit II-9: Competitiveness of the Overall Market Cannot be Assumed Based on the Competitiveness of the TV Market

A. MARKET SEGMENTS		COMBINED MARKET (60/40 Newspaper/TV)	
TV Market	Newspaper Market		
TVA = 25%	NPa = 100%	TVA = 10%	
TVB = 25		TVB = 10	
TVC = 25		TVC = 10	
TVD = 25		TVD = 10	
		NPa = 60	
HHI = 2500	10000		4000
B. MARKET SEGMENTS		COMBINED MARKET (50/50 Newspaper/TV)	
TV Market	Newspaper Market	Pre-merger	Post-merger
TVA = 25%	NPa = 100%	TVA = 12.5%	TVB = 12.5%
TVB = 25		TVB = 12.5	TVC = 12.5
TVC = 25		TVC = 12.5	TVD = 52.5
TVD = 25		TVD = 12.5	
		NPa = 50	NPa/TVA = 62.5
HHI = 2500	10000	3125	4375
C. MARKET SEGMENTS		COMBINED MARKET (50/50 Newspaper/TV)	
TV Market	Newspaper Market	Pre-merger	Post-merger
TVA = 25%	NPa = 90%	TVA = 12.5%	TVC = 12.5%
TVB = 25	NPb = 10	TVB = 12.5	TVD = 12.5
TVC = 25		TVC = 12.5	NPa/TVA = 57.5
TVD = 25		TVD = 12.5	NPb/TVB = 17.5
		NPa = 45	
		NPb = 5	
HHI = 2500	6800	2675	3925

competitive, that does not mean that the post-merger market would be competitive. Section B of Exhibit II-9 assumes TV and newspapers have equal weight in the marketplace of ideas (which is roughly what our survey results show).⁷⁰ In that case the pre-merger market is competitive by the Chief Economist’s standard, but allowing a cross-ownership merger drives the overall market

⁷⁰ Mark Cooper, *Abracadabra! Hocus-Pocus! Making Media Market Power Disappear with the FCC’s Diversity Index*, July 2003.

concentration above the competitive threshold of a 3700 HHI. Section C of Exhibit II-9 introduces a small second paper into the market. In two newspaper markets, where one newspaper dominates, a similar post-merger effect would occur if both papers were to enter into combinations with TV stations. Again the post-merger market would be above the Chief Economist's threshold, even though the pre-merger TV and combined markets are below the threshold. If the threshold were set at a lower HHI, the number of instances in which the claim that a competitive TV market ensures a competitive overall market or competitive post-merger markets would be much smaller.

In fact, there are a large number of U.S. media markets that look like these two. Many newspaper markets are dominated by a single paper. In our comments to the FCC, we identified 67 markets with one or two newspapers and TV markets that were highly concentrated (by antitrust standards).⁷¹ There were only 10 markets on our list that overlapped with the list of 60 markets that Marx found to have HHIs greater than 3700. In short, correcting the assumption about the relationship between TV market competition and overall market competition could double the number of markets that would be considered at competitive risk from a relaxation of the ban on newspaper-TV cross-ownership.

ECONOMIC STUDIES: ERRONEOUS ASSUMPTIONS AND EFFORTS TO “MATCH THE SCIENCE”

The fact that the four studies outlined by the Chief Economist all were included in the studies commissioned by the FCC suggests that the ideas and thoughts affected the research program. This section examines some of the critical assumptions and formulation of the research hypotheses that set the scope of what can be found.

⁷¹ Id.

Study 1: Consolidation and Ownership Affect Competition, Diversity and Localism

The Chief Economist starts with the assumption that cross-ownership matters, but misrepresents the issue:

In what follows, I assume that cross-ownership has the potential to decrease the quantity or quality of news coverage of local public affairs available in local media. If it does not, then one could justify dropping or significantly relaxing the cross-ownership restriction on those grounds alone.⁷²

Note that the Chief Economists attempts to switch the standard from competition, diversity (antagonism) and localism to the quantity and quality of news coverage and local public affairs. Quantity and quality are important, but if it is homogeneous and out-of-town, it fails to accomplish the goals of the Communications Act. Dropping “competition, diversity and localism” from the measure of outcome biases the framing of the question in a fundamental way. Mergers mean that an independent voice is lost, even if the quantity of output increases.

Note also that the statement weakens the standard. Instead of promoting diversity and localism, the Chief Economist settles for not harming quantity and quality. The research hypothesis, as stated by the Chief Economist, is framed incorrectly:

Incorrect framing

Does cross-ownership harm quantity and quality

Correct framing

Does Cross-ownership increase competition or improve diversity and localism

We might write off this switch of measures of policy outcomes, attributing it to a slip of the pen, but the Chief Economist used the correct policy outcomes – “competition, diversity and localism” – half a dozen times in the paper. When the variables for the study are specified, they include “hours of relevant programming, ratings of relevant programming, awards won and local voter turnout,”⁷³ but nothing about diversity or localism.

⁷² Marx, p. 3.

⁷³ Marx, p. 16.

This omission is notable, since the suppressed study and the destroyed database had addressed this very issue. It had labored to define the correct variables for competition, localism and diversity. Note, too, that the statement is a market level statement. The issue is news available in the market, not news produced by a particular station.

Study 2: Media Usage

The above biases in the framing of research issues and questions affect the fabric of the research in a manner that favors finding that the rules can be relaxed. Following from this bias, the substance of the studies is repeatedly framed to point in the same direction. For example, the media utilization study is framed as follows:

A study that shows that consumers use multiple sources of information for news about local public affairs, particularly sources such as the Internet or cable that would not be affected by cross-ownership between a newspaper and a local TV or radio station, would suggest that cross-ownership, even if it did reduce ownership diversity, would not have a significant detrimental effect on consumers. In addition, a study that shows that few consumers use newspaper and TV (or radio) as their primary or secondary sources of information for local public affairs would suggest that newspaper-TV (or newspaper-radio), cross-ownership would have little effect on the diversity of information available in consumers' primary and secondary sources of information.⁷⁴

This formulation implicitly assumes that the sources of information are substitutable, which is unsupported on both the supply and demand sides of the market.

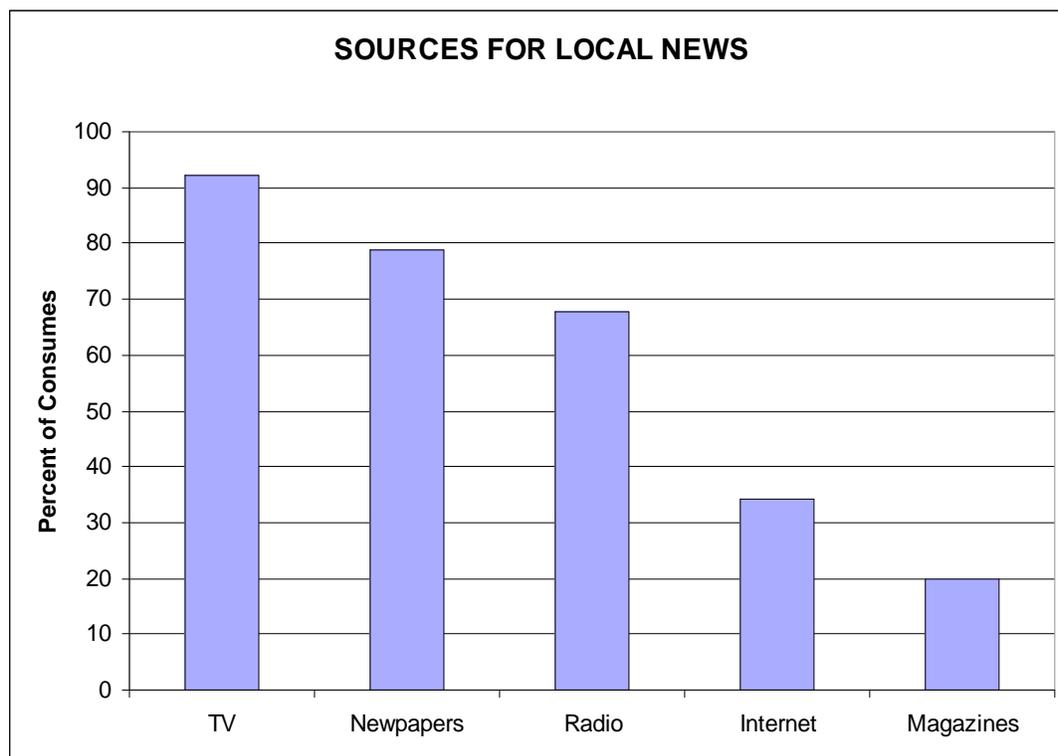
On the demand side, the FCC tried to show substitution between different types of media, but failed, as noted above.

At the same time, the Chief Economist's anticipated outcome flies in the face of the existing evidence. In the FCC's study of usage, newspapers and television were the most frequent source of local news and information (see Exhibit II-10).

⁷⁴ Marx, p. 15.

The Chief Economist notes that the research should focus on primary and secondary sources, but the statement of the hypothesis contradicts the evidence in the record. In 2003, CFA placed in the record evidence on the primary and secondary sources of local news and information, which showed that newspapers and TV are even more dominant when viewed in that manner.⁷⁵

Exhibit II-10:



Source: Leslie M. Marx, *Summary of Idea on Newspaper-Broadcast Cross-Ownership*, June 15, 2006, p. 17, citing the FCC's Nielsen survey.

On the supply-side, the Chief Economist's formulation ignores the fact that newspapers are frequently the primary original source of information for cable, broadcast and the Internet.⁷⁶ The dominance of newspapers in the production of news was demonstrated in the proceeding,

⁷⁵ Mark Cooper, *Abracadabra! Hocus-Pocus! Making Media Market Power Disappear with the FCC's Diversity Index*, July 2003.

⁷⁶ See Chapter VI for evidence of Internet outlets reliance on traditional media for local news.

where we estimated that the typical newspaper has 65 newsroom staff, the typical TV station has 20 newsroom staff and the typical radio station has 3 newsroom staff.⁷⁷ The Chief Economist implicitly assumes that the newspaper cross-ownership combination would not affect the ability of the other distribution channels to gain access to the news that had been made available to other sources. However, one of the synergies claimed for cross-ownership is better access to the news. One of the concerns about cross-ownership is the smaller number of entities that do investigative journalism. If cross ownership creates a dominant news operation in a market, it may reduce the number of entities that engage in journalistic activities, reducing both the quantity and diversity of news available in the market.

Study 3: News Operations

The earlier discussion focused a great deal of attention on the question of the competitive threshold that would set the upper limit of the range of middle-sized markets where cross-ownership limits would be necessary. The Chief Economist also discusses the lower limit of that range – the small markets where cross-ownership is hypothesized to be necessary to preserve news outlets. This is the second important element in relaxing the cross-ownership limit, which is to define small markets at risk of losing news production:

A study that finds evidence that TV stations in small markets tend to shut down their news divisions would suggest that cross-ownership in small markets would not reduce diversity and would potentially increase the dissemination of local news.⁷⁸

The Chief Economist analyzed a data set of curtailments in TV news output. As the Chief Economist put it:

⁷⁷ Mark Cooper, *Abracadabra! Hocus-Pocus! Making Media Market Power Disappear with the FCC's Diversity Index* (July 2003).

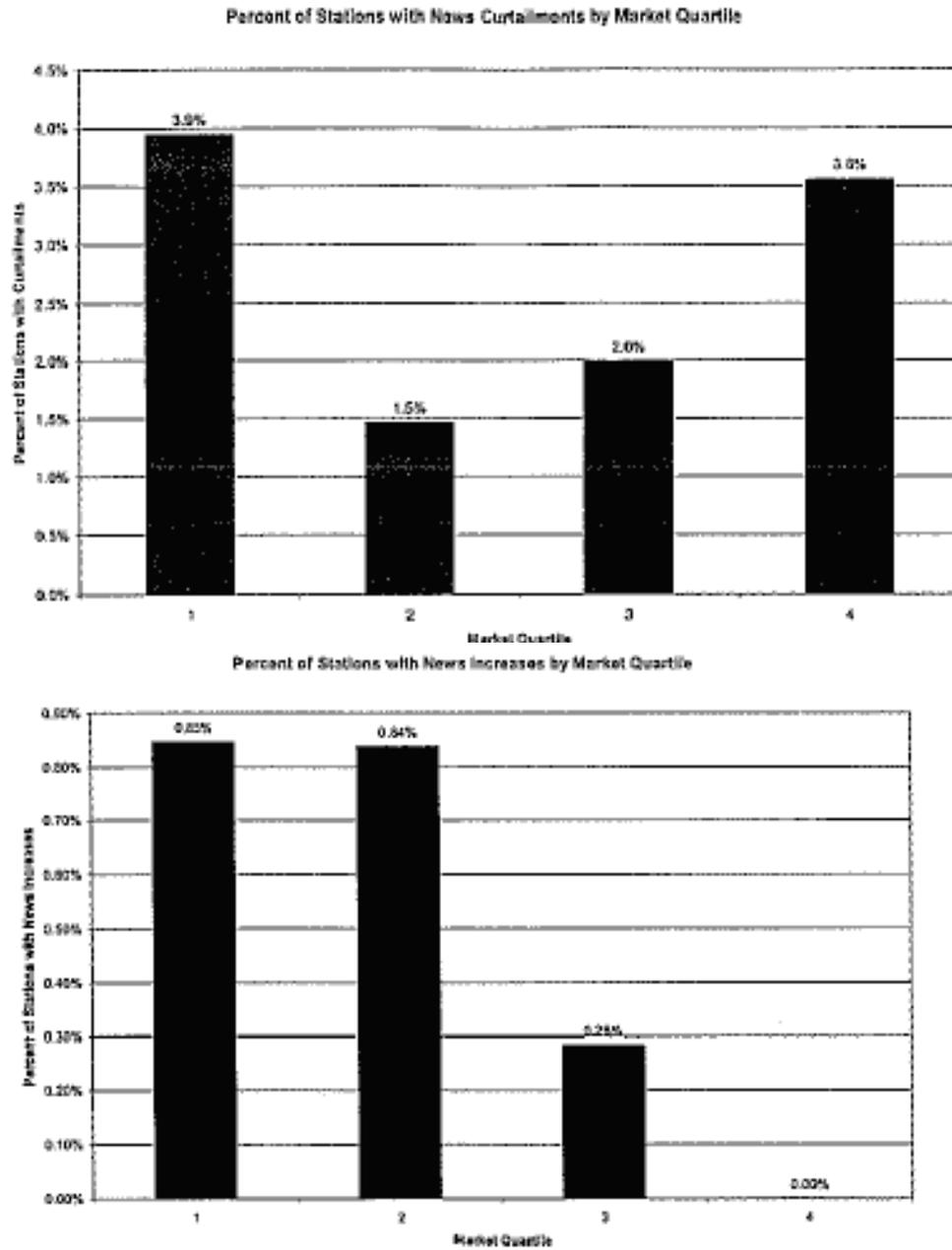
⁷⁸ Marx, p. 15.

[T]here is evidence that local television news is being curtailed in these markets because of the small size of the market, in which case joint ownership between a local newspaper and a local TV station might provide benefits to consumers by preventing further curtailment of television news.⁷⁹

There are several flaws in this framing of the issue. The link between cross-ownership and avoided curtailments is entirely conjectural, not empirical. The description of the study that is supposed to address this issue does not indicate in any way that this problem will be addressed. The presumed gain in television news output could come at the cost of newspaper output. CFA comments in the proceeding make a strong case that this is a concern. More importantly, the data cited by the Chief Economist leaves critical questions unanswered and the research design proposed does not answer them. Curtailments occur in large and small markets, so the link between market size and curtailments is moderate or weak at best (see Exhibit II-11). Expansions have occurred in large and medium markets, so the link between market size and resources for news is moderate or weak, at best. Although the connection between market size and the curtailment/expansion is modest at best and its link to cross-ownership unproven, the Chief Economist tries to extract the conclusion necessary to eliminate the cross-ownership rule.

⁷⁹ Marx. p. 11.

Exhibit II-11: Curtailments and Increases by Market Size

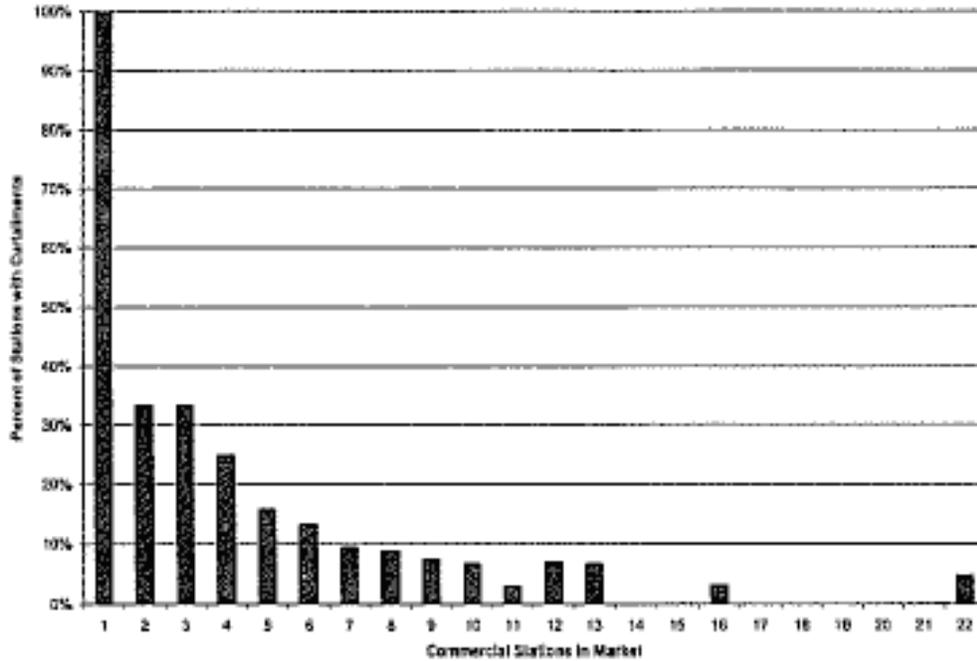


Source: Leslie M. Marx, "Summary of Ideas on Newspaper-Broadcast Cross-Ownership," June 15, 2006, p. 12.

Looking at the distribution of curtailments by the number of the stations in a market (see Exhibit II-12), the Chief Economist argues:

[M]arkets with six or more commercial TV stations are sufficiently competitive that cross-ownership is not a threat to competition, localism and diversity; and stations in markets with fewer than six commercial stations are at risk for news curtailments, which could potentially be prevented by allowing cross-ownership.⁸⁰

Exhibit II-12: Market Size and the Incidence of Curtailments



Source: Leslie M. Marx, “Summary of Ideas on Newspaper-Broadcast Cross-Ownership,” June 15, 2006, p. 12.

Looking at Exhibit II-12, it is not clear why the threshold of markets with six stations is chosen, other than the fact that it accomplishes the goal of eliminating the newspaper-TV cross-ownership. The obvious break point is markets with only one station. This represents about a half-dozen markets only. One might argue that markets with 2 and 3 stations are a distinct group. This would raise the total to less than three-dozen markets. Beyond markets with one station, the function is continuous and the incidence of curtailments is about 30% or less.

⁸⁰ Marx, p. 13.

In defining the study of curtailments, the Chief Economist has overreached in assuming the conceptual foundation of the study and the thresholds that are suggested. Since the competitive threshold was set at markets with six or more stations and the “at risk” markets are defined as those with five or fewer stations, the cross-ownership rule conveniently disappears.

Study 4: Viewpoint Diversity

The fourth study is a reprise of an earlier study by Pritchard that was heavily criticized for weak methodology. The study design is intended to correct many of the flaws in the earlier study by building a large sample. However, it is explicitly aimed at national, not local news, and is dependent on development of measures of slant or bias.

“For each newspaper/TV pair (both cross-owned and non-cross-owned), determine whether the outlets exhibited similar or divergent slants in covering a particular national political event. Develop a method for evaluating and scoring the slant of each newspaper and TV station.”⁸¹

Focusing on national events fails to provide a proper basis for analyzing the impact of cross-ownership for a number of reasons. First, the analysis should focus on localism. Second, as we have shown in our comments, media owners may behave very differently when they have direct ownership interests at stake. This is much more likely to be the case with local events (like funding a stadium). Third, national events tend to “compel” coverage, whereas local events can be ducked.

CONCLUSION

The results-driven nature of the research agenda is so blatant; it is almost unimaginable that the Commission would proceed with such a bias plan. Of course, the agency intended that this agenda remain hidden in all aspects. The Chief Economist’s paper was only disgorged in

⁸¹ Marx, p. 26.

response to a Freedom of Information Act Request. The existence of the key research study was only made known after the study was slipped under the door of a U.S. Senator.

III. POLICY, PROCESS AND METHODOLOGICAL FLAWS IN THE FCC MEDIA OWNERSHIP RESEARCH

The transformation and corruption of the research agenda described in the previous two chapters has a direct impact on the research that was conducted, beyond the fact that specific studies were chosen to accomplish specific tasks in relaxing or eliminating the newspaper-TV cross-ownership limit. The overall approach biases the outcome in a number of ways. The FCC's approach to research in this proceeding is fundamentally flawed in three areas – policy substance, administrative process, and methodology. From start to finish, the conduct of the agency has been nothing less than disgraceful.

POLICY SUBSTANCE: THE FAILURE TO ADDRESS THE IMPORTANT POLICY ISSUES

The tunnel vision of the Chief Economist's research agenda produced a very narrow range of studies. Exhibit III-1 locates the substantive studies commissioned by the FCC in the matrix of issues derived from the Broadband Localism proceeding. The studies address about one-tenth of the concerns. Moreover, as the analysis below shows, even this small number of issues is not handled well in the studies. The definition of the outcomes and the policy variables considered fail to address the basic concerns that arise in the public policy. Even if the research had led to dispositive answers on this handful of issues, which it did not, the large number of unexplored concerns would leave the impact of policy changes unclear. The Commission lacks the basis for concluding that relaxation of ownership limits promotes the public interest.

As shown in the remainder of these comments, the tunnel vision also undermines the validity of key findings in research that has been conducted on this limited number of issues. It

EXHIBIT III-1: THE MULTIFACETED CONCEPT OF COMPETITION, LOCALISM AND DIVERSITY

v.

THE FCC’S NARROW RESEARCH AGENDA

ISSUES	COMMUNITIES/MEDIA			
	TELEVISION	NON-MINORITY RADIO	TELEVISION	MINORITY RADIO
<u>Coverage of local affairs</u>				
Community news (police, traffic, weather, sports)	Study 3, 6			
Emergencies & events				
Education about local institutions				
Local religious				
Local advertising				
PSAs in public interest				
<u>Sensitivity to local tastes</u>				
What listeners want				
Avoid offence				
Tailored to local taste				
<u>Opportunity for local involvement</u>				
Local ownership/control			Study 2, 7, 10	Study 2,
7, 10				
Use of local resources				
Working in industry				
Locally originated programming				
Outlet for local talent				
<u>Facilitation of local political discourse</u>				
Public affairs		Study 4.2		
Expression of group interests				
Community, political, religious group discussions				
Local political view				
Local call-in and talk				
Public access				
Editorializing	Study 6			
COMPETITION/MARKET STRUCTURE				
News & public affairs	Study 3, 4.1, 4.3	Study 4.2, 4.4, 10		
Children’s programming				
Entertainment	Study 3	Study 5	Study 3	
Advertising		Study 10		
Affiliate relations				
Payola,				
Voice tracking		Study 5		
Playlists				

- plays down the role of market concentration,
- focuses on outlets, rather than market level outcomes,
- narrows the range of variables used to measure policy relevant outcomes, and
- misdefines the variables that are operationalized.

The pursuit of a simple, bright line to allow mergers leads to fundamental analytic mistakes including

- an assumption of equal market shares for outlets,
- a focus on averages, rather than the distribution of markets and,
- a shift in the standard from promoting the public interest to showing no harm.

The resulting research suffers from bias in two fundamental ways. It's tunnel vision-like focus on eliminating the newspaper-TV cross-ownership rule caused it to

- miss obvious alternative explanations or interpretations of the data and
- ignore broader implications of the research for public policies that are supposed to promote the public interest.

There is no doubt that the FCC has produced a series of highly sophisticated statistical analyses, but it is the quality of the questions that really matters, not the sophistication of the answers. Indeed, there is an important sense in which the set of studies commissioned by the FCC provides complete and total vindication for the suppressed study on media ownership. These studies adopt precisely the same methodology and approach as the suppressed study. The only difference is that the suppressed study was not biased by the new research agenda of the FCC. It asked the right questions and found inconvenient answers. Because the new studies had asked a biased set of questions, they simply do not contradict the earlier findings. Moreover, the target policy variables analyzed in the recent FCC studies are defined

differently, with much less direct relevance to the policy goals of the Communications Act, than the earlier studies. In this sense, the current studies do not confront the earlier studies head on.

The result is a record of research at the FCC that does not provide a sound basis for policy decision-making.

ADMINISTRATIVE PROCESS

The flip-flop on policy substance and the suppression of studies discussed in the previous Chapters calls into question the administrative process through which the agency has conducted the research. This type of flip-flop frequently escapes under the rubric of expert agency discretion. Agencies are allowed to change their mind. However, they are also supposed to explain why they did so, and to have a reasoned basis for this change.⁸².

Moreover, when a formal proceeding is initiated that takes comments from the public, such as the “Broadcast Localism Initiative,” the agency is not supposed to waste the public’s time. It is supposed to give consideration to those comments in its decision-making. The “Broadcast Localism Initiative” has not yet concluded, so the agency may explain itself at some point, although it certainly should do so before it writes new policies on media ownership. Timing is important. The results of the “Broadcast Localism Initiative” should have helped the public form their opinions about specific proposals to change the media ownership rules. The

⁸² *Cf.* Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29 (1983).

Inspector General's report casts considerable light on an important piece of research that plays a role in the "Broadcast Localism Initiative."⁸³

While the Broadcast Localism proceeding may still be unfolding and subject to agency discretion, the same cannot be said of the FCC's peer review of the ten studies it commissioned. Here, under the Administrative Procedure Act and the Data Quality Act, the agency had specific legal obligations about public notice and transparency that it failed to implement.⁸⁴ The Administrative Procedure Act requires the Commission to base any rule modifications on reasoned analysis and substantial evidence, but it is unlikely the Commission could rely on its studies as substantial evidence or reasoned analysis when it so blatantly disregarded its own guidelines and the OMB's guidelines regarding the Data Quality Act. Whether or not the FCC failed to follow the Data Quality Act, the FCC's chosen administrative procedure has a purpose; the failure of the FCC to follow the spirit of the Data Quality Act has had major consequences. It is important to understand how the flawed procedure contributed to the current state of the record, to the extent that the FCC's research is likely to play an important part in the FCC's decision making. That certainly was the case with the media ownership working group studies.

The FCC's research has suffered mightily as a result of these flaws and the public has been denied the opportunity it deserves to comment on the peer review process. Had the

⁸³ See Chapter III – Office of Inspector General, "Report of Investigation into Allegations that Senior Management Ordered Research Suppressed or Destroyed," October 4, 2007.

⁸⁴ See Complain Under the Data Quality Act, of Consumers Union, Consumer Federation of America and Free Press, *In the Matter of 2006 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, September 11, 2007 (seeking the institution of a credible peer review process)

agency followed the law in the peer review process, a great deal of light would have been shed much sooner on the corrupt agenda the agency was pursuing.

The FCC has violated the Data Quality Act in the peer review of the 10 media ownership studies because it failed to comply with OMB's "Final Information Quality Bulletin for Peer Review." The agency conducted this peer review in secret, when it was supposed to do so as part of a public and transparent process. It sprung the peer reviews after the dissemination of "influential scientific information," when it is clearly the intent of the Guidelines to have peer review prior to dissemination so it can inform the research process, not just evaluate the results.

The agency has belatedly declared the 10 studies to be "influential scientific information." Therefore, the OMB Guidelines apply to the 10 research studies.

Finally, the Bulletin does not directly cover information supplied to the government by third parties (e.g. studies by private consultants, companies and private, non-profit organizations, or research institutions such as universities.) However, if an agency plans to disseminate information supplied by a third party, (e.g. using this information as the basis for an agency's factual determination that a particular behavior causes a disease), the requirements of the Bulletin apply, if the dissemination is 'influential'.⁸⁵

The OMB Memorandum also points out that "peer review of economic and social science information should have as high a priority as peer review of health, ecological and engineering information."⁸⁶

The final version of the bulletin makes it clear "that important scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal government."⁸⁷

⁸⁵ 70 FR 2667.

⁸⁶ Id., at 2666.

⁸⁷ Id., at 2665.

Influential scientific information is supposed to be peer reviewed subject to a clearly articulated agenda that provides notice to the public about the structure and conduct of the review. No such agenda was published and no such notice was given.

Peer Review Planning

Section V requires agencies to begin a systematic process of peer review planning for influential scientific information (including highly influential scientific assessments) that the agency plans to disseminate in the foreseeable future.

A key feature of this planning process is a Web-accessible listing of forthcoming influential scientific disseminations (i.e. an agenda) that is regularly updated by the agency...

The agency shall provide its prediction regarding whether the dissemination will be “influential scientific information” or a “highly influential scientific assessment,” as the designation can influence the type of peer review, as well as the use of deferrals....

For each entry on the agenda, the agency shall describe the peer review plan. Each peer review plan shall include: (i) A paragraph including the title, subject and purpose of the planned report, as well as an agency contact to whom inquiries may be directed to learn the specifics of the plan; (ii) whether the dissemination is likely to be influential scientific information or a highly influential scientific assessment; (iii) the timing of the review (including deferrals); (iv) whether the review will be conducted through a panel or individual letters (or whether an alternative procedure will be exercised); (v) whether there will be opportunities for the public to comment on the work product to be peer reviewed, and if so, how and when these opportunities will be provided; (vi) whether the agency will provide significant and relevant public comments to the peer reviewers before they conduct their review; (vii) the anticipated number of reviewers (3 or fewer; 4-10; or more than 10); (viii) a succinct description of the primary disciplines or expertise needed in the review; (ix) whether reviewers will be selected by the agency or by a designated outside organization; (x) whether the public, including scientific or professional societies, will be asked to nominate potential peer reviewers...

Agencies should update their peer review agendas at least every six months. However, in some cases--particularly for highly influential scientific assessments and other particularly important information--more frequent updates of existing entries on the agenda, or the addition of new entries to the agenda, may be warranted. When new entries are added to the agenda of forthcoming reports and other information, the public should be provided with

sufficient time to comment on the agency's peer review plan for that report or product. Agencies shall consider public comments on the peer review plan.⁸⁸

It is quite clear in the OMB discussion that peer review is intended to influence the research process throughout.

The critique provided by a peer review often suggests ways to clarify assumptions, finding, and conclusions. For instance, peer reviews can filter out biases and identify oversights, omissions and inconsistencies. Peer review also may encourage authors to more fully acknowledge limitation and uncertainties. In some cases, reviewers might recommend major changes to the draft, such as refinements of hypotheses, reconsideration of research design, modification of data collection or analysis methods, or alternative conclusions.⁸⁹

Although there were over nine months between the announcement of the studies and their release, there was never any peer review agenda published or any other public notice of ongoing peer review that would have made the process public.

Moreover, it is apparent that the intention is for peer review to take place before influential scientific information is disseminated. Thus, the OMB Guidelines recognizes that in some instances, the draft report may be made publicly available as part of the peer review. It urges caution here.

In cases where a draft report or other information is released by an agency solely for the purposes of peer review, a question may arise as to whether the draft report constitutes an official 'dissemination' under information-quality guidelines. Section I instructs agencies to make this clear by presenting the following disclaimer in the report:

“THIS INFORMATION IS DISTRIBUTED SOLELY FOR THE PURPOSE OF PRE-DISSEMINATION PEER REVIEW UNDER APPLICABLE INFORMATION QUALITY GUIDELINES. IT HAS NOT BEEN FORMALLY DISSEMINATED BY [THE AGENCY]. IT DOES NOT REPRESENT AND SHOULD BE CONSTRUED TO REPRESENT ANY AGENCY DETERMINATION OR POLICY.”⁹⁰

⁸⁸ Id., at 2672-3.

⁸⁹ Id., at 2665.

⁹⁰ Id., at 2667.

None of the documents disseminated by the FCC included this disclaimer. The agency clearly disseminated influential scientific information prior to peer review.

The intention of the guidelines is also to make the process transparent.

[The Bulletin] also establishes a transparent process for public disclosure of peer review planning, including a Web-accessible description of the peer review plan that the agency has developed for each of its forthcoming influential scientific disseminations.⁹¹

In sum, the 10 studies are “influential scientific information” disseminated prior to peer review. The agency never predicted what their informational status would be. The peer review was never placed on an agenda and made known to the public. The public never was afforded the opportunity to comment on the peer review plan.

ANALYTIC METHODOLOGY

Because the agency started with a biased research agenda and failed to conduct a proper peer review, the studies suffer from numerous methodological problems. Taken together, the discussion of the methodologies contained within the ten studies and the critiques in the post-dissemination peer reviews present a picture of a research program that is a muddled mess of

- Unrepresentative samples
- Poorly or incorrectly defined and incompletely described variables
- Missing variables
- Inconsistent and questionable statistical models
- Failure to report or analyze the magnitude of effects
- Theoretically questionable assumptions
- Incomplete analysis or failure to explain puzzling findings

For each of these eight broad categories there are several different specific examples of the problem, with three dozen in all. Because the FCC chose to use a single reviewer for

⁹¹ Id., at 2666.

each study, the quality of the reviews of the study was very uneven. Several of the reviewers did a great deal, others virtually nothing. Many of the criticisms offered by the more conscientious reviewers apply to the studies reviewed by the less conscientious reviewers (see Exhibit III-2).

Exhibit III-2: Methodological Problems in the FCC’s TV Output Studies

	Study 3	Study 4.1	Study 6
Unrepresentative samples⁹²			x
Poorly defined variables⁹³	x	x	x
Missing variables⁹⁴	x	x	x
Questionable Statistical Models⁹⁵	x	x	x
Failure to report effect magnitudes⁹⁶	x	x	x
Questionable assumptions⁹⁷	x		
Incomplete analysis⁹⁸	x	x	x

⁹² Representativeness of samples (Leslie II, p. 1; Sweeting, p. 3)

⁹³ Prime time (George, p. 5 (15)) Ownership variable (George, p. 4 (11); Leslie, p. 1)

Aggregation into networks (George, p. 5 (13))

Local v. national news (Leslie, p. 2)

Incomplete reporting of descriptive statistics (George, p. 2, Leslie II, p. 3)⁹³

Means, medians, standard deviations, extreme percentiles

outliers (George, p. 4 (3))

Heteroscedasticity (George, p. 4 (3))

Non independence of standard errors (George, p. 4 (3))

⁹⁴ Cable, ratings discussed but not included (George, p. 2)

Audience/market share (Leslie, p. 1)⁹⁴

Quality v. quantity (Leslie II, p. 2)

Cable carriage (Waterman)

⁹⁵ Robustness to alternative operationalizations (George, p. 1, 4 (1); Leslie, p. 3,

Leslie II, p. 2)

Values vs. percentages (George, p. 1, 4 (1); Leslie, p. 2)

Categorization of variables (Violent programming, p. 1, 5 (10))

Fixed effects specifications (Leslie, p. 2)

Aggregation of stations into networks (George, p. 4 (13))

Clustering (George, p. 4 (4)⁹⁵; Leslie, p. 2)

Time varying market effects (George, p. 4 (4))⁹⁵

Variables on both sides of equation (George, p. 5 (8))

Fallacy of multiple specifications

Probability of significance tests (Sweeting, p. 2)

Improper specifications (Sweeting, p. 2)

Expanding numbers of observations (Sweeting, p. 2)

Failure to report coefficients in models (Leslie II, p. 4)

Correlation v. causation (Leslie II, p. 3; Sweeting, p. 2)

⁹⁶ George, p. 4(6);⁹⁶ Leslie, p. 3

⁹⁷ Advertising (George, p. 3, 5 (16))

⁹⁸ Leslie, p. 3; Leslie II, p. 4; Sweeting p. 5

THE INSPECTOR GENERAL'S REPORT

The Inspector General has recently concluded that the localism study was not suppressed. It was just hung up in an intensive internal review of its methodology.⁹⁹ Ironically, and more importantly, the methodology used in the “delayed” paper is precisely the same methodology used by the statistical research studies commissioned by the FCC two years later. Perhaps the higher ups in the agency who “delayed” the study were just out of touch with the state of the art in the field, but one cannot help but wonder if it would have encountered such heavy weather if it had agreed with the thrust of what the agency had tried to do in the 2002 Final Order relaxing media ownership limits. Whether it was bias or ignorance, the handling of the “delayed” study does not speak well for the agency and its results still contradict the policy the Commission had pursued and the agenda that the Chief Economist laid out.

The Inspector General's (IG) report on the “suppressed” studies claims that it could find no smoking gun, but we are not convinced. At a minimum, it demonstrates gross incompetence and bias in the conduct of research by the agency.

The Media Bureau imposed entirely different standards on the Localism paper that it would not publish than it used on the ten Studies that it recently published. The only difference between the two is that the “suppressed” study contradicted the publicly stated preferences of the Chairman.

The criticism that the IG claims prevented publication of the localism study can be lodged in varying degrees against every one of the statistical studies that were published, but

⁹⁹ Office of Inspector General, Federal Communications Commission, “Report of Investigation into Allegations that Senior Management Ordered Research Suppressed or Destroyed,” October 4, 2007.

the agency chose not to do so. Indeed, for some of the studies that were published, the criticism could be even more severe.

The IG report notes three times the different specifications of the model. Ironically, Study 6, recently released by the Commission has been subject to even larger changes (see Exhibit III-3). Both the localism study and Study 6 involve the coding of news broadcasts. Almost two months after it was published, the author published a revised version with a different set of specifications for the most important variables in the model and these variables involve much wider spreads. Yet the Commission claims that this is “Influential Scientific Information.” It just so happens that the research supports the agency’s preconceived notion about the policy.

Exhibit III-3: Variation in Estimates of Effects, Localism Study compared to Study 6

	Initial	Second	% Change	Initial	Second	% Change
Localism Study (Minutes)						
	4	5.5	+37.5			
	5	3	-40.0			
	3	6.5	+117			
Study 6 (Coefficients)						
		Model 4			Model 5	
Total News	99.1	131.7	+32.9	65.7	55.4	+18.6
Local News	91.6	131.4	+43.4	78.8	85.1	+8
Local News(exlc s/w)	25	96.6	+286.4	26.6	70.3	+457.9
Local Politics	26.3	53.1	+101.9	24.9	45	80.7
Speaking Time	8	5.7	-28.75	9.6	5.8	-39.6
Coverage	18.6	18.3	-1.6	21.8	16.5	-24.3
Issue Coverage	-14.3	-4.9	+65.7	-13.7	-4.9	+64.2
Poll Coverage	3.6	3.0	-16.7	3	-.05	-101.7
Diff. Speaking Time	-5.2	-4.2	+19.2	-5.4	-4	+25.9
Diff. Cand. Coverage	-9.8	-8.2	+16.3	-5.4	-4.0	+25.9
Diff. Issues Coverage	-6.2	5.4	+187.1	-6.6	5.0	+175.8
Diff. Poll Coverage	-3.3	-1.4	+57.6	-3.0	-1.1	+63.7

Not only are there wild swings in the estimates depending on the specification, but in some cases the signs actually change. The agency appears to have failed to provide the same intensive oversight before publishing the studies with which it agrees as it did to the study with which it disagreed.

The IG report fails to acknowledge that the challenges about the choice of markets, dates and stations to study, which appear to be amongst the key criticisms that the authors of the study could not resolve, was not in the control of the authors of the study. Indeed, the IG report ignores entirely the regulatory role of the underlying database, which was described in Chapter II. This is ironic, and suspect, since the IG notes that there was concern about intellectual property involving the original study that was based on the data.

The IG concludes that none of the higher ups in the agency knew anything about the controversy. There were eight drafts, a cross bureau peer review, complaints about poor performance, and the head of the Bureau knew nothing about it? Sounds like substandard management to us. Of course, the fact that the creation of the Localism Task Force (LTF) and the initiation of a “Media Bureau Staff Research Papers Series” “overlapped substantially and at times the lines of authority and management were blurred” did not help matters.¹⁰⁰ The fact that the “Co-chair of the LTF...was also the Deputy Chief of the Media Bureau...appears to have given rise to confusion as to whether the project went forward as an LTF, or simply a Media Bureau Staff Research Paper Series, project” may have helped this controversy to escape the attention of the senior Bureau management.¹⁰¹

¹⁰⁰ Id., p. 5-6.

¹⁰¹ Id., p. 6.

While the Bureau head was ignorant of the localism analysis, he appears to have been involved in the decision not to publish the radio study. Here at least we have a smoking gun.

The then-Chief stated that he:

[was] not inclined to release this one unless the story can be told in a much more positive way. This is not the time to be stirring the “radio consolidation” pot... [Given that the reports in the series had been issued at uneven intervals in the past]. It would hardly seem odd if we did not release one this year... particularly given that we just did a big radio order as part of the biennial... All in all this is a really bad time to release something like this. If we can change the focus and make it more positive... then we can do something like this again, but this will take more than just regurgitating last year’s report with new numbers.¹⁰²

The intent here is not to produce valid and objective information but to spin the data in a way that supports the preconceived notion of the agency heads. The IG admits that this statement could be interpreted as a biased attempt to suppress the research, but chose to put a more benign interpretation on it.

The statement that the report might be done again if the focus could be more positive could be seen as an indication of a desire to twist or conceal facts. We found no evidence of such an intent, however, and accept that this statement was a policy-maker addressing the natural framing of issue and argument. The statement that it “is not time to be stirring the ‘radio consolidation’ pot” can similarly be viewed negatively as an apparent desire to avoid legitimate debate on a controversial Commission decision.¹⁰³

The IG concludes that “we believe this to be in part a reflection of the Bureau Chief’s oft-expressed concern that staff’s efforts and work product focus on matters actively before the Commission and the Media Bureau.”¹⁰⁴ The Chairman had launched the Broadcast Localism Initiative in September of 2003 and the consolidation of radio into national chains

¹⁰² Id., p. 15.

¹⁰³ Id.

¹⁰⁴ Id.

was front and center in that debate. The IG’s acceptance of this excuse is as lame as the excuse itself, if not more so.

The IG does conclude that at least one person “thought the instruction basically was to lie,” when asked about the report.¹⁰⁵ The bottom line is that the Bureau is given a pass,

We do not feel that the evidence is strong enough to establish with certainty that any improper or illegal acts to conceal the Draft 2003 Radio Report took place and therefore this cannot be a matter for referral. We suspect that, were the then-Media Bureau Chief still in place, we would refer matter to the Chairman for administrative consideration.¹⁰⁶

The IG then goes on to claim that since management has changed, there is nothing to worry about. “Given that different management is in place and that during our investigation we have not heard reports of similar situations, we do not see it necessary to refer this matter.”¹⁰⁷ Our analysis has shown that the bias in the agency against “stirring the consolidation pot” is still quite strong in the agency.

A criminal act was committed at the Agency with the destruction of data that cost the agency 550 professional hours to produce, but the Inspector General could not find out who committed the crime.¹⁰⁸ The report, however, does not demonstrate in any way that the agency did not deep-six research that it did not like. On the contrary, the shenanigans at the agency reinforce our suspicion.

Parts II and III demonstrate the price paid as a result of the breakdown of a proper research process. In Part II, we extract the usable data from the flawed, results-driven research framework and show that properly defined and executed analysis contradicts the

¹⁰⁵ Id., p. 16.

¹⁰⁶ Id., p. 17.

¹⁰⁷ Id.

¹⁰⁸ Id., p. 6.

original findings of the research. It certainly does not support the Chief Economist's campaign to get rid of the newspaper-TV cross-ownership limits.

TRANSPARENCY AND PUBLIC COMMENT

The abuse of the administrative process continued after the release of the studies.¹⁰⁹ Having taken over nine months to prepare and release 10 studies, the FCC established a 60-day comment period with 15 days for replies. The peer reviews, which could have helped to guide public comments, were not released by the agency until thirty days into the public comment period.

Worse still, final documents and data relied on by the studies was not fully available when the papers were released. Major changes were made in at least one case forty days into the comment period. All of the data in usable form was not available until 50 days into the comment period. The FCC jiggered the comment period, allowing only 30 days from the full availability of the research studies and data, but only 7 days for replies. Given the quantity of materials made available and the complexity of the research, the original comment and reply period of 60/15 was inadequate. The final 30/7 is grossly inadequate.

Given the meager time allowed for comments and replies, these comments focus on the flaws in the quantitative models and methods. As suggested above, a broader review of the record would show that the studies were framed with little reference to the body of

¹⁰⁹ See also Complain Under the Data Quality Act, of Consumers Union, Consumer Federation of America and Free Press, *In the Matter of 2006 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, September 11, 2007 (seeking the institution of a credible peer review process)

evidence before the Commission and are contradicted by the prior work of the Commission.

We have not had sufficient time to develop that line of analysis.

PART II

DOING IT RIGHT AND FILLING THE GAPS: EXTRACTING GOOD DATA FROM THE FCC'S BIASED RESEARCH FRAMEWORK

INTRODUCTION

Some of the flaws in the research create irreparable harm. When a sample is improperly drawn or a variable is improperly coded, the flaw is so deeply engrained in the DNA of the research that it cannot be corrected. Other mistakes can be corrected; for example where the data can be aggregated in different ways, variables can be defined in different ways, new variables added or better statistical models applied. This section attempts to repair the damage to the research done by the FCC's narrow and results-driven focus on the elimination of the newspaper-TV cross-ownership rule. It also addresses key flaws in the analysis of minorities in the media.

IV. MARKET LEVEL AND STATION LEVELS ANALYSIS WITH PROPERLY DEFINED VARIABLES AND STATISTICAL MODELS

OVERVIEW

The specific flaws in the individual studies will be discussed in Part III. This chapter takes a broader view of the studies and shows that they fail to address the fundamental public policy issues before the Commission. Because the studies were narrowly crafted by the FCC to attack the newspaper cross-ownership rule, they avoided the main questions, misdefined policy variables and failed to include key variables that were inconvenient to the story they were telling.

Unlike the chaotic pattern of the FCC studies, in this chapter we present a consistent framework to analyze the different data sets. There are three key steps we take to render the analysis consistent and meaningful.

Market Level Analysis

The most important step is to undertake a **market level analysis**.¹¹⁰ This is the central policy question, but the three studies that targeted the newspaper-TV ownership limit failed to conduct this type of analysis (one of the radio studies did). In Chapter III, we noted that the Chief Economist's framing of the issue was a market level issue.

RH1: In what follows, I assume that cross-ownership has the potential to decrease the quantity or quality of news coverage of local public affairs

¹¹⁰ "Reply Comments of the Consumer Federation of America, Consumers Union, Center for Digital Democracy and Media Access Project," *In the Matter of 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*, February 3, 2003, pp. 20-25.

available in local media. If it does not, then one could justify dropping or significantly relaxing the cross-ownership restriction on those grounds alone.¹¹¹

The policy concern is about the total amount and diversity of news available to citizens in the market. If one station increases its news because of a cross-ownership combination, but other stations decrease their news because of the disadvantage they suffer (e.g. if the combination involves a monopoly newspaper and its sister station is given preferential access to news stories, undermining the ability of stand alone stations to compete), then allowing the combination is not in the public interest.¹¹² Citizens lose an independent voice and have less news. It is difficult to know how much of an increase in the total news output is worth the loss of a major independent source of news, but there ought to be a substantial increase. Thus, we think the research hypothesis should be a substantial increase (rather than no decrease, as framed by the Chief Economist).

To put the matter simply; if cross-ownership does not lead to a substantial increase in the amount of news produced in the market, it cannot promote the public interest because it eliminates an important independent source of news in the market. Even if there is a substantial increase in the amount of news, one might not conclude that cross-ownership is in the public interest because the loss of an independent voice is not worth the increase in the quantity of news. It turns out that the latter, tough policy call is not a problem in the case of the newspaper-TV cross-ownership rule. Not only does cross-ownership not increase the

¹¹¹ Leslie M. Marx, Summary of Ideas on Newspaper-Broadcast Cross-Ownership,” June 15, 2006, p. 3.

¹¹² The crowding out argument was made in “Comments of the Consumer Federation of America, Consumers Union, Center for Digital Democracy and Media Access Project,” *In the Matter of 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*, January 2, 2003, pp. 189-195, 221-224, and Consumer Groups Reply Comments, p. 22.

amount of news available in a market, it actually decreases the amount of news. Allowing cross-ownership reduces both the quantity and diversity of news in the market.

Grandfathered vs. Waived Newspaper-TV Combinations

The second step is to properly define the policy variable. The studies used a broad category of cross-ownership as the policy variable. However, there are two very different types of stations that make up this category – **grandfathered stations and stations with waivers**. Throughout this proceeding we have argued that media owners pursue their interest and behave accordingly.¹¹³ The new FCC data corroborates that approach.

TV-newspaper combinations with waivers involve the recent entry of a TV station into a cross-ownership situation. The owners bought the news operation, they did not create it. To claim that the behavior of the acquired stations reflects the effects of cross-ownership is simply incorrect – in the form of an error of confusing correlation with causation. Cross-ownership did not create the behavior. Since the grandfathered situation have been in place for a long period of time, it is much more reasonable to argue that the behavior of the TV stations in those combinations reflects the long-term effect of cross-ownership.

The waived cross-ownership situations have been created recently, primarily by the merger of highly rated TV stations in large, competitive markets with dominant newspapers. The acquired stations produced more news before they merged and, lacking time series data,

¹¹³ Consumer Commenters, Comments, January 2, 2003, provides numerous examples, at 56-57, 78-79, 230-231. The distinction between recent and older combinations is made in Consumer Commenters, Reply Comments, February 3, 2003, pp. 20-25. A particularly telling example is provided in Mark Cooper, “The Impact of the Vertically Integrated Television-Movie Studio Oligopoly on Source Diversity and Independent Production,” Appendix A attached to the *Comments of Independent Film and Television Alliance*, pp. 49-50, dealing with the shifting argument offered by broadcasters in before and after the financial and syndication rules were repeal,

the analysis claims, “benefits” of cross-ownership that just reflect the acquisition of a station that already did more news. Exhibit IV-1 shows the average characteristics of market concentration, market size and market share for waived, grandfathered and non-cross-owned stations in the sampled markets. The stations that entered into cross-ownership combinations in recent years, subject to waiver, were in less concentrated, larger markets with high market shares.

Exhibit IV-1:

Key Station and Market Characteristics
(Average for Groups)

Cross-Own Status	Market HHI	Market Population	Station News Market Share
Waived	2622	8252	27.5
Grand father	2972	4089	27.2
Non-Cross Owned	2474	4089	25.6

Source: Based on Jeffrey Milyo, “The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News,” Federal Communications Commission, Study 6.

The newly minted TV-newspaper combinations are also likely to behave differently for another reason. As we have pointed out earlier in this proceeding, because they are subject to a waiver, they are likely to be on their best behavior. If the waivers are made permanent by a change in the policy, their behavior may change, perhaps in the direction of the grandfathered stations. The waived situations also have a unique set of incentives. While we might expect these large commercial entities to lean Republican, the holders of waived licenses have their financial interests at risk in the possibility that they might be forced to divest their holdings. Democrats in both houses of Congress have made their dissatisfaction

with the effort to relax the limitations on ownership well known. Faced with this direct threat to their economic interests, holders of waived licenses might be expected to be on their “best behavior.” Taking the strategy to the extreme, they might favor democrats. Once the threat is removed, as in a rule change, they might revert to normal interest based behavior.

We show that the difference between the grandfathered and waived stations is large and refutes the claim that newspaper-TV cross-ownership is in the public interest.

Market Concentration and Other Policy Relevant Variables

The third step is to use a consistent set of policy relevant variables. In particular, one of the central issues in the FCC’s own statement of public policy – competition – seems to have disappeared from the analysis. None of the studies includes the central variable in such an analysis – **the concentration ratio or HHI**. We consistently include all of the other policy relevant variables in the analysis – duopolies, local ownership, female ownership, minority ownership, TV-radio cross-ownership, and TV-newspaper cross-ownership. We also include measures for the reach of the parent, which has been removed by Congress from the policy purview of the FCC, but remains an important characteristic of media market structure that must be controlled in the statistical analysis.

Properly Executed Statistical Models

The fourth step is to use a consistent statistical model. Two of the three studies involving TV-newspaper cross-ownership fail to make **critical adjustments** to prevent biasing the results. The one study (Study 6) that did make these adjustments argues strongly for their use, as did the peer reviewer of one of the other studies (Study 3).

SETTING UP THE ANALYSIS

The general approach of the FCC studies was to provide a number of different specifications, including and excluding different sets of variables, with the author analyzing a “preferred” specification. The theoretical basis for some of the specification was not well grounded and each of the studies used a different set of variables. There are literally thousands, if not tens of thousands of possible combinations of variables that might be considered. Given the compressed time frame allowed for comments on the studies, for the purpose of this analysis we present only the full model (see Exhibit IV-2). By that we mean we included the full fixed effects models including all of the covariates and control variables used in Study 6 and the additional control variables we identified in other studies, as well as all the policy variables.

We have also included the largest set of variables that occurs across all three of the studies. For example, Study 4.1 included a VHF dummy as a control variable, but Studies 3 and 6 did not. The literature actually supports the inclusion of a VHF dummy (although we have argued that a stations dummy is more appropriate).

Exhibit IV-2: The Statistical Approach

Control Variables

<u>DMA Demographics</u>	<u>DMA Media</u>	<u>DMA Stations</u>
Population	% Cable	% Commercial
Population Squared	% DBS	% O and O
% Black	% Internet	% Spanish Lang.
% Hispanic	% BB	
Income		

<u>DMA Affiliation</u>	<u>Market Parents</u>
Fox Present	Average Coverage
% Commercial are Big 3	Total Revenue

Policy Variables

% Duopoly
% Local Owner
% Female
% Minority
Presence of TV-Radio XO
HHI
XO Present
Waived/Grandfathered Present

Statistical Approach (OLS with the following)

Year Fixed Effects
Clustered
Robust Standard Errors

Because the three TV studies did not conduct market level analyses, we had to transform the station level variables into market level variables. We did so by following the approach used in the one radio study (Study 5) that presented a market level analysis. Essentially, we calculate the proportion of stations in the market exhibiting important characteristics as control variables. The variables that are “out of market,” such as the national coverage or revenue of the parents, do not require such a transformation.

For the market level analysis, we cannot use the market as a covariate, so we utilize an extensive list of market demographics and media characteristics to control for the variation between markets. The point of all the control variables and covariates is to hold constant all the factors that might affect station behavior in the market, other than ownership or the other policy variables. Thereby we avoid attributing outcomes to the policy variables that should be attributed to other factors.

In the reported, “preferred” models we include year fixed effects and adjust for heteroscedasticity and correlated error by clustering and calculating robust standard errors.

Our general preferred “Full/Full” market level models are specified as follows:

$$\begin{aligned}
 [News]_{it} = & \beta_1 dmahh_{it} + \beta_2 dmahh2_{it} + \beta_3 poppercentblack_{it} + \beta_4 poppercenthispanic_{it} + \\
 & \beta_5 dmapercapitaincome_{it} + \beta_6 pct_cablehh_{it} + \beta_7 pct_dbshh + \beta_8 pct_bbhh_{it} + \beta_9 pct_inthh_{it} + \\
 & \beta_{10} percentofcommarebig4_o_and_o_{it} + \beta_{11} percentofspanishlangsta_{it} + \\
 & \beta_{12} percentofcommstaarebig3_{it} + \beta_{13} foxmarket_{it} + \beta_{14} parentuspctcoverage_{it} \\
 & + \beta_{15} sumparentrevenue_{it} + \beta_{16} percentduopolystations_{it} + \beta_{17} percentlocalownedstations_{it} \\
 & + \beta_{18} percentfemaleownedstations_{it} + \beta_{19} percentminorityownedstations_{it} + \beta_{20} mkt_hhirev_{it} \\
 & + \beta_{21} percentVHFstations_{it} + \beta[xo]_{it} + \beta[yearfe] + \epsilon_{it}
 \end{aligned}$$

Where:

[News] = news variable; either total minutes (or percent) of local news, total news, or public affairs

dmahh = DMA households

dmahh2 = DMA households * DMA households

poppercentblack = percent black population in DMA

poppercenthispanic = percent Hispanic population in DMA

dmapercapitaincome = DMA per capita income

pct_cablehh = percent cable TV households in DMA

pct_dbshh = percent satellite TV households in DMA

pct_bbhh = percent of homes with broadband in DMA

pct_inthh = percent of homes with Internet in DMA (not used in Study 4 due to missing data from 2002)

percentofcommarebig4_o_and_o = percent of market’s commercial stations that are NBC, ABC, CBS or Fox owned-and-operated affiliates

percentofspanishlangsta = percent of market’s stations that are Spanish language

percentofcommstaarebig3 = percent of market’s commercial stations that are ABC, CBS, or NBC affiliates

foxmarket = dummy for a market with a Fox affiliate

parentuspctcoverage = percent of U.S. population reached by parent TV company

sumparentrevenuepkt = sum of the revenues of the parent companies in the market

percentduopolystations = percent of a market's stations that are in multiple ownership combinations

percentlocalownedstations = percent of market's stations that are locally-owned

percentfemaleownedstations = percent of market's stations that are female-owned (based on the incorrect study 2 data)

percentminorityownedstations = percent of market's stations that are minority-owned (based on the incorrect study 2 data)

mkt_hhirev = HHI value for market calculated based on revenue shares

percentVHFstations = = percent of market's stations that are VHF

[xo] = dummy variable for newspaper-TV combo station; also modeled as "xo_waived" and "xo_grandfathered" to distinguish between waived and grandfathered cross-owned stations

[yearfe] = year fixed effects

THE QUANTITY OF NEWS AND PUBLIC AFFAIRS AVAILABLE IN THE MARKET

Cross-Ownership

The policy hypothesis that is necessary to justify relaxing the ban on cross-ownership is not supported by the FCC's data at the market level (see Exhibit IV-3). Markets with TV-newspaper combinations do not have more news they have less. Every coefficient is negative, three of the four are larger than their standard errors and one is significant. Refining the variable to distinguish between grandfathered and waived situations reinforces the finding. It is the grandfathered stations that have the larger negative effects by far. All the coefficients are negative and two of the four are significant. In contrast, all four of the coefficients on the waived stations are positive, although none are significant.

Exhibit IV-3: Market Level Models of News Output

OLS, DMA and Year Fixed Effects; Robust Standard Errors clustered on Market	News Minutes (Local)		News Minutes (All)		Public Affairs Minutes		Public Affairs Minutes	
	Study 3		Study 4		Study 3		Study 4	
	XO	W-G	XO	W-G	XO	W-G	XO	W-G
DMA Homes	1,514.49	1,540.00	0.009	0.009	642.246	676.107	0.001	0.001
	[662.662]**	[665.095]**	[0.003]***	[0.003]***	[337.409]*	[332.315]**	[0.001]	[0.001]
(DMA Homes) ²	-66.382	-74.241	0	0	3.347	-7.086	0	0
	[68.717]	[70.254]	[0.000]***	[0.000]***	[37.285]	[38.111]	[0.000]	[0.000]
% black	-12.426	-12.581	-135.057	-137.197	0.558	0.352	-13.833	-14.81
	[6.372]*	[6.419]*	[28.428]***	[28.586]***	[3.775]	[3.780]	[9.624]	[9.881]
% Hispanic	0.744	0.923	41.256	40.092	2.85	3.088	-1.024	-1.267
	[7.552]	[7.572]	[39.321]	[39.318]	[4.087]	[4.099]	[7.176]	[7.305]
DMA per cap income	0.051	0.053	0.105	0.106	0.002	0.004	-0.008	-0.006
	[0.040]	[0.040]	[0.105]	[0.104]	[0.016]	[0.016]	[0.027]	[0.028]
% cable HH	0.314	0.448	0	0	-1.334	-1.156	0	0
	[8.579]	[8.602]	[0.000]	[0.000]	[5.172]	[5.156]	[0.000]	[0.000]
% DBS HH	7.843	8.963	9.948	12.535	2.48	3.967	10.294	11.903
	[15.255]	[15.712]	[41.566]	[41.783]	[8.030]	[8.129]	[8.086]	[8.225]
% Internet HH	-39.331	-40.052			-5.402	-6.359		
	[22.218]*	[22.357]*			[9.579]	[9.044]		
% Broadband HH	15.634	15.591	0.96	0.772	-2.275	-2.333	0.163	0.037
	[14.222]	[14.216]	[0.637]	[0.728]	[6.867]	[6.857]	[0.231]	[0.304]
% commerc. Stations	-42.503	-42.503	-59.406	-59.647	-31.964	-31.963	-46.464	-46.601
	[6.068]***	[6.080]***	[23.502]**	[23.539]**	[3.038]***	[3.043]***	[7.289]***	[7.252]***
% O&O	19.981	20.53	3.326	6.55	-0.93	-0.201	-8.614	-6.285
	[24.170]	[24.068]	[115.285]	[113.840]	[11.011]	[10.943]	[50.112]	[49.796]
% Spanish stations	3.33	3.043	-25.546	-30.233	-23.294	-23.675	-31.326	-33.628
	[14.124]	[14.081]	[75.829]	[75.426]	[8.031]***	[8.012]***	[17.665]*	[18.207]*
% Big 3 stations	-23.468	-23.435	48.588	48.29	-14.188	-14.144	-11.342	-11.33
	[5.830]***	[5.844]***	[33.410]	[33.527]	[3.131]***	[3.120]***	[8.707]	[8.659]
Fox Market	-648.875	-663.643	1,451.19	1,304.89	-305.471	-325.075	220.282	143.07
	[259.254]**	[259.861]**	[1,617.416]	[1,613.340]	[142.153]**	[142.904]**	[317.324]	[327.218]
Parent avg. U.S. % reach	-65.493	-65.075	-60.317	-83.54	-17.01	-16.455	-69.721	-80.957
	[56.165]	[56.076]	[195.511]	[193.466]	[27.761]	[27.815]	[70.051]	[69.847]
Market: total parent rev	149.496	147.821	0.559	0.623	-39.894	-42.118	0.135	0.167
	[130.511]	[130.418]	[0.620]	[0.614]	[64.195]	[63.700]	[0.181]	[0.179]
% duopoly stations	21.547	21.231	23.551	22.289	8.942	8.523	19.106	18.626
	[6.213]***	[6.296]***	[24.537]	[24.437]	[5.552]	[5.589]	[11.394]*	[11.455]
% locally owned stations	7.045	7.381	7.609	10.1	3.331	3.777	4.414	5.75
	[4.056]*	[4.050]*	[17.169]	[17.237]	[1.767]*	[1.772]**	[4.583]	[4.611]
% female owned stations	42.649	43.611	234.019	238.978	-11.678	-10.402	-8.321	-5.464
	[28.394]	[28.798]	[96.453]**	[96.751]**	[9.558]	[9.748]	[17.532]	[17.758]
% minority owned stations	-18.814	-17.204	82.121	87.274	-16.145	-14.008	-12.12	-9.057
	[23.573]	[22.946]	[96.307]	[96.114]	[8.722]*	[8.591]	[15.331]	[14.278]
HHI (revenue)	-0.421	-0.422	-1.931	-1.952	-0.077	-0.078	-0.201	-0.211
	[0.051]***	[0.051]***	[0.214]***	[0.216]***	[0.025]***	[0.025]***	[0.052]***	[0.053]***
XO present	-202.156		-1,292.71		-42.816		-372.361	
	[227.183]		[952.324]		[138.618]		[405.094]	
XO_Waived present		18.166		155.951		249.656		590.509
		[350.235]		[1,350.507]		[310.102]		[914.911]
XO_Grandf. Present		-281.871		-2,075.28		-148.635		-754.268
		[283.350]		[1,115.761]*		[138.061]		[377.692]**
% VHF stations	4.836	4.858	34.182	33.992	0.514	0.544	0.678	0.685
	[3.666]	[3.665]	[16.462]**	[16.438]**	[2.069]	[2.067]	[2.848]	[2.831]
Constant	10,264.73	10,229.95	17,250.07	17,435.28	4,944.69	4,898.52	7,007.92	7,023.97
	[1,432.389]**	[1,444.706]**	[4,597.316]**	[4,609.342]**	[871.955]**	[870.393]**	[1,225.744]**	[1,247.830]**
Observations	621	621	840	840	621	621	840	840
Adjusted R-squared	0.822	0.822	0.609	0.609	0.602	0.605	0.491	0.498
Robust standard errors in brackets	* significant at 10%; ** significant at 5%; *** significant at 1%							

Throughout the proceeding, we have affected a clear substantive explanation of this pattern. For the grandfathered stations, given the small number of newspapers and television stations in most markets, the combination creates a dominant firm. Other outlets reposition themselves away from the space where they have a disadvantage. The net effect is to lower the total output of news in the market. For the waived stations, the combination acquired previously existing news production. It has not yet had the opportunity to have the chilling effect.

Other Policy Variables

The sign of the coefficient on the market concentration variable is also consistently negative. Indeed, it is the most consistent of all the policy variables with all eight coefficients highly significant.

The sign on the local ownership variable is consistently positive. Four are statistically significant, and a fifth is larger than its standard errors.

The coefficients on the other policy variables are mixed. Four of the eight coefficients on female ownership are positive, with two significant and the other two larger than their standard error. Of the four negative coefficients, none is significant but two are larger than their standard error. For minority ownership, six of the coefficients are negative and two are positive. One of the negative coefficients is significant and another one larger than its standard error. The female and minority ownership variables must be interpreted with great caution for two reasons. First, it is not clear that the public policy hypothesis involves the quantity of news and public affairs programming produced. The claim is not that female and minority owners will necessarily result in the production of more content; rather it is that they will produce content with a different point of view. Moreover, we have shown that the FCC

does not have a good handle on which stations are owned by females and minorities. The underlying variable may be incorrectly defined and therefore useless.

For duopolies, all six of the coefficients are positive, three of which are significant and another three are larger than their standard errors. While the positive coefficients indicate that duopolies may lead to more local news and public affairs, this effect is offset by the negative impact on output through increased concentration. Since duopolies increase market concentration, statistically, the net effect depends on how much the creation of a duopoly would increase concentration. Thus, the FCC policy of not allowing duopolies between stations owned by the top four networks makes good sense.

For the four variables (concentration, duopoly, cross-ownership and localism) where the policy claim tends to be a quantity hypothesis, the findings are directly relevant to the policy issue. The presence of cross-owned stations (especially grandfathered stations) is associated with less local news and public affairs. With a higher percentage of local owners comes more local news and public affairs. As market concentration increases, local news and public affairs availability decreases, but duopolies appear to work in the opposite direction. The net effect of duopoly mergers depends on how much they affect concentration in the market.

CROSS OWNERSHIP IN SMALL MARKETS

The previous section shows that cross ownership does not increase the quantity of news available in the market. A second measure of output at the market level that is relevant to FCC media policy is the number of stations that provide news in the market. The larger the number of independent stations, the greater the diversity of voices.

In the curtailment analysis, the Chief Economist also offered a specific hypothesis about cross ownership and the number of stations in the market. In fact, the Chief Economist identified a fourth study in the plan to eliminate or relax the cross ownership rule with the following research hypothesis:

RH5: a study that finds evidence that TV stations in small markets tend to shut down their news divisions would suggest that cross-ownership in small markets not reduce diversity and would potentially increase the dissemination of local news.¹¹⁴

In Chapter III, we showed that the data provided by industry on curtailments does not support the conclusion that relaxing the cross-ownership limit would ameliorate any perceived financial problems in small markets, but the industry has continued to fill the record with misleading data. The FCC did not undertake such a study, but there is data available in the other studies that can be used to address the hypothesis. The data sets created by the FCC can be used to examine the hypothesis in the fourth recommended study.

The claim is that to the extent that stations are less likely to abandon news, we should see both more stations doing news in smaller markets (since cross-ownership keeps an additional news station in the market), and a bigger effect of cross-ownership on the number of minutes of news in small markets. For the purpose of this analysis, we adopt the Chief Economists definition of market size. Markets with fewer than six commercial stations are considered small markets.

Exhibit IV-4 shows the characteristics of the small markets compared to the characteristics of all markets. The number of stations that provide news is lower in small markets as is the amount of news. However, the average number of minutes of news per station is higher in small markets.

¹¹⁴ Marx, p. 15.

Exhibit IV-4: Average Characteristics of Markets

Averages	All Markets	Small Markets
Number of Minutes (Local News) Study 3	4664	3098
Number of Minutes News, Study 4	18483	11445
Number of Stations Doing News	7	4.2
Population	1,386,975	483,473

Exhibit IV-5 shows the results of regressions using the preferred (Full/Full) model described above. The top of Exhibit IV-5 contrast the effect of cross ownership on the number of minutes of news in all markets to its effect on the number of minutes of news in small markets. The bottom part of Exhibit IV-5 presents similar results with respect to the number of stations in the market that provide local news as the dependent variable.

Exhibit IV-5: Effects of Cross Ownership on News Production by Market Size

OLS	Study 3		Study 4	
	All Markets	Small Markets	All Markets	Small Markets
Minutes of News (Local News for Study 3)				
Cross-Owned Newspaper-TV Station	-202.2 [227.2]	-316.1 [193.5]*	-1292.7 [952.3]	-62.2 [414.7]
Waived Cross-Owned Newspaper-TV Station	18.2 [350.2]	-180.8 [274.1]	295.4 [1256.1]	465.7 [428.3]
Grandfathered Cross-Owned Newspaper-TV Station	-281.9 [283.4]	-432.5 [197.3]**	-875.5 [1334.9]	-552.3 [431.4]

OLS	Study 3		Study 4	
	All Markets	Small Markets	All Markets	Small Markets
Number of Stations Airing News (Local News for Study 3)				
Cross-Owned Newspaper-TV Station	0.184 [0.332]	0.088 [0.358]	-0.503 [0.367]	-0.068 [0.244]
Waived Cross-Owned Newspaper-TV Station	0.143 [0.489]	-0.247 [0.372]	0.016 [0.515]	0.163 [0.309]
Grandfathered Cross-Owned Newspaper-TV Station	0.199 [0.416]	0.376 [0.527]	-0.747 [0.454]*	-0.283 [0.275]

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

The claim that small market would benefit more from cross ownership is not supported in the number of minutes analysis. The negative effect of cross ownership on the number of minutes of news available in the market is generally larger for small markets, especially on the grandfathered variable.

The results for the number of stations doing news are mixed. About half of the coefficients are positive, although none of the positive coefficients are statistically significant or larger than their standard errors. Several of the negative coefficients are larger than their standard errors. The negative effects are more likely to be observed in smaller markets.

STATION LEVEL OUTPUT: DOES OWNERSHIP MATTER

Methodological Issues

Study 6 is incorrectly designed to address the issue of the quantity of news provided in a market because it did not include markets that do not have a cross-owned station. There is nothing to compare the performance of cross-owned markets to. Therefore, its analysis of the quantity of output at the station level is largely irrelevant. However, it also attempts to define a series of variables that could be relevant to the policy analysis at the station level.

Study 6 attempts to examine the bias in TV station coverage of local elections for federal offices. It specifically measures the amount of

- time candidates are shown speaking,
- time candidates are covered,
- specific issues (deemed to be partisan) are covered, and
- the amount of time devoted to polls.

The Chief Economist offered the following framing of the question.

A study that finds that co-owned newspapers and TV stations express viewpoint diversity that is similar to that of comparable newspaper-TV pairs that are not co-owned would suggest cross-ownership does not reduce viewpoint diversity.¹¹⁵

In theory, if there are no differences between owners in coverage, then it would not matter who owns what. In practice, the analysis is fraught with problems that render it questionable as an indicator of the importance of ownership. Among the more obvious problems discussed in greater detail in Chapters IX and X are the following.

There is a vast array of issues, other than elections, that are important to cover where bias might be exhibited. Indeed, a good case can be made that elections entail the least

¹¹⁵ Leslie M. Marx, "Summary of Ideas on Newspaper-Broadcast Cross-Ownership," June 15, 2006, p. 15.

amount of media bias and influence. Local issues that directly affect owner interests are better candidates for the study of bias.

The quantity of time devoted to an issue is only one of the critical aspects of reporting. The actual slant of the reporting is important as well.

As described in Chapter X below, only two of the measures of political output of stations seem to be reasonably well conceived and measured – those dealing with the candidates speaking and coverage. Candidates spend a great deal of money to get their message out – to speak and attract attention to their campaign. They frequently try to get coverage from earned media by holding events, issuing press releases, etc. While slant can be laid over a candidate speaking or woven into the coverage of a campaign, most candidates would probably benefit from having more time to speak and getting more coverage of their campaign on news broadcasts.

Results

To begin the analysis, Exhibit IV-6 shows all of the coefficients presented in Study 6 involving newspaper-TV cross-ownership and the two slant variables. All fourteen of the coefficients are negative, indicating a Republican slant. All are larger than their standard errors and two are statistically significant. Clearly, the cross-owned stations lean Republican.

When we introduce the additional control variables and the distinction between cross-owned and waived stations, that conclusion becomes much stronger for cross-owned stations that were grandfathered.

Exhibit IV-6:

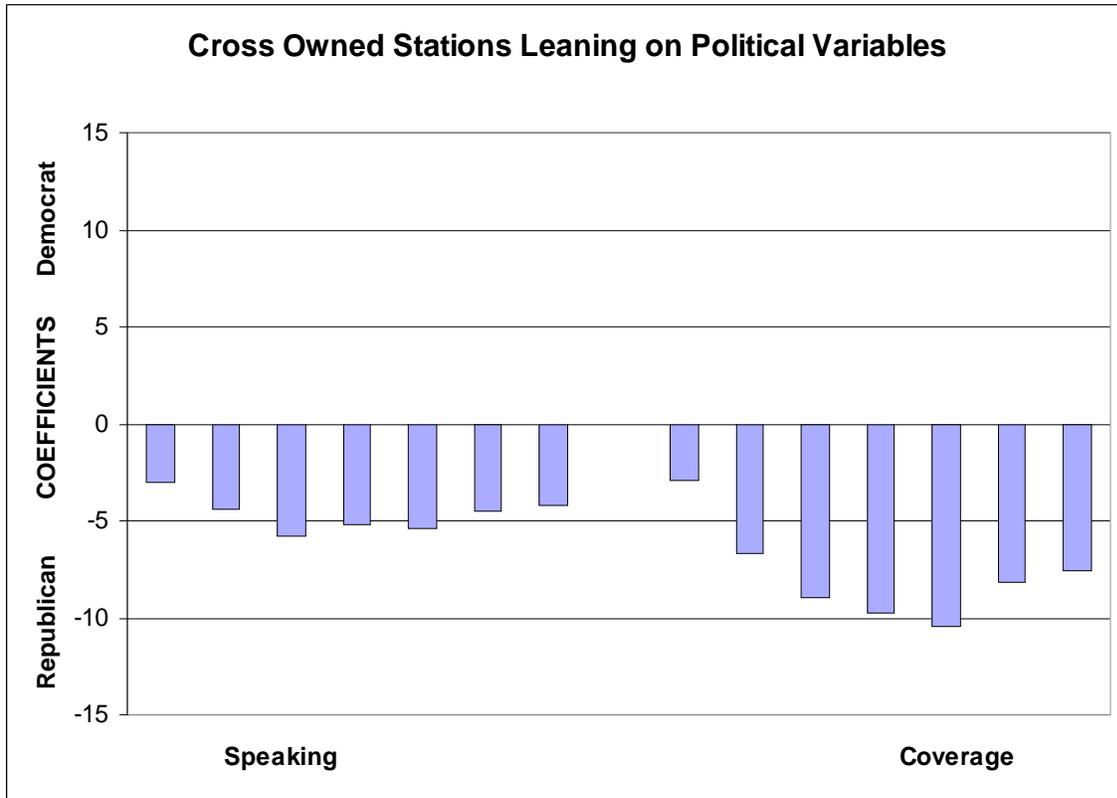


Exhibit IV-7 shows the results of the Study 6 preferred specification (the full model) and our preferred specification, which adds several additional control variables (the Full/Full model). All eight coefficients on cross ownership are negative ((i.e. leans Republican) and all eight are larger than their standard error, three being statistically significant. In the Full/Full model, cross-ownership leans Republican and two of the four coefficients are statistically significant. Distinguishing between waived and grandfathered combinations reveal that the grandfathered combinations lean heavily Republican – all four coefficients are statistically significant – while the waived combinations lean Democratic on speaking time and Republican on candidate coverage, but none of the coefficients are larger than their standard error.

**Exhibit IV-7:
Relationships Between Political Slant Variables and Cross-Ownership**

Results from Regressions on Difference in Candidate Speaking		Non-Pooled Models			Pooled Models		
(Democratic-Republican)		Cross-Owned	Waived	Grandfat h.	Cross-Owned	Waived	Grandfat h.
Study 6 - Full Model	Coefficient	-5.35	1.2	-10.98	-3.96	1.53	-6.55
	[robust std. err.]	[4.15]	[3.15]	[7.77]	[3.24]	[3.19]	[5.02]
	(p-value)	(0.200)	(0.704)	(0.160)	(0.225)	(0.633)	(0.195)
Consumer Groups' Full/Full Model	Coefficient	-4.82	1.17	-11.73	-4.18	1.31	-8.6
	[robust std. err.]	[3.23]	[3.15]	[6.63]*	[2.74]	[3.20]	[4.65]*
	(p-value)	(0.139)	(0.711)	(0.080)*	(0.130)	(0.682)	(0.067)*
Results from Regressions on Difference in Candidate Coverage		Non-Pooled Models			Pooled Models		
(Democratic-Republican)		Cross-Owned	Waived	Grandfat h.	Cross-Owned	Waived	Grandfat h.
Study 6 - Full Model	Coefficient	-10.39	-1.98	-20.32	-7.56	-1.35	-11.69
	[robust std. err.]	[5.75]*	[7.20]	[8.34]**	[5.18]	[7.29]	[6.78]*
	(p-value)	(0.073)*	(0.784)	(0.017)**	(0.146)	(0.853)	(0.088)*
Consumer Groups' Full/Full Model	Coefficient	-11.58	-5.16	-23.93	-10.23	-4.89	-17.8
	[robust std. err.]	[5.27]**	[5.95]	[9.56]**	[5.14]**	[6.04]	[7.94]**
	(p-value)	(0.030)**	(0.387)	(0.014)**	(0.049)**	(0.421)	(0.027)**

Exhibit IV-8 shows that this result holds up when the political control variables are included in the estimating model. Including the political variables strengthens the conclusion. For the Full/Full model, every coefficient on the grandfathered variable is statistically significant, four of the six at the 5 percent level.

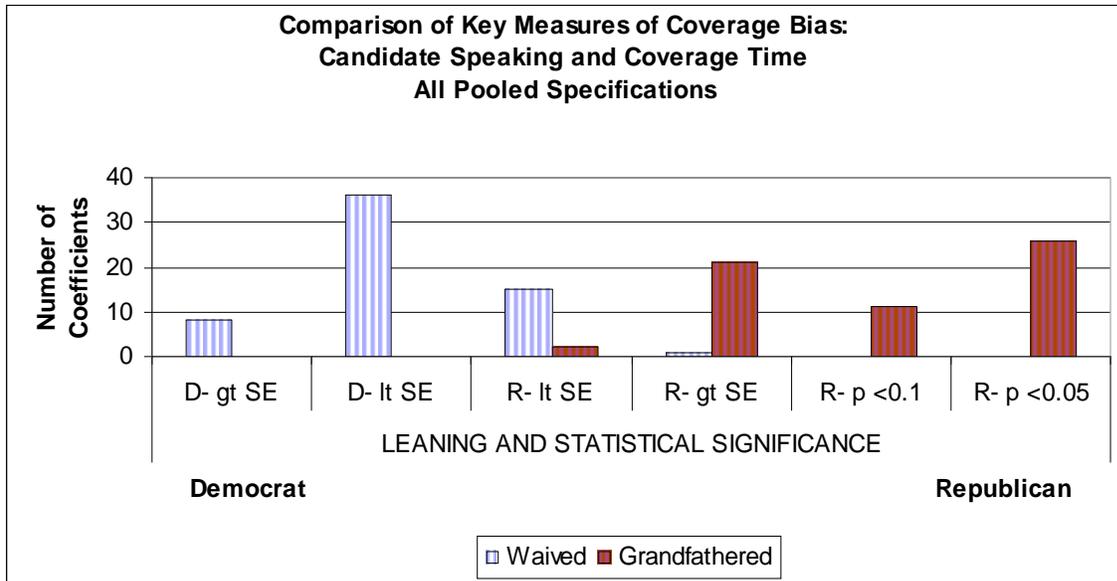
Exhibit IV-8: Political Slant Variables and Cross-Ownership and Political Controls

Results from Regressions on Difference in Candidate Speaking		Non-Pooled Models			Pooled Models		
(Democratic-Republican)		Cross-Owned	Waived	Grandfat h.	Cross-Owned	Waived	Grandfat h.
Study 6 - Full Model	Coefficient	-5.35	1.2	-10.98	-3.96	1.53	-6.55
	[robust std. err.]	[4.15]	[3.15]	[7.77]	[3.24]	[3.19]	[5.02]
	(p-value)	(0.200)	(0.704)	(0.160)	(0.225)	(0.633)	(0.195)
Consumer Groups' Full/Full Model	Coefficient	-4.82	1.17	-11.73	-4.18	1.31	-8.6
	[robust std. err.]	[3.23]	[3.15]	[6.63]*	[2.74]	[3.20]	[4.65]*
	(p-value)	(0.139)	(0.711)	(0.080)*	(0.130)	(0.682)	(0.067)*
Results from Regressions on Difference in Candidate Coverage		Non-Pooled Models			Pooled Models		
(Democratic-Republican)		Cross-Owned	Waived	Grandfat h.	Cross-Owned	Waived	Grandfat h.
Study 6 - Full Model	Coefficient	-10.39	-1.98	-20.32	-7.56	-1.35	-11.69
	[robust std. err.]	[5.75]*	[7.20]	[8.34]**	[5.18]	[7.29]	[6.78]*
	(p-value)	(0.073)*	(0.784)	(0.017)**	(0.146)	(0.853)	(0.088)*
Consumer Groups' Full/Full Model	Coefficient	-11.58	-5.16	-23.93	-10.23	-4.89	-17.8
	[robust std. err.]	[5.27]**	[5.95]	[9.56]**	[5.14]**	[6.04]	[7.94]**
	(p-value)	(0.030)**	(0.387)	(0.014)**	(0.049)**	(0.421)	(0.027)**

The dramatic difference between waived and grandfathered stations is even more apparent when all of the specifications are examined. Exhibit IV-9 categorizes the leaning and statistical significance of the coefficients for all specifications of the pooled model. The

grandfathered stations lean Republican, with the majority of the coefficients statistically significant and almost all larger than their standard errors. The waived stations are split between leaning Democratic and Republican, with none being statistically significant. However, about ten percent of the coefficients in which the station leans democratic are larger than their standard errors.

Exhibit IV-9:



Counts of coefficients based on all 10 specifications for “pooled” models with and without political variables.

Exhibit IV-10: Market-Level Summary Statistics Derived from Study 3

Market Level Variables Derived From Study 3	Mean	Median	Minimum	Maximum	Standard Deviation
Total Minutes of Local News - Market	4664.003	4264.045	603.5928	16620.84	2556.906
Average Percent of Local News - Market	0.1342427	0.1324948	0.0436508	0.2420635	0.0286234
Average Percent of Public Affairs - Market	0.0268268	0.0238808	0	0.1587302	0.0194479
Total Minutes of Public Affairs - Market	1014.959	720.0001	0	6840	939.2431
DMA Households	0.5369504	0.27597	0.00398	7.36695	0.8193319
DMA Households Squared	0.9585394	0.0761594	0.0000158	54.27195	4.518846
Percent Black Population	11.14501	6.662152	0.3062162	63.1419	11.66567
Percent Hispanic Population	9.952567	3.759686	0.5564008	94.54105	15.1596
DMA Per Capita Income	28703.52	27839.28	15279.34	49582.43	4724.384
Percent Cable Households	56.98243	54.85147	17.35276	82.64625	9.965662
Percent DBS Households	24.00439	24.01057	3.68835	40.13976	6.621391
Percent Internet Households	52.45756	52.36431	33.62068	68.10402	6.347191
Percent Broadband Households	25.49878	24.52844	1.69864	56.71284	10.72621
Percent Commercial Stations	78.88325	80	33.33333	100	12.55196
Percent Owned and Operated (Big4) Stations	2.762352	0	0	28.57143	6.150898
Percent Spanish Language Stations	3.138364	0	0	40	7.749679
Percent of Commercial Stations That are Big 3 Affiliates	52.55858	50	13.04348	100	23.13747
Fox Market Dummy	0.821256	1	0	1	0.3834466
Average Parent U.S. Percent Coverage in Market	5.611625	3.6724	0.005	21.14556	5.090318
Sum Total of the Revenue of all Parent Companies in Market	2.1587	0.801125	0.00075	19.26365	3.156846
Percent of Market's Stations that Are Duopoly	6.321883	0	0	66.66666	12.49242
Percent of Market Stations That are Locally Owned	21.41063	20	0	100	18.3258
Percent of Stations that Are Female Owned	1.002258	0	0	20	3.377594
Percent of Stations that Are Minority Owned	0.6010349	0	0	20	2.750427
HHI (Market Revenue)	3721.577	2904.628	1550.243	10000	2109.541
Waived Cross-Owned Station in Market	0.0386473	0	0	1	0.1929084
Grandfathered Cross-Owned Station in Market	0.0869565	0	0	1	0.2819985
Average Year Started of Stations In Market	1970.755	1971	1953	1986	6.029069
Percent of Market's Stations That Are VHF	37.72994	33.33	0	150	23.70323

Exhibit IV-11: Market-Level Summary Statistics Derived from Study 4

Market Level Variables Derived From Study 4	Mean	Median	Minimum	Maximum	Standard Deviation
Total Minutes of News - Market	18483.03	16740.5	1730	71787	10490.96
Total Minutes of Public Affairs - Market	2588.025	1991.5	60	17064	2270.224
DMA Households	517685.9	266640	4960	7376330	799322
DMA Households Squared	9.06E+11	7.11E+10	2.46E+07	5.44E+13	4.39E+12
Percent Black Population	11.05775	6.695054	0.3062162	63.1419	11.59579
Percent Hispanic Population	9.775011	3.751433	0.5483429	94.54105	14.99758
DMA Per Capita Income	28282.03	27434.3	14882.43	49582.43	4748.341
Percent Cable Households	6.74E+07	54.32658	4.485263	5.66E+10	1.95E+09
Percent DBS Households	21.1881	22.43029	0	37.78422	8.67993
Percent Broadband Households	29.25775	18.57795	0	3932	181.9119
Percent Commercial Stations	78.8449	80	33.33333	100	12.48974
Percent Owned and Operated (Big4) Stations	2.56822	0	0	25	5.773498
Percent Spanish Language Stations	2.977335	0	0	50	7.589968
Percent of Commercial Stations That are Big 3 Affiliates	57.53315	57.14286	13.63636	100	22.2359
Fox Market Dummy	0.8190476	1	0	1	0.3852081
Average Parent U.S. Percent Coverage in Market	5.601098	3.701485	0.005	21.14556	5.113751
Sum Total of the Revenue of all Parent Companies in Market	1840.508	806.775	0.75	11112.73	2362.391
Percent of Market's Stations that Are Duopoly	7.822786	0	0	66.66666	13.67049
Percent of Market Stations That are Locally Owned	21.62368	20	0	100	18.32339
Percent of Stations that Are Female Owned	1.107324	0	0	28.57143	3.72808
Percent of Stations that Are Minority Owned	0.8764215	0	0	40	3.813772
HHI (Market Revenue)	3749.099	2930.689	1550.243	10000	2132.174
Waived Cross-Owned Station in Market	0.0380952	0	0	1	0.1915402
Grandfathered Cross-Owned Station in Market	0.0857143	0	0	1	0.2801085
Average Year Started of Stations In Market	1969.661	1971.909	1688.143	1989.5	20.95245
Percent of Market's Stations That Are VHF	42.60922	37.98077	0	100	25.68314

CONCLUSION

Analyzing the policy variables at the proper level, we find that the key conditions necessary to justify a relaxation of the newspaper-TV cross-ownership rule as defined by the Chief Economist are not supported by the data. We have examined the three major supply-side hypotheses outlined by the Chief Economist in the research plan and found that none of them are supported by the FCC's own data.

- Ownership matters, as measured by slant in political coverage.
- Cross ownership in a market reduces the amount of news available in that market.
- Cross ownership in a market does not significantly increase the number of stations providing news.
- Cross ownership in small markets does not significantly increase the number of stations providing news or the quantity of news provided.

The next chapter examines the demand-side hypotheses offered by the Chief Economist in the campaign to reduce or eliminate the newspaper-TV cross ownership rule. It shows that the demand side hypotheses meet the same ignominious fate as the supply-side hypotheses.

V. TRADITIONAL MEDIA ARE STILL THE DOMINANT SOURCES OF LOCAL NEWS AND PUBLIC AFFAIRS

One of the studies that the Chief Economist identified in the research agenda to deep-six the newspaper TV cross-ownership rules involved consumer media usage patterns. There were two research hypotheses framed in terms of results that the Chief Economist hoped could be used to claim newspaper-TV cross-ownership does not matter:

RH3: A study that shows that consumers use multiple sources of information for news about local public affairs, particularly sources such as the Internet or cable that would not be affected by cross-ownership between a newspaper and a local TV or radio station, would suggest that cross-ownership, even if it did reduce ownership diversity, would not have a significant detrimental effect on consumers.

RH4: In addition, a study that shows that few consumers use newspaper and TV (or radio) as their primary or secondary sources of information for local public affairs would suggest that newspaper-TV (or newspaper-radio), cross-ownership would have little effect on the diversity of information available in consumers' primary and secondary sources of information.¹¹⁶

The FCC commissioned a survey of media usage by Nielsen Media Research, Inc.

The results thoroughly contradict the research hypotheses put forward by the Chief Economist (see Exhibit V-1).

Importance of Media Outlets

Broadcast stations and local newspapers remain the predominant sources of local news and current affairs. Although other sources exist and the Internet and cable have grown as sources of local news and current affairs, they are swamped by the two dominant traditional sources.

¹¹⁶ Leslie M. Marx, "Summary of Ideas on Newspaper-Broadcast Cross-Ownership," June 15, 2006, p. 15.

Exhibit V-1:

Traditional Media Dominate as Important Sources of News

	Most Important	Second Most Important	First or Second Most Important
Broadcast & Local Newspapers	68	42	86
All Others (including Radio, Cable, Internet, National Papers, None, Other, Refused, Don't Know)	32	58	14
Broadcast, Local Newspapers & Radio	75	61	95
All Others (including Cable, Internet, National Papers, None, Other, Refused, Don't Know)	25	39	5

Thus, 86 percent of respondents rely on TV or newspapers as their first or second source compared to only 14 percent who do not mention a traditional source among the top two. In fact, almost twice as large a percentage of respondents (26 percent) rely on broadcast TV and local newspapers as both the first and second sources of local news and current affairs as do not rely on broadcast TV or local newspapers as either the first or second source of local news and current affairs.

Moreover, if we count radio among the traditional sources of local news and current affairs as suggested by the Chief Economists parenthetical, we find that less than 5 percent of the respondents do not rely on one of the three traditional sources of local news and current affairs as either the first or second source. At the same time, for a majority of the respondents (51%) none of the sources that are “unaffected” by the FCC media ownership policy – cable, Internet and other – are cited as the first or second most important source of local news and current affairs.

Doing a more detailed cross tabulation, we find that 89 percent of respondents say traditional media are both their first and second most important sources of local news (i.e. neither Internet or cable is their first or second most important source of news).

Use of Media Outlets

The FCC data has a second, weaker question that was targeted at local news and current affairs. They asked if each of the 6 specific media types were used to get news about various categories of information, one of which was local news and public affairs. Broadcast TV and newspapers were cited most often, followed by radio (See Exhibit V-2). National newspapers, cable and the Internet were cited substantially less often.

**Exhibit V-2:
Media Used for Local News and Current Affairs**

Broadcast	77.1
Newspapers	
Dailies	63.5
Weeklies	76.5
Radio	60.2
Cable	41.7
National Papers	40.8
Internet	40.6

The continuing dominance of traditional media is more apparent when we examine what alternatives are used (Exhibit V-3). Over 80 percent of the respondents use traditional media for local news and information. Moreover, more than half of these, or 42 percent of all respondents, use traditional media and not alternatives. In contrast, only 13 percent use alternatives, but not TV and newspapers. When radio is included among the traditional

sources, the contrast is even starker. A full 46 percent of respondents use TV, radio and/or newspapers but no alternative media. In contrast, just 1 percent use cable or the Internet, but none of the traditional media. These data clearly contradict the Chief Economists hoped for finding, that alternative sources have grown to such an extent that traditional media sources do not matter anymore.

**Exhibit V-3:
Traditional Media Dominate Use for Local News and Current Affairs**

	Used for Local	>	Of those who use for local % who do not use other media for local
Broadcast & Local Newspapers	83	>	42
All Other (including Radio, Cable, Internet, National Papers, None, Other, Refused, Don't Know)	70	>	13
Broadcast & Local Newspapers & Radio	88	>	46
All Other (including Cable, Internet, National Papers, None, Other, Refused, Don't Know)	54	>	1

Time Spent on Information with Various Media

Unfortunately, the FCC's question on the amount of time respondents use the various media is fundamentally flawed and should not be relied upon to address the issue of local news and information. The wording of the question was broad and failed to distinguish between local and national or international news and information. "In an average week, how much time do you spend, in total watching or listening to cable or satellite TV channels to get

news, current affairs and local happenings.”¹¹⁷ Thus, the question was not focused on local news and current affairs. Indeed, the wording invites the respondent to think broadly about news and current affairs and narrowly about local happenings. If usage had been even across various topics, the wording might not have mattered a great deal. However, we have shown in the past and this data confirms that there are sharp differences in the types of information consumers obtain from the different media (see Exhibit V-4). Broadcast television and newspapers are not only more heavily used, but they are much more heavily used for local news and information than national news and information. In contrast, cable and Internet are more heavily used for national and international news than local news. This confirms our earlier analysis of media usage.¹¹⁸

¹¹⁷ Nielson Media Research, Inc, “Federal Communications Commission Telephone Study,” Federal Communications Commission, Study 1, June 2007, p. 20.

¹¹⁸ Consumer Group Survey, August 2006, See Comments of Consumers Union, Consumer Federation of America and Free Press, Part III, “Study 8: The Internet and Local News and Information,” Available at http://www.stopbigmedia.com/filing/part_3.pdf.

**Exhibit V-4:
Traditional Media are More Heavily Used for Local News and Current Affairs
(Percent of all respondents using various media)**

	National or International News	Local News or Local Current Affairs
Traditional Media		
Broadcast	53	68
Newspapers		
Daily	43	54
Weekly	19	32
Radio	34	39
Other Media		
Cable	51	34
Internet	43	30
National Newspapers	12	7

Even with the question worded to mix national/international and local news, the traditional media – broadcast TV and newspapers, accounted for 58 percent of the total time spent on news and information. The Chief Economists research hypotheses must be rejected once again.

Econometric Analysis

More complex statistical analysis of the data on the amount of use of various media also does not support the claim that the media are good substitutes. Exhibits V-5 and V-6 replicate the analysis contained in Media Ownership Working Group Study 2 from 2002. Although the measure of media usage was operationalized differently in 2002, the results are quite similar. As was the case with the 2002 FCC data on usage, the evidence suggests that the various media are complements, not substitutes. Almost all of the bivariate correlations

between uses of various media are small, but positive. In the multivariate analysis, with a full set of demographic variables and all media included, we find that virtually all of the coefficients are positive and none of the coefficients that are statistically significant are negative. The only alternative media coefficients that are negative are between the Internet and broadcast TV. Neither is statistically significant, but both are larger than their standard error. If this coefficient is interpreted as meaningful, it indicates that a one-hour increase in Internet usage is associated with a decrease in television viewing of less than one and one half minutes.

**Exhibit V-5:
Correlations Among News Use Measures**

Waldfogel 2002

		TV	Internet	Radio	Cable	Daily
TV news	TV News Half Hours (4-12 PM)	1				
Internet	#of Internet News Uses	-.0909	1			
Radio	# of Radio News Formats Used	.0513	.0542	1		
Cable	# of Cable News Channels Viewed	.0758	.145	.0961	1	
Daily	Whether Daily Newspaper	.0909	.0092	.1556	.1182	1

FCC Data 2007

		TV	Internet	Radio	Cable	Daily	Weekly	National
TV	Minutes Used	1						
Internet	Minutes Used	.138	1					
Radio	Minutes Used	.097	.086	1				
Cable	Minutes Used	.442	.308	.223	1			
Daily	Minutes Used	.253	.265	.118	.295	1		
Weekly	Minutes Used	.146	.133	.011	.158	.303	1	
National Newspaper	Minutes Used	.091	.082	-.014	.104	.240	.698	1

Exhibit V-6:

Waldfogel 2002

	TV	Radio	Internet	Daily	Cable	Weekly	Nat.Paper
TV	- (.0001)	.00001 (.0001)	-.004** (.0004)	.000** (.000)	.0046** (.005)	na	na
Radio	.062 (.0501)	-	.0572** (.0088)	.0271** (.0008)	.1476** (.0111)	na	na
Internet	-.1286** (.0134)	.0041** (.0006)	-	.0007** (.0002)	.1208** (.003)		
Daily	1.0543** (.0937)	.0067** (.0005)	.0826** (.0265)	-	.6196** (.0334)		
Cable	.0967** (.0107)	.0067** (.005)	-.004** (.004)	.0002** (.003)	.0046** (.0005)		
R—squared	.11	.16	.09	.11	.04	na	na

Standard errors in parentheses, * significant at 5%; ** significant at 1%. Regressions include demographic controls

FCC, 2007

TV	- (.025)	.019** (.025)	-.024 (.018)	.038*** .010	.323** (.020)	.025*** (.008)	-.012* (.007)
Radio	.01 (.01)	.-	.018 (.013)	.013* .007	.063*** (.015)	-.001 (.005)	-.001 (.007)
Internet	-.023 (.018)	.033** (.025)	-	.078*** (.009)	.202*** (.020)	-.007 (.007)	.015** (.007)
Daily	.132 (.003)***	.089* (.046)	.277*** (.033)	-	.233*** (.039)	.151*** (.014)	.047*** (.013)
Cable	.275*** (.015)	.089*** (.046)	.153*** (.015)	.050*** (.008)	-	.012* (.006)	-.004 (.006)
Weekly	-.145*** (.043)	-.009 (.054)	-.038 (.043)	.248*** (.023)	.096* (.050)	-	.420*** (.014)
National	-.084* (.048)	-.10 (.066)	.105** (.048)	.096*** (.026)	-.40 (.056)	.521*** (.018)	-
R-squared	.16	.02	.08	.19	.19	.29	.25

Standard errors in parentheses, * significant at 10%; ** significant at 5%, *** significant at 1%. Regressions include demographic controls

Alexander has interpreted Waldfogel's 2002 findings to indicate that a one-hour increase in Internet usage is associated with a 4 minute reduction in TV viewing. Clearly, these results do not even begin to suggest that substitutability between the media is adequate to justify a claim that alternative media have altered media usage sufficiently to assume that traditional media should no longer be considered the focal point of diversity policy. This is particularly true when we recall what the amount of usage was for all alternative local news and information outlets and that the traditional media were much more important and used much more frequently for local news and information.

Statistical Model of Media Usage

Although the amount of time spent with the media gathering information about local news and current affairs cannot be examined with the FCC data, it is possible to examine whether the use of alternative media affects the importance and use of traditional media. That is, we construct a statistical model to ascertain whether the probability that a respondent uses a traditional medium or deems a traditional media important is affected by the use of alternative media. This was the essence of the Chief Economist's claim. Probit models are ideal to test this type of hypothesis.

We defined eight dependent variables to assess the impact of alternative media. Three variables are defined as whether the respondent reported using newspapers and/or TV for local news (See Exhibit V-7). Five variables assessed whether daily newspapers were the most important or second most important source of local news. The key independent variables are the use of Internet or the use of cable as a source of local news. The control variables used included demographics and the use of other media.

Exhibit V-7; Definition of Variables in Probit Analysis of Usage and Importance of Media

Dependent Variables

Newspaper	Use of daily newspapers for local news
TV	Use of broadcast TV for local news
Traditional	Use of either newspapers or TV for local news
Newspaper 1	Daily newspaper is the most important source of local news
Newspaper 1/2	Daily newspaper is the second most important source of local news
TV 1	Broadcast TV is the most important source of local news
TV 1/2	Broadcast TV is the second most important source of local news
Trad. Import	Daily newspapers or TV are the primary or second most important source of local news

Policy variables

Internet Use	Use of the Internet for local news
Cable Use	Use of cable for local news
Alt. Use	Use of either cable or Internet for local news

Control variables

Age
Place of Residence
Race
Income
Gender

Other Media

Weekly	Use of weekly newspapers for local news
National	Use of national dailies for local news
Radio	Use of radio for local news

The results confirm the above analysis. Exhibit V-8 replicates the Waldfoegel matrix using the probability that the respondent reports using each medium as a source of local news. Generally, the alternative news sources are complements, rather than substitutes. The use of alternative media has at most a very small effect on the use and importance of traditional media as sources of local news and information. There are only three negative coefficients in the table

Exhibit V-8: Effects of Usage on the Probability That Media Will be Used for Local news

Results from dProbit Regressions	Dependent Variables (Use for Local)						
	Broadcast TV	Broadcast Radio	Internet	Daily Paper	Cable TV	Weekly Paper	National Paper
Broadcast TV		0.113 [0.027]****	-0.028 [0.028]	0.09 [0.03]***	0.101 [0.027]****	0.056 [0.031]*	0.008 [0.01]
Broadcast Radio	0.099 [0.024]****		0.066 [0.025]***	0.037 [0.028]	0.012 [0.025]	0.003 [0.025]	0.028 [0.01]***
Internet	-0.035 [0.029]	0.07 [0.028]**		0.038 [0.033]	0.082 [0.029]***	0.052 [0.03]*	0.02 [0.011]*
Daily Newspaper	0.083 [0.026]****	0.036 [0.028]	0.033 [0.028]		-0.043 [0.028]	0.303 [0.027]****	0.06 [0.011]****
Cable TV	0.1 [0.026]****	0.012 [0.027]	0.075 [0.027]***	-0.043 [0.03]		0.08 [0.028]***	0.029 [0.01]***
Weekly Newspaper	0.058 [0.031]*	0.004 [0.029]	0.054 [0.03]*	0.342 [0.027]****	0.087 [0.03]***		0.039 [0.011]****
National Newspaper	0.042 [0.044]	0.141 [0.054]**	0.097 [0.055]*	0.284 [0.046]****	0.157 [0.05]***	0.199 [0.052]****	
R-squared	0.05	0.03	0.09	0.14	0.04	0.14	0.15
Robust Standard Errors in Brackets * significant at 10%; ** significant at 5%; *** significant at 1%; **** significant at 0.1%							

and they all involve the alternatives. Although they are statistically significant, they are also quite small. Use of the Internet to obtain local news lowers the probability that the respondent will use TV for local news by about 4.7 percent. However, Internet usage for local news is associated with an increase in the probability that the respondent uses the daily newspaper for local news. Similarly, cable TV usage for local news is associated with an increase in the probability of TV usage for local news.

We have also examined how the use of alternative media affects the probability that traditional media will be the most important sources of local news (see Exhibit V-9). Here the effects are consistently negative, but they are still small. Indeed, the effects of alternative media are much larger on newspapers than on TV. Cable has a larger effect than the Internet. The use of cable for local news lowers the probability that TV will be the first or second most important source of local news by about 7.9 percent. The Internet has a similar effect on the probability that newspapers will be the first or second most important source of local news.

Exhibit V-9: Effects of Alternative Media Use for Local News on Importance of Traditional Media as the First or Second Most Importance Source of Local News

Results from dProbit Regressions	Dependent Variables (First or Second Most Important)		
	Newspaper	Broadcast TV	Traditional Media
Internet Use	-0.077 [0.030]**	-0.007 [0.029]	-0.042 [0.023]*
Cable Use	-0.075 [0.028]***	-0.079 [0.029]***	-0.059 [0.022]***
Alternative Media Use (cable or	-0.123 [0.026]****	-0.06 [0.027]**	-0.074 [0.018]****
Robust Standard Errors in Brackets	* significant at 10%; ** significant at 5%; *** significant at 1%; **** significant at 0.1%		

CONCLUSION

Alternative media, like cable and Internet, have certainly grown as sources of local news and information to traditional media, like TV and newspapers, but the increase has been small and does not come anywhere near displacing the traditional media as the dominant sources. The vast majority of respondents rely on traditional media and many use only traditional media for local news and information. In contrast, almost no one uses only alternative media and not traditional media as a local news source. What's more is that there is substantial evidence in the record which demonstrates that the websites of traditional media are the most frequented online sources for local news information. Econometric analysis shows at best a small substitution between alternative and traditional media – a cross elasticity that is so small that alternative media simply cannot be considered good substitutes for alternative media.

VI. THE LACK OF PRODUCTION OF LOCAL NEWS AND INFORMATION BY ALTERNATIVE MEDIA OUTLETS

We believe that the enduring, overwhelming dominance of the major traditional media (newspapers and broadcast television in particular) as the primary sources of local news and information stems from the fact that they are far and away the dominant producers of local news and information. Throughout this proceeding, we have demonstrated that traditional media dominate the production of original content of local news and information and that alternative media contribute little to the total output. Neither the FCC nor the industry commentators has ever studied the production of such content by alternative media. This chapter presents expanded and updated analysis of this topic, which has been ignored by the agency even though it is vital to any conclusions about the marketplace for local news and information.

OVERVIEW: INDEPENDENT LOCAL NEWS WEB SITES LACK ORIGINAL CONTENT AND DO NOT SIGNIFICANTLY CONTRIBUTE TO SOURCE OR VIEWPOINT DIVERSITY

In order to investigate the influence of city-specific local Web sites operated by non-traditional media outlets, we performed three separate studies, which characterize the content, traffic, and audience composition of city-specific Web sites. Utilizing the Web sites listed by the Newspaper Association of America (NAA), Media General, and Tribune as being evidence for the need to relax media ownership regulations, we analyzed the Internet local news landscape in a variety of markets across the country with a full analysis performed in the Tampa, FL and Chicago, IL markets. The Web sites of local television and daily newspaper outlets were also analyzed to provide comparisons to the city-specific local Web sites.

The findings of these studies prove the following:

- The independent city-specific Web sites do not publish appreciable amounts of original local news content.
 - In the NAA analysis, only 3.6 percent of the stories from the city-specific Web sites contained original reporting on “hard news” topics such as crime, local governance, education and local politics.
 - Over 70 percent of the stories in our sample of Tampa-specific Web sites were on non-hard news topics such as sports and entertainment.
 - More than half of the stories on “hard” news topics in our sample of Chicago-specific Web sites were hyperlinked to stories on Web sites owned by traditional media.
- The independent city-specific Web sites analyzed have very small and transient audiences.
 - The median number of unique monthly visitors to the Web sites of the local newspapers examined in the NAA study was over 50 times as large. Including the physical space presence of the traditional media outlets would make their viewership almost two thousand times as large.
 - The unique visitors to the Web sites of the two major Tampa newspapers are nearly 90 times as large as the 7,000 visiting the independent Tampa-specific Web sites.
 - Only 12 percent of the visitors to the independent Chicago-specific Web sites viewed the site between 2 and 30 times in a month. However, 28 percent of the visitors to the Web sites of the dominant Chicago daily newspapers, and 19 percent of the visitors to local TV Web sites were frequent users, viewing the sites between 2 and 30 times in a month.

The results of these studies demonstrate that though the Internet provides another medium for the dissemination of local news, it has yet to actually compete with, or diminish the influence of the traditional newspaper and broadcast news outlets. Thus, the presence of these city-specific local Web sites does not provide a compelling reason to remove important ownership protections that maintain citizen’s access to a vibrant and diverse local news media.

BACKGROUND

In their comments to the Federal Communications Commission, traditional media owners assert that the Internet has changed the media marketplace to the point where FCC rules barring the common ownership of local newspaper and broadcast properties are no longer in the public interest.¹¹⁹ For the purposes of our analysis, we focused on three entities who utilize the two primary mediums for local news, the Newspaper Association of America, Media General and Tribune Company. These groups attempt to support this assertion by listing city-specific Web sites in markets where they own media properties. The Newspaper Association of America claims that “there is now a wealth of local news and information on the Internet that is fully independent from that provided by television and newspaper Web sites”.¹²⁰ In fact, close review of these city-specific local Web sites reveals that they rely

¹¹⁹ ” Comments of the Newspaper Association of America, Media General Inc., and Tribune Company. 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; In the Matter of *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; In the Matter of *Cross-Ownership of Broadcast Stations and Newspapers*, MB Docket No. 01-235; In the Matter of *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets*, MB Docket No. 01-317; In the Matter of *Definition of Radio Markets*, MB Docket No. 00-244, October 23, 2006.

¹²⁰ Comments of the Newspaper Association of America, 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; In the Matter of *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; In the Matter of *Cross-Ownership of Broadcast Stations and Newspapers*, MB Docket No. 01-235; In the Matter of *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets*, MB Docket No. 01-317; In the Matter of *Definition of Radio Markets*, MB Docket No. 00-244, October 23, 2006, page 60.

heavily on the content of traditional local news outlets, with many of their “stories” hyperlinking to content hosted on the Web sites of local TV and newspaper outlets.

In their attempt to convince the Commission, these commenters fail to provide evidence that the actual *content* of these independently owned Web sites is “fully independent” of local television and newspaper outlets.¹²¹ The media companies do not describe the level of original reporting contained on these Web sites. They do not describe the topical content of these Web sites. They do not describe the audience size or audience viewing behavior of these Web sites, and do not describe how this compares to that of the Web sites of traditional local media outlets. Nor do they address what secondary effects media consolidation would have on these independent city-specific local Web sites.

These studies do explore these issues in a systematic and quantitative manner, and demonstrate that these Web sites are at best a complement to traditional media, relying heavily on the content of local TV and newspaper outlets. Furthermore, the audiences of these city-specific Web sites are very small and transient, with all but a small percentage of the readers visiting these Web sites just a single time. Due to the differences between the NAA study, which analyzed between one and three Web sites from 15 different markets and the Tampa and Chicago studies, which probed a much larger number of Web sites within a single market, separate qualitative methodologies were adopted. Nonetheless, all three studies reflect the fact that these Web sites do not provide an independent source of local news, and thus do not compete with local broadcast and print news outlets. Their mere existence in no way justifies the abandonment of important FCC ownership rules. This general fact was rightly recognized by the *Prometheus* court in 2003, and has not changed in

¹²¹ Id.

the three years since.¹²² In fact, given that these Web sites largely repurpose and comment on the original content of traditional local media outlets, consolidation in the mainstream sector would have secondary effects in these independent outlets, resulting in fewer sources of diverse local news available to the editors of these Web sites to present to their audiences.

NEWSPAPER ASSOCIATION OF AMERICA ANALYSIS

The Newspaper Association of America (NAA), in their comments to the Federal Communications Commission (FCC), cited twelve city-specific Web sites that they claim act as competitors to traditional media. The twelve NAA Web sites cover the same cities as the newspapers represented by NAA. The NAA breaks these Web sites into three categories, advertiser-supported local sites, “metro blogs” and neighborhood message boards.¹²³ A brief description is provided for each Web site, treating each as a noteworthy competitor to the operations of their members. We performed a quantitative and qualitative analysis of all three categories to further explore the competitive claims of NAA.

Methodology

All twelve of the city-specific Web sites listed by NAA were reviewed, and eight additional city-specific Web sites in an additional six markets were also reviewed. Qualitative observations were made on the ten most recent stories on each Web site, published as of 3pm on Tuesday November 21st 2006, and the ten most recent stories on each Web site published as of 3pm on Tuesday August 7th 2007.¹²⁴ Traffic and audience data for each Web

¹²² *Prometheus Radio Project v. FCC*, 373 U.S. 372, 406 (3rd Cir. 2004), n. 34.

¹²³ Comments of NAA, p. 60.

¹²⁴ The only exception to this was for Gapersblock.com, where ten weblog stories and ten daily column stories were reviewed during each sample period.

site was gathered from Alexa.com and Quantcast.com, two of the leading traffic monitoring services on the Internet. Data for the Web sites of local television news stations and local newspapers operating in the same media markets was also gathered from Alexa and Quantcast. Newspaper circulation figures as of September 2006 were obtained from the Audit Bureau of Circulations. Exhibit VI-1 details the Web sites contained in our sample.

General Results – Qualitative

A total of 18 independent local Web sites were reviewed, with 360 stories total (190 stories for the November 2006 sample, and 170 for the August 2007 sample).¹²⁵ The median word count per story was 224, far below the typical length of a local newspaper story, which is usually around 500 words.¹²⁶ By far the most frequent type of story was arts and entertainment-focused pieces, accounting for nearly a third of all stories reviewed. This indicates that the focus of these independent Web sites is not hard news, but lighter fare. In fact only about a fifth of all stories were classified as hard news (that is, focused on accidents, community governance, crime, labor issues, local politics, national politics, or transportation topics).

Few of the stories reviewed contained original reporting, defined by the typical characteristics such as quotes from anonymous or named sources, presenting conflicting opinions from several sources, reporting from an event attended by the author, and inputting

¹²⁵ Two of the Web sites cited by the NAA ceased their operations prior to the second sample period.

¹²⁶ <http://www.patriot-news.com/search/faq.php>

EXHIBIT VI-1: Web Sites Included in Sample

Website	Website Type	Source	Media Market (DMA)
austinist.com	City Specific Blog	Austinist	Austin, TX
keyetv.com	Broadcast TV	KEYE-CBS	Austin, TX
kvue.com	Broadcast TV	KVUE-ABC	Austin, TX
kxan.com	Broadcast TV	KXAN-NBC	Austin, TX
myfoxaustin.com	Broadcast TV	KTBC-Fox	Austin, TX
austin360.com	Daily Newspaper	Austin American Statesman	Austin, TX
austinchronicle.com	Weekly Newspaper	Austin Chronicle	Austin, TX
bostonist.com	City Specific Blog	Bostonist	Boston, MA
cbs4boston.com	Broadcast TV	WBZ-CBS	Boston, MA
myfoxboston.com	Broadcast TV	WFXT-Fox	Boston, MA
thebostonchannel.com	Broadcast TV	WCVB-ABC	Boston, MA
wgbh.com	Broadcast TV	WGBH-PBS	Boston, MA
whdh.com	Broadcast TV	WHDH-NBC	Boston, MA
boston.com	Daily Newspaper	Boston Globe	Boston, MA
bostonherald.com	Daily Newspaper	Boston Herald	Boston, MA
chicagoist.com	City Specific Blog	Chicagoist	Chicago
gapersblock.com	City Specific Blog	Gapers Block	Chicago
abc7chicago.com	Broadcast TV	WLS-ABC	Chicago
cbs2chicago.com	Broadcast TV	WBBM-CBS	Chicago
myfoxchicago.com	Broadcast TV	WFLD-Fox	Chicago
nbc5.com	Broadcast TV	WMAQ-NBC	Chicago
chicagotribune.com	Daily Newspaper	Chicago Tribune	Chicago
suntimes.com	Daily Newspaper	Chicago Sun-Times	Chicago
bloggingohio.com	City Specific Blog	Blogging Ohio	Ohio (multiple)
wkyc.com	Broadcast TV	WKYC-NBC	Cleveland, OH
19actionnews.com	Broadcast TV	WOIO-CBS	Cleveland, OH
myfoxcleveland.com	Broadcast TV	WJW-Fox	Cleveland, OH
newsnet5.com	Broadcast TV	WEWS-ABC	Cleveland, OH
cincinnati.com	Daily Newspaper	Cincinnati Enquirer	Cincinnati, OH
cleveland.com	Daily Newspaper	Cleveland Plain Dealer	Cleveland, OH
dispatch.com	Daily Newspaper	Columbus Dispatch	Columbus, OH
houstonist.com	City Specific Blog	Houstonist	Houston, TX
abc13.com	Broadcast TV	KTRK-ABC	Houston, TX
click2houston.com	Broadcast TV	KPRC-NBC	Houston, TX
khou.com	Broadcast TV	KHOU-CBS	Houston, TX
myfoxboston.com	Broadcast TV	KRIV-Fox	Houston, TX
chron.com	Daily Newspaper	Houston Chronicle	Houston, TX
laist.com	City Specific Blog	LAist	Los Angeles, CA
abc7.com	Broadcast TV	KABC-ABC	Los Angeles, CA
cbs2.com	Broadcast TV	KCBS-CBS	Los Angeles, CA
myfoxla.com	Broadcast TV	KTTV-Fox	Los Angeles, CA
nbc4.tv	Broadcast TV	KNBC-NBC	Los Angeles, CA
dailynews.com	Daily Newspaper	Daily News of Los Angeles	Los Angeles, CA
latimes.com	Daily Newspaper	Los Angeles Times	Los Angeles, CA

EXHIBIT VI-1 (continued): Web Sites Included in Sample

Website	Website Type	Source	Media Market (DMA)
gothamist.com	City Specific Blog	Gothamist	New York
7online.com	Broadcast TV	WABC-ABC	New York
myfoxny.com	Broadcast TV	WNYW-Fox	New York
wcbstv.com	Broadcast TV	WCBS-CBS	New York
wnbc.com	Broadcast TV	WNBC-NBC	New York
nydailynews.com	Daily Newspaper	New York Daily News	New York
nypost.com	Daily Newspaper	New York Post	New York
nysun.com	Daily Newspaper	New York Sun	New York
nytimes.com	Daily Newspaper	New York Times	New York
phillyist.com	City Specific Blog	Phillyist	Philadelphia, PA
cbs3.com	Broadcast TV	KYW-CBS	Philadelphia, PA
myfoxphilly.com	Broadcast TV	WTXF-Fox	Philadelphia, PA
nbc10.com	Broadcast TV	WCAU-NBC	Philadelphia, PA
wpvi.com	Broadcast TV	WPVI-ABC	Philadelphia, PA
philly.com	Daily Newspaper	Philadelphia Inquirer	Philadelphia, PA
sfist.com	City Specific Blog	SFist	San Francisco, CA
abc7news.com	Broadcast TV	KGO-ABC	San Francisco, CA
cbs5.com	Broadcast TV	KPIX-CBS	San Francisco, CA
kqed.org	Broadcast TV	KQED-PBS	San Francisco, CA
kron4.com	Broadcast TV	KRON-MNTV	San Francisco, CA
ktvu.com	Broadcast TV	KTVU-Fox	San Francisco, CA
nbc11.com	Broadcast TV	KNTV-NBC	San Francisco, CA
mercurynews.com	Daily Newspaper	San Jose Mercury News	San Francisco, CA
sfgate.com	Daily Newspaper	San Francisco Chronicle	San Francisco, CA
seattlest.com	City Specific Blog	Seattlest	Seattle, WA
king5.com	Broadcast TV	KING-NBC	Seattle, WA
kirotv.com	Broadcast TV	KIRO-CBS	Seattle, WA
komotv.com	Broadcast TV	KOMO-ABC	Seattle, WA
nwsourc.com	Daily Newspaper	Seattle Times/Post-Intelligencer	Seattle, WA
dcist.com	City Specific Blog	DCist	Washington DC
myfoxdc.com	Broadcast TV	WTTG-Fox	Washington DC
nbc4.com	Broadcast TV	WRC-NBC	Washington DC
wjla.com	Broadcast TV	WJLA-ABC	Washington DC
wusa9.com	Broadcast TV	WUSA-CBS	Washington DC
herald-mail.com	Daily Newspaper	Herald-Mail	Washington DC (Hagerstown)
washingtonpost.com	Daily Newspaper	Washington Post	Washington DC
washingtontimes.com	Daily Newspaper	Washington Times	Washington DC
backfence.com	City Specific Blog	Backfence	Washington DC/CA/IL
baristanet.com	City Specific Blog	Baristanet	Northern NJ (not DMA)
nj.com	Daily Newspaper	The Star-Ledger	Northern NJ (not DMA)
westportnow.com	City Specific Blog	Westport Now	Westport, CT (not DMA)
connpost.com	Daily Newspaper	Connecticut Post	Bridgeport, CT (not DMA)
coastsider.com	City Specific Blog	Coastsider	San Mateo, CA (not DMA)
h2otown.info	City Specific Blog	H2O Town	Waterbury, MA (not DMA)

some reporting effort beyond reprinting press releases verbatim. As Exhibit VI-2 shows, only 24 percent of the stories in the sample were based on original reporting. The majority of these stories were arts and entertainment or food related, accounting for over half of all stories with original reporting. Only 3.6 percent of the entire sample consisted of original hard news reporting. In this count we were very generous in assigning hard news status to some of the posts. For example, one of the stories classified as hard news original reporting was just an amateur video of a city street, accompanied by the sounds of gunfire in the background. There was no additional reporting, such as witness interviews or statements from local police officials. Another posting was included that showed a captured computer screenshot of the bus wait time and additional commentary amounted to explaining how inconvenient this was.

Exhibit VI-2: Summary of Story Content on City-Specific Web Sites¹²⁷

Type of Story on City-Specific Blogs	Percentage of All Stories in City-Specific Blog Sample		
	Nov. 2006	Aug. 2007	Total
Non-Original Reporting	81.6%	70.6%	76.4%
Original Reporting	18.4%	29.4%	23.6%
Original A&E Reporting	9.5%	12.9%	11.1%
Original Crime Reporting	1.6%	0.6%	1.1%
Original Food Reporting	1.1%	2.9%	1.9%
Original Human Interest Reporting	0.0%	7.1%	3.3%
Original Real Estate Reporting	1.1%	0.6%	0.8%
Original Sports Reporting	1.1%	0.0%	0.6%
Original Weather Reporting	1.1%	0.0%	0.6%
Other Original Reporting	3.2%	5.3%	4.2%
Original Hard News Reporting	2.6%	4.7%	3.6%

¹²⁷ The increase in original hard news reporting is mostly due to the fact that sample size is smaller for the second period. The two Web sites that ceased operating did not contain a single original hard news reporting post in the first sample period thereby affecting the results of the second. The reason for the increase in overall original reporting in the second sample period is mainly due to original human interest reporting. Upon reviewing the second sample period data, we discovered that most of this increase derived from original photos. We believe this can be traced to the time of year. August is high time for vacations and being outdoors increasing the likelihood of photos being taken. This theory was confirmed upon re-examining the data where we found photos of beachgoers, people floating on a river, etc.

General Results - Quantitative

The online traffic monitoring services Alexa and Quantcast were used to contrast the traffic and audiences of the sampled Web sites with the Web sites of local print and television news outlets in the same markets. Though these monitoring services are not perfect, they do provide useful information to compare the independent city-specific Web sites with the Web sites of traditional news outlets, many of whom have been somewhat slow in migrating content to the web-space.¹²⁸

As Exhibit VI-3 shows, the Web sites of local newspapers operating in same markets as the independent city-specific Web sites have an average of over 800,000 unique U.S. visitors per month, which is far higher than the 46,000 average monthly visitors to the city-specific Web sites examined. Local TV stations have been somewhat less effective in migrating to the primarily written-word space of the Internet, given that their product is video, not print, and thus their web content is less of a direct competitor to the city-specific blogs than the Web sites of local newspapers. However, the local TV Web sites in our sample had a median of 80,000 unique visitors per month, eight times the amount that visited the independent Web sites.

¹²⁸ See Comments of Consumers Union, Consumer Federation of America and Free Press, Part IV, “Study 9: Local Media and the Failure of Big Media’s Conglomerate Model,” pages 178-180, Available at http://www.stopbigmedia.com/filing/part_4.pdf.

Exhibit VI-3: Summary of Traffic and Audience Profile for Local News Web Sites

		(Avg. Nov. 2006 & Aug. 2007)					
Website Type		Alexa Traffic Rank (3 mo. avg)	Quantcast Traffic Rank	Unique US Visitors per Month	Percent of Audience that Visited Once in a Month	Percent of Audience that Visited 2-30 Times in a Month	Percent of Audience that Visited >30 Times in a Month
City-Specific Blogs	Average Value	598,361	205,499	46,674	84	16	1
	Median Value	167,125	121,870	10,000	92	8	0
Newspaper Websites	Average Value	20,389	6,024	839,461	71	28	1
	Median Value	4,849	2,636	542,166	71	28	1
Broadcast TV Websites	Average Value	259,162	46,068	106,812	77	23	0
	Median Value	70,033	19,669	80,000	77	22	0

Quantcast also provides information about the site viewing/reading habits of the audience of Web sites. This data provides a very important distinction between the Web sites of established local media outlets and the Web sites listed in NAA’s comment. Nearly 85 percent of the monthly audience of the city-specific Web sites visited the site just a single time in a month, far higher than that of local print and TV Web sites. This data indicates that the city-specific Web site audience is very transient, stumbling upon the site once, and never returning (see Exhibit VI-4 & 5).

Finally, the reach of the NAA-cited city specific blogs also pales in comparison to the circulations of the print newspapers in the markets where the city-specific blogs are located. As Exhibit VI-5 shows, even the circulation of the Hagerstown Herald-Mail Sunday paper (a small print publication serving a community of less than 40,000 persons, located 70 miles northwest of Washington D.C., and is technically in the D.C. media market) is comparable to the number monthly unique visitors to the DCist, the Washington DC blog cited by NAA, a Web site that ostensibly serves the 8 million metropolitan DC residents.

Exhibit VI-4: Local Web Site Audience Size and Composition by Media Market¹²⁹

Website Type	Media Market	Average Audience Composition			
		Average Unique US Visitors per Month	Percent Visiting Once per Month	Percent Visiting 2-30 Times per Month	Percent Visiting >30 Times per Month
City-Specific Websites (NAA)		22,583	75.3	23.3	1.0
Local TV Station Websites	Austin, TX	62,609	74.3	25.6	0.1
Local Newspaper Websites		100,274	76.5	23.5	0.0
City-Specific Websites (NAA)		15,420	88.4	11.6	0.0
Local TV Station Websites	Boston, MA	89,817	73.1	26.7	0.3
Local Newspaper Websites		912,178	72.3	26.3	1.5
City-Specific Websites (NAA)		39,933	87.7	11.6	0.7
Local TV Station Websites	Chicago, IL	112,361	80.9	19.1	0.0
Local Newspaper Websites		899,644	69.6	29.2	1.0
City-Specific Websites (NAA)		3,098	98.9	1.1	0.0
Local TV Station Websites	Ohio (multiple)	85,384	72.7	26.8	0.7
Local Newspaper Websites		309,439	65.8	32.9	1.2
City-Specific Websites (NAA)		13,945	81.7	17.9	0.5
Local TV Station Websites	Houston, TX	105,362	72.8	26.8	0.4
Local Newspaper Websites		971,573	72.2	26.9	1.5
City-Specific Websites (NAA)		163,939	86.9	13.1	0.0
Local TV Station Websites	Los Angeles, CA	114,649	78.8	20.9	0.3
Local Newspaper Websites		690,751	73.4	25.8	0.9
City-Specific Websites (NAA)		311,366	79.1	20.4	0.6
Local TV Station Websites	New York, NY	198,492	84.4	15.6	0.1
Local Newspaper Websites		1,489,968	72.5	26.5	1.0
City-Specific Websites (NAA)		7,938	82.3	17.3	0.5
Local TV Station Websites	Philadelphia, PA	113,527	76.3	23.6	0.3
Local Newspaper Websites		702,467	73.2	25.9	1.0
City-Specific Websites (NAA)		47,618	76.4	22.6	1.1
Local TV Station Websites	San Francisco, CA	84,992	83.1	16.9	0.1
Local Newspaper Websites		1,107,960	78.7	20.4	0.6
City-Specific Websites (NAA)		29,135	82.8	16.7	0.5
Local TV Station Websites	Seattle, WA	164,005	72.4	26.9	0.7
Local Newspaper Websites		1,250,000	71.6	26.9	1.6
City-Specific Websites (NAA)		38,556	81.5	18.0	0.5
Local TV Station Websites	Washington, DC	73,190	74.7	24.7	0.6
Local Newspaper Websites		1,049,959	65.2	33.5	1.3

¹²⁹ This summary excludes the hyper-local sites in the Boston DMA (h2otown.info and rwinters.com), the hyper-local site in the San Francisco DMA (coastsider.com), and the hyper-local site in the New York DMA (baristanet.com), as these sites do not (ostensibly) serve the entire DMA. The data in this table are averages for each respective media platform in each market, not totals.

Exhibit VI-5: Circulation of Print Newspapers in Markets with City-Specific Web Sites

Paper	Website	Daily Circulation	Sunday Circulation
Austin-American Statesman	austin360.com	180,300	223,900
Boston Globe	boston.com	405,800	628,100
Boston Herald	bostonherald.com	229,100	127,300
Chicago Tribune	chicagotribune.com	590,000	960,600
Chicago Suntimes	suntimes.com	382,800	333,500
Connecticut Post	connpost.com	75,900	85,500
Houston Chronicle	chron.com	517,400	700,400
LA Times	latimes.com	847,600	1,239,400
LA Daily News	dailynews.com	163,200	191,400
New York Daily News	nydailynews.com	698,500	788,300
New York Post	nypost.com	673,100	419,500
New York Sun	nysun.com	100,000	n/a
New York Times	nytimes.com	1,134,300	1,683,200
Cleveland Plain Dealer	cleveland.com	341,100	454,000
Cincinnati Enquirer	cincinnati.com	195,600	291,200
Columbus Dispatch	dispatch.com	231,200	351,000
Philadelphia Inquirer	philly.com	354,100	710,300
San Francisco Chronicle	sfgate.com	381,100	459,400
San Jose Mercury News	mercurynews.com	246,000	270,900
Seattle Times/Post-Int.	nwsourc.com	350,300	438,500
Star-Ledger (New Jersey)	nj.com	399,200	599,900
Washington Post	washingtonpost.com	701,500	963,300
Washington Times	washingtontimes.com	100,000	41,800
Herald-Mail (Hagerstown MD)	herald-mail.com	36,100	39,000
Average		388,925	521,757
Median		352,200	438,500

The Bottom Line on Traditional Local Media Compared to City-Specific Web Sites

The previous analysis has shown that the cyberspace presence of the traditional media outlets is much larger than the cyberspace presence of the city specific Web sites identified by the NAA as providing competition for and alternatives to local media. The physical space presence adds further weight to the traditional media. To gain perspective on the relative size of the audiences of these outlets, we compare the average monthly users of these media by transforming the Web site and television viewership data in a manner that renders it comparable to the newspaper circulation data (see Exhibit VI-6).¹³⁰

Across the eleven markets in this sample, the city-specific Web sites had just fewer than 700,000 unique monthly visitors in total. As noted, the vast majority of visitors used the

¹³⁰ These data are market totals for each media platform based on the individual Web sites, stations, and newspapers in our sample.

site once a month. A small percentage visited between 2 and 30 times, and almost no one visited more than 30 times. If we assume that all the users who visited more than once visited on each of the 30 days in a month, we estimate a “circulation” of about 4,300,000 per month.¹³¹

Exhibit VI-6: Traditional Media vs. Alternative Outlets

Media Market	Type	Cyberspace		Physical Space		Combined Physical + Cyberspace Circulation	Ratio TV+Papers/ Alternative Websites
		Total Unique US Visitors per Month	Total Monthly "Circulation"	Total Daily Circulation	Total Monthly Circulation		
Austin, TX	City-Specific Websites (NAA)	22,583	181,398			181,398	74
	Local TV Stations	62,609	528,554	228,000	6,840,000	7,368,554	
	Local Newspapers	100,274	785,095	175,703	5,217,081	6,002,176	
Boston, MA	City-Specific Websites (NAA)	15,420	67,294			67,294	639
	Local TV Stations	89,817	792,043	534,000	16,020,000	16,812,043	
	Local Newspapers	912,178	8,239,699	597,450	17,923,509	26,163,208	
Chicago, IL	City-Specific Websites (NAA)	39,933	182,661			182,661	392
	Local TV Stations	112,361	734,320	967,000	29,010,000	29,744,320	
	Local Newspapers	899,644	8,778,729	1,104,063	33,121,899	41,900,627	
Ohio (multiple)	City-Specific Websites (NAA)	3,098	4,086			4,086	10,344
	Local TV Stations	85,384	764,776	468,000	14,040,000	14,804,776	
	Local Newspapers	309,439	3,366,490	802,949	24,088,479	27,454,969	
Houston, TX	City-Specific Websites (NAA)	13,945	88,150			88,150	486
	Local TV Stations	105,362	937,601	569,000	17,070,000	18,007,601	
	Local Newspapers	971,573	8,945,268	530,185	15,905,537	24,850,805	
Los Angeles, CA	City-Specific Websites (NAA)	163,939	786,741			786,741	103
	Local TV Stations	114,649	820,620	1,495,000	44,850,000	45,670,620	
	Local Newspapers	690,751	6,019,204	987,245	29,617,346	35,636,550	
New York, NY	City-Specific Websites (NAA)	311,366	2,198,552			2,198,552	67
	Local TV Stations	198,492	1,097,187	1,889,000	56,670,000	57,767,187	
	Local Newspapers	1,489,968	13,372,462	2,504,940	75,148,204	88,520,666	
Philadelphia, PA	City-Specific Websites (NAA)	7,938	48,799			48,799	731
	Local TV Stations	113,527	899,562	478,000	14,340,000	15,239,562	
	Local Newspapers	702,467	6,162,041	475,857	14,275,719	20,437,760	
San Francisco, CA	City-Specific Websites (NAA)	47,618	373,512			373,512	119
	Local TV Stations	84,992	502,770	593,000	17,790,000	18,292,770	
	Local Newspapers	1,107,960	7,863,471	612,982	18,389,460	26,252,931	
Seattle, WA	City-Specific Websites (NAA)	29,135	174,460			174,460	208
	Local TV Stations	164,005	1,475,114	428,000	12,840,000	14,315,114	
	Local Newspapers	1,250,000	11,545,000	347,294	10,418,816	21,963,816	
Washington, DC	City-Specific Websites (NAA)	38,556	245,409			245,409	209
	Local TV Stations	73,190	609,919	489,000	14,670,000	15,279,919	
	Local Newspapers	1,049,959	11,635,997	812,267	24,368,001	36,003,999	
Totals	City-Specific Websites (NAA)	693,528	4,351,061			4,351,061	140
	Local TV Stations	1,204,388	9,162,466	8,138,000	244,140,000	253,302,466	
	Local Newspapers	9,484,213	86,713,456	8,950,936	268,474,050	355,187,506	

¹³¹ For example, only 7.5% of the 4,000 visitors to Ausinist.com visited 2 or more times per month, or 300 visitors. Thus, in our methodology, these 300 visitors account for a circulation of 9,000, or 30 days of a “circulation” of 300. The remaining 3,700 visitors only viewed the site once in the month, so the total monthly “circulation” of Ausinist.com is 12,700, or 9,000 plus 3,700.

In contrast, the total average *daily* circulation of the newspapers in the specific cities is approximately nine million. Thus, the total monthly circulation is about 270 million.¹³² The newspapers in our sample also have a huge advantage in cyberspace visitors when compared to the city-specific Web sites, with a “circulation” of nearly 9 million, calculated by the methodology described above. Thus, newspapers alone had over 80 times the usage (monthly “circulation” in cyberspace plus circulation in physical space).

To estimate the number of physical space viewers of television news (i.e. the comparable “circulation”), we relied on a database of news hour market shares in each of the cities for which we analyzed city-specific Web sites (see Exhibit VI-7). We assumed that half the viewers during news hours were watching news, reflecting the fact that about half the stations in the nation provide local news. To check this approach we compared our estimate to three cities for which we have actual ratings for news only viewing of the highest rated evening newscasts (see Exhibit VI-7).

Exhibit VI-7: Estimated TV News Audience

Media Market	1/2 News Hour Audience, 2004 (millions)	Highest Rated Evening Newscast (millions)
New York	1.9	2.2
Los Angeles	1.5	1.6
Chicago	1.0	1.1

¹³² Circulation data as of September 30th 2006, obtained from the Audit Bureau of Circulations. For each market, the total average daily circulation was calculated for a 28-day month (by multiplying the weekday circulation figure by 20; adding this to the Saturday circulation multiplied by 4; and then adding this subtotal to the Sunday circulation multiplied by 4). To compute the total monthly circulation, this daily average was multiplied by 30. The data are for the newspapers in our sample, not for all newspapers in the market.

Thus, our methodology yields a very conservative estimate of news viewing. Across all the cities, we estimate over 8 million daily TV news viewers, or about 245 million monthly viewers. The Web sites of the TV stations in our sample had a collective monthly “circulation” of approximately 9 million (calculated by the methodology above). Still, television stations in our sample had about 60 times as much usage (viewers plus Web site “circulation”) as the city specific Web sites.

Therefore, we estimate a “circulation” of about 600 million per month to the physical and cyberspace outlets of the traditional media in our 11 market sample, and a “circulation” of 4.3 million for the cyberspace sites of the independent city-specific Web sites in these 11 markets. The cyberspace outlets of traditional media outweigh the Web sites of the alternative Internet media by a factor of 20, and when considering physical space usage, traditional media outweigh the alternative by nearly 140 to 1.

TAMPA MARKET ANALYSIS

In their comments to the Federal Communications Commission (FCC), Media General (owner of the *Tampa Tribune* and WFLA-TV) listed 323 Web sites that they claim are competitors to their Tampa television and newspaper outlets. Media General included in this list the Web sites of local restaurants, public schools, car dealerships, city and county governments, and utility companies.¹³³ In referring to these Web sites, Media General asserts,

¹³³ Comments of the Media General, 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; In the Matter of 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; In the Matter of *Cross-*

“they provide much of the same content available in newspapers”.¹³⁴ This comment is not supported with any systematic content analysis but retains much more accuracy than Media General may realize.

Methodology

Of the 323 Web sites listed by Media General, 22 offer some form of local news content.¹³⁵ We identified another seven Web sites operated by traditional outlets in the Tampa market for a total of 29 Tampa local news Web sites.¹³⁶ Traffic and audience data for each Web site was gathered from Alexa.com and Quantcast.com.¹³⁷ Data for the Web sites of local television news stations and local newspapers operating in the same media markets was also gathered from Alexa and Quantcast. Newspaper circulation figures as of September 2006 were obtained from the Audit Bureau of Circulations. Exhibit VI-8 details the Web sites contained in our sample.

Ownership of Broadcast Stations and Newspapers, MB Docket No. 01-235; In the Matter of *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets*, MB Docket No. 01-317; In the Matter of *Definition of Radio Markets*, MB Docket No. 00-244, October 23, 2006, Appendix 9 pages 1-9.

¹³⁴ Id., Appendix 9, page 1.

¹³⁵ Tampa Bay Business Journal was not included due to the fact that it is a subset of a larger Web site and traffic data could not be gathered for the Tampa specific subset; Both topix.net sites were omitted due to a similar problem and because they only aggregate and do not produce local news; hernandoccc.blogspot.com no longer appears to be operating and was omitted. Furthermore, Traditional media companies have acquired a controlling stake in the Web site. See <http://www.mcclatchy.com/pressreleases/story/1724.html>.

¹³⁶ *Creative Loafing* (Tampa), WWSB, WFLA radio, *It's Your Times*, *Hernando Today*, *St. Petersburg Times* and *Tampa Bay Times* (tbt).

¹³⁷ Since Media General's comments were submitted, WFTS has taken on a new address, abcactionnews.com.

Exhibit VI-8: Web Sites Included in Sample

Website	Website Type	Source
tampabaystart.com	Independent (Aggregator)	Independent Tampa-specific website
sticksoffire.com	Independent	Independent Tampa-specific website
lakeland.net#	Independent (Aggregator)	Independent Tampa-specific website
hellotampa.com#	Independent (Aggregator)	Independent Tampa-specific website
tampablab.com	Independent (Blog Aggregator)	Independent Tampa-specific website
allfloridanews.com	Independent	Independent Tampa-specific website
saveoursarasota.blogspot.com	Independent	Independent Tampa-specific website
sptimes.com	Newspaper	St. Petersburg Times
heraldtribune.com	Newspaper	Sarasota Herald-Tribune
theledger.com	Newspaper	The Ledger (Lakeland)
bradenton.com	Newspaper	Bradenton Herald
tampa.creativeloafing.com*	Newspaper	Creative Loafing (Tampa Weekly)
tampatrib.com	Newspaper	Tampa Tribune
sun-herald.com	Newspaper	Englewood/Nort Port Sun
tbnweekly.com	Newspaper	Various weeklys by Tampa Bay Newspapers Co.
hernandotoday.com	Newspaper	Hernando Today
highlandstoday.com	Newspaper	Highlands Today (Tampa Tribune insert)
970wfla.com	Radio	WFLA-AM
tbo.com	Other Traditional Media	Tampa-specific website owned by Media General
tampabay.com	Other Traditional Media	Tampa-specific website owned by Poynter
tbt.com	Other Traditional Media	Tampa-specific website owned by Poynter
itsyourtimes.com	Other Traditional Media	Tampa-specific website owned by Poynter
sarasotamagazine.com	Other Traditional Media	Sarasota Magazine
baynews9.com	Television	Bright House Network's local Tampa cable station
tampabays10.com	Television	WTSP
myfoxtampabay.com	Television	WTVT
abcactionnews.com	Television	WFTS
wfla.com	Television	WFLA
wwsb.tv	Television	WWSB

Data gathered on 4/13 & 4/16, 2007

- These figures represent traffic to the entire website. The news webpage is only one sub-section of the website

* Alexa.com only provided traffic figures for creativeloafing.com but did show that the Tampa sub-section of the website garnered 13% of total traffic

In order to assess the amount of local news content published on the independent Tampa-specific Web sites, a qualitative analysis of the seven independent Web sites was performed. All stories from the Web sites producing local news (i.e. sites that actually contained original content and were not mere aggregators of traditional media web content) were sampled over two separate non-consecutive one-week periods, November 11-18, 2005 and April 5-12, 2007. Stories were coded for topic, original reporting, local focus, link to

traditional media outlet, and word count. A large number of the stories in our sample originated from tampablab.com, a blog aggregator Web site that pulls content from over 100 blogs that purport to have a Tampa Bay area focus. In classifying original reporting, we erred on the side of inclusion.¹³⁸ Stories that focused on topics of city planning, community governance, crime, education, environment, labor, law, politics, and poverty were classified as “hard news”.

General Results - Qualitative

A total of four independent Tampa-specific local Web sites were reviewed, with 323 stories total. The Web site tampablab.com is an aggregator of 118 weblogs that purport to be Tampa-focused, and thus allowed for a robust sample of independent web-based reporting taking place in the Tampa Bay area. Of the 323 stories, 263 came from tampablab.com.¹³⁹

In analyzing the results, we found that the median word count per story was only 185. By far the most frequent type of story was arts/entertainment/human interest or food-focused pieces, accounting for nearly one half of all stories reviewed. In fact only 22 percent of all stories were classified as hard news.

Few of the stories reviewed contained original reporting.¹⁴⁰ As Exhibit VI-9 shows, only 11.4 percent of the stories in the sample were based on original reporting. The majority of these stories were on arts, entertainment, human interest, food, sports, or other non-hard news related topics, accounting for nearly 75 percent of the stories with original reporting. Only 3.1 percent of the entire sample of stories on independent Tampa-specific Web sites

¹³⁸ We utilized the same definition as in the NAA study.

¹³⁹ Sixteen posts were omitted from tampablabs.com during the periods studied because they came from sticksoffire.com and had already been included.

¹⁴⁰ We utilized the same definition as in the NAA study.

consisted of original hard news reporting, even with the very generous assessment of hard news status.

Exhibit VI-9: Summary of Story Content on Independent Tampa-Specific Web Sites¹⁴¹

Type of Story on Independent Tampa-Specific Websites	Percentage of All Stories in Sample of Independent Tampa-Specific Websites
Non-Original Reporting	88.5%
Original Reporting	11.5%
Original A&E/Other Human Interest Reporting	7.1%
Original Sports Reporting	0.6%
Original Other Non-Hard News Reporting	0.6%
Original Hard News Reporting	3.1%

Furthermore, though these Web sites do have a Tampa Bay area focus, only slightly more than half of the stories in our sample had a local focus. Again, the overwhelming majority of these stories contained no original reporting, and those that did were not based on a hard news topic (see Exhibit VI-10).

Exhibit VI-10: Summary of Local Content on Independent Tampa-Specific Web Sites

Type of Story on Independent Tampa-Specific Websites	Percentage of All Stories in Sample of Independent Tampa-Specific Websites
Non-Tampa Area Focus	45.8%
Tampa Area Focus	54.2%
Tampa Area Focus AND Original Reporting	10.2%
Tampa Area Focus AND Original Hard News Reporting	2.8%

¹⁴¹ Sub-categories of “original A&E/other human interest reporting included: Arts and Entertainment; reviews of concerts, films, books or restaurants; and other human interest. Sub-categories of “original other non-hard news reporting included public notices and self-promotion. Sub-categories of “original hard news reporting” included: city planning, community governance, crime, education, environment, labor, law, politics, and poverty.

General Results - Quantitative

As Exhibit VI-11 shows, the Web sites of local newspapers operating in the greater Tampa area have an average of over 140,000 unique U.S. visitors per month, which is far higher than the 7,000 average monthly visitors to the independent Tampa-specific news Web sites listed by Media General. The Web site for the areas leading newspaper, *The St. Petersburg Times*, has an average of nearly 800,000 unique visitors per month. In contrast, *Sticks of Fire*, the highest ranked independent Tampa-specific Web site received fewer than 18,000 unique visitors per month. Even local TV stations who until recently have been less effective in migrating their product to the online space, averaged over 60,000 unique visitors per month in our sample, nearly ten times the amount that visited the independent Web sites.

Exhibit VI-11: Summary of Traffic and Audience Profile for Local News Web Sites

Website Type	Unique U.S. Visitors Per Month
Independent Tampa-Specific Websites	6,983
Tampa Area Newspaper Websites	142,219
Tampa Area Television Station Websites	60,157
Other Tampa Websites Operated by Traditional Media	125,122

The visiting frequency data provided by Quantcast indicates that the independent Tampa-specific Web site audience is very transient, coming across the site once, and never returning (see Exhibit VI-12). Nearly 80 percent of the monthly audience of the independent Tampa-specific Web sites visited the sites just a single time in a month, far higher than that of local print and TV Web sites.

Exhibit VI-12: Audience Composition of Tampa Local News Web Sites

Website Type	Percent of Visitors who visit once in a month	Percent of Visitors who 2-30 timers per month	Percent of Visitors who visit more than 30 times per month
Independent Tampa-Specific Websites	77	23	0
Tampa Area Newspaper Websites	36	56	8
Tampa Area Television Station Websites	47	48	6
Other Tampa Websites Operated by Traditional Media	59	33	7

Finally, the reach of the independent city specific Web sites also pale in comparison to the circulations of the print newspapers in the market. As Exhibit VI-13 shows, even the circulation of the *Citrus County Chronicle* (a small print publication serving a county of less than 120,000 persons, located 80 miles north of Tampa, and is technically in the Tampa media market) is some 4-times greater than the number of monthly unique visitors to hellotampa.com, an independent Tampa-specific Web site cited by Media General -- a Web site that ostensibly serves the 4 million Tampa DMA residents.

Exhibit VI-13: Circulation of Daily Print Newspapers in Tampa DMA

Newspaper	Home City	Circulation (Daily)	Circulation (Sunday)
St. Petersburg Times	St. Petersburg	312,100	404,100
Tampa Tribune	Tampa	224,500	300,800
Sarasota Herald-Tribune	Sarasota	109,500	128,700
The Ledger	Lakeland	70,600	86,800
Bradenton Herald	Bradenton	46,600	52,000
Highlands Today	Sebring	41,200	0
Citrus County Chronicle	Crystal River	27,200	30,900
Hernando Today	Brooksville	15,600	17,100
News Chief	Winter Haven	9,800	10,900
Englewood Sun	Englewood	7,700	7,700
North Port Sun	North Port	3,900	4,300

CHICAGO MARKET ANALYSIS

In their recent comments to the Federal Communications Commission (FCC), the Tribune Company (owner of the *Chicago Tribune*, WGN-TV, WGN-AM, CLTV and *Chicago Magazine*) identifies numerous Chicago-specific Web sites as competitors.¹⁴² We utilized the analysis techniques of our previous studies to determine what effect these websites have on limiting the dominance of Tribune within the Chicago market. To do this we paid particularly close attention to the independent Web sites reliance on traditional media outlets.

Methodology

In their initial comments Tribune listed 13 Web sites that they claim are competitors to their Chicago television and newspaper outlets.¹⁴³ Three of the Web sites cited are no longer operational.¹⁴⁴ Another three are weblog directories and not content driven Web sites themselves.¹⁴⁵ We also identified an additional eight independent Chicago-specific Web sites. We added in another eleven Web sites operated by traditional outlets in the Chicago market

¹⁴² Comments of the Tribune Company, 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; In the Matter of *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; In the Matter of *Cross-Ownership of Broadcast Stations and Newspapers*, MB Docket No. 01-235; In the Matter of *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets*, MB Docket No. 01-317; In the Matter of *Definition of Radio Markets*, MB Docket No. 00-244, October 23, 2006, page 63.

¹⁴³ The 13 Web sites listed by Tribune in their October 23, 2006 filing: “Chicago Bloggers (www.chicagobloggers.com), Hyde Park Assets (<http://hydeparkcrime.blogspot.com>), Blogging Mayor of Round Lake (www.eroundliake.com/blog), Windy City Webloggers (<http://chicago.creativecanvas.com>), Metroblogging Chicago (<http://netblos.co>), Chicago Blogs (www.ringsurf.com/netring?ring=chicagoblogs), Chicagoray (<http://chicagoray.blogspot.com>), Blog-A-Bull (www.blogabul.com), Chicagoist (www.chicagoist.com), Gaper’s Block (www.gapersblock.com), Hot Type (www.chicagoreader.com/features/stories/hottype.com), Chicago Life (<http://chicagolife.blogspot.com>), and Eat Chicago (www.eatchicago.net) to identify just a few.”

¹⁴⁴ The three Web sites that are no longer operational: www.blogabul.com, www.eatchicago.net, and hydeparkcrime.blogspot.com.

¹⁴⁵ See the next section for an analysis of the Chicago blog directories.

for a total of 26 Chicago local news Web sites.¹⁴⁶ Traffic and audience data for each Web site was gathered from Alexa.com and Quantcast.com. Newspaper circulation figures as of September 2006 were obtained from the Audit Bureau of Circulations. Exhibit VI-14 details the Web sites contained in our sample.

In order to assess the amount of local news content published on the independent Chicago-specific Web sites (the Web sites not operated by firms that have a traditional physical space media presence), a qualitative analysis of the fourteen independent Web sites was performed.¹⁴⁷ All stories from the Web sites producing local news were sampled over two separate non-consecutive seven-day periods, February 12-19, 2007 and August 13-20, 2007. Stories were coded for topic, original reporting, local focus, link to traditional media outlet, and word count. In classifying original reporting, we erred on the side of inclusion.¹⁴⁸ Stories that focused on topics of accident/disaster, community governance, crime, development, education, environment, finance, health, immigration, infrastructure, labor, media, military, politics, poverty and transportation were classified as “hard news”.

¹⁴⁶ The ABC affiliate Web site was excluded due to their web address being a subsection of a much larger Web site (<http://abclocal.go.com/wls>). Similarly, the Hot Type column of the Chicago reader is a subsection of the Chicago reader Web site so traffic data could not be accurately compiled.

¹⁴⁷ Chicago Life (<http://chicagolife.blogspot.com>) is “open to invited readers only” therefore a content analysis was not performed. Also, Hot Type, cited by Tribune was included in the content analysis even though it is actually traditional media.

¹⁴⁸ We utilized the same definition as in the NAA study.

Exhibit VI-14: Web Sites Included in Sample

Website	Source	Type
http://chicago.metblogs.com *	News and Information Blog	Independent
http://www.eroundlake.com/blog *	News and Information Blog	Independent
http://www.chicagoist.com *	News and Information Blog	Independent
http://www.gapersblock.com *	News and Information Blog	Independent
http://chicagolife.blogspot.com *1	News and Information Blog	Independent
http://chicagoray.blogspot.com *	Political Commentary Blog	Independent
http://blog.new-eastside.com	News and Information Blog	Independent
http://chicago.indymedia.org1	News and Information Blog	Independent
http://www.methodsreporter.com	News and Information Blog	Independent
http://www.mychicagoewsblog.com	News and Information Blog	Independent
http://capitalfax.blogspot.com	Political News and Commentary Blog	Independent
http://district299.typepad.com	News and Information Blog	Independent
http://www.prairiestateblue.com	Political News and Commentary Blog	Independent
http://www.beachwoodreporter.com/politics	Political News and Commentary Blog	Independent
http://www.chicagotribune.com	Daily Newspaper (owned by Tribune)	Newspaper
http://www.suntimes.com	Daily Newspaper	Newspaper
http://www.dailyherald.com	Daily Newspaper	Newspaper
http://www.chicagoreader.com	Alternative Newspaper	Newspaper
http://www.chicagoreader.com/features/stories/hottype *	Alternative Newspaper Column	Newspaper
http://www.newcitychicago.com	Alternative Newspaper	Newspaper
http://www.wgnradio.com	Radio Station (owned by Tribune)	Radio
http://wgntv.trb.com	TV station (owned by Tribune)	Television
http://www.cbs2chicago.com	Local TV station	Television
http://www.nbc5.com	Local TV station	Television
http://abclocal.go.com/wls1	Local TV station	Television
http://www.myfoxchicago.com	Local TV station	Television

*=cited by Tribune as online competitor

General Results - Qualitative

A total of thirteen independent Chicago-specific local Web sites were reviewed, amounting to 495 total stories (sampled over two non-consecutive one week periods).¹⁴⁹ These Web sites span a wide range of online outlets from personal blogs to political forums to the most popular independent Chicago-specific news Web sites.

Our results show the median word count per story was 328. By far the most frequent type of story was arts and entertainment, human interest or food-focused pieces, accounting for slightly more than one fifth of all stories reviewed. This indicates that the focus of many of these independent Web sites is not hard news, but lighter fare.

¹⁴⁹ ChicagoReader.com/Features/Stories/HotType was also included in the analysis but is not an independent source.

As Exhibit VI-15 shows, only 13.7 percent of the stories in the sample were based on original reporting. However, the majority of these stories were on arts, entertainment, human interest, food, sports, or other non-hard news related topics, accounting for close to 60 percent of the stories with original reporting. Only 5.5 percent of the entire sample of stories on independent Chicago-specific Web sites consisted of original hard news reporting, even with the very generous assessment of hard news status. Consider further that when including whether the story links to traditional media, we find that only 4.2 percent of stories contain original reporting on a hard news topic without directly relying on the resources of a traditional outlet.

Exhibit VI-15: Summary of Story Content on Independent Chicago-Specific Web Sites¹⁵⁰

Type of Story on Independent Chicago-Specific Websites	Percentage of All Stories in Sample of Independent Chicago-Specific Websites
Non-Original Reporting	86.3%
Original Reporting	13.7%
Original A&E/Other Human Interest Reporting	7.3%
Original Other Non-Hard News Reporting	1.0%
Original Hard News Reporting	5.5%
Without Linking to Traditional Media	4.2%

Furthermore, though these Web sites are independent outlets, nearly half of the stories in our sample linked directly to traditional media outlets. This reliance became even more pronounced when the posting was on a hard news topic with over half containing a direct link

¹⁵⁰ Sub-categories of “original A&E/other human interest reporting included: Arts and Entertainment; reviews of concerts, films, books or restaurants; and other human interest. Sub-categories of “original other non-hard news reporting included sports and weather. Sub-categories of “original hard news reporting” included: accident/disaster, community governance, crime, development, education, environment, finance, health, immigration, infrastructure, labor, media, military, politics, poverty and transportation.

to the Web site of a traditional media company, most often that of Tribune owned properties. Again, the overwhelming majority of these stories contained no original reporting, and those that did relied on traditional media (see Exhibit VI-16).

Exhibit VI-16: Summary of Independent Chicago-Specific Web Sites Linking to Traditional Media¹⁵¹

Type of Story on Independent Chicago-Specific Websites	Percentage of All Stories in Sample of Independent Chicago-Specific Websites Hyperlinked to Traditional Media
Not Hyperlinking to Traditional Media	52.3%
Hyperlinking to Traditional Media	47.7%
Hard News Topics	22.2%
A&E/Other Human Interest Topics	13.1%
Other Non-Hard News Topics	7.7%
Aggregate	4.6%

An illustrative example of this reliance on traditional media comes from Chicagoist.com, which boasts the largest number of postings and the highest web traffic of all the independent Chicago-specific Web sites in our sample. In our analysis, we found that 18 percent of the Chicagoist.com stories analyzed were on hard news topics. Of that 18 percent, 77 percent (or 20 of 26) of the stories link to traditional media outlets. Similar to everyday citizens of Chicago, these Web sites depend on Chicago’s traditional media outlets in order to gain information relevant to the community. These figures fly in the face of Tribune’s claims of competition and demonstrate the damaging ripple effect further consolidation would impose on alternative outlets.

General Results - Quantitative

The online traffic monitoring services Alexa and Quantcast were used to contrast the traffic and audiences of the independent Chicago-specific Web sites with the Web sites of

¹⁵¹ The Aggregate category was separated due to the nature of the category being a post that aggregates a variety of articles from mostly traditional media websites.

local print and television news outlets operating in the greater Chicago area. As Exhibit VI-17 shows, the Web sites of local newspapers operating in the greater Chicago area have an average of over 500,000 unique U.S. visitors per month, which is far higher than the 14,000 average monthly visitors to the independent Chicago-specific news Web sites. The Web site for the area’s leading newspaper, *The Chicago Tribune*, has an average of 1.1 million unique visitors per month. In contrast, *Chicagoist*, the highest ranked independent Chicago-specific Web site received fewer than 113,000 unique visitors per month. Even local TV stations who until recently have been less effective in migrating their product to the online space, averaged over 165,000 unique visitors per month, more than ten times the amount that visited the average independent Chicago-specific news Web sites.

Exhibit VI-17: Summary of Traffic and Audience Profile for Local News Web Sites

Website Type	Unique U.S. Visitors Per Month
Independent Chicago-Specific Websites	14,201
Chicago Area Television Station Websites	165,058
Chicago Area Newspaper Websites	500,688

The visiting frequency data provided by Quantcast, indicates that the independent Chicago-specific Web site audience is very transient, stumbling upon the site once, and never returning (see Exhibit VI-18). Nearly 90 percent of the monthly audience of the independent Chicago-specific Web sites visited just a single time in a month, higher than that of local print and TV Web sites.

Exhibit VI-18: Audience Composition of Chicago Local News Web Sites

Website Type	Unique U.S. Visitors Per Month	Percent Visiting Once per Month	Percent Visiting 2-30 Times per Month	Percent Visiting >30 Times per Month
Independent Chicago-Specific Websites	14,201	88%	12%	1%
Chicago Area Television Station Websites	165,058	81%	19%	0%
Chicago Area Newspaper Websites	500,688	74%	25%	1%

Finally, the reach of the independent Chicago specific Web sites also pales in comparison to the circulation of the Chicago newspapers. As Exhibit VI-19 shows, the average Sunday circulation of daily newspapers is over 30-times greater than the average number of monthly unique visitors to the independent Chicago-specific Web sites.

Exhibit VI-19: Circulation of Daily Print Newspapers in Chicago

Newspaper	Circulation (Daily)	Circulation (Sunday)
Chicago Tribune	590,000	960,600
Chicago Sun-Times	382,800	333,500
Daily Herald	151,200	151,567
Average	374,667	481,889

CHICAGO BLOG DIRECTORIES

Methodology

In order to counter all the claims made by Tribune regarding competitors, we have added this brief report analyzing the blog directories cited by Tribune. In their October 23rd filing with the FCC, Tribune cited three Chicago weblog directories as competitors.¹⁵² Further

¹⁵² The three directories are www.chicagobloggers.com, <http://www.ringsurf.com/netring?ring=chicagoblogs;action=list>, and <http://chicago.creativecanvas.com>.

inspection of these Web sites revealed that two of the directories utilized the same database.¹⁵³ We compiled the total number of blogs within both directories and found the ringsurf.com directory contained 273 blogs and the chicagobloggers.com directory, 2396 blogs. In light of this, we decided to take a 25 blog sampling (approximately 1%) of the Chicagobloggers.com directory. Using a random number generator, we identified the accompanying number in the blog directory and checked the weblink to ensure the Web site was still operational. We only included Web sites that had a posting in the previous month.¹⁵⁴ This distinction turned out to be important. It took 60 randomly selected blogs in order to find 25 with recent content.¹⁵⁵ Exhibit VI-20 details the Web sites contained in our sample.

In order to assess the amount of local news content distributed through the Chicago specific directories, a qualitative analysis of the sampled twenty-five independent Web sites was performed. All stories from the Web sites were sampled over two separate non-consecutive seven-day periods, February 12-19, 2007 and August 13-20, 2007. Stories were coded for topic, original reporting, local focus, link to traditional media outlet, and word count. In classifying original reporting, we erred on the side of inclusion.¹⁵⁶ For example, we classified as original reporting blog posts that contained a first hand account of an event of any sort or posting a local picture of any nature. Stories that focused on the topics of

¹⁵³ The two directories with the same database are
<http://www.ringsurf.com/netring?ring=chicagoblogs> and
<http://chicago.creativecanvas.com>.

¹⁵⁴ The process was executed on August 21, 2007, making the cutoff date July 21, 2007.

¹⁵⁵ The reason for sixty websites being viewed came mostly from infrequent website content updates but also from duplicates created by the random number generator, not being a blog, and having moved away from Chicago.

¹⁵⁶ We utilized the same definition as in the NAA study.

accident/disaster, community governance, crime, politics, and transportation were classified as “hard news”.

Traffic and audience data for each Web site was gathered from Alexa.com and Quantcast.com. Data for the Web sites of local television news stations and local newspapers operating in the same media markets was also gathered from Alexa and Quantcast.

Newspaper circulation figures as of September 2006 were obtained from the Audit Bureau of Circulations.

Exhibit VI-20: Web Sites Included in Sample

Website	Website Type
chicagobloggers.com	Blog Directory
anaesthetisedaussie.blogspot.com	Independent Chicago-specific website
stevemacek.blogspot.com	Independent Chicago-specific website
beahumanbeing.com	Independent Chicago-specific website
beertrackgo.blogspot.com	Independent Chicago-specific website
bigmornings.com	Independent Chicago-specific website
chickenfootstew.com	Independent Chicago-specific website
kjo84.typepad.com/cta_tattler	Independent Chicago-specific website
dolangeman.blogspot.com	Independent Chicago-specific website
dubster.com/p	Independent Chicago-specific website
ripe.blogspot.com	Independent Chicago-specific website
ishouldbefoldinglaundry.blogspot.com	Independent Chicago-specific website
evanjacover.com	Independent Chicago-specific website
jensaysanything.blogspot.com	Independent Chicago-specific website
schadenfreude.net/justin	Independent Chicago-specific website
kareninchicago.com	Independent Chicago-specific website
matthewgifford.com	Independent Chicago-specific website
mrbrownthumb.blogspot.com	Independent Chicago-specific website
windycitymike.com	Independent Chicago-specific website
mycubeasthreesides.blogspot.com	Independent Chicago-specific website
nansblog2.blogspot.com/	Independent Chicago-specific website
humaninterest.typepad.com	Independent Chicago-specific website
oglemy.blogspot.com	Independent Chicago-specific website
phaneromania.blogspot.com	Independent Chicago-specific website
plastic-passion.blogspot.com	Independent Chicago-specific website
shel sitter.blogspot.com	Independent Chicago-specific website

General Results – Qualitative

The twenty-five Web site analysis over two non-consecutive one week periods produced 248 postings. The most apparent aspect of the review was the personal nature of many of the blogs. The personal diary characteristic is in line with recent survey data showing that the predominant reasons for blogging are self-expression and sharing of personal experiences.¹⁵⁷ Nonetheless, a few of the Web sites analyzed appeared to be geared toward a wider audience than family and friends but the data collected illustrates the limited amount of information available through these blogs.

The topic of the postings reflects this personal aspect, being overwhelmingly human interest related. As Exhibit VI-21 illustrates, human interest postings accounted for well over half the total posts and when including other “soft” news topics this number rises to over 90 percent. Hard news topics accounted for less than 10 percent of postings in our sample.

Exhibit VI-21: Summary of Story Content from Sample Web Sites

Type of Story from Independent Chicago-Specific Sample Websites	Percentage of All Stories in Sample of Independent Chicago-Specific Websites
A&E/Other Human Interest	69%
Other Non-Hard News	22%
Hard News	9%

Original reporting is another casualty when considering these Web sites competitors to traditional media. We define original reporting by the classic characteristics such as conducting interviews, researching the written record, presenting more than one side to an issue, reporting from an event attended by the author, and inputting some investigating effort beyond posting a press release. Less than 10 percent of stories contained original reporting.

¹⁵⁷ Lenhart, Amanda and Susan Fox. “Bloggers: A Portrait of the Internet’s New Storytellers.” Washington, D.C.: Pew Internet & American Life Project, 19 July 2006.

When considering what topic was covered with this small amount of original reporting, we discovered slightly more than 2 percent of stories (or 6 of 248) were on hard news topics (see Exhibit VI-22). Furthermore, the median word count per story was 215. We also tracked whether the posting had a local focus and ascertained that just over 20 percent of stories covered a local topic.¹⁵⁸ This analysis clearly shows that blogs do not serve as competitors to the traditional media outlets and certainly do not serve as a substitute.

Exhibit VI-22: Summary of Original Reporting Based on Topic from Sample Web Sites

Type of Story on Independent Chicago-Specific Websites	Percentage of All Stories in Sample of Independent Chicago-Specific Websites
Non-Original Reporting	90.3%
Original Reporting	9.7%
Original A&E/Other Human Interest Reporting	3.6%
Original Other Non-Hard News Reporting	3.6%
Original Hard News Reporting	2.4%

General Results - Quantitative

The online traffic monitoring services Alexa and Quantcast were used to contrast the traffic and audiences of the independent Chicago-specific sample Web sites with the Web sites of local print and television news outlets operating in the greater Chicago area. Though these monitoring services are not perfect, they do provide useful information for comparison purposes.

As Exhibit VI-23 shows, the Web sites of local newspapers operating in the greater Chicago area have an average of over 500,000 unique U.S. visitors per month, which is light-years higher than the 2,029 average of the independent Chicago-specific sample Web sites.

¹⁵⁸ This aspect was difficult given the nature of the blogs analyzed. In order to maintain consistency with the main section of the report, we did not count a personal post. For example, a posting about scolding your kids at home was not counted as local but if you wrote about traveling to a location or event in the Chicago area and scolding them than the post was considered locally focused.

The substantially lower traffic numbers of local TV station Web sites still dwarfed the independent Chicago-specific sample Web sites. Furthermore, the actual average number of visitors to the blogs is much lower than 2,029.¹⁵⁹

Exhibit VI-23: Audience Composition of Chicago Local News Web Sites

Website Type	Unique U.S. Visitors Per Month	Percent Visiting Once per Month	Percent Visiting 2-30 Times per Month	Percent Visiting >30 Times per Month
Independent Chicago-Specific Websites	2,029	100%	0%	0%
Chicago Area Television Station Websites	165,058	81%	19%	0%
Chicago Area Newspaper Websites	500,688	74%	25%	1%

This dominance becomes greater when considering the circulation numbers of Chicago newspapers. As Exhibit VI-24 shows, the average Sunday circulation of daily newspapers is over 200-times greater than the average number of monthly unique visitors to the independent Chicago-specific Web sites. It is clear that the sample Web sites lack the traffic to serve a large audience and certainly don't act as a replacement or competitor to traditional media outlets, further supporting the notion that these Web sites function as personal diaries for a very limited audience.

Exhibit VI-24: Circulation of Daily Print Newspapers in Chicago

Newspaper	Circulation (Daily)	Circulation (Sunday)
Chicago Tribune	590,000	960,600
Chicago Sun-Times	382,800	333,500
Daily Herald	151,200	151,567
Average	374,667	481,889

¹⁵⁹ The reason for this is when a website has less than 2,000 unique visitors per month Quantcast notes this simply by stating “< 2,000”. We converted these to 2,000 significantly overestimating their traffic. What’s more, 15 of the 25 websites did not have enough traffic to even have this info available and 9 of the remaining 10 had less than 2,000, leaving only one website with accurate information.

CONCLUSION

There is little doubt that an open and free Internet provides a space for people to enter into discourse within a larger sphere. And though it may one day lead to a fundamental shift in the media landscape, this sea change has yet to occur. The relatively low weight of city-specific Web sites in comparison to the traditional local media is consistent with our survey research, which shows that the Internet, (more broadly defined than just these city-specific Web sites), plays a very small role (4 percent named as their most important source of local news) as a source of news and an influencer of opinion about local public affairs.¹⁶⁰ Industry commenters simply lobbed out other online outlets hoping to convince the Commission that these outlets function as serious competitors to their large operations. An examination that goes any distance below the surface level of information they provide proves this argument to be far from reality.

Our examination provides a revealing snapshot of the current state of online local news competition and only begins to show the sway these media companies hold in the local news space. Since the outset of these proceedings, traditional media companies have continued to increase their dominance with large gains in Web site traffic coming in the newspaper,¹⁶¹ television¹⁶² and radio¹⁶³ industries. What's more is those independent city-specific Web sites who do enjoy a measure of success have begun to be purchased by

¹⁶⁰ Consumer Group Survey, August 2006, See Comments of Consumers Union, Consumer Federation of America and Free Press, Part III, "Study 8: The Internet and Local News and Information," Available at http://www.stopbigmedia.com/filing/part_3.pdf.

¹⁶¹ See <http://www.naa.org/sitecore/content/Global/PressCenter/2007/ONLINE-NEWSPAPER-AUDIENCE-SETS-RECORDS-IN-SECOND-QUARTER.aspx?lg=naadotorg>.

¹⁶² See <http://tvnewsday.com/articles/2007/09/05/daily.7/>.

¹⁶³ See http://www.themediiaudit.com/sept07_fyi.pdf.

traditional media thereby negating any potential addition they could bring to the local news voices in the market and only serving to further increase the dominance these companies retain in local news.¹⁶⁴

FCC ownership protections remain vital to ensuring that there is a diverse market for local news and information in every media market across the country. In fact, given that many of these independent Web sites function as a platform for distributing and commenting on the original reporting done by traditional newspaper and broadcast outlets, allowing further consolidation in local media markets would damage their utility. The independent local websites cited by traditional media companies are merely a complement to the traditional sources of news. These independent Web sites inclusion in any kind of media market analysis must reflect their small audience and lack of contribution of original content. When they are included, as we did in our analysis, they should be given the proper weight. It would be absurd to conclude that Gothamist.com, the most read city-specific Web site, with a fraction of the audience and barely a hint of original reporting has the same influence as the New York Times. Failing to take into account the dominance of the traditional mass media was precisely the analytic error that scuttled the FCC's rule writing exercise the last time.

¹⁶⁴ The most recent example of this is Newsvine, which was recently purchased by General Electric's MSNBC.com. See <http://www.nytimes.com/2007/10/08/business/media/08msnbc.html>. Another example comes from The McClatchy Company, who purchased the website Fresno Famous and sister site Modesto Famous to merge with their dominant newspapers in the area, The Fresno Bee and The Modesto Bee. See <http://www.poynter.org/column.asp?id=31&aid=115385>.

VII: STATION REVENUE AND NEWS PRODUCTION IN SMALL MARKETS

NAB'S EXCLUSION OF EVEN-YEAR FINANCIAL DATA DOES NOT WITHSTAND SCRUTINY:

Even-Year Station Revenues are Higher than Odd-Year Revenues; Even-Year Revenues Have the Same Variability as Odd-Year Revenues

In our *Reply Comments*, we criticized the National Association of Broadcasters (“NAB”) for deliberately excluding financial data from even-numbered years from their comments in this proceeding, in an apparent attempt to portray a poverty-stricken broadcast television industry.¹⁶⁵ We demonstrated that the broadcast sector exhibits a two-year financial cycle, where due primarily to election advertising, revenues are higher in even numbered years.

In an ex-parte filing submitted in this proceeding a full eight-months after the closing of the reply comment period, the NAB attempted to respond to our criticism and justify their exclusion of even-year financial data.¹⁶⁶ NAB’s excuse for the exclusion of the higher-revenue years is based on their assertion that the revenues earned by stations in even-numbered years is more unpredictable than those earned in odd numbered years, precisely because of periodic election cycles. NAB asserts that this exclusion was “an entirely reasonable approach” and that “the actual revenues earned by stations in election years vary dramatically depending on a

¹⁶⁵ See Reply Comments of Consumers Union, Consumer Federation of America and Free Press, Study 5, “Out of Focus: The NAB’s Fraudulent Financial Analysis,” January 16 2007 (“CU Reply Study 5”).

¹⁶⁶ National Association of Broadcasters, “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; 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; Cross-Ownership of Broadcast Stations and Newspapers; Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; Definition of Radio Markets, MB Docket Nos. 06121, et al.” Ex-Parte Letter to Marlene H. Dortch, September 25, 2007 (“NAB Financial Ex-Parte”).

number of interrelated factors, and are not consistent from election year to election year for a particular station, or even stations in a given market or state.”¹⁶⁷

Thus NAB offers a simple assertion that can be easily tested. The question is, are station revenues more volatile in even numbered years in comparison to odd numbered years? That is, is the variability of station revenue greater in even numbered years, as asserted by NAB?

To test NAB’s contention, we relied upon a database of station revenue for every single full-power commercial broadcast station during the 11-year period from 1996 through 2006.¹⁶⁸

We first sought to examine the differences in station revenues reported between odd- and even-numbered years. As predicted, the average station revenues in the even-numbered years 1996, 1998, 2000, 2002, 2004, and 2006 were significantly higher than those reported in the odd-numbered years 1997, 1999, 2001, 2003, and 2005 (\$14.9 million in even-numbered years versus \$14.2 million in odd numbered years). Because the database included stations with “zero” annual revenues in each of the 11 years (“all zero revenue stations”), we examined the difference in revenues with these stations excluded from the analysis.¹⁶⁹ The results were similar (\$18.2 million in even numbered years versus \$17.3 million in odd numbered years).

Having established the differences in even and odd-numbered years, we next sought to compare the variability in station revenues between odd and even-numbered years. Because the average revenues are different, we compared the coefficients of variation between these

¹⁶⁷ NAB Financial Ex-Parte, p. 2.

¹⁶⁸ BIA Financial Media Access Pro®. Some stations are reported as having zero station revenue in certain or all years. We explore the impact of this aspect of the data in our analysis outlined above.

¹⁶⁹ 246 of the 1,362 stations were listed as having zero revenue in each of the 11 years.

two categories. The coefficient of variation is an index that enables comparison of the variation of populations that have significantly different average values. It is defined as the ratio of the population's standard deviation to its mean -- in other words, the spread of values around the average divided by the average. Thus, the higher the coefficient of variation, the higher the variability among the individual values. If the NAB's assertion is correct, then the coefficient of variation of station revenues in even numbered years should be *substantially higher* than the coefficient of variation of station revenues in odd numbered years.

But, as Exhibit VII-1 shows, this is simply not the case. **Station revenues in even-numbered years are just as variable as station revenues in odd-numbered years.** The first table in Exhibit VII-1 shows the difference for all stations during the 11-year period, while the second table excludes the all zero revenue stations. The third and fourth tables proceed in a similar fashion, but are for the 10-year period of 1997-2006, enabling the comparison of 5 even-numbered years and 5 odd-numbered years. All four tables show virtually no difference in the predictability of station revenues earned in even years versus those earned in odd years, and consistently show that if there is any difference, it is that revenues from even-numbered years are slightly *more* predictable and *less* variable than station revenues from odd-numbered years.

Exhibit VII-1: Similar Variability in Station Revenues Between Odd and Even-Numbered Years

REVENUE, ALL FULL-POWER COMMERCIAL STATIONS, 1996-2006						
Years	N	Mean	Median	Standard Deviation	Variance	Coefficient of Variation
Even	8,172	14,931	5,000	30,523	9.32E+08	2.04
Odd	6,810	14,151	4,700	29,088	8.46E+08	2.06

difference in average revenue = 780 (t = 1.60, p = 0.11)

REVENUE, ALL FULL-POWER COMMERCIAL STATIONS, 1996-2006 excluding stations that had zero reported revenue every year						
Years	N	Mean	Median	Standard Deviation	Variance	Coefficient of Variation
Even	6,696	18,222	7,275	32,819	1.08E+09	1.80
Odd	5,580	17,270	6,800	31,286	9.79E+08	1.81

difference in average revenue = 952 (t = 1.6421, p = 0.1006)

REVENUE, ALL FULL-POWER COMMERCIAL STATIONS, 1997-2006						
Years	N	Mean	Median	Standard Deviation	Variance	Coefficient of Variation
Even	6,810	15,362	5,200	31,146	9.70E+08	2.03
Odd	6,810	14,151	4,700	29,088	8.46E+08	2.06

difference in average revenue = 1211 (t = 2.3445, p = 0.0191)

REVENUE, ALL FULL-POWER COMMERCIAL STATIONS, 1997-2006 excluding stations that had zero reported revenue every year						
Years	N	Mean	Median	Standard Deviation	Variance	Coefficient of Variation
Even	5,580	18,748	7,600	33,473	1.12E+09	1.79
Odd	5,580	17,270	6,800	31,286	9.79E+08	1.81

difference in average revenue = 1478 (t = 2.4092, p = 0.0160)

Source: BIA Financial

The data also indicates that over the 11-year period, average station revenues grew higher and exhibited less variability. As Exhibit VII-2 shows, the average station revenue was \$16 million in 1996, with a coefficient of variation of 1.87. By the end of 2006, the average station revenue had grown to \$19.7 million with a less-volatile coefficient of variation of 1.73 (data excludes “all zero revenue” stations).

Exhibit VII-2: Variability of Station Revenue 1996-2006: Revenues are Increasing and Becoming Less Volatile Over Time

REVENUE, ALL FULL-POWER COMMERCIAL STATIONS 1996-2006, excluding stations that had zero reported revenue every year		
Year	Average Station Revenue (thousands)	Coefficient of Variation
1996	15,595	1.87
1997	16,279	1.84
1998	17,300	1.80
1999	17,581	1.83
2000	19,059	1.86
2001	16,455	1.83
2002	18,109	1.77
2003	17,838	1.79
2004	19,598	1.76
2005	18,198	1.77
2006	19,674	1.73
All Stations 1996-2006	17,789	1.81

Source: BIA Financial

At the state-level, we see a similar pattern of equal variability of station revenues among even and odd-numbered years. After assigning each station to a single U.S. state of “primary coverage”¹⁷⁰, we see that every single state had higher average station revenues in even-numbered years, and that the variability in station revenues among odd-and even-numbered years was virtually identical in each of the 50 states and DC (see Exhibit VII-3).

¹⁷⁰ This is a field listed by BIA that denotes the U.S. state where the majority of a station’s viewing audience resides.

Exhibit VII-3: Average Station Revenues by State, 1996-2006 Similar Variability in Station Revenues Between Odd and Even-Numbered Years

Revenue, ALL FULL-POWER COMMERCIAL STATIONS, 1996-2006 excluding stations that had zero reported revenue every year								
EVEN YEARS ('96,'98','00,'02,'04,'06)			ODD YEARS ('97,'99','01,'03,'05)			Difference in Average Revenue (Even Years - Odd Years)	Difference in Coefficient of Variation (Even Years - Odd Years)	
State Coverage	Average Station Revenue (thousands)	Coefficient of Variation	State Coverage	Average Station Revenue (thousands)	Coefficient of Variation			
AK	3,211	0.86	AK	3,035	0.86	177	0.00	
AL	15,463	1.68	AL	14,752	1.70	711	-0.02	
AR	9,286	0.93	AR	8,519	0.93	767	0.00	
AZ	16,623	1.27	AZ	15,763	1.28	861	-0.01	
CA	32,367	1.73	CA	30,471	1.73	1,896	-0.01	
CO	18,385	1.36	CO	18,011	1.36	374	-0.01	
CT	85,487	1.26	CT	82,147	1.26	3,341	0.00	
DC	44,539	1.09	DC	42,585	1.08	1,954	0.01	
DE	47,135	1.29	DE	44,813	1.28	2,323	0.01	
FL	21,569	1.12	FL	20,305	1.10	1,264	0.02	
GA	8,468	1.01	GA	7,956	0.98	512	0.03	
HI	7,175	0.90	HI	6,778	0.94	397	-0.04	
IA	7,148	0.93	IA	6,609	0.93	539	0.01	
ID	8,513	1.28	ID	8,075	1.27	437	0.00	
IL	24,604	1.72	IL	23,496	1.75	1,108	-0.03	
IN	18,396	0.76	IN	17,368	0.77	1,028	-0.01	
KS	9,923	1.11	KS	9,407	1.08	516	0.03	
KY	10,997	1.00	KY	10,233	1.00	764	0.00	
LA	10,049	0.91	LA	9,699	0.88	351	0.02	
MA	30,340	1.26	MA	29,259	1.28	1,081	-0.02	
MD	33,788	0.63	MD	32,838	0.62	951	0.01	
ME	6,570	0.81	ME	6,040	0.81	531	0.00	
MI	16,415	1.40	MI	15,145	1.43	1,270	-0.03	
MN	19,394	1.29	MN	18,337	1.29	1,058	0.00	
MO	4,989	0.62	MO	4,346	0.60	642	0.02	
MS	8,637	0.74	MS	8,352	0.70	284	0.04	
MT	2,231	1.00	MT	1,980	1.04	251	-0.04	
NC	14,260	0.97	NC	13,479	0.96	781	0.01	
NE	1,731	0.74	NE	1,624	0.76	107	-0.02	
NH	6,758	0.80	NH	6,292	0.81	466	-0.01	
NM	6,296	0.61	NM	6,040	0.61	256	0.00	
NV	21,930	0.76	NV	20,453	0.74	1,477	0.02	
NY	9,242	0.96	NY	8,844	0.96	398	0.00	
OH	20,737	1.06	OH	19,566	1.06	1,171	0.01	
OK	10,006	1.05	OK	9,595	1.03	411	0.02	
OR	14,884	0.97	OR	13,631	0.97	1,253	0.01	
PA	9,912	0.91	PA	9,120	0.88	793	0.03	
SC	8,170	0.79	SC	7,725	0.76	445	0.02	
TN	3,738	1.00	TN	3,468	1.04	270	-0.04	
TX	18,377	1.53	TX	17,584	1.53	793	0.00	
VA	9,407	0.82	VA	9,144	0.82	263	0.00	
WA	36,281	0.87	WA	34,190	0.85	2,091	0.01	
WI	14,391	0.89	WI	13,539	0.89	852	0.00	
WV	3,438	0.84	WV	2,842	0.82	596	0.03	
WY	1,336	0.71	WY	1,320	0.80	16	-0.09	
All Stations	18,222	1.80		17,270	1.81	952	-0.01	

Source: BIA Financial

The stability of average station revenue across even and odd years is also seen at the Designated Market Area (“DMA”) level. Contrary to NAB, there is great consistency in revenue variability across the time periods, and there is no evidence of greater revenue variability in the less-populated markets. For example, Exhibit VII-4 shows that in both even and odd-numbered years the variability in station revenues was nearly identical for markets 11-20 as markets 200-210. Exhibit VII-4 confirms that the average station revenue is indeed higher in the larger markets, as is expected given their larger audiences. However, Exhibit VII-5 illustrates that the smaller market station earn far more on a per household basis, and have per household revenue streams that are just as, if not more predictable than the stations in the largest markets.¹⁷¹

Exhibit VII-4: Average Station Revenues by DMA Rank, 1996-2006 Similar Variability in Station Revenues Between Odd and Even-Numbered Years

Revenue, ALL FULL-POWER COMMERCIAL STATIONS, 1996-2006 excluding stations that had zero reported revenue every year								
EVEN YEARS ('96,'98','00,'02,'04,'06)			ODD YEARS ('97,'99','01,'03,'05)			Difference in Average Revenue (Even Years - Odd Years)	Difference in Coefficient of Variation (Even Years - Odd Years)	
DMA Rank	Average Station Revenue (thousands)	Coefficient of Variation	State Coverage	Average Station Revenue (thousands)	Coefficient of Variation			
1-10	61,346	1.18	1-10	58769.07	1.18	2,577	0.00	
11-20	32,095	0.92	11-20	30522.35	0.91	1,573	0.01	
21-30	26,684	0.75	21-30	25315.95	0.74	1,368	0.01	
31-40	18,283	0.85	31-40	17155.78	0.83	1,127	0.02	
41-50	15,083	0.81	41-50	14188.22	0.79	895	0.01	
51-60	11,744	0.88	51-60	11061.74	0.87	682	0.02	
61-70	10,332	0.82	61-70	9568.73	0.80	763	0.02	
71-80	9,208	0.78	71-80	8552.80	0.77	655	0.01	
81-90	8,030	0.77	81-90	7565.39	0.75	465	0.02	
91-100	8,349	0.68	91-100	7869.69	0.66	479	0.02	
101-110	7,484	0.65	101-110	6911.79	0.65	572	0.00	
111-120	6,721	0.77	111-120	6137.83	0.74	583	0.03	
121-130	6,138	0.65	121-130	5708.10	0.63	430	0.02	
131-140	5,134	0.54	131-140	4755.66	0.54	379	0.00	
141-150	5,376	0.67	141-150	5035.97	0.65	340	0.01	
151-160	4,789	0.77	151-160	4448.00	0.76	341	0.01	
161-170	3,326	0.85	161-170	3092.86	0.84	233	0.01	
171-180	3,424	0.90	171-180	3185.37	0.89	239	0.01	
181-190	3,255	0.86	181-190	2969.52	0.88	285	-0.01	
191-200	2,077	0.80	191-200	1936.79	0.80	140	0.00	
201-210	2,026	0.93	201-210	1966.54	0.89	59	0.04	
All Stations	18,222	1.80		17,270	1.81	952	-0.01	

Source: BIA Financial

¹⁷¹ This data is presented for the years 2000 through 2006. This time period reflects the availability of accurate and consistent market household population estimates.

**Exhibit VII-5: Average Per Household Station Revenues by DMA Rank, 2000-2006
Similar Variability in Station Revenues Between Odd and Even-Numbered Years**

Revenue per Household, ALL FULL-POWER COMMERCIAL STATIONS, 2000-2006 excluding stations that had zero reported revenue every year								
EVEN YEARS ('00,'02,'04,'06)			ODD YEARS ('01,'03,'05)			Difference in Average Revenue per HH (Even Years - Odd Years)	Difference in Coefficient of Variation (Even Years - Odd Years)	
DMA Rank	Average Station Revenue per DMA Household (thousands)	Coefficient of Variation	State Coverage	Average Station Revenue per DMA Household (thousands)	Coefficient of Variation			
1-10	20.20	1.01	1-10	18.57	1.01	1.63	0.00	
11-20	22.86	0.93	11-20	19.89	0.88	2.97	0.06	
21-30	26.54	0.72	21-30	24.07	0.72	2.47	0.00	
31-40	23.85	0.82	31-40	21.39	0.81	2.46	0.01	
41-50	24.90	0.79	41-50	22.44	0.77	2.46	0.02	
51-60	22.35	0.85	51-60	20.29	0.84	2.06	0.01	
61-70	24.01	0.80	61-70	21.57	0.79	2.44	0.01	
71-80	23.86	0.78	71-80	21.30	0.77	2.56	0.01	
81-90	24.51	0.75	81-90	22.25	0.74	2.26	0.01	
91-100	29.80	0.67	91-100	27.21	0.65	2.58	0.01	
101-110	29.82	0.63	101-110	26.41	0.64	3.41	-0.01	
111-120	29.49	0.77	111-120	25.36	0.76	4.13	0.01	
121-130	30.24	0.62	121-130	27.00	0.62	3.24	0.00	
131-140	30.88	0.54	131-140	27.48	0.53	3.40	0.00	
141-150	38.69	0.67	141-150	35.16	0.66	3.53	0.02	
151-160	35.84	0.76	151-160	32.25	0.75	3.59	0.01	
161-170	32.86	0.80	161-170	29.71	0.79	3.15	0.02	
171-180	42.10	0.85	171-180	37.51	0.86	4.59	-0.01	
181-190	55.29	0.71	181-190	50.35	0.71	4.93	0.00	
191-200	40.46	0.79	191-200	36.11	0.81	4.35	-0.02	
201-210	89.09	0.61	201-210	80.70	0.59	8.39	0.01	
All Stations	28.07	0.87		25.22	0.86	2.86	0.01	

Source: BIA Financial

In NAB’s ex-parte filing, the organization tries to use the seasonality of certain elections to make their case that even-year revenues are too volatile to be included in any reasonable assessment of the financial health of their industry. As shown above, this notion simply is not true. Revenues earned by TV broadcast stations in even-numbered years are higher and no more or less volatile than station revenues from odd-numbered years. But what is the effect of elections? What should we make of NAB’s assertion that the seasonality of U.S. Senate races and Presidential elections (fought over-the-air only in certain “battleground” states, according to NAB) creates large uncertainty and variability in station’s financial well-being?

NAB is correct in that not every state conducts a U.S. Senate election in every two-year election cycle, nor is every state a “battleground” state in every four-year Presidential election cycle. But every state will hold U.S. Senate elections in two out the three election years in a single 5-year election cycle (5-year cycles, or “Senate cycles” begin on an even-numbered year and encompass 3 election years; i.e. 1996-2000 or 2002-2006). Using our 11-year database, we can examine the effect of Senate and Presidential elections on the variability of station revenues.

First, we examine the effects of elections on average station revenue and its variability by segmenting each station’s revenue in a particular even-numbered year into two categories: stations serving a state with a Senate election that year and/or stations serving a state with no Senate election and were not a Presidential battleground state in that particular year. Roughly three-quarters of all observations on stations with non-zero revenue fit into the former category (for the 6 election years encompassing 1996-2006). We examined the two combined Senate-cycles (1996-2000 and 2002-2006) as well as each cycle separately. The results are presented in Exhibit VII-6.

**Exhibit VII-6: Average Station Revenues and Elections, Even Years 1996-2006
Elections Have Little Effect on the Variability of Station Revenues**

REVENUE, ALL FULL-POWER COMMERCIAL STATIONS, Even Years 1996-2006 (Two Senate Cycles) excluding stations that had zero reported revenue every year						
Stations in States with	N	Mean	Median	Standard Deviation	Variance	Coefficient of Variation
Senate Race or Presidential Battleground State	4,953	18,269	7,300	33,503	1.12E+09	1.83
No Senate Race or Presidential Battleground State	1,743	18,089	7,025	30,799	9.49E+08	1.70

difference in average revenue = 180 (t = 0.2051, p = 0.8375)

REVENUE, ALL FULL-POWER COMMERCIAL STATIONS, Even Years 1996-2000 (One Senate Cycle) excluding stations that had zero reported revenue every year						
Stations in States with	N	Mean	Median	Standard Deviation	Variance	Coefficient of Variation
Senate Race or Presidential Battleground State	2,654	17,767	6,900	33,767	1.14E+09	1.90
No Senate Race or Presidential Battleground State	694	15,601	6,400	24,555	6.03E+08	1.57

difference in average revenue = 2166 (t = 1.5836, p = 0.1134)

REVENUE, ALL FULL-POWER COMMERCIAL STATIONS, Even Years 2002-2006 (One Senate Cycle) excluding stations that had zero reported revenue every year						
Stations in States with	N	Mean	Median	Standard Deviation	Variance	Coefficient of Variation
Senate Race or Presidential Battleground State	2,299	18,849	7,950	33,194	1.10E+09	1.76
No Senate Race or Presidential Battleground State	1,049	19,735	7,700	34,224	1.17E+09	1.73

difference in average revenue = -886 (t = 0.7014, p = 0.4831)

Source: BIA Financial

As the first table in Exhibit VII-6 shows, over the two Senate-cycles between 1996 and 2006 the average revenue of stations during the even years where they did not have a Senate election and/or were not a Presidential battleground state was *no different* from the average revenue earned in the even years when/where these elections did take place. The variability was slightly higher for the stations in the years when these events occurred, but the difference is of negligible magnitude. The second table in Exhibit VII-6 presents the results

for the first Senate-cycle during this period (1996-2000) while the third table presents the results for the second Senate-cycle (2002-2006). These tables indicate that the effect of these high-profile elections on revenue variability decreased as of the last cycle, with virtually no difference in the average revenue of stations during the even years where they did not have these election characteristics and the average revenue earned in the even years when/where these elections did take place.

Exhibit VII-7 presents a similar analysis at the DMA level. The results indicate that these election phenomena have virtually no effect on the variability of station revenue, and that the variability is nearly identical between small and large markets.

Exhibit VII-7: Average Station Revenues and Elections, By DMA, Even Years 1996-2006; Elections Have Little Effect on the Variability of Station Revenues, No Difference Between Large and Small Markets

Revenue, ALL FULL-POWER COMMERCIAL STATIONS, 1996-2006 excluding stations that had zero reported revenue every year									
Average Station Revenue in Markets With A Senate Race or Were A Presidential Battleground State				Average Station Revenue in Markets With No Senate Race and Were Not A Presidential Battleground State				Difference in Average Revenue (Race Markets - Non-Race Markets)	Difference in Coefficient of Variation (Race Markets - Non-Race Markets)
DMA Rank	Average Station Revenue (thousands)	Coefficient of Variation	N	State Coverage	Average Station Revenue (thousands)	Coefficient of Variation	N		
1-10	64,364	1.19	531	1-10	54,752	1.13	243	9,611	0.06
11-20	32,280	0.92	484	11-20	31,364	0.93	122	916	-0.01
21-30	26,997	0.74	324	21-30	25,836	0.77	120	1,161	-0.02
31-40	18,539	0.85	334	31-40	17,614	0.85	128	925	0.00
41-50	15,155	0.81	319	41-50	14,892	0.80	119	262	0.00
51-60	11,616	0.89	319	51-60	12,103	0.86	113	-487	0.03
61-70	10,271	0.82	277	61-70	10,499	0.82	101	-229	0.01
71-80	9,151	0.78	270	71-80	9,394	0.79	84	-243	-0.01
81-90	7,943	0.77	252	81-90	8,273	0.77	90	-330	0.00
91-100	8,278	0.68	217	91-100	8,567	0.67	71	-290	0.01
101-110	7,494	0.65	190	101-110	7,452	0.63	62	41	0.03
111-120	6,678	0.76	213	111-120	6,866	0.83	63	-188	-0.07
121-130	6,163	0.64	196	121-130	6,050	0.69	56	113	-0.05
131-140	5,125	0.55	180	131-140	5,170	0.53	48	-46	0.01
141-150	5,270	0.66	154	141-150	5,637	0.67	62	-367	-0.01
151-160	4,806	0.76	157	151-160	4,739	0.81	53	67	-0.06
161-170	3,339	0.87	151	161-170	3,290	0.79	59	49	0.08
171-180	3,394	0.90	120	171-180	3,512	0.91	42	-118	0.00
181-190	3,148	0.90	90	181-190	3,523	0.80	36	-376	0.09
191-200	2,090	0.80	120	191-200	2,044	0.81	48	46	-0.01
201-210	1,925	0.90	55	201-210	2,267	0.99	23	-343	-0.09
All Stations	18,269	1.83	4,953		18,089	1.70	1,743	180	0.13

Source: BIA Financial

In their ex-parte filing, NAB states, “the effects of national elections... on a given station vary greatly depending on a number of variables... including the years in which these events occur in a financial analysis that includes a large number of stations would distort the “average” revenues of stations within a given market range. It would thereby paint a picture that all of them are doing better than they are and that they can all expect to experience spikes in ad revenue in each year marked by a national election or the summer games. *“That picture, however, would have no relation to reality (emphasis added).”*¹⁷²

But as our basic analysis shows, NAB’s case for exclusion of even-year financial data does not withstand close scrutiny. Indeed, NAB’s exclusion of even-year financial data has no relation to reality. It is simply statistical slight-of-hand that disguises the true cyclical financial nature of the broadcast industry. If the Commission is to make informed public policy, it must have a complete picture. The full data reveal that there is simply no reason to exclude revenues from even years. Station revenues in even years are predictably higher than in odd years, and are no more or less volatile. Indeed, NAB’s main gripe with even year station financial data is that it is at all variable -- that is, the use of averages, in NAB’s view, obscures the status of individual stations. But if they truly believe this to be the case, then why not offer data from even years? As our data reveal, station revenues are just as variable in these years as they are in the even-numbered years that NAB wants the Commission to ignore. One can only conclude that the exclusion is based not in a desire to paint a complete picture, but a desire to present a portrait of an industry full of impoverished stations. This is however the opposite of reality.

¹⁷² NAB Financial Ex-Parte, p. 13.

What likely drives NAB's bizarre financial analysis is the desire for the Commission to grant its members (particularly those in medium and smaller markets) more oligopoly power. The simple fact is the NAB is highlighting the worst possible cases -- the lowest rated stations -- in order to get a carte-blanche removal of the Top-4 restriction and the duopoly ownership rule. NAB claims it needs the Commission to toss aside these rules that protect viewpoint diversity in order to save struggling stations. But if saving failing or failed stations is the true motivation, then NAB does not need the Commission to eliminate the Top-4 and duopoly rules. The Commission already grants waivers of these rules on a case-by-case basis for stations that are deemed failed or failing.¹⁷³ NAB's demand for the abandonment of these rules simply does not serve the public interest and should be rejected.

Data from the 10 Media Ownership Studies Reveals that The Formation of Duopoly Combinations has No Positive Effect on Station Revenue

There are currently 250 full-power broadcast stations that are a part of an in-market multiple ownership combinations.¹⁷⁴ There are 122 combination-stations in markets with eight or less television "parents", markets where combinations are prohibited without a Commission waiver.¹⁷⁵ And there are 31 such combination-stations in markets with five or fewer commercial stations -- the demarcation preferred by the former FCC Chief Economist in her paper outlining proposed ownership studies. The Chief Economist conceded that

¹⁷³ 47 C.F.R. § 73.3555.

¹⁷⁴ Data derived from BIA Financial Media Access Pro as of October 5th 2007; combinations of full-power commercial stations (excluding satellite stations; includes stations originating from border areas). BIA lists owners in a manner that reflects deals announced but may or may not have yet consummated. So the above results of 250 stations in multiple ownership situations includes pending waiver applications, such as Sinclair's request to acquire Nashville's WNAB and form a triopoly in that market.

¹⁷⁵ BIA list "parents" in addition to "owners" of each license. Parents usually refer to parent companies of subsidiaries. However, in cases of Local Marketing Agreements ("LMAs") BIA list the company operating the station under the LMA as the parent.

markets with this few voices were concentrated, but that elimination of the cross-ownership rule in these markets would bring financial benefits to stations.

Exhibit VII-8: Stations in Multiple-Ownership And Cross-Owned Combinations By Market Rank (2007)

DMA Rank	Number of Stations in Multiple Ownership Combinations	Number of Waived Newspaper-TV Cross-Owned Station	Number of Waived Newspaper-TV Cross-Owned Station	Total Number of Full-Power Commercial TV Stations (Main)
1-10	53	4	3	146
11-20	40	1	2	117
21-30	29	2	0	83
31-40	23	0	4	86
41-50	26	0	0	87
51-60	22	0	0	76
61-70	16	0	1	73
71-80	4	0	2	63
81-90	11	0	2	62
91-100	10	1	2	50
101-110	2	1	1	47
111-120	2	0	1	49
121-130	0	1	0	43
131-140	0	0	0	43
141-150	0	0	0	37
151-160	0	1	0	37
161-170	4	0	0	36
171-180	0	0	1	29
181-190	2	0	0	23
191-200	6	0	0	33
201-210	0	0	0	14
Total	250	11	19	1,234

Source: BIA Financial

Data from BIA and that generated by Media Ownership Studies 3 and 4-1 allow for the investigation of the effect of station characteristics such as news production on the amount of revenue earned by each station. The data also enable us to test the relationship between duopoly combinations and revenue in markets where such ownership structures are currently prohibited by Commission rules. The central premise behind the broadcast industry push to eliminate the duopoly restriction is that in these somewhat smaller markets, the lower rated stations need to enter into duopolies in order to survive. Leaving aside for the moment the fact the Commission already has a waiver mechanism for such failing or failed stations in

these smaller markets, we can test the impact of multiple-ownership while controlling for station and market characteristics.

We investigate this using the station-level data from Media Ownership Studies 3 and 4. We explore each data set separately. Study 3 allows for the inclusion of more content variables (such as local news, family programming, violent programming, etc) while Study 4 is a more comprehensive data set with an additional year of observations (2002-2005 as opposed to the 2003-2005 observations in Study 3).

Models for Study 3 are as follows:

$$\begin{aligned} rev_sta_{it} = & \beta_1 netnews_{it} + \beta_2 locnews_{it} + \beta_3 violent_{it} + \beta_4 spanish_{it} + \beta_5 religb_{it} + \\ & \beta_6 ispubaffairs_{it} + \beta_7 fam_{it} + \beta_8 childb_{it} + \beta_9 dmahh_{it} + \beta_{10} dmahh2_{it} + \beta_{11} poppercentblack_{it} \\ & + \beta_{12} poppercenthisp_{it} + \beta_{13} dmapercapitaincome_{it} + \beta_{14} num_commtv_sta_{it} + \\ & \beta_{15} num_ncomtv_sta_{it} + \beta_{16} pct_cablehh_{it} + \beta_{17} pct_dbshh \beta_{18} pct_bbhh_{it} + \\ & \beta_{19} parentuspctcoverage_{it} + \beta_{20} vhf_{it} + \beta_{21} stationage_{it} + \beta_{22} big4_o_and_o_{it} + \\ & \beta_{23} local_own_{it} + \beta_{24} lma_{it} + \beta_{25} tv_radio_crossown_{it} + \beta_{26} mkt_hhirev_{it} + \beta[duopoly]_{it} + \\ & \beta[xo]_{it} + \beta[affiliation]_{it} + \beta[yearfe] + \beta[dmafe] + \epsilon_{it} \end{aligned}$$

Where:

rev_sta = station revenue

netnews = percent network news time

locnews = percent local news time

violentb = percent violent programming

spanish = percent Spanish language programming

religb = percent religious programming

ispubaffairs = percent public affairs programming

famb = percent family programming

childb = percent children's programming

dmahh = DMA households

dmahh2 = DMA households * DMA households
 poppercentblack = percent black population in DMA
 poppercenthisp = percent Hispanic population in DMA
 dmapercapitaincome = DMA per capita income
 num_commtv_sta = number of commercial tv stations in DMA
 num_ncomtv_sta = number of non commercial tv stations in DMA
 pct_cablehh = percent cable TV households in DMA
 pct_dbshh = percent satellite TV households in DMA
 pct_bbhh = percent of homes with broadband in DMA
 parentuspctcoverage = percent of U.S. population reached by parent TV company
 vhf = dummy variable for channels 2-13
 stationage = age of station in years
 big4_o_and_o = ABC, CBS, NBC and Fox stations owned by the network
 local_own = station located in same DMA as owner
 lma = dummy variable for stations in local marketing agreements
 tv_radio_crossown = stations owned in a TV-radio combination
 [duopoly] = dummy variable for station in multiple ownership combination; also modeled as
 “duopoly_top” and “duopoly_bottom” to distinguish between the top and bottom revenue
 earning stations in the combination
 [xo] = dummy variable for newspaper-TV combo station; also modeled as “xo_waived” and
 “xo_grandfathered” to distinguish between waived and grandfathered cross-owned
 stations
 mkt_hhirev = HHI value for market calculated based on revenue shares
 [affiliation] = dummies for ABC, CBS, NBC, FOX, CW, Independent, SPN (Spanish
 laungauge networks), and “other”
 [yearfe] = year fixed effects
 [dmafe] = DMA fixed effects

Models for Study 4 are as follows:

$$\begin{aligned}
 rev_sta_{it} = & \beta_1 news_{it} + \beta_2 dmahh_{it} + \beta_3 dmahh2_{it} + \beta_4 poppercentblack_{it} + \\
 & \beta_5 poppercenthispanic_{it} + \beta_6 dmapercapitaincome_{it} + \beta_7 num_commtv_sta_{it} + \\
 & \beta_8 num_ncommtv_sta_{it} + \beta_9 pct_cablehh_{it} + \beta_{10} pct_dbshh_{it} + \beta_{11} pct_bbhh_{it} + \beta_{12} parentstations_{it} + \\
 & \beta_{13} vhf_{it} + \beta_{14} stationage_{it} + \beta_{15} big4_o_and_o_{it} + \beta_{16} local_own_{it} + \beta_{17} lma_{it} + \\
 & \beta_{18} tv_radio_crossown_{it} + \beta_{19} mkt_hhirev_{it} + \beta_{20} [xo]_{it} + \beta_{21} [duopoly]_{it} + \beta_{22} [affiliation]_{it} \\
 & + \beta_{23} [yearfe] + \beta_{24} [dmafe] + \epsilon_{it}
 \end{aligned}$$

Where:

rev_sta = station revenue

news = minutes of news (local and national; programming blocks)

dmahh = DMA households

dmahh2 = DMA households * DMA households

poppercentblack = percent black population in DMA

poppercenthispanic = percent Hispanic population in DMA

dmapercapitaincome = DMA per capita income

num_commtv_sta = number of commercial tv stations in DMA

num_ncommtv_sta = number of non commercial tv stations in DMA

pct_cablehh = percent cable TV households in DMA

pct_dbshh = percent satellite TV households in DMA

pct_bbhh = percent of homes with broadband in DMA

parentstations = number of TV stations owned by parent company

vhf = dummy variable for channels 2-13

stationage = age of station in years

big4_o_and_o = ABC, CBS, NBC and Fox stations owned by the network

local_own = station located in same DMA as owner

lma = dummy variable for stations in local marketing agreements

tv_radio_crossown = stations owned in a TV-radio combination

[duopoly] = dummy variable for station in multiple ownership combination; also modeled as “duopoly_top” and “duopoly_bottom” to distinguish between the top and bottom revenue earning stations in the combination

[xo] = dummy variable for newspaper-TV combo station; also modeled as “xo_waived” and “xo_grandfathered” to distinguish between waived and grandfathered cross-owned stations

mkt_hhirev = HHI value for market calculated based on revenue shares

[affiliation] = dummies for ABC, CBS, NBC, Fox, CW, Independent, WB, religious, Univision, Pax, TBN, Telemundo, Independent Spanish, Telemundo, Azteca America, Telfutura, Shop At Home, Home Shopping Network, HTV.

[yearfe] = year fixed effects

[dmafe] = DMA fixed effects

Results for Study 3 are presented below in Exhibit VII-9 (with waived and grandfathered cross-ownership and duopoly_top and duopoly_bottom dummy variables; runs with regular cross-ownership and duopoly dummy variables are presented at the end of this chapter). Results for Study 4 are presented below in Exhibit VII-10 (with waived and grandfathered cross-ownership and duopoly_top and duopoly_bottom dummy variables; runs with regular cross-ownership and duopoly dummy variables are presented at the end of this chapter).

The results from Study 3 indicate that the production of news is an important factor influencing station revenues. National news is positive and significant in the model including all markets, but this result is driven by the contribution from stations in the largest markets. Outside of these markets the production of *local* news becomes a positive and significant factor on station revenue.

Exhibit VII-9: Factors Effecting Station Revenue (Data From Study 3)

Station Revenue	All Markets	Excluding Markets With 9 or More Parents	Excluding Markets With 6 or More Commercial Stations
netnews	96,294.94 (0.000)**	-17,479.31 (0.112)	-28,911.96 (0.005)**
locnews	-8,427.04 (0.497)	11,912.24 (0.005)**	3,515.59 (0.391)
violentb	31,467.63 (0.062)#	7,356.85 (0.175)	15,909.36 (0.003)**
spanish	-21,456.83 (0.111)	3,856.89 (0.832)	-8,576.75 (0.537)
religb	10,166.81 (0.024)*	7,402.25 (0.004)**	6,446.66 (0.128)
ispubaffairs	42,829.25 (0.051)#	15,116.69 (0.200)	15,437.88 (0.057)#
famb	7,866.29 (0.232)	-7,521.10 (0.037)*	-54.886 (0.987)
childb	-15,169.89 (0.481)	11,887.02 (0.518)	-587.64 (0.968)
dmahh_raw	0.075 (0.015)*	0.029 (0.279)	0.021 (0.044)*
dmahh_raw2	0 (0.042)*	0 (0.737)	0 (0.206)
poppercentblack	-1,381.71 (0.204)	-273.105 (0.582)	-350.846 (0.514)
poppercenthispanic	602.174 (0.216)	193.139 (0.317)	356.404 (0.179)
dmapercapitaincome	-0.022 (0.853)	0.243 (0.002)**	-0.038 (0.761)
num_commtv_sta	-322.555 (0.454)	-37.798 (0.846)	-35.394 (0.909)
num_ncomtv_sta	598.887 (0.213)	255.153 (0.192)	580.928 (0.314)
pct_cablehh	32.581 (0.168)	0.102 (0.992)	-0.023 (0.998)
pct_dbshh	292.421 (0.174)	-22.968 (0.766)	-18.861 (0.825)
pct_bbhh	24.966 (0.601)	-7.779 (0.750)	-51.325 (0.061)#
parentuspctcoverage	-12.014 (0.905)	29.557 (0.560)	71.229 (0.268)
vhfdummy	10,462.43 (0.000)**	4,067.64 (0.000)**	3,500.83 (0.000)**
stationage	151.683 (0.018)*	53.136 (0.071)#	52.447 (0.053)#
big4_o_and_o	38,672.47 (0.000)**	5,601.51 (0.032)*	2,520.55 (0.476)
local_own	-945.814 (0.724)	-1,293.78 (0.141)	-625.138 (0.320)
lmadummy	2,495.57 (0.041)*	1,074.00 (0.122)	-99.214 (0.864)
tv_radio_crossown	5,742.33 (0.029)*	534.969 (0.655)	1,103.32 (0.217)
duopoly_top	11,690.82 (0.004)**	1,030.54 (0.418)	-3,564.50 (0.057)#
duopoly_bottom	-1,965.74 (0.388)	-1,554.93 (0.198)	-2,005.27 (0.125)
xo_waived	30,622.99 (0.028)*	-2,780.46 (0.325)	-1,796.52 (0.169)
xo_grandfat	15,818.84 (0.034)*	4,056.13 (0.148)	1,051.75 (0.513)
mkt_hhirev	-0.206 (0.536)	0.126 (0.391)	-0.091 (0.587)
Constant	-76,042.42 (0.116)	-32,220.06 (0.109)	-10,736.71 (0.047)*
Affiliation Dummies	Yes	Yes	Yes
DMA Fixed Effects	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes
Standard Error Clustered on Station	Yes	Yes	Yes
Observations	3354	2094	1007
Adjusted R-squared	0.678	0.766	0.852
Robust p values in parentheses	# significant at 10%; * significant at 5%; ** significant at 1%		

Exhibit VII-10: Factors Effecting Station Revenue (Data From Study 4)

Station Revenue	All Markets	Excluding Markets With 9 or More Parents	Excluding Markets With 6 or More Commercial Stations
newsmina	2.247 (0.004)**	1.902 (0.000)**	0.999 (0.003)**
dma_tvhh (thousands)	-0.003 (0.350)	-0.004 (0.258)	-0.03 (0.153)
dma_tvhh2 (thousands)	0 (0.07)#	0 (0.182)	0 (0.138)
mkt_num_commtvsta	108.057 (0.770)	417.581 (0.094)#	-194.423 (0.626)
mkt_num_ncommtvsta	-177.571 (0.611)	76.146 (0.766)	312.046 (0.120)
poppercentblack	-1,664.75 (0.034)*	-1,142.40 (0.014)*	-753.171 (0.039)*
poppercenthispanic	606.691 (0.075)#	446.64 (0.009)**	25.847 (0.878)
dmapercapitaincome	0.166 (0.324)	0.137 (0.206)	-0.149 (0.146)
mkt_pcttvhh_arecable	0 (0.894)	0 (0.292)	0 (0.494)
mkt_pcttvhh_aredbs	-10.568 (0.412)	-0.562 (0.928)	4.614 (0.386)
mkt_pctbbhh	-0.157 (0.305)	-0.437 (0.104)	2.165 (0.107)
parentstatcountbiadata	-83.89 (0.021)*	-14.83 (0.320)	13.081 (0.319)
lmadummy	448.635 (0.681)	266.499 (0.660)	-339.374 (0.475)
local_own	-480.316 (0.842)	-463.57 (0.552)	623.671 (0.317)
oandobig4dummy	37,175.54 (0.000)**	6,948.58 (0.006)**	4,056.01 (0.298)
tv_radio_crossown	3,857.84 (0.131)	838.322 (0.383)	965.876 (0.227)
xo_waived	35,031.50 (0.012)*	-1,121.16 (0.634)	-793.816 (0.559)
xo_grandfat	17,920.32 (0.013)*	3,632.67 (0.117)	-9.79 (0.994)
vhfdummy	10,428.01 (0.000)**	3,525.57 (0.000)**	2,663.38 (0.000)**
age	7.649 (0.210)	4.194 (0.000)**	53.607 (0.007)**
mkt_hhirev	-0.567 (0.105)	0.248 (0.122)	0.039 (0.730)
duopoly_top	15,257.44 (0.000)**	2,731.71 (0.019)*	1,720.67 (0.079)#
duopoly_bottom	229.178 (0.904)	-4,945.98 (0.000)**	-1,080.87 (0.386)
Constant	9,567.54 (0.473)	-9,900.31 (0.094)#	7,718.75 (0.200)
Affiliation Dummies	Yes	Yes	Yes
DMA Fixed Effects	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes
Standard Error Clustered on Station	Yes	Yes	Yes
Observations	5225	3319	1413
Adjusted R-squared	0.656	0.753	0.861
Robust p values in parentheses	# significant at 10%; * significant at 5%; ** significant at 1%		

The results indicate that duopolies only bring financial benefits to the top station of the pair, and the combinations in the largest markets drive this effect (in the smallest markets the top stations in duopoly combinations actually appear to earn less revenue than non combinations).

The data from Study 3 also indicates that newspaper-TV cross-ownership combinations only have a positive influence on station revenue in the largest markets. In all, the exclusion models the sign on waived cross-owned stations is actually negative.

The models derived from Study 4 data corroborate these results. The production of news (not distinguished by national or local focus) is associated with higher station revenues in the full model and all exclusion models. Newspaper-TV cross-ownership exerts a positive effect on station revenue, but again this appears to be driven by the combinations in the largest DMAs. The signs on the coefficients for waived stations are negative in all exclusion models.

The results from Study 4 show a consistent positive effect on the revenue of the top-station in duopoly combinations. However, there is a consistent *negative* and significant effect on the revenue of the bottom-stations in these combinations. This result, along with the results presented elsewhere in these comments that multiple ownership combinations have no positive effect on the production of news in smaller markets, the case for carte blanche lifting of the multiple-ownership rules is quite weak. **Simply put, the evidence suggests that multiple-ownership and cross-owned combinations bring no positive benefits in terms of news production or station revenue in smaller markets, and therefore the public interest is best served by the current rules that maximize the diversity of voices.**

While it may be the case that certain low-rated station in the smaller markets may be experiencing financial difficulties, it is certainly not the case that smaller markets are struggling as a whole. Exhibit VII-11 shows the percent change in market revenues from 1998 to 2006 for all 210 DMAs (in groups of 10). This data indicates that some of the largest revenue growth has been in the smaller markets. Likewise, Exhibit VII-12, which shows the average bi-annual growth in market revenue over the same period, indicates that the smaller markets are growing at or above the level of their big-city counterparts.

Exhibit VII-11: Market Revenue Growth 1998-2006

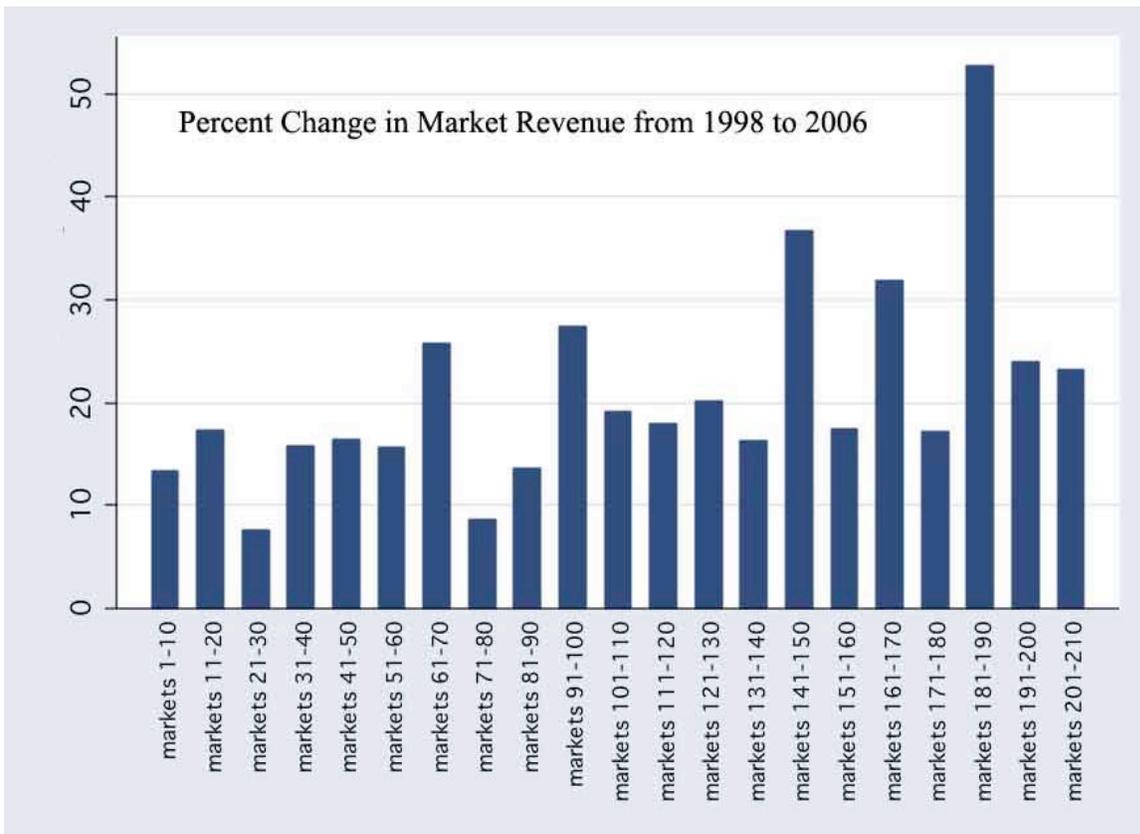
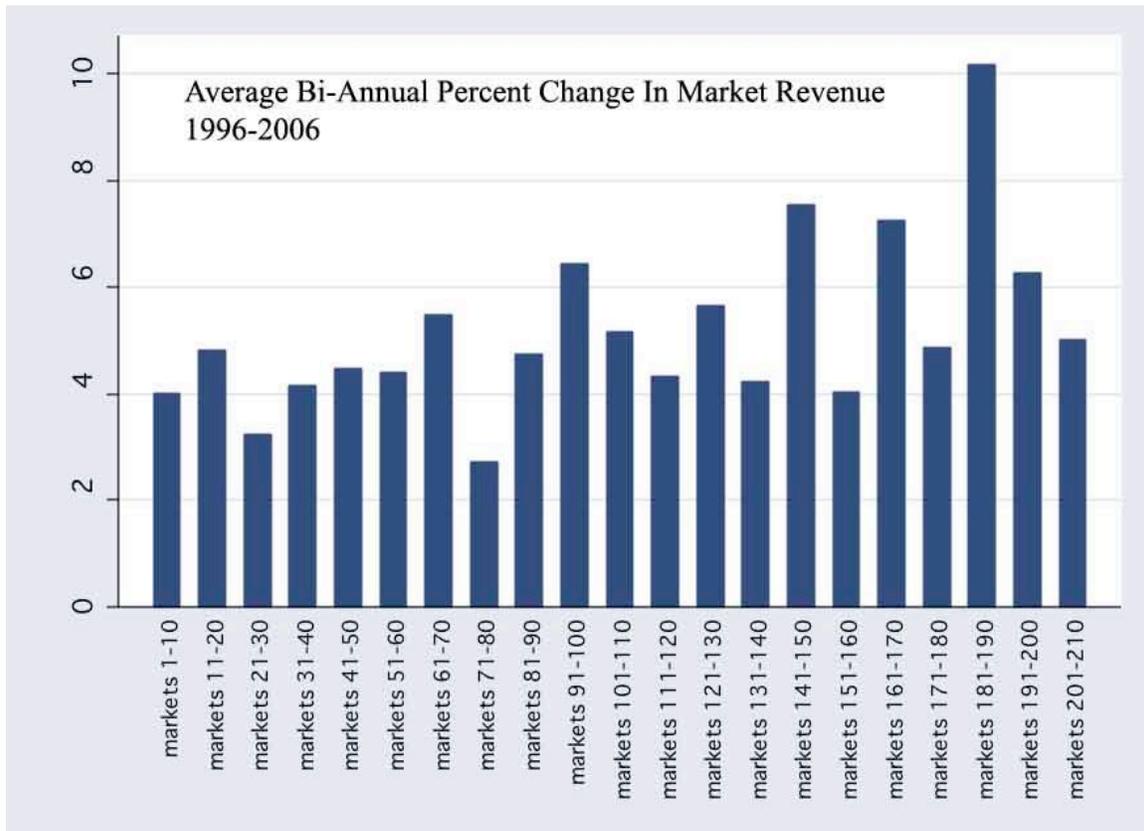


Exhibit VII-12: Market Revenue Growth, Average Bi-Annual Change, 1998-2006



The full record of financial data presented in this chapter indicates that the broadcast industry's cries of poverty are vastly overstated. The claims that even-year revenues are too unpredictable to be included in assessments of industry well-being are simply wrong. Furthermore, there is strong evidence to suggest that removal of Commission multiple-ownership and cross-ownership restrictions in smaller markets will not have the desired effect of boosting revenues. Instead, abandonment of these protections will merely leave these communities with fewer diverse sources of information and concentrate market power in the hands of a few companies that are already faring quite well financially in these markets.

Additional Figures

Exhibit VII-13: Factors Effecting Station Revenue (Data From Study 3)

Station Revenue	All Markets	Excluding Markets With 9 or More Parents	Excluding Markets With 6 or More Commercial Stations
netnews	105,727.37 (0.000)**	-15,806.66 (0.149)	-28,029.89 (0.006)**
locnews	-7,444.40 (0.551)	11,991.41 (0.006)**	3,060.00 (0.489)
violentb	32,198.52 (0.066)#	7,621.13 (0.168)	16,672.61 (0.003)**
spanish	-24,915.38 (0.089)#	6,290.88 (0.718)	-8,988.40 (0.516)
religb	10,466.24 (0.020)*	7,319.58 (0.006)**	7,076.25 (0.160)
ispubaffairs	47,196.53 (0.027)*	16,576.78 (0.179)	16,416.42 (0.079)
famb	9,793.15 (0.135)	-7,572.61 (0.037)*	245.298 (0.945)
childb	-21,277.14 (0.375)	9,924.71 (0.590)	-299.15 (0.984)
dmahh_raw	0.066 (0.008)**	0.031 (0.243)	0.023 (0.045)*
dmahh_raw2	0 (0.033)*	0 (0.788)	0 (0.103)
poppercentblack	-1,099.83 (0.216)	-291.723 (0.532)	-864.161 (0.05)*
poppercenthispanic	543.629 (0.151)	207.504 (0.275)	145.697 (0.482)
dmapercapitaincome	0.092 (0.481)	0.247 (0.002)**	-0.02 (0.865)
num_commtv_sta	-103.505 (0.763)	-37.573 (0.817)	-119.613 (0.717)
num_ncomtv_sta	419.542 (0.293)	269.109 (0.204)	563.369 (0.335)
pct_cablehh	42.501 (0.064)#	-0.531 (0.957)	4.943 (0.595)
pct_dbshh	191.737 (0.253)	-12.126 (0.870)	-61.312 (0.440)
pct_bbhh	4.91 (0.905)	-7.994 (0.719)	-33.318 (0.137)
parentuspctcoverage	-41.644 (0.677)	21.629 (0.671)	69.886 (0.276)
vhfdummy	10,843.40 (0.000)**	4,058.84 (0.000)**	3,422.07 (0.000)**
stationage	152.256 (0.019)*	50.595 (0.088)#	56.305 (0.038)*
big4_o_and_o	40,176.36 (0.000)**	5,713.94 (0.034)*	2,865.92 (0.413)
local_own	-1,678.46 (0.556)	-965.134 (0.259)	-294.21 (0.623)
lmadummy	2,616.24 (0.034)*	1,041.80 (0.139)	-40.951 (0.944)
tv_radio_crossown	4,413.55 (0.117)	731.515 (0.529)	1,109.61 (0.224)
duopoly	6,526.81 (0.026)*	-777.294 (0.577)	226.695 (0.833)
xo	22,213.90 (0.002)**	1,475.43 (0.500)	-458.767 (0.676)
mkt_hhirev	-1.083 (0.081)#	0.254 (0.369)	-0.13 (0.633)
Constant	-71,190.43 (0.067)#	-34,642.81 (0.083)#	-9,829.10 (0.075)#
Affiliation Dummies	Yes	Yes	Yes
DMA Fixed Effects	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes
Standard Error Clustered on Station	Yes	Yes	Yes
Observations	3354	2094	1007
Adjusted R-squared	0.673	0.764	0.849
Robust p values in parentheses	# significant at 10%; * significant at 5%; ** significant at 1%		

Exhibit VII-14: Factors Effecting Station Revenue (Data From Study 3)

Station Revenue	All Markets	Excluding Markets With 9 or More Parents	Excluding Markets With 6 or More Commercial Stations
netnews	106,268.45 (0.000)**	-17,227.20 (0.115)	-29,038.40 (0.005)**
locnews	-7,819.40 (0.530)	12,213.64 (0.005)**	3,047.38 (0.490)
violentb	32,821.80 (0.06)#	7,591.09 (0.168)	16,631.61 (0.003)**
spanish	-24,129.95 (0.094)#	5,230.46 (0.764)	-9,906.47 (0.476)
religb	10,168.16 (0.023)*	7,560.04 (0.004)**	7,341.97 (0.141)
ispubaffairs	47,424.68 (0.032)*	15,405.19 (0.196)	16,485.46 (0.071)
famb	9,800.94 (0.132)	-7,470.24 (0.039)*	513.762 (0.885)
childb	-21,735.36 (0.366)	10,604.86 (0.565)	615.044 (0.967)
dmahh_raw	0.067 (0.007)**	0.031 (0.244)	0.023 (0.052)#
dmahh_raw2	0 (0.029)*	0 (0.787)	0 (0.095)#
poppercentblack	-1,089.94 (0.223)	-287.452 (0.536)	-860.744 (0.051)#
poppercenthispanic	559.119 (0.142)	210.087 (0.270)	141.294 (0.497)
dmapercapitaincome	0.088 (0.502)	0.247 (0.003)**	-0.015 (0.903)
num_commtv_sta	-95.403 (0.781)	-33.663 (0.836)	-122.538 (0.713)
num_ncomtv_sta	416.164 (0.298)	268.235 (0.207)	551.368 (0.348)
pct_cablehh	42.875 (0.064)#	-1.125 (0.909)	4.997 (0.592)
pct_dbshh	191.594 (0.255)	-14.883 (0.841)	-63.652 (0.427)
pct_bbhh	6.068 (0.882)	-9.725 (0.662)	-33.307 (0.138)
parentuspctcoverage	-54.137 (0.587)	30.51 (0.546)	70.834 (0.269)
vhfdummy	10,762.76 (0.000)**	4,083.65 (0.000)**	3,507.40 (0.000)**
stationage	153.118 (0.019)*	49.726 (0.092)#	54.081 (0.047)*
big4_o_and_o	40,456.01 (0.000)**	5,448.62 (0.042)*	2,825.56 (0.418)
local_own	-1,017.31 (0.707)	-1,266.82 (0.153)	-549.246 (0.388)
lmadummy	2,549.54 (0.038)*	1,071.19 (0.128)	-66.876 (0.909)
tv_radio_crossown	4,827.59 (0.086)#	600.563 (0.605)	1,091.02 (0.229)
duopoly	6,411.67 (0.030)*	-618.501 (0.655)	219.856 (0.838)
xo_waived	31,405.27 (0.027)*	-2,646.74 (0.374)	-2,094.96 (0.107)
xo_grandfat	16,256.77 (0.031)*	4,008.05 (0.154)	1,003.07 (0.531)
mkt_hhirev	-1.065 (0.087)#	0.226 (0.425)	-0.13 (0.631)
Constant	-73,051.31 (0.061)#	-34,655.36 (0.083)#	-9,610.89 (0.081)#
Affiliation Dummies	Yes	Yes	Yes
DMA Fixed Effects	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes
Standard Error Clustered on Station	Yes	Yes	Yes
Observations	3354	2094	1007
Adjusted R-squared	0.674	0.765	0.85
Robust p values in parentheses	# significant at 10%; * significant at 5%; ** significant at 1%		

Exhibit VII-14: Factors Effecting Station Revenue (Data From Study 4)

Station Revenue	All Markets	Excluding Markets With 9 or More Parents	Excluding Markets With 6 or More Commercial Stations
newsmina	2.379 (0.002)**	2.005 (0.000)**	1.008 (0.003)**
dma_tvhh (thousands)	-0.003 (0.316)	-0.004 (0.261)	-0.03 (0.154)
dma_tvhh2 (thousands)	0 (0.076)#	0 (0.192)	0 (0.139)
mkt_num_commtvsta	102.799 (0.781)	454.42 (0.065)	-189.428 (0.649)
mkt_num_ncommtvsta	-220.293 (0.557)	31.547 (0.904)	314.72 (0.113)
poppercentblack	-1,740.13 (0.016)*	-1,149.96 (0.004)**	-752.28 (0.028)*
poppercenthispanic	655.169 (0.052)#	458.411 (0.008)**	27.404 (0.870)
dmapercapitaincome	0.141 (0.360)	0.136 (0.128)	-0.149 (0.147)
mkt_pcttvhh_arcable	0 (0.846)	0 (0.270)	0 (0.491)
mkt_pcttvhh_aredbs	-9.811 (0.423)	-0.415 (0.944)	4.592 (0.390)
mkt_pctbbhh	-0.148 (0.341)	-0.437 (0.103)	2.187 (0.102)
parentstatcountbiadata	-86.298 (0.016)*	-18.213 (0.232)	12.557 (0.341)
lmadummy	830.829 (0.451)	424.141 (0.501)	-329.523 (0.490)
local_own	-932.576 (0.718)	-243.74 (0.751)	677.114 (0.251)
oandobig4dummy	38,865.62 (0.000)**	6,770.71 (0.012)*	4,048.13 (0.299)
tv_radio_crossown	3,260.30 (0.205)	924.861 (0.362)	978.915 (0.222)
xo	24,083.71 (0.001)**	1,638.57 (0.383)	-394.093 (0.695)
vhdummy	10,736.35 (0.000)**	3,636.67 (0.000)**	2,629.79 (0.000)**
age	7.74 (0.219)	4.488 (0.000)**	54.691 (0.006)**
mkt_hhirev	-0.532 (0.099)#	0.258 (0.104)	0.038 (0.740)
duopoly	8,012.49 (0.001)**	-995.062 (0.328)	339.235 (0.700)
Constant	10,069.62 (0.435)	-10,185.69 (0.064)#	7,648.06 (0.204)
Affiliation Dummies	Yes	Yes	Yes
DMA Fixed Effects	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes
Standard Error Clustered on Station	Yes	Yes	Yes
Observations	5225	3319	1413
Adjusted R-squared	0.646	0.742	0.86
Robust p values in parentheses	# significant at 10%; * significant at 5%; ** significant at 1%		

Exhibit VII-14: Factors Effecting Station Revenue (Data From Study 4)

Station Revenue	All Markets	Excluding Markets With 9 or More Parents	Excluding Markets With 6 or More Commercial Stations
newsmina	2.411 (0.002)**	1.992 (0.000)**	1.005 (0.003)**
dma_tvhh (thousands)	-0.003 (0.322)	-0.004 (0.261)	-0.03 (0.153)
dma_tvhh2 (thousands)	0 (0.075)#	0 (0.191)	0 (0.139)
mkt_num_commtvsta	105.756 (0.774)	452.14 (0.065)#	-192.206 (0.645)
mkt_num_ncommtvsta	-231.445 (0.534)	45.109 (0.864)	313.214 (0.116)
poppercentblack	-1,725.15 (0.017)*	-1,150.68 (0.004)**	-755.232 (0.028)*
poppercenthispanic	667.607 (0.047)*	455.69 (0.008)**	26.08 (0.876)
dmapercapitaincome	0.133 (0.386)	0.137 (0.124)	-0.149 (0.149)
mkt_pcttvhh_arcable	0 (0.886)	0 (0.275)	0 (0.492)
mkt_pcttvhh_aredbs	-9.538 (0.436)	-0.562 (0.924)	4.598 (0.390)
mkt_pctbhh	-0.166 (0.276)	-0.436 (0.104)	2.18 (0.103)
parentstatcountbiadata	-89.903 (0.013)*	-16.741 (0.272)	12.825 (0.328)
lmadummy	828.651 (0.453)	419.689 (0.505)	-337.019 (0.479)
local_own	-256.266 (0.916)	-440.702 (0.577)	612.962 (0.325)
oandobig4dummy	38,844.85 (0.000)**	6,732.62 (0.012)*	4,052.01 (0.299)
tv_radio_crossown	3,643.60 (0.160)	867.596 (0.391)	972.532 (0.225)
xo_waived	35,178.59 (0.014)*	-1,336.16 (0.652)	-824.722 (0.544)
xo_grandfat	17,323.30 (0.016)*	3,436.44 (0.135)	1.268 (0.999)
vhfdummy	10,518.52 (0.000)**	3,676.75 (0.000)**	2,654.40 (0.000)**
age	8.068 (0.195)	4.409 (0.000)**	54.166 (0.007)**
mkt_hhirev	-0.499 (0.122)	0.246 (0.121)	0.037 (0.746)
duopoly	7,731.19 (0.001)**	-895.591 (0.377)	341.971 (0.697)
Constant	9,164.34 (0.485)	-10,168.38 (0.064)#	7,705.96 (0.200)
Affiliation Dummies	Yes	Yes	Yes
DMA Fixed Effects	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes
Standard Error Clustered on Station	Yes	Yes	Yes
Observations	5225	3319	1413
Adjusted R-squared	0.648	0.742	0.86
Robust p values in parentheses	# significant at 10%; * significant at 5%; ** significant at 1%		

PART III: CRITIQUE OF FCC'S STUDY METHODOLOGY

VIII. ASSESSING THE METHODOLOGIES AND ROBUSTNESS OF THE OFFICIAL CROSS-OWNERSHIP MEDIA STUDIES

METHODOLOGICAL WEAKNESSES IN THE STATISTICAL STUDIES

Peer Reviewer Concerns

Though the quality of the peer reviews of the 10 Media Ownership Studies lacked consistency, there were valid critiques contained in the reviews of Study 3 and Study 4. The reviewers of these Studies do not appear to have accessed the underlying data in order to actually implement their suggestions. Here we present the outcomes of actually implementing the suggested modifications to the methodologies of the respective studies, and apply these across Study 3, Study 4 and Study 6.

In her peer review of Study 3, Lisa George suggested several changes:

1. Programming is measured as a fraction of prime-time broadcast minutes devoted to a topic, while advertising is measured in raw minutes. Data transformations of this sort can affect results. It would be informative to run all regressions for both minutes and percentages. [George, 4]
2. Table 15 & 16 show substantial differences in ownership and programming between “Big 4” and “other” stations. It is not clear how these differences affect regression results. It would be especially helpful to know how much of the variation comes from “other stations”. Summary statistics might be useful, but running the regression results separately for the two categories would be most informative. [George, 4]

[....]

4. Should standard errors be clustered by DMA? Also, while DMA fixed effects account for time-invariant market attributes, there remains a potential for time varying market attributes to affect programming. For example, markets with a rapidly growing Hispanic population may see more Hispanic programming. The relationship between stations and markets and the potential for unobserved market attributes to influence results warrants more detailed discussion. [George, 4]

Should the regressions include parent fixed effects? [George, 5]

In his review of Study 4, Phillip Leslie suggested several changes:

[N]o distinction is made between local and national news [Leslie, 2]

[I]t would strengthen the analysis to estimate a specification that includes market-time fixed effects (i.e. a dummy for each combination of market and time period). This would relax the assumption that time period effects are equal across all markets, while allowing within-market variation to identify the coefficients of interest. [Leslie, 2]

[S]tandard errors should be adjusted to allow for clustering in the data. [Leslie, 2]

Thus we see that the reviewers feel that: 1) The dependent variable should be modeled for minutes of news, not just percent (applies to Study 3); 2) Regressions should be run separately for Big-4 and non-Big-4 stations (applies to Study 3, 4, and 6); 3) Standard errors should be clustered to account for non-independence. This could be done by clustering by station or by market (applies to Study 3 and 4; Study 6 did cluster at the station level, and was quite adamant that this is the appropriate treatment); 4) Market-Time fixed effects should be included to relax the assumption that time period effects are equal across all markets (applies to Study 3, 4, and 6); 5) Models should be run with parent fixed-effects (applies to Study 3, 4, and 6).

Additional Substantive Concerns

The peer reviewers focused primarily on statistical issues. We also feel strongly that the models used in Study 3, 4 and 6 missed important control variables whose omission may have led to a positive bias on the cross-ownership variable. For example, the airing of local news is strongly correlated with the age of a station and the position of the station on the dial (VHF versus UHF). We also feel that certain policy-relevant control variables should have been included in the models: Duopoly dummy variable; Local Marketing Agreement dummy

variable; and market HHI variable. Neither Study 3, 4, or 6 discussed any model specification tests for omitted variable bias. We present the results of such tests. Finally, from a policy perspective, it is extremely important to distinguish between waived and grandfathered newspaper-TV cross-owned stations. We present results on both the aggregate and separated cross-ownership variables.

In the following discussion, we implement the reviewers' suggestions and add the important missing control and policy variables. We in general proceed as follows: present the results from the original "preferred" run from each respective study; we then implement the particular peer review-suggested methodology change; we then add the missing station control variables, followed by the missing policy controls. Where appropriate, we identify the use of affiliation controls and fixed effects, but omit their results from the data tables (all runs are presented in full in the accompanying Statistical Appendix).

Proper Specification of the Econometric Models Invalidates the Conclusion that Cross-Owned Stations Air More Local News

The results presented below indicate that when properly specified, the models from each of these three studies indicate no positive impact on the production of local news (or news in study 4). And in the case of Study 6, which was the only study to examine actual content, we see that there is actually a statistically significant negative relationship between cross-ownership and the output of hard local news content.

For Study 3, each series of runs is presented for the Percent Local News dependent variable, then for the Minutes of Local News dependent variable. It is worth noting that for Study 3 we follow the author's methodology and use the variables for female and minority-ownership. However, as previously shown, these variables are not correctly specified,

missing many of the actual female and minority owners. We only have the accurate accounting of these owners for the year 2005, so we did not use corrected variables. Estimations of these equations without the female and minority ownership variables (not shown) did not change the size or significance of the other coefficients. We stress that there should be no conclusions based on the data presented in Study 3 for minority and female ownership.

STUDY 3 - THE CONCLUSION THAT CROSS-OWNED STATIONS AIR MORE LOCAL NEWS DOES NOT HOLD WHEN THE MODELS ARE PROPERLY SPECIFIED

To begin, we note that Study 3 incorrectly identified Tribune-owned WTXX in Hartford, CT as a non-cross-owned station. However, both WTIC and WTXX are commonly owned by Tribune with the *Hartford Courant*, under a Commission-granted waiver. All the results we present correct this mistake.

Exhibit VIII-1 presents the results from Study 3's preferred model, "17-9", investigating the clustering of standard errors both on stations and on markets; we then present the results of adding the missing station and policy control variables; then present the results with the disaggregated cross-ownership variables. Exhibit VIII-2 repeats this approach on the minutes of local news dependent variable.

Exhibit VIII-1: Study 3 - Percent of Prime Time Local News Programming - Clustering Standard Errors and Adding Missing Control Variables

OLS on Percent of Local News Programming	Original Study 3 Preferred Run, "17-9"	17-9 Cluster on Station	17-9 Cluster on Market	17-9, Add Station Controls	17-9, Add Station and Policy Controls	17-9 Waived and Grandfathered	17-9, W&G, Add Station Controls	17-9, W&G, Add Station and Policy Controls
Cross-Owned NP-TV Station	0.0307 [0.0073]***	0.0307 [0.0085]***	0.0307 [0.0088]***	0.0121 [0.0077]	0.0122 [0.0078]			
Waived Cross-Owned NP-TV Station						0.036 [0.0142]**	0.0119 [0.0125]	0.0118 [0.0125]
Grandfathered Cross-Owned NP-TV Station						0.0274 [0.0105]***	0.0122 [0.0095]	0.0124 [0.0096]
Locally-Owned Station	-4.10E-04 [2.76e-03]	-4.10E-04 [4.55e-03]	-4.10E-04 [4.88e-03]	-0.005 [0.0044]	-0.005 [0.0044]	-2.34E-04 [4.59e-03]	-0.005 [0.0045]	-0.005 [0.0045]
Female-Owned Station	0.0163 [0.0084]*	0.0163 [0.0187]	0.0163 [0.0171]	0.0188 [0.0181]	0.0187 [0.0181]	0.0163 [0.0187]	0.0188 [0.0181]	0.0187 [0.0181]
Minority-Owned Station	-0.0019 [0.0116]	-0.0019 [0.0151]	-0.0019 [0.0147]	-0.0107 [0.0134]	-0.0105 [0.0135]	-0.002 [0.0151]	-0.0107 [0.0135]	-0.0105 [0.0135]
Cross-Owned Radio-TV Station	0.0013 [0.0028]	0.0013 [0.0046]	0.0013 [0.0047]	4.62E-04 [4.53e-03]	3.00E-04 [4.52e-03]	0.0014 [0.0046]	4.56E-04 [4.55e-03]	2.89E-04 [4.54e-03]
Parent Company Revenue (thousands)	0.0328 [0.0024]***	0.0328 [0.0056]***	0.0328 [0.0058]***	0.0214 [0.0049]***	0.0211 [0.0050]***	0.0327 [0.0056]***	0.0214 [0.0050]***	0.0211 [0.0050]***
Commercial Station	-0.0084 [0.0074]	-0.0084 [0.0189]	-0.0084 [0.0188]	-0.0136 [0.0184]	-0.0138 [0.0185]	-0.0084 [0.0189]	-0.0136 [0.0184]	-0.0138 [0.0185]
Station Age (years)				0.0014 [0.0002]***	0.0014 [0.0002]***		0.0014 [0.0002]***	0.0014 [0.0002]***
VHF Station				0.0233 [0.0049]***	0.0233 [0.0049]***		0.0233 [0.0049]***	0.0233 [0.0049]***
Station in Local Marketing Agreement				-3.43E-04 [5.54e-03]	-3.16E-04 [5.56e-03]		-3.42E-04 [5.54e-03]	-3.15E-04 [5.56e-03]
Duopoly Combination Station				0.0017 [0.0068]	0.0017 [0.0068]		0.0017 [0.0068]	0.0017 [0.0068]
HHI (market revenue)								
Observations	4437	4437	4437	4437	4437	4437	4437	4437
Adjusted R-squared	0.51	0.51	0.51	0.56	0.56	0.51	0.56	0.56
Linktest _hatsq p-value	0.001	0.001	0.001	0.092	0.086	0.001	0.092	0.086
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	Yes	No	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXX in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

Exhibit VIII-2: Study 3 - Minutes of Prime Time Local News Programming - Clustering Standard Errors and Adding Missing Control Variables

OLS on Minutes of Local News Programming	Original Study 3 Preferred Run, "17-9"	17-9 Cluster on Station	17-9 Cluster on Market	17-9, Add Station Controls	17-9, Add Station and Policy Controls	17-9 Waived and Grandfathered	17-9, W&G, Add Station Controls	17-9, W&G, Add Station and Policy Controls
Cross-Owned NP-TV Station	154.8554 [36.8322]***	154.8554 [42.9920]***	154.8554 [44.5119]***	61.0576 [38.9605]	61.3831 [39.0942]			
Waived Cross-Owned NP-TV Station						181.1969 [71.5915]**	60.018 [63.0164]	59.6191 [63.1395]
Grandfathered Cross-Owned NP-TV Station						138.0677 [53.0196]***	61.7151 [47.9827]	62.5004 [48.3403]
Locally-Owned Station	-2.0668 [13.9165]	-2.0668 [22.9283]	-2.0668 [24.5765]	-25.1996 [22.4213]	-25.0178 [22.3555]	-1.1812 [23.1294]	-25.2353 [22.7008]	-25.078 [22.6430]
Female-Owned Station	81.9687 [42.3882]*	81.9687 [94.0012]	81.9687 [86.3836]	94.7948 [91.0571]	94.1929 [90.9947]	94.7778 [94.0005]	94.7778 [91.1191]	94.1623 [91.0609]
Minority-Owned Station	-9.4303 [58.4010]	-9.4303 [76.0317]	-9.4303 [74.1186]	-53.803 [67.7366]	-53.014 [67.8390]	-10.2754 [76.1864]	-53.7712 [67.8306]	-52.9574 [67.9438]
Cross-Owned Radio-TV Station	6.4052 [14.0955]	6.4052 [23.2491]	6.4052 [23.8378]	2.3304 [22.8241]	1.5109 [22.7641]	7.1917 [23.3338]	2.2995 [22.9442]	1.4562 [22.9022]
Parent Company Revenue (thousands)	165.2061 [12.0135]***	165.2061 [28.2368]***	165.2061 [29.3630]***	107.6628 [24.8468]***	106.5405 [25.1284]***	164.6219 [28.4606]***	107.6843 [24.9905]***	106.5736 [25.2449]***
Commercial Station	-42.2374 [37.3257]	-42.2374 [95.2277]	-42.2374 [94.8990]	-68.7923 [92.9498]	-69.3697 [93.0062]	-42.2406 [95.2193]	-68.7933 [92.9609]	-69.373 [93.0176]
Station Age (years)				7.1033 [1.0326]***	7.1049 [1.0324]***		7.1035 [1.0333]***	7.1051 [1.0331]***
VHF Station				117.3417 [24.8596]***	117.6386 [24.7696]***		117.3495 [24.8742]***	117.6527 [24.7845]***
Station in Local Marketing Agreement				-1.7286 [27.9218]	-1.5931 [28.0215]		-1.7245 [27.9252]	-1.5854 [28.0264]
Duopoly Combination Station				8.6857	8.6857		8.7102	8.7102
HHI (market revenue)					[34.0826]			[34.1497]
					-9.10E-03			-9.11E-03
					[9.43e-03]			[9.44e-03]
Observations	4437	4437	4437	4437	4437	4437	4437	4437
Adjusted R-squared	0.51	0.51	0.51	0.56	0.56	0.51	0.56	0.56
Linktest _hatsq p-value	0.001	0.001	0.001	0.092	0.086	0.001	0.092	0.086
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	Yes	No	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXX in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

These data indicate that when appropriately clustering the standard error by station or market, the p-values are increased by about half, but the overall finding of significance of certain key variables in question does not change (this is a generalization that applies across all results discussed in this chapter as well as those presented in the Statistical Appendix). There was virtually no difference whether errors were clustered at the station or market level. Thus we chose (for models at the station level) to cluster by station, as this is consistent with the approach of Study 6 (however, for our market level analysis presented previously, we clustered at the market level, the appropriate approach in those models). The transformation of the dependent variable into minutes of local news did not impact the significance of key variables. However we will continue to report the results from Study 3 in both specifications.

For Study 3, the disaggregation of the cross-ownership variable into waived and grandfathered stations indicated that in the author's preferred model (17-9) that waived stations were outperforming grandfathered stations. This is consistent with our theory of "good behavior" by the owners of these stations.

But the most damning result is seen in the addition of the missing station-level control variables. As shown in Exhibits 1 and 2, the results from a linktest for omitted variables indicates that the model 17-9 does indeed omit important variables. When we add the VHF, station age, and LMA variables, the linktest no longer indicates omitted variables. Furthermore, the variables for station age and VHF status are highly significant and (in the case of VHF) the effect size is large. When these controls are added the cross-ownership variable no longer remains significant, and the magnitude of the coefficient is cut by two-thirds. In our fully specified preferred model (which adds the station and policy controls, as well as clusters the standard error by station), we see that the standard errors on the waived and grandfathered cross-ownership dummies are approximately the size of the coefficients. Thus, the significance of cross-ownership found at the station level was merely capturing the prior status of these stations as established VHF stations. That is, the stations were airing news at their respective levels long before the cross-ownership was established (in the case of the waived stations) or were long-established news airing stations, often one of the original stations in the DMA (in the case of the grandfathered station). **Therefore, from a policy perspective, we see that not only does cross-ownership lead to a lower output of news at the market level (results presented previously), but the relationship has no positive effect on the output of news at the station level. There is simply no public interest justification for the removal of the ban, and a strong case to be made for keeping it in place.**

We next examine the impact of the use of Time-Market fixed effects, as suggested both by Lisa George and Phillip Leslie. The results are presented below in Exhibits VIII-3 and VIII-4. In general, their use has no impact on the initial results of model 17-9. Their use also has no effect on our fully specified preferred model with the missing station and policy controls. We see that the coefficients on cross-ownership remains insignificant.

Exhibit VIII-3: Study 3 - Percent of Prime Time Local News Programming - Inclusion of Market-Time Fixed Effects, Clustering Standard Errors And Adding Missing Control Variables

OLS on Percent of Local News Programming	Original Run 17-9	17-9 MarketsYear Fixed-Effects	17-9 MarketsYear Fixed Effects, cluster station	17-9, Add Station Controls	17-9, Add Station And Policy Controls	17-9 Waived and Grandf.	17-9, W&G, Add Station Controls	17-9, Add Station And Policy Controls
Cross-Owned NP-TV Station	0.0307 [0.0073]***	0.0306 [0.0077]***	0.0306 [0.0090]***	0.0121 [0.0081]	0.0121 [0.0082]			
Waived Cross-Owned NP-TV Station						0.0358 [0.0150]**	0.0118 [0.0132]	0.0118 [0.0132]
Grandfathered Cross-Owned NP-TV Station						0.0273 [0.0111]**	0.0122 [0.0100]	0.0124 [0.0101]
Locally-Owned Station	-4.10E-04 [2.76e-03]	-2.18E-04 [2.91e-03]	-2.18E-04 [4.83e-03]	-0.0049 [0.0047]	-0.0048 [0.0047]	-4.17E-05 [4.87e-03]	-0.0049 [0.0048]	-0.0048 [0.0048]
Female-Owned Station	0.0163 [0.0084]*	0.0163 [0.0089]*	0.0163 [0.0202]	0.0189 [0.0195]	0.0188 [0.0195]	0.0164 [0.0202]	0.0189 [0.0196]	0.0188 [0.0195]
Minority-Owned Station	-0.0019 [0.0116]	-0.0018 [0.0122]	-0.0018 [0.0159]	-0.0107 [0.0141]	-0.0106 [0.0141]	-0.002 [0.0159]	-0.0107 [0.0141]	-0.0105 [0.0141]
Cross-Owned Radio-TV Station	0.0013 [0.0028]	0.0012 [0.0030]	0.0012 [0.0049]	4.03E-04 [4.86e-03]	2.43E-04 [4.85e-03]	0.0014 [0.0050]	3.95E-04 [4.88e-03]	2.31E-04 [4.88e-03]
Parent Company Revenue (thousands)	0.0328 [0.0024]***	0.0331 [0.0025]***	0.0331 [0.0059]***	0.0216 [0.0052]***	0.0214 [0.0053]***	0.0329 [0.0060]***	0.0216 [0.0053]***	0.0214 [0.0053]***
Commercial Station	-0.0084 [0.0074]	-0.0083 [0.0078]	-0.0083 [0.0201]	-0.0135 [0.0196]	-0.0136 [0.0196]	-0.0083 [0.0200]	-0.0135 [0.0196]	-0.0136 [0.0196]
Station Age (years)				0.0014 [0.0002]***	0.0014 [0.0002]***		0.0014 [0.0002]***	0.0014 [0.0002]***
VHF Station				0.0233 [0.0052]***	0.0233 [0.0052]***		0.0233 [0.0052]***	0.0233 [0.0052]***
Station in Local Marketing Agreement				-1.67E-04 [6.11e-03]	-1.20E-04 [6.12e-03]		-1.66E-04 [6.11e-03]	-1.18E-04 [6.12e-03]
Duopoly Combination Station				0.0017 [0.0073]	0.0017 [0.0073]		0.0017 [0.0073]	0.0017 [0.0073]
HHI (market revenue)				-5.72E-06 [2.68e-06]**	-5.72E-06 [2.68e-06]**		-5.72E-06 [2.68e-06]**	-5.72E-06 [2.68e-06]**
Observations	4437	4437	4437	4437	4437	4437	4437	4437
Adjusted R-squared	0.51	0.46	0.46	0.51	0.51	0.46	0.51	0.51
Linktest _hatsq p-value	0.001	0.000	0.000	0.029	0.027	0.000	0.029	0.027
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	No	No	No	No	No	No	No
Year Fixed Effects?	Yes	No	No	No	No	No	No	No
Market X year Fixed Effects?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	No	Yes	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXX in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

**Exhibit VIII-4: Study 3 - Minutes of Prime Time Local News Programming -
Inclusion of Market-Time Fixed Effects, Clustering Standard Errors
And Adding Missing Control Variables**

OLS on Minutes of Local News Programming	Original Run 17-9	17-9 MarketsYear Fixed-Effects	17-9 MarketsYear Fixed Effects, cluster station	17-9, Add Station Controls	17-9, Add Station And Policy Controls	17-9 Waived and Grandf.	17-9, W&G, Add Station Controls	17-9, Add Station And Policy Controls
Cross-Owned NP-TV Station	154.8554 [36.8322]***	154.415 [38.6191]***	154.415 [45.2921]***	60.8805 [41.0583]	61.2184 [41.1947]			
Waived Cross-Owned NP-TV Station						180.5497 [75.4063]**	59.6422 [66.3839]	59.2675 [66.5071]
Grandfathered Cross-Owned NP-TV Station						137.7496 [55.8610]**	61.6642 [50.5921]	62.4549 [50.9686]
Locally-Owned Station	-2.0668 [13.9166]	-1.0964 [14.6576]	-1.0964 [24.3479]	-24.4819 [23.8070]	-24.3359 [23.7311]	-0.2101 [24.5614]	-24.5248 [24.1055]	-24.4031 [24.0381]
Female-Owned Station	81.9687 [42.3882]*	82.2767 [44.9420]*	82.2767 [101.7431]	95.389 [98.5110]	94.792 [98.4313]	82.705 [101.7414]	95.3689 [98.5774]	94.7583 [98.5021]
Minority-Owned Station	-9.4303 [58.4010]	-9.2725 [61.6051]	-9.2725 [80.1454]	-54.0769 [71.0863]	-53.1753 [71.1648]	-10.1204 [80.3108]	-54.0385 [71.1875]	-53.1119 [71.2775]
Cross-Owned Radio-TV Station	6.4052 [14.0955]	6.1876 [14.9125]	6.1876 [24.9252]	2.0299 [24.4763]	1.2243 [24.4204]	6.9842 [25.0210]	1.9924 [24.6101]	1.1625 [24.5741]
Parent Company Revenue (thousands)	165.2061 [12.0135]***	166.6099 [12.6331]***	166.6099 [29.8644]***	107.666 [26.3239]***	107.666 [26.6368]***	166.0284 [30.1010]***	108.8631 [26.4757]***	107.7027 [26.7590]***
Commercial Station	-42.2374 [37.3257]	-41.63 [39.2708]	-41.63 [101.0540]	-68.1305 [98.6556]	-68.6824 [98.7050]	-41.6405 [101.0468]	-68.1314 [98.6689]	-68.6855 [98.7185]
Station Age (years)				7.0942 [1.0877]***	7.0963 [1.0873]***		7.0943 [1.0884]***	7.0965 [1.0881]***
VHF Station				117.3151 [26.1722]***	117.616 [26.0741]***		117.3244 [26.1878]***	117.6316 [26.0900]***
Station in Local Marketing Agreement				-0.8432 [30.7780]	-0.603 [30.8371]		-0.8378 [30.7826]	-0.5936 [30.8434]
Duopoly Combination Station					8.6245 [36.6454]			8.6521 [36.7188]
HHI (market revenue)					-0.0289 [0.0135]**			-0.0289 [0.0136]**
Observations	4437	4437	4437	4437	4437	4437	4437	4437
Adjusted R-squared	0.51	0.46	0.46	0.51	0.51	0.46	0.51	0.51
Linktest _hatsq p-value	0.001	0.000	0.000	0.029	0.027	0.000	0.029	0.027
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	No	No	No	No	No	No	No
Year Fixed Effects?	Yes	No	No	No	No	No	No	No
Market X year Fixed Effects	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	No	Yes	Yes	Yes	Yes	Yes	Yes

We next examine the impact of implementing the suggestion by Lisa George of including parent fixed-effects. Exhibits VIII-5 and VIII-6 present the results for percent local news and minutes of local news.

**Exhibit VIII-5: Study 3 - Percent of Prime Time Local News Programming -
Inclusion of Parent Fixed Effects, Clustering Standard Errors
And Adding Missing Control Variables**

OLS on Percent of Local News Programming	Original Run 17-9	17-9 Cluster on Station	17-9 Cluster on Station, Parent Fixed Effects	17-9, Add Station Controls	17-9, Add Station And Policy Controls	17-9 Waived and Grandf.	17-9, W&G, Add Station Controls	17-9, Add Station And Policy Controls
Cross-Owned NP-TV Station	0.0307 [0.0073]***	0.0307 [0.0085]***	0.0162 [0.0111]	0.0058 [0.0101]	0.0051 [0.0101]			
Waived Cross-Owned NP-TV Station						0.026 [0.0155]*	0.0142 [0.0139]	0.0146 [0.0139]
Grandfathered Cross-Owned NP-TV Station						0.0068 [0.0143]	-0.0023 [0.0131]	-0.0039 [0.0132]
Locally-Owned Station	-0.0004 [2.76e-03]	-0.0004 [4.55e-03]	-0.0030 [5.07e-03]	-0.0118 [0.0049]**	-0.0119 [0.0049]**	-0.0024 [0.00516]	-0.0112 [0.0050]**	-0.0112 [0.0051]**
Female-Owned Station	0.0163 [0.0084]*	0.0163 [0.0187]	-0.0251 [0.0227]	-0.0142 [0.0204]	-0.0138 [0.0204]	-0.0256 [0.0226]	-0.0146 [0.0203]	-0.0143 [0.0203]
Minority-Owned Station	-0.0019 [0.0116]	-0.0019 [0.0151]	-0.0019 [0.0220]	-0.0144 [0.0240]	-0.0142 [0.0241]	-0.0023 [0.0220]	-0.0147 [0.0240]	-0.0145 [0.0241]
Cross-Owned Radio-TV Station	0.0013 [0.0028]	0.0013 [0.0046]	0.0052 [0.0055]	0.0055 [0.0052]	0.0066 [0.0052]	0.0057 [0.0054]	0.0059 [0.0052]	0.0072 [0.0052]
Parent Company Revenue (thousands)	0.0328 [0.0024]***	0.0328 [0.0056]***	-0.0131 [0.0115]	-0.0176 [0.0111]	-0.0169 [0.0110]	-0.013 [0.0115]	-0.0175 [0.0112]	-0.0168 [0.0111]
Commercial Station	-0.0084 [0.0074]	-0.0084 [0.0189]	0.0203 [0.0205]	0.0008 [0.0163]	0.0023 [0.0166]	0.0202 [0.0204]	0.0007 [0.0162]	0.0023 [0.0165]
Station Age (years)				0.0015 [0.0002]***	0.0015 [0.0002]***		0.0015 [0.0002]***	0.0015 [0.0002]***
VHF Station				0.0164 [0.0058]***	0.0161 [0.0058]***		0.0164 [0.0058]***	0.0161 [0.0058]***
Station in Local Marketing Agreement				-0.0070 [0.0060]	-0.0078 [0.0061]		-0.0071 [0.0060]	-0.0079 [0.0060]
Duopoly Combination Station					-0.0068 [0.0068]			-0.0072 [0.0068]
HHI (market revenue)					5.13E-07 [1.83e-06]			5.45E-07 [1.83e-06]
Observations	4437	4437	4437	4437	4437	4437	4437	4437
Adjusted R-squared	0.51	0.51	0.7	0.73	0.73	0.7	0.73	0.73
Linktest_hatsq p-value	0.000	0.000	0.001	0.000	0.000	0.000	0.000	0.000
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Parent Fixed Effects?	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	No	Yes	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXX in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

**Exhibit VIII-6: Study 3 - Minutes of Prime Time Local News Programming -
Inclusion of Parent Fixed Effects, Clustering Standard Errors
And Adding Missing Control Variables**

OLS on Minutes of Local News Programming	Original Run 17-9	17-9 Cluster on Station	17-9 Cluster on Station, Parent Fixed Effects	17-9, Add Station Controls	17-9, Add Station And Policy Controls	17-9 Waived and Grandf.	17-9, W&G, Add Station Controls	17-9, Add Station And Policy Controls
Cross-Owned NP-TV Station	154.8554 [36.8322]***	154.8554 [42.9920]***	81.4038 [55.6993]	29.1274 [50.7962]	25.8911 [50.8797]			
Waived Cross-Owned NP-TV Station						130.8546 [78.2344]*	71.7404 [69.8906]	73.7684 [69.8540]
Grandfathered Cross-Owned NP-TV Station						34.272 [72.1082]	-11.3572 [66.1479]	-19.8995 [66.6157]
Locally-Owned Station	-2.0668 [13.9166]	-2.0668 [22.9283]	-15.2137 [25.5602]	-59.3051 [24.7665]**	-59.7522 [24.8632]**	-11.819 [26.0291]	-56.3506 [25.3560]**	-56.4435 [25.4650]**
Female-Owned Station	81.9687 [42.3882]*	81.9687 [94.0012]	-126.2687 [114.4129]	-71.5845 [102.9138]	-69.5735 [102.5938]	-128.8607 [113.8417]	-73.8079 [102.4897]	-71.9826 [102.1595]
Minority-Owned Station	-9.4303 [58.4010]	-9.4303 [76.0317]	-9.7131 [111.0358]	-72.5916 [120.7668]	-71.4883 [121.3768]	-11.5173 [111.1036]	-74.1525 [120.7736]	-73.1956 [121.3928]
Cross-Owned Radio-TV Station	6.4052 [14.0955]	6.4052 [23.2491]	26.1825 [27.4994]	27.6996 [26.0983]	33.4121 [26.2105]	28.6155 [27.3769]	29.8012 [26.0734]	36.0566 [26.2454]
Parent Company Revenue (thousands)	165.2061 [12.0135]***	165.2061 [28.2368]***	-65.9402 [57.9872]	-88.5334 [56.1188]	-85.2251 [55.6310]	-65.6824 [58.0601]	-88.3142 [56.2902]	-84.8335 [55.7395]
Commercial Station	-42.2374 [37.3257]	-42.2374 [95.2277]	102.4973 [103.5406]	3.9167 [82.3242]	11.8148 [83.4874]	102.0321 [103.0029]	3.5515 [81.8995]	11.7844 [83.0789]
Station Age (years)				7.3815 [1.1199]***	7.3597 [1.1196]***		7.3825 [1.1198]***	7.3598 [1.1196]***
VHF Station				82.7588 [29.1670]***	81.396 [29.0561]***		82.4423 [29.1830]***	80.9737 [29.0683]***
Station in Local Marketing Agreement				-35.428 [30.3683]	-39.0516 [30.7004]		-35.7893 [30.3583]	-39.6327 [30.6961]
Duopoly Combination Station					-34.4349 [34.1631]			-36.0971 [34.3467]
HHI (market revenue)					0.0026 [0.0092]			0.0027 [0.0092]
Observations	4437	4437	4437	4437	4437	4437	4437	4437
Adjusted R-squared	0.51	0.51	0.7	0.73	0.73	0.7	0.73	0.73
Linktest _hatsq p-value	0.000	0.000	0.001	0.000	0.000	0.000	0.000	0.000
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Parent Fixed Effects?	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	No	Yes	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXX in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

We now see that inclusion of parent company fixed effects in model 17-9 cuts in half the size of the cross-ownership coefficient and renders it insignificant. When the proper controls are added to the model and waived and grandfathered combos examined separately, we see that neither cross-ownership variable is significant, and the sign on grandfathered stations is actually negative. We also see that local ownership has become significant and

negative. However, we caution against casual interpretation of this result. First, it should be stressed that the dependent variable here is based upon the general *type* of 30-minute blocks of programming, not the actual content of the programs themselves (thus a proper look at whether local owners do more local news would follow the model of the Alexander et. al. suppressed localism study). Second, given that local owners are far more likely to own independent affiliated stations (for Study 3 it is 18% versus 8% for non-local owners, at $p < 0.000$) we should further examine this result in separate regressions for Big 4 and non-Big 4 stations, as suggested by peer reviewer Lisa George.

Exhibits VIII-7 and VIII-8 present the results from modeling the percent and minutes of local news in separate regressions for Big 4 and non-Big 4 stations. Exhibits VIII-9 and VIII-10 then repeat this approach with parent fixed effects.

**Exhibit VIII-7: Study 3 - Percent of Prime Time Local News Programming -
Separate Regressions on Big 4 and Non-Big 4 Stations, Clustering Standard Errors
And Adding Missing Control Variables**

OLS on Percent of Local News Programming	Regression Only on Big 4 Stations			Regression only on Non-Big 4 Stations		
	Original Run 17-9	17-9, Add Station and Policy Controls	17-9, W&G, Add Station and Policy Controls	Original Run 17-9	17-9, Add Station and Policy Controls	17-9, W&G, Add Station and Policy Controls
Cross-Owned NP-TV Station	0.0098 [0.0084]	-0.0077 [0.0115]		0.0677 [0.0168]***	0.0442 [0.0213]**	
Waived Cross-Owned NP-TV Station			0.0125 [0.0215]			0.0336 [0.0217]
Grandfathered Cross-Owned NP-TV Station			-0.0181 [0.0135]			0.0868 [0.0215]***
Locally-Owned Station	0.0178 [0.005]	0.0102 [0.0074]	0.0123 [0.0078]	-0.0031 [0.0037]	-0.0055 [0.0066]	-0.0058 [0.0067]
Female-Owned Station	0.0109 [0.0126]	0.0036 [0.0152]	0.0041 [0.0151]	0.0277 [0.0113]**	0.0315 [0.0293]	0.0315 [0.0293]
Minority-Owned Station	0.0197 [0.0157]	-0.0075 [0.0188]	-0.0078 [0.0188]	-0.003 [0.0170]	0.0012 [0.0228]	0.0024 [0.0226]
Cross-Owned Radio-TV Station	-0.011 [0.0051]**	-0.0031 [0.0063]	-0.0021 [0.0062]	0.0048 [0.0036]	0.0012 [0.0064]	0.0008 [0.006]
Parent Company Revenue (thousands)	0.047 [0.0035]***	0.03 [0.0060]***	0.0297 [0.0060]***	0.019 [0.0036]***	0.0104 [0.0067]	0.0105 [0.0067]
Commercial Station				-0.0075 [0.0075]	-0.013 [0.0194]	-0.013 [0.0194]
Station Age (years)		0.0017 [0.0003]***	0.0017 [0.0003]***		0.0008 [0.0003]**	0.0008 [0.0003]**
VHF Station		0.0401 [0.0084]***	0.0397 [0.0084]***		0.0131 [0.0085]	0.013 [0.0085]
Station in Local Marketing Agreement		-0.0055 [0.0069]	-0.0055 [0.0069]		0.0127 [0.0087]	0.0128 [0.0087]
Duopoly Combination Station		-0.0014 [0.0075]	-0.002 [0.0075]		0.0161 [0.0100]	0.0166 [0.0100]*
HHI (market revenue)		-3.19E-06 [3.03e-06]	-3.06E-06 [3.03e-06]		-2.22E-07 [1.70e-06]	-2.43E-07 [1.70e-06]
Observations	2127	2127	2127	2310	2310	2310
Adjusted R-squared	0.45	0.58	0.59	0.46	0.47	0.47
Linktest_hatsq p-value	0.000	0.000	0.000	0.101	0.153	0.17
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXN in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

**Exhibit VIII-8: Study 3 - Minutes of Prime Time Local News Programming -
Separate Regressions on Big 4 and Non-Big 4 Stations, Clustering Standard Errors
And Adding Missing Control Variables**

OLS on Minutes of Local News Programming	Regression Only on Big 4 Stations			Regression only on Non-Big 4 Stations		
	Original Run 17-9	17-9, Add Station and Policy Controls	17-9, W&G, Add Station and Policy Controls	Original Run 17-9	17-9, Add Station and Policy Controls	17-9, W&G, Add Station and Policy Controls
Cross-Owned NP-TV Station	49.1537 [42.3463]	-38.5989 [57.9704]		341.3987 [84.5741]***	222.8143 [107.5198]**	
Waived Cross-Owned NP-TV Station			63.1069 [108.4312]			169.5835 [109.5756]
Grandfathered Cross-Owned NP-TV Station			-91.2992 [67.9140]			437.7159 [108.6060]***
Locally-Owned Station	89.7447 [25.4997]***	51.6054 [37.5320]	61.8251 [39.1399]	-15.3817 [18.7053]	-27.6966 [33.4838]	-29.0101 [33.6174]
Female-Owned Station	55.0355 [63.2934]	17.953 [76.5972]	20.8109 [75.8737]	139.5723 [56.8176]**	158.8002 [147.5336]	158.5883 [147.5980]
Minority-Owned Station	99.5141 [78.9103]	-38.0016 [94.8044]	-39.385 [94.5784]	-14.9285 [85.8962]	6.2251 [114.8585]	11.8885 [114.1547]
Cross-Owned Radio-TV Station	-55.5111 [25.7500]**	-15.4146 [31.5744]	-10.3649 [31.4035]	24.2126 [18.0086]	5.9458 [32.0976]	3.8155 [32.2472]
Parent Company Revenue (thousands)	236.6978 [17.4614]***	150.9725 [30.4295]***	149.6083 [30.4177]***	95.8988 [18.3618]***	52.2872 [33.7992]	52.7009 [33.8274]
Commercial Station				-37.7443 [37.7098]	-65.3871 [97.9051]	-65.4576 [97.9631]
Station Age (years)		8.5478 [1.6606]***	8.6055 [1.6674]***		4.0634 [1.6988]**	4.0649 [1.6978]**
VHF Station		201.8714 [42.4634]***	200.0322 [42.5799]***		65.8805 [42.8694]	65.4601 [42.8286]
Station in Local Marketing Agreement		-27.4483 [34.8193]	-27.908 [34.8813]		63.8496 [43.8051]	64.4489 [43.8157]
Duopoly Combination Station		-6.8697 [37.7588]	-10.1354 [37.8819]		81.1508 [50.3802]	83.7519 [50.6007]*
HHI (market revenue)		-0.0161 [0.0153]	-0.0154 [0.0153]		-0.0011 [0.0086]	-0.0012 [0.0086]
Observations	2127	2127	2127	2310	2310	2310
Adjusted R-squared	0.45	0.58	0.59	0.46	0.47	0.47
Linktest _hatsq p-value	0.000	0.000	0.000	0.101	0.153	0.17
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXX in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

**Exhibit VIII-9: Study 3 - Percent of Prime Time Local News Programming -
Separate Regressions on Big 4 and Non-Big 4 Stations, Inclusion of Parent Fixed Effects,
Clustering Standard Errors and Adding Missing Control Variables**

OLS on Percent of Local News Programming	Regression Only on Big 4 Stations			Regression only on Non-Big 4 Stations		
	Original Run 17-9, with Parent FE	17-9, Add Station and Policy Controls	17-9, W&G, Add Station and Policy Controls	Original Run 17-9	17-9, Add Station and Policy Controls	17-9, W&G, Add Station and Policy Controls
Cross-Owned NP-TV Station	-0.0154 [0.0087]*	-0.0198 [0.0129]		0.0399 [0.0135]***	0.04 [0.0352]	
Waived Cross-Owned NP-TV Station			0.0099 [0.0194]			0.0419 [0.0376]
Grandfathered Cross-Owned NP-TV Station			-0.044 [0.0151]***			0.0311 [0.0379]
Locally-Owned Station	0.018 [0.0060]***	0.0066 [0.0088]	0.0119 [0.0090]	0.0005 [0.0048]	-0.0007 [0.0090]	-0.0004 [0.0092]
Female-Owned Station	0.009 [0.0160]	0.0109 [0.0166]	0.0088 [0.0166]	-0.0401 [0.0195]**	-0.0391 [0.0365]	-0.0391 [0.0364]
Minority-Owned Station	-0.0202 [0.0165]	-0.0358 [0.0230]	-0.0372 [0.0230]	0.0712 [0.0335]**	0.062 [0.0439]	0.0618 [0.0439]
Cross-Owned Radio-TV Station	0.0108 [0.0073]	0.005 [0.0100]	0.0075 [0.0099]	0.0097 [0.0046]**	0.0068 [0.0070]	0.007 [0.0070]
Parent Company Revenue (thousands)	-0.0068 [0.0198]	-0.0155 [0.0094]	-0.0147 [0.0095]	-0.0673 [0.0522]	-0.0686 [0.0598]	-0.0687 [0.0598]
Commercial Station				0.0255 [0.0149]*	0.0163 [0.0162]	0.0163 [0.0162]
Station Age (years)		0.0012 [0.0003]***	0.0012 [0.0003]***		0.0007 [0.0003]**	0.0007 [0.0003]**
VHF Station		0.0303 [0.0079]***	0.0299 [0.0079]***		-0.004 [0.0111]	-0.004 [0.0111]
Station in Local Marketing Agreement		-0.0036 [0.0064]	-0.0036 [0.0064]		-0.0216 [0.0152]	-0.0218 [0.0153]
Duopoly Combination Station		-0.0055 [0.0071]	-0.0069 [0.0071]		0.0142 [0.0114]	0.014 [0.0115]
HHI (market revenue)		2.08E-06 [2.58e-06]	2.26E-06 [2.59e-06]		-1.26E-06 [2.00e-06]	-1.25E-06 [2.01e-06]
Observations	2127	2127	2127	2310	2310	2310
Adjusted R-squared	0.68	0.72	0.72	0.76	0.77	0.77
Linktest _hatsq p-value	0.276	0.29	0.237	0.229	0.096	0.098
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Parent Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXX in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

**Exhibit VIII-10: Study 3 - Minutes of Prime Time Local News Programming -
Separate Regressions on Big 4 and Non-Big 4 Stations, Inclusion of Parent Fixed Effects,
Clustering Standard Errors and Adding Missing Control Variables**

OLS on Minutes of Local News Programming	Regression Only on Big 4 Stations			Regression only on Non-Big 4 Stations		
	Original Run 17-9	17-9, Add Station and Policy Controls	17-9, W&G, Add Station and Policy Controls	Original Run 17-9	17-9, Add Station and Policy Controls	17-9, W&G, Add Station and Policy Controls
Cross-Owned NP-TV Station	-77.7686 [43.7222]*	-99.7044 [64.9892]		200.8767 [68.2806]***	201.3638 [177.2359]	
Waived Cross-Owned NP-TV Station			50.1343 [97.7343]			211.3954 [189.6014]
Grandfathered Cross-Owned NP-TV Station			-221.8421 [76.1059]***			156.9328 [190.7766]
Locally-Owned Station	90.7792 [30.4455]***	33.0678 [44.3325]	59.8358 [45.2046]	2.6124 [23.9519]	-3.5156 [45.1293]	-2.023 [46.1682]
Female-Owned Station	45.1351 [80.4118]	54.6957 [83.8726]	44.2134 [83.5797]	-202.2396 [98.5175]**	-197.2046 [183.7132]	-196.8899 [183.5401]
Minority-Owned Station	-101.6079 [82.9594]	-180.5861 [115.7450]	-187.5093 [115.8735]	358.772 [168.7203]**	312.2576 [221.0267]	311.429 [221.2843]
Cross-Owned Radio-TV Station	54.4091 [36.8149]	25.1322 [50.3664]	37.9491 [49.8479]	48.6745 [22.9581]**	34.2739 [35.2090]	35.4563 [35.4412]
Parent Company Revenue (thousands)	-34.1347 [99.9929]	-77.9245 [47.4723]	-74.0522 [47.8364]	-339.3947 [262.9395]	-345.493 [301.3919]	-346.3637 [301.6347]
Commercial Station				128.6438 [74.9698]*	82.1422 [81.5518]	82.2619 [81.5664]
Station Age (years)		6.0094 [1.5153]***	5.9997 [1.5099]***		3.7663 [1.5932]**	3.7661 [1.5932]**
VHF Station		152.7651 [39.9474]***	150.6966 [39.5655]***		-20.238 [55.8687]	-20.0835 [55.8821]
Station in Local Marketing Agreement		-18.0932 [32.3610]	-18.0425 [32.1154]		-108.7836 [76.7443]	-109.7309 [76.9829]
Duopoly Combination Station		-27.8501 [35.9665]	-34.5457 [35.9221]		71.7758 [57.3881]	70.6923 [57.7917]
HHI (market revenue)		0.0105 [0.0130]	0.0114 [0.0131]		-0.0064 [0.0101]	-0.0063 [0.0101]
Observations	2127	2127	2127	2310	2310	2310
Adjusted R-squared	0.68	0.72	0.72	0.76	0.77	0.77
Linktest_hatsq p-value	0.276	0.29	0.237	0.229	0.096	0.098
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Parent Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXN in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

These results support Professor George's inclination that separate regressions be used for Big 4 and non-Big 4 stations, as they do behave quite differently in these models. We see that the significance of cross-ownership observed in 17-9 does not hold in the Big 4 only specification. We see that in our full preferred model that grandfathered non-Big 4 stations do air more local news, but this effect disappears when parent fixed effects are included. Indeed, this is precisely because there is only one non-Big 4 grandfathered station in the country, Tribune's WGN in Chicago. Thus, this methodological approach suggested by Lisa

George again confirms the lack of a positive effect on local news production produced by the cross-ownership relationship.

The parent fixed effect Big 4/Non-Big 4 models shown in Exhibits VIII-9 and 10 also indicate the validity of our caution about interpretation of the local ownership variable shown in the previous parent fixed effect models. Here we see that locally-owned Big 4 stations actually *do* air more local news programming than their non-local counterparts. The sign remains negative in the non-Big 4 models, but not significant. This indicates that the negative result seen before is likely driven by the disproportionately high number of low-rated (and thus low revenue) independent affiliated stations that are owned by local companies.

This fact in and of itself suggests that the proper way to model the production of news is via a two-stage Heckman selection model. There are a non-insignificant number of stations that choose to air no news, and their attributes are not random (20 percent of the stations in the Study 3 data aired no local news; 92 percent of Big 4 affiliated stations aired local news versus 70 percent of the non-Big 4 stations; 95 percent of the non-commercial stations aired local news versus 76 percent of the commercial stations; 97 percent of the VHF stations aired local news versus 70 percent of the UHF stations; 72 percent of duopoly stations aired local news versus 81 percent of non-duopoly stations; all the waived and grandfathered stations aired local news). This presents a selection problem that can be properly overcome with the Heckman approach.

In Exhibits VIII-11 and VIII-12, we present the results of the Heckman approach. We show three sets of Heckman two-step models in each table. We first followed the model of 17-9, and specified the selection equation based upon the cross-ownership status, the parent revenue, the commercial status, and whether or not the station was a Big 4 affiliate. We then

disaggregate the cross-ownership variable. Finally we present the results of our preferred model with the appropriate missing control variables. For the selection model in this specification, we selected for news production based on the previously mention factors and added the missing station and policy controls, as well two market level controls that may influence the selection to produce news -- the average per capita income in the DMA and the total number of stations in each DMA.

The results of the Heckman approach on model 17-9 indicate that only the grandfathered stations are doing more news. However, this is likely an effect of station age, as the coefficient on grandfathered becomes insignificant in the full preferred model. Interestingly, the sign on waived stations is negative in the full preferred Heckman outcome model.

Exhibit VIII-11: Study 3 - Percent of Prime Time Local News Programming - Heckman Two-Step Selection and Outcome Models And Adding Missing Control Variables

Two-Step Heckman Selection Model; Selection for Does Local News; Outcome for Percent Local News	Variables in 17-9		Variables in 17-9, Waived and Grandfathered		Add Station and Policy Variables	
	Selection Equation	Outcome Model	Selection Equation	Outcome Model	Selection Equation	Outcome Model
Cross-Owned NP-TV Station	5.8886 0	0.0144 [0.0083]*				
Waived Cross-Owned NP-TV Station			5.831 [0.0000]	0.0062 [0.0122]	5.2763 [0.0000]	-0.0232 [0.0177]
Grandfathered Cross-Owned NP-TV Station			5.707 0	0.018 [9.21e-03]**	4.540 0	0.003 [0.0138]
Locally-Owned Station	6.06E-02 [6.61e-02]	-4.44E-04 [2.68e-03]	0.0606 [0.0661]	-0.0008 [0.0027]	-0.0944 [0.0720]	-0.002 [0.0045]
Female-Owned Station		0.0244 [0.0092]***		0.0243 [0.0092]***		0.0271 [0.0129]**
Minority-Owned Station		-0.0208 [0.0116]*		-0.0207 [0.0116]*		-0.0381 [0.0175]**
Cross-Owned Radio-TV Station		0.0022 [0.0026]		0.002 [0.0026]	0.369 [0.0843]***	-0.005 [0.0045]
Parent Company Revenue (thousands)	0.3802 [0.0531]***	0.0236 [0.0034]***	0.3802 [0.0531]***	0.0234 [0.0034]***	0.1167 [0.0631]*	0.0121 [0.0039]***
Commercial Station	-1.8302 [0.0787]***	-0.0133 [0.0196]	-1.8302 [0.0787]***	-0.0107 [0.0198]	-1.3775 [0.0895]***	0.0469 [0.0184]**
Big 4 Station	1.4682 [0.0549]***		1.4682 [0.0549]***		0.8534 [0.0744]***	
Station Age (years)					0.0283 [0.0024]***	0.0005 [0.0002]**
VHF Station					0.6392 [0.0884]***	0.0067 [0.0050]
Station in Local Marketing Agreement					-0.0962 [0.0950]	0.0041 [0.0071]
Duopoly Combination Station					-0.0764 [0.0871]	-0.0009 [0.0060]
HHI (market revenue)					-1.84E-05 [0.000025]	1.67E-06 [6.36e-06]
Number of Commercial TV Stations					-0.0071 [0.0082]	
DMA Percapita Income					8.73E-06 [6.20e-06]	
Households in DMA					0.0093 [0.0315]	
Observations	4437	4437	4437	4437	4437	4437
Affiliation Dummies?	No	Yes	No	Yes	No	Yes
DMA Fixed Effects?	No	Yes	No	Yes	No	Yes
Year Fixed Effects?	No	Yes	No	Yes	No	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXX in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

Exhibit VIII-12: Study 3 - Minutes of Prime Time Local News Programming - Heckman Two-Step Selection and Outcome Models And Adding Missing Control Variables

Two-Step Heckman Selection Model; Selection for Does Local News; Outcome for Minutes Local News	Variables in 17-9		Variables in 17-9, Waived and Grandfathered		Add Station and Policy Variables	
	Selection Equation	Outcome Model	Selection Equation	Outcome Model	Selection Equation	Outcome Model
Cross-Owned NP-TV Station	5.8886 [0.0000]	72.5146 [41.5959]*				
Waived Cross-Owned NP-TV Station			5.831 [0.0000]	31.152 [61.5360]	5.2763 [0.0000]	-117.1729 [89.1054]
Grandfathered Cross-Owned NP-TV Station			5.7072 [0.0000]	91.2458 [46.4088]**	4.5433 [0.0000]	14.3648 [69.6681]
Locally-Owned Station	0.0606 [0.0661]	-2.2396 [13.5321]	0.0606 [0.0661]	-3.9381 [13.6644]	-0.0944 [0.0720]	-9.8719 [22.4421]
Female-Owned Station		122.9684 [46.3843]***		122.2555 [46.3661]***		136.7549 [64.9462]**
Minority-Owned Station		-104.8278 [58.4453]*		-104.2267 [58.4215]*		-192.0961 [88.0185]**
Cross-Owned Radio-TV Station		11.1742 [12.8565]		10.0206 [12.9173]	0.369 [0.0843]***	-25.4194 [22.5943]
Parent Company Revenue (thousands)	0.3802 [0.0531]***	118.8647 [16.8997]***	0.3802 [0.0531]***	117.8422 [16.9433]***	0.1167 [0.0631]*	60.877 [19.8441]***
Commercial Station	-1.8302 [0.0787]***	-67.0921 [98.6888]	-1.8302 [0.0787]***	-53.6841 [99.7808]	-1.3775 [0.0895]***	236.2519 [92.9020]**
Big 4 Station	1.4682 [0.0549]***		1.4682 [0.0549]***		0.8534 [0.0744]***	
Station Age (years)					0.0283 [0.0024]***	2.7059 [1.1992]**
VHF Station					0.6392 [0.0884]***	33.797 [24.9843]
Station in Local Marketing Agreement					-0.0962 [0.0950]	20.5479 [35.6148]
Duopoly Combination Station					-0.0764 [0.0871]	-4.3095 [30.0550]
HHI (market revenue)					0 [0.0000]	0.0084 [0.0321]
Number of Commercial TV Stations					-0.0071 [0.0082]	
DMA Percapita Income					0 [0.0000]	
Households in DMA					0.0093 [0.0315]	
Observations	4437	4437	4437	4437	4437	4437
Affiliation Dummies?	No	Yes	No	Yes	No	Yes
DMA Fixed Effects?	No	Yes	No	Yes	No	Yes
Year Fixed Effects?	No	Yes	No	Yes	No	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

NOTE: Study 3 incorrectly classified WTXX in Hartford as a non tv-newspaper cross-owned station, when it and WTIC are both owned by Tribune; data above corrects for this error

In summary, the conclusion from Study 3 that cross-owned stations air more local news simply does not hold up to proper model specification. We have shown that this result is based on omitted variable bias, with the missing variables of VHF status and station age

accounting for the result, not cross-ownership. This result is extremely robust to various model specifications. Combined with the result that cross-ownership produces less total news output at the market level and that there is no financial benefit to cross-ownership outside of the largest markets, the path for the Commission is clear: maintain the ban to ensure a diversity of news-producing voices.

STUDY 4 - THE CONCLUSION THAT CROSS-OWNED STATIONS AIR MORE NEWS DOES NOT HOLD WHEN THE MODELS ARE PROPERLY SPECIFIED

We think that the lessons from Study 4 on the impact of cross-ownership are limited by the study's lack of observations on local news programming. However, implementing some of the suggestions of the peer reviewers sheds better light on the subject. These changes to the methodology reveal that the only grandfathered stations air more news, and that this result only holds for non-Big 4 affiliated stations -- that is, WGN is driving this results, which indicates that this outlier is likely not an indicator of the effect of cross-ownership. Simply stated, there is no evidence from Study 4 that suggests cross-ownership increases the amount of news aired by a station.

Exhibit VIII-13 presents the preferred model from Study 4, "I-6" and the impact of clustering and the addition of missing station and policy controls. Clustering behaves as it did in Study 3, and the addition of the missing variables has little impact. We should note here that the multiple ownership variables used in Study 4 ("other co-owned stations" and "other co-owned stations news minutes") should be ignored for the purpose of assessing the impact of duopoly ownership, as they include Satellite stations (stations in the same DMA with non-overlapping signal contours) and public television stations. Neither of these is a duopoly

multiple ownership combination and thus these variables do not capture the impact of this policy.

Exhibit VIII-13: Study 4 - Minutes of Prime Time Local News Programming - Clustering And Adding Missing Control Variables

OLS on Minutes of News Programming	Original Run I-6	Original Run I-6, Cluster on Station	Original Run I-6, Cluster on Market	Original Run I-6, Add Station Age	Original Run I-6, Add Station and Policy Controls	Original Run I-6, W&G	W&G, add Station Age	W&G, add Station and Policy Controls
Total Population in DMA (thousands)	2.059959 [0.249293]***	2.059959 [0.259386]***	2.059959 [0.869454]**	2.052956 [0.259126]***	2.052945 [0.258397]***	2.053525 [0.259043]***	2.046814 [0.258812]***	2.046859 [0.258083]***
% Black Population	916.061131 [90.081223]***	916.061131 [85.536935]***	916.061131 [257.069292]***	915.601035 [85.497154]***	914.797341 [85.622318]***	914.129333 [85.488173]***	913.694307 [85.450325]***	912.831465 [85.583231]***
% Hispanic Population	-31.5548 [45.112988]	-31.5548 [44.269150]	-31.5548 [135.503670]	-31.694346 [44.258443]	-31.36846 [43.775991]	-31.803524 [44.203172]	-31.936774 [44.193125]	-31.608864 [43.712738]
DMA per capita income	-0.074224 [0.015517]***	-0.074224 [0.024187]***	-0.074224 [0.081069]	-0.074224 [0.024187]***	-0.074272 [0.024095]***	-0.07397 [0.024162]***	-0.073921 [0.024162]***	-0.074022 [0.024069]***
Unrelated Station Count	394.738005 [33.002335]***	394.738005 [39.621011]***	394.738005 [121.680450]***	395.609458 [39.603597]***	395.456969 [39.550177]***	393.664084 [39.578743]***	394.506686 [39.563484]***	394.342634 [39.511705]***
Unrelated Station News Minutes	-0.369777 [0.006571]***	-0.369777 [0.016550]***	-0.369777 [0.038377]***	-0.369676 [0.016553]***	-0.369702 [0.016554]***	-0.368843 [0.016523]***	-0.36875 [0.016526]***	-0.368775 [0.016529]***
Parent Station Count	-3.7221 [0.910177]***	-3.7221 [1.238741]***	-3.7221 [1.287525]***	-3.714879 [1.238207]***	-3.765116 [1.249268]***	-3.720647 [1.240406]***	-3.71364 [1.239868]***	-3.768816 [1.250707]***
Parent Revenue (\$M)	0.271927 [0.035587]***	0.271927 [0.053858]***	0.271927 [0.046087]***	0.27124 [0.053822]***	0.269883 [0.053673]***	0.280988 [0.054260]***	0.280285 [0.054227]***	0.278885 [0.054079]***
Other Co-Owned Stations in DMA Count	338.430429 [37.557376]***	338.430429 [47.704302]***	338.430429 [123.475806]***	339.194054 [47.689392]***	335.44221 [48.637449]***	338.056273 [47.657594]***	338.792312 [47.644228]***	334.721904 [48.585179]***
Other Co-Owned Stations in DMA News Minutes	-0.338322 [0.008598]***	-0.338322 [0.018661]***	-0.338322 [0.042547]***	-0.338207 [0.018665]***	-0.338082 [0.018686]***	-0.337429 [0.018621]***	-0.337321 [0.018625]***	-0.337185 [0.018645]***
LMA	10.673027 [40.280603]	10.673027 [57.038443]	10.673027 [63.464084]	11.010164 [56.999175]	13.812359 [58.366372]	10.792117 [57.195654]	11.116659 [57.157691]	14.158371 [58.514795]
Dual Network	-123.638366 [62.026925]**	-123.638366 [83.976989]	-123.638366 [87.271796]	-123.594132 [83.951436]	-122.587255 [84.081750]	-125.019564 [83.971569]	-124.969802 [83.948022]	-123.889649 [84.079738]
Locally Owned	-88.029711 [25.558415]***	-88.029711 [38.301133]**	-88.029711 [42.888075]**	-86.892763 [38.329050]**	-86.941677 [38.352845]**	-98.566856 [38.461195]**	-97.431985 [38.489006]**	-97.511611 [38.514054]**
O&O	307.001716 [64.880188]***	307.001716 [112.145838]***	307.001716 [121.210411]**	307.171002 [112.109499]***	307.810297 [112.339423]***	297.866675 [111.770669]***	298.07627 [111.734843]***	298.662672 [111.956433]***
TV-Radio Cross-owned	29.517701 [25.844951]	29.517701 [34.239012]	29.517701 [36.114982]	29.469266 [34.281302]	28.56281 [34.259028]	22.193944 [34.088535]	22.176621 [34.130586]	21.166746 [34.099944]
Non-Commercial	-177.942106 [97.633900]**	-177.942106 [82.975938]**	-177.942106 [76.746300]**	-174.952177 [82.739988]**	-174.083528 [82.672711]**	-180.779559 [83.374005]**	-177.892236 [83.136598]**	-176.953504 [83.063801]**
VHF	442.613674 [24.639095]***	442.613674 [41.010494]***	442.613674 [50.074829]***	439.810714 [41.146086]***	440.293506 [41.000447]***	444.018413 [40.971691]***	441.313931 [41.113175]***	441.866256 [40.960155]***
Cross-Owned NP-TV Station	247.426222 [68.379491]***	247.426222 [110.793240]**	247.426222 [120.382766]**	246.211799 [110.739240]**	246.902137 [111.117691]**			
Waived Cross-Owned NP-TV Station						-3.480325 [168.921297]	-3.534532 [168.942115]	-4.636825 [170.539557]
Grandfathered Cross-Owned NP-TV Station						447.1025 [133.587217]***	445.160869 [133.609822]***	446.382182 [133.927804]***
Station Age (years)				0.168814 [0.252172]	0.169048 [0.252702]		0.162405 [0.251521]	0.162647 [0.252088]
HHI (market revenue)					-0.008137 [0.037856]			-0.008584 [0.037786]
Duopoly Combination Station					19.308757 [54.167524]			20.973211 [54.082579]
Observations	6703	6703	6703	6703	6703	6703	6703	6703
Adjusted R-squared	0.9	0.9	0.9	0.9	0.9	0.9	0.9	0.9
Linktest _hatseq p-value	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	Yes	No	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

The runs with disaggregated waived and grandfathered cross-ownership variables suggest that the grandfathered stations are airing more news, while the sign on waived is negative. We also see a negative and significant coefficient for local ownership. However, these results should be examined under the approach of separate regressions for Big 4 and non-Big 4 stations. Exhibit VIII-14 presents these results, which indicate that local ownership is not significant, and that cross-ownership is only significant for grandfathered non-Big 4 affiliates - or WGN in the dataset.

Finally, we present the Heckman approach (13 percent of the stations in the Study 4 sample did not air local news programming) in Exhibit VIII-15. The results track the general results -- no significant effect on waived cross-owned stations (with a negative coefficient) and a significant positive effect on grandfathered stations. These results should be viewed in the context of the separate regression results discussed above, and ultimately in the context on the market level regressions, which show a negative relationship between the market output of news in DMAs with cross-owned stations.

**Exhibit VIII-14: Study 4 - Minutes of Prime Time Local News Programming -
Separate Regressions for Big 4 and Non-Big 4 Stations**

OLS on Minutes of News Programming	Regression Only on Big 4 Stations			Regression only on Non-Big 4 Stations		
	Original Run I-6	Original Run I-6, Add Station and Policy Controls	W&G, add Station and Policy Controls	Original Run I-6	Original Run I-6, Add Station and Policy Controls	W&G, add Station and Policy Controls
Total Population in DMA (thousands)	3.318377 [0.454611]***	3.231445 [0.499105]***	3.231655 [0.499469]***	0.944023 [0.265524]***	0.927432 [0.270508]***	0.911525 [0.269439]***
% Black Population	748.864444 [133.171558]***	728.292033 [112.463961]***	728.431462 [112.453221]***	712.306307 [103.982140]***	703.181301 [111.018036]***	693.572899 [110.890913]***
% Hispanic Population	-100.070406 [61.822652]	-101.13409 [57.119493]*	-101.224601 [57.105235]*	42.265618 [56.178265]	44.098465 [53.311771]	43.405355 [53.015186]
DMA per capita income	-0.036945 [0.022757]	-0.034875 [0.038864]	-0.034747 [0.038862]	-0.07181 [0.017988]***	-0.071357 [0.024233]***	-0.070196 [0.024100]***
Unrelated Station Count	344.023342 [47.307491]***	340.199404 [57.324377]***	339.941925 [57.343973]***	285.592308 [39.156322]***	286.87716 [44.170672]***	281.848218 [44.000479]***
Unrelated Station News Minutes	-0.390859 [0.009789]***	-0.380597 [0.023785]***	-0.380375 [0.023819]***	-0.22733 [0.008190]***	-0.226656 [0.021654]***	-0.223323 [0.021630]***
Parent Station Count	-9.573918 [1.526833]***	-9.100235 [2.025320]***	-9.095228 [2.022183]***	-0.015329 [1.227730]	-0.672662 [1.719919]	-0.935144 [1.704560]
Parent Revenue (\$M)	0.746842 [0.085021]***	0.703439 [0.119450]***	0.708326 [0.119132]***	0.05752 [0.037033]	0.054813 [0.060616]	0.05975 [0.060031]
Other Co-Owned Stations in DMA Count	183.952877 [57.861026]***	218.428278 [85.800866]**	220.001768 [85.854452]**	246.264811 [45.337035]***	238.170761 [60.971750]***	234.244688 [60.865279]***
Other Co-Owned Stations in DMA News Minutes	-0.32286 [0.013068]***	-0.317625 [0.028330]***	-0.317459 [0.028330]***	-0.195508 [0.012911]***	-0.203045 [0.032149]***	-0.200304 [0.032208]***
LMA	142.062825 [55.217256]**	128.407222 [83.159607]	127.060046 [83.230427]	-61.831956 [60.559014]	-17.017831 [64.924151]	-13.743727 [64.640992]
Dual Network	-29.453299 [76.948832]	-27.794406 [108.635691]	-30.173302 [108.817549]	100.789443 [112.248572]	119.654845 [115.068803]	126.13743 [114.909834]
Locally Owned	44.194496 [47.535607]	32.217278 [68.799394]	21.547517 [72.037298]	-50.439363 [30.692236]	-50.667059 [53.099052]	-63.237983 [52.490201]
O&O	-435.899619 [127.990687]***	-415.780428 [183.508699]**	-423.721234 [182.125425]**			
TV-Radio Cross-owned	38.023751 [50.772247]	34.79888 [61.551808]	30.187068 [62.137910]	67.20246 [29.243593]**	60.458575 [49.204007]	46.874158 [48.106002]
Non-Commercial				-200.585033 [85.386366]**	-188.064554 [94.976647]**	-195.098074 [95.332273]**
VHF	575.76929 [36.681771]***	398.111277 [63.639631]***	400.223038 [63.803403]***	206.810865 [34.989952]***	208.410763 [72.434351]***	194.279319 [72.641136]***
Cross-Owned NP-TV Station	58.628525 [84.937859]	41.310428 [101.591944]		726.186264 [129.616252]***	731.688524 [424.119614]*	
Waived Cross-Owned NP-TV Station			-88.61224 [177.023807]			592.109608 [461.309249]
Grandfathered Cross-Owned NP-TV Station			103.949256 [127.819241]			2,308.60 [160.970702]***
Station Age (years)		9.82455 [2.110587]***	9.759488 [2.113574]***		0.271341 [0.209264]	0.265496 [0.211874]
HHI (market revenue)		0.009058 [0.042837]	0.008415 [0.042846]		-0.044552 [0.040307]	-0.043992 [0.039858]
Duopoly Combination Station		-74.839661 [88.742989]	-73.221923 [88.915274]		121.420067 [74.713232]	131.805108 [73.310667]*
Observations	3321	3321	3321	3382	3382	3382
Adjusted R-squared	0.87	0.87	0.87	0.54	0.54	0.55
Linktest _hatsq p-value	0.000	0.000	0.000	0.000	0.000	0.000
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Cluter Error on Station?	No	Yes	Yes	No	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

**Exhibit VIII-15: Study 4 - Minutes of Prime Time Local News Programming -
Separate Regressions for Big 4 and Non-Big 4 Stations**

Two-Step Heckman Selection Model; Selection for Does News; Outcome for Minutes News	Original Run I-6		Original Run I-6, Add Station and Policy Controls		W&G, add Station and Policy Controls	
	Selection Equation	Outcome Model	Selection Equation	Outcome Model	Selection Equation	Outcome Model
Total Population in DMA (thousands)	0.000012 [0.000010]	2.159089 [0.264897]***	0.000012 [0.000010]	2.149422 [0.264205]***	0.000011 [0.000010]	2.136595 [0.266627]***
% Black Population	-0.003149 [0.002360]	962.840557 [96.012590]***	-0.003159 [0.002361]	962.49152 [96.035987]***	-0.002995 [0.002359]	960.487078 [95.843839]***
% Hispanic Population	0.004302 [0.001800]**	-43.210886 [47.446551]	0.004148 [0.001800]**	-43.479335 [47.533492]	0.004324 [0.001798]**	-43.892849 [47.506477]
DMA per capita income	0.000018 [0.000006]***	-0.084778 [0.016426]***	0.000018 [0.000006]***	-0.084404 [0.016426]***	0.000018 [0.000006]***	-0.08494 [0.016501]***
Unrelated Station Count	-0.013836 [0.010220]	373.127974 [34.961499]***	-0.013453 [0.010226]	374.147967 [34.975018]***	-0.013552 [0.010227]	373.723865 [34.918414]***
Unrelated Station News Minutes	-0.000005 [0.000004]	-0.380461 [0.006960]***	-0.000005 [0.000004]	-0.380294 [0.006965]***	-0.000005 [0.000004]	-0.378942 [0.006950]***
Parent Station Count	0.002828 [0.001681]*	-5.242487 [1.016734]***	0.002874 [0.001682]*	-5.217975 [1.026917]***	0.00282 [0.001682]*	-5.239777 [1.018258]***
Parent Revenue (\$M)	0.000171 [0.000059]***	0.413932 [0.045104]***	0.00017 [0.000059]***	0.418945 [0.045083]***	0.000175 [0.000059]***	0.412966 [0.045351]***
Other Co-Owned Stations in DMA Count		324.755897 [39.698661]***		325.912109 [40.241075]***		325.271707 [40.221453]***
Other Co-Owned Stations in DMA News Minutes		-0.35302 [0.009076]***		-0.352596 [0.009077]***		-0.351904 [0.009073]***
LMA		-11.513655 [42.843849]		-11.487824 [43.058950]		-10.768987 [43.181480]
Dual Network		-107.479652 [69.232815]		-107.31202 [69.238862]		-110.095557 [69.185996]
Locally Owned		-85.673738 [27.469301]***		-84.814001 [27.482247]***		-97.269023 [27.612883]***
O&O		57.155511 [77.484995]		47.481369 [77.751046]		64.173727 [77.373799]
TV-Radio Cross-owned	0.254253 [0.069949]***	65.677199 [30.141718]**	0.25481 [0.069984]***	68.598291 [30.398807]**	0.252288 [0.069950]***	49.933391 [30.052058]*
Non-Commercial	1.243876 [0.070832]***	166.380649 [220.353968]	1.242217 [0.070887]***	197.160085 [219.498601]	1.24213 [0.070884]***	116.92966 [222.721206]
VHF	0.737402 [0.072416]***	499.675921 [35.917032]***	0.729644 [0.072627]***	500.911264 [35.744541]***	0.728814 [0.072616]***	482.881938 [35.823370]***
Cross-Owned NP-TV Station	5.688685 [0.000000]	221.17571 [74.797266]***	5.688287 [0.000000]	224.704692 [75.471768]***		
Waived Cross-Owned NP-TV Station					5.470048 [0.000000]	-77.706829 [118.695346]
Grandfathered Cross-Owned NP-TV Station					4.69694 [0.000000]	437.125372 [91.781493]***
Station Age (years)			0.000483 [0.000311]	0.321085 [0.179669]*	0.000481 [0.000311]	0.275956 [0.177903]
HHI (market revenue)				0.000667 [0.034057]		-0.000157 [0.033711]
Duopoly Combination Station				-0.038474 [36.366004]		4.693038 [36.597590]
Big 4 Station	1.245051 [0.063315]***		1.243431 [0.063366]***		1.242836 [0.063383]***	
Observations	6703	6703	6703	6703	6703	6703
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes
DMA Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes

Standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

STUDY 6 - PROPER SPECIFICATION INDICATES THAT CROSS-OWNED STATIONS AIR FEWER SECONDS OF NON-SPORTS AND WEATHER LOCAL NEWS

We begin our discussion of Study 6 by noting that the author's own model indicated that cross-owned stations only aired more sports and weather during the sample period. That is, in the days leading up to the 2006 election cross-owned TV stations were airing more sports and weather as opposed to politics and election coverage.

The design of Study 6, which only consisted of stations in markets with cross-owned stations, does not allow us to conduct a market level news output analysis. However, we can implement some of the suggestions of the peer reviews for Study 3 and 4 in order to investigate the robustness of the Study 6 results. We present the analyses for the dependent variable of non-sports and weather local news seconds.

Exhibit VIII-16 shows the preferred model from Study 6 on seconds of non-sports and weather local news (model "5-5"). While the coefficient on cross-owned stations is not significant in the original Study 6 model, we see that when the full set of station controls (VHF, station age, duopoly, HHI, and LMA) are added the sign on cross-ownership actually becomes negative. The coefficient on the LMA dummy variable is significant and negative.

Exhibit VIII-16: Study 6 - Seconds of Non-Sports & Weather Local News Programming - Adding Controls

OLS on Local News Seconds Excluding Sports and Weather	Original Run 5-5	Add Station Controls	Add Policy Controls	Add LMA Dummy	Original Run 5-5, W&G	W&G, Add Station Controls	W&G, Add Policy Controls	W&G, Add LMA Dummy
Cross-Owned NP-TV Station	12.578636 [32.782506]	-1.723276 [42.244877]	6.823055 [34.172987]	-12.951562 [33.728409]				
Waived Cross-Owned NP-TV Station					43.043048 [57.149047]	57.796349 [66.577212]	39.002944 [59.312083]	-9.761672 [60.550177]
Grandfathered Cross-Owned NP-TV Station					-2.583837 [38.809176]	-15.50152 [49.290323]	-13.311443 [38.966711]	-6.229514 [38.468207]
Cross-Owned with a Radio Station	-170.598275 [61.511843]***	-236.126659 [69.968547]***	-180.312767 [63.465190]***	-182.610498 [59.645046]***	-167.483555 [63.004473]***	-228.331074 [70.633225]***	-178.297307 [65.024014]***	-181.485608 [60.864574]***
Cross-Owned NP-TV and Radio Station	210.217238 [91.181755]**	267.507151 [101.591976]***	210.602582 [94.706223]**	215.164841 [89.258187]**	221.356996 [84.627226]**	273.345784 [96.148171]***	227.84687 [88.419419]**	207.689608 [83.713394]**
Parent U.S. Percent Coverage	5.269455 [2.818506]*	8.971579 [3.038967]***	4.860169 [2.731273]*	6.799185 [2.924101]**	4.710228 [3.013639]	7.849166 [3.291991]**	4.313593 [2.842416]	6.699505 [3.099069]**
O&O	-68.39093 [82.800125]	-159.808078 [90.468321]*	-67.215406 [82.561929]	-120.668118 [86.952151]	-54.827467 [84.956733]	-130.248676 [94.038167]	-53.455689 [84.900695]	-117.745055 [91.686724]
VHF		107.398146 [85.345660]	64.646649 [70.925492]	27.6259 [67.508664]		96.081631 [84.365051]	59.908168 [71.311262]	27.644246 [67.897138]
Station Age (years)		0.905145 [2.600444]	-0.464817 [2.191423]	-0.56632 [2.040361]		1.120859 [2.610303]	-0.336348 [2.186012]	-0.588212 [2.022205]
Duopoly Combination Station		-14.256653 [53.831047]	1.460166 [44.393241]	-6.610868 [43.808544]		-16.612087 [53.097549]	-2.070236 [44.793121]	-5.398795 [44.504458]
HHI (market revenue)			0.045886 [0.055577]	0.057559 [0.055299]			0.056803 [0.064001]	0.05795 [0.058817]
LMA				-1.39664 [0.292993]***				-1.393973 [0.324651]***
Observations	312	312	312	312	312	312	312	312
Adjusted R-squared	0.66	0.62	0.65	0.67	0.65	0.62	0.65	0.67
Linktest _hatsq p-value	0.002	0.000	0.004	0.01	0.003	0.000	0.006	0.011
Affiliation Dummies?	Yes							
DMA Fixed Effects?	Yes							
Length Fixed Effects?	Yes							
Time Fixed Effects?	Yes							

Robust standard errors in brackets * significant at 10%; ** significant at 5%; *** significant at 1%

Exhibit VIII-16 also reveals that there are likely omitted variables in the model (p-value for linktest hatsq is less than 1%). While Study 6 does include DMA, time, and broadcast length fixed effects, it may (as Lisa George’s review of Study 3 suggests) miss important fixed characteristics of the parent company. We present the results of inclusion of parent fixed effects in Exhibit VIII-17.

Exhibit VIII-17: Study 6 - Seconds of Non-Sports & Weather Local News Programming - Including Parent Fixed Effects

OLS on Local News Seconds Excluding Sports and Weather	Original Run 5-5	Add Station Controls	Add Policy Controls	Add LMA Dummy	Original Run 5- 5, W&G	W&G, Add Station Controls	W&G, Add Policy Controls	W&G, Add LMA Dummy
Cross-Owned NP-TV Station	-259.883832 [84.517239]***	-241.005447 [84.799977]***	-228.469557 [78.231217]***	-248.739838 [76.008871]***				
Waived Cross-Owned NP-TV Station					-172.185127 [93.823166]*	47.537523 [151.762678]	-112.715328 [100.114445]	-112.960703 [100.888445]
Grandfathered Cross-Owned NP- TV Station					126.030349 [124.117763]	41.397905 [146.229441]	250.391169 [89.996210]***	256.217231 [132.382246]*
Cross-Owned with a Radio Station	-96.501105 [96.664775]	-215.562117 [144.049980]	-137.030839 [98.448621]	-109.663521 [103.785439]	-105.676667 [104.197677]	-240.796222 [142.917659]*	-150.305867 [104.208903]	-151.358649 [109.720442]
Cross-Owned NP-TV and Radio Station	131.874313 [145.139683]	391.62504 [164.095579]**	341.261302 [132.768891]**	352.574766 [130.607563]***	-238.593839 [217.330377]	208.881593 [245.887836]	-109.333142 [169.280824]	-115.622755 [189.790507]
Parent U.S. Percent Coverage	19.473196 [23.045991]	3.955247 [26.345608]	13.871878 [20.212585]	-228.214616 [139.586060]	11.227844 [25.652123]	10.524251 [31.217586]	-0.825638 [20.682180]	11.81066 [176.771177]
O&O	-612.030794 [463.735061]	-417.687922 [475.154620]	-582.176711 [394.857840]	4,950.86 [3,129.153075]	-351.849217 [516.254792]	-477.932408 [597.425175]	-178.158215 [389.420002]	-467.50146 [4,005.334547]
VHF		30.102362 [120.624538]	-45.843468 [85.709458]	-48.318535 [87.521944]		57.004931 [119.348089]	-50.151973 [87.412072]	-50.664598 [88.580793]
Station Age (years)		-3.837262 [3.145898]	-4.816188 [2.422933]**	-4.922128 [2.438807]**		-4.182747 [3.002796]	-4.531537 [2.245783]**	-4.514525 [2.263326]**
Duopoly Combination Station		-113.893622 [74.651481]	-125.292396 [56.435559]**	-104.078372 [57.643426]*		-171.188005 [72.517922]**	-138.386402 [55.552247]**	-139.118626 [58.389606]**
HHI (market revenue)			-0.061173 [0.044009]	-0.049361 [0.043257]			-0.115817 [0.040644]***	-0.116613 [0.041983]***
LMA				-8.148354 [4.380106]*				0.438455 [5.917015]
Observations	312	312	312	312	312	312	312	312
Adjusted R-squared	0.7	0.68	0.71	0.71	0.7	0.67	0.71	0.71
Linktest _hatsq p-value	0.092	0.1	0.173	0.166	0.076	0.176	0.165	0.166
Affiliation Dummies?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Length Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Time Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Parent Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

As Exhibit 17 shows, the inclusion of parent fixed effects renders the coefficient on seconds of non-sports and weather local news *significant and negative*. When disaggregated, we see a weakly significant negative effect from waived stations. In the full model with our inclusion of the missing controls, we see a weakly significant positive effect from grandfathered stations. However, the coefficient on waived stations remains negative, and we also see a significant negative effect on market concentration (HHI) and duopoly. Thus, the data indicates that the removal of the cross-ownership restriction will bring no net positive impact on the seconds of hard local news. And the results from our prior market level analyses indicates that overall market output of news would decrease.

CONCLUSION

We have presented the implementation of very simple additions and re-specifications of the preferred models from Studies 3, 4.1 and 6. Following the suggestions of the peer reviewers, we were able to show that there is no evidence from these studies to suggest that cross-ownership results in more local news, and in the case of study 6 (which measured the localness of actual content), we see that cross-ownership is associated with a statistically significant *decrease* in the amount of hard local news content in the days leading up to the 2006 elections.

These results when viewed in conjunction with the evidence that cross-ownership is associated with less market-level output of local news programming provides a strong case for maintenance of the cross-ownership restriction. The loss of a diverse local voice provides no tangible public interest benefits, but brings substantial harms.

IX. CONTENTLESS CONTENT ANALYSIS:

FLAWS IN THE METHODOLOGY FOR ANALYZING THE RELATIONSHIP BETWEEN MEDIA BIAS AND MEDIA OWNERSHIP

INTRODUCTION

The Role of Contentless Content Analysis in the FCC Studies

The previous chapter described the problems that arise in the studies as a result of the very sophisticated statistical models that were used. This chapter examines some simpler and more fundamental problems in the data and analysis. All of the major studies of TV broadcast station ownership use an approach to analysis that can best be described as “contentless content analysis.” In the traditional approach of studies 3 and 4.1, the nature of the programming is determined from its title or description in TV programming guides, but the programming is never actually viewed or coded for content by the research team. In the new and controversial approach of Study 6, content is viewed, but it is evaluated by a count of issues or words used, not by an evaluation of the specific content of the programming. There are host of problems associated with these methodologies as implemented by the FCC. Some of the problems are classic data problems compounded by the methodology; others are unique to the approach.

Moreover, three of the FCC studies that directly challenge the link between ownership and diversity in the media¹⁷⁶ rest on the very recent and highly controversial methodology that

¹⁷⁶ Gregory S. Crawford, “*Television Station Ownership Structure and the Quantity and Quality of TV Programming*,” *Federal Communications Commission, Study 3* cites the research in this field and little else as the basis for a recommendation that the FCC re-examine the finding that the ownership of media outlet matters. Jeffrey Milyo, *The Effects of Cross-Ownership on the Local Content and Political Slant of Local*

attempts to identify the bias or slant in the media without actually evaluating the content of the material. It identifies phrases or issues that are asserted to be left or right (Democrat or Republican) based on some external referent (criteria) and then counts the number of times that the phrase or issue is mentioned by the media outlet. These efforts to derive “objective” measures of subjectivity in media outlets go badly astray.

Overview of the Critique of the Methodology

There are a couple of prominent examples of this approach to “contentless content analysis. This chapter reviews the two leading studies in the field to explore flaws that appear to be endemic to the approach and lays out a broad framework for understanding the data gathering and definitional flaws in the FCC studies.

The linkages to this general methodology are clear. The author of Study 6 is also the author of one of the main studies reviewed below. Ironically, the peer reviewer chosen by the FCC for Study 6 is the author of the other major study in this genre.

The analysis is plagued by four fundamental problems, all of which are in evidence in Study 6. This Study identified a list of issues that were categorized as Democrat or Republican by visiting the Web sites of the candidates in each state being studied.¹⁷⁷ It then sampled the late evening (9pm, 10pm, or 11pm) broadcasts on some of the TV stations that provide news broadcasts in every Designated Market Area (DMA) in which a TV-newspaper

Television News, Federal Communications Commission, Study 6 applies the methodology to TV newscasts in 29 Designated Market Areas in which newspaper-TV cross-ownership combinations are located. Arie Berestanu and Paul B. Ellickson, *Minority and Female Ownership in Media Enterprises*, Study 7, June 2007, apply a completely different methodology, but then cite one of the prominent examples of contentless content analysis as a justification to reconsider limits on media ownership, even though the study they cite says nothing about the specific research task they were given.

¹⁷⁷ Crawford, Study 6 at p. 11.

cross-ownership situation exists. The study counted the amount of time devoted to the partisan issues. All of the problems associated with contentless content analysis afflict this Study.

The methodology has been extensively criticized because of problems of “conception and execution.”¹⁷⁸ The questions about the methodology have come from a variety of sources, including the media¹⁷⁹ and academics.¹⁸⁰ These problems are endemic to the approach and, as shown below, are in evidence in the FCC studies that adopted this methodology.

When the *Wall Street Journal* criticized the most prominent example of the methodology of contentless content analysis,¹⁸¹ it did not do so because the study found that the *Wall Street Journal* is by far the most liberal of the major media outlets in America, but because “The *Wall Street Journal*’s news coverage is relentlessly neutral. Of that, we are confident.”¹⁸² The memorandum from the *Journal* identified four flaws which afflict the underlying methodology,

- the failure to understand what it means for a reporter to cite a source and to distinguish between ideological opinion in news coverage and reporting,
- the inevitable bias in categorization and selection of external referents,
- selectivity in coverage of citations, and
- flaws in the creation of indices.

¹⁷⁸ Geoff Nunberg, ““Liberal Bias, Noch Einmal,” *Language Log*, July 5, 2004, p. 2.

¹⁷⁹ Memo from Jim Romenesko, “Dow Jones Responds to Media Bias Study,” December 21, 2005.

¹⁸⁰ *American Journalism Review*, December 26, 2006.

¹⁸¹ Tim Glenscoe and Jeffrey Milyo, “A Measure of Media Bias,” *Quarterly Journal of Economics*, November 2005.

¹⁸² Memo from Jim Romenesko, “Dow Jones Responds to Media Bias Study,” December 21, 2005.

The second study that has received a great deal of attention¹⁸³ and is cited in several of the FCC studies was criticized in the *American Journalism Review*¹⁸⁴ along lines similar to the *Wall Street Journal* complaint.

Academic critics have weighed in as well with more technical criticisms. As one critic put it

the G&M model makes predictions in this case that are qualitatively wrong, not just quantitatively out of whack... Depending on the real relationship between the politics of citers and citees, and the empirical distribution of citers and citees in political space, their model might be leading us towards the truth, or it might not.¹⁸⁵

Another pointed out that “sand sifted statistically is still sand.”¹⁸⁶

This analysis examines the four flaws in the methodology identified in reaction to the published examples of this overall approach that has influenced the FCC studies so deeply. It then shows that the same flaws afflict the FCC study that attempted to apply the methodology.

THE APPROACH

A Measure of Media Bias

The seminal study in the field attempted to categorize “think tanks and policy groups” as right or left on the basis of how many times they were cited by members of Congress in the

¹⁸³ Matthew Gentzkow and Jesse M. Shapiro, “What Drives Media Slant?,” SSRC, November 13, 2006.

¹⁸⁴ *American Journalism Review*, December 26, 2006.

¹⁸⁵ Mark Liberman, “Marc: Red or Blue?,” *Language Log*, October 31, 2004.

¹⁸⁶ Geoff Nunberg, “Liberal Bias, Noch Einmal,” *Language Log*, July 5, 2004, p. 1. Less delicately put, “garbage in garbage out.” Wikipedia defines garbage in/garbage out as follows, “**Garbage In, Garbage Out** (abbreviated to **GIGO**) is an aphorism in the field of computer science. It refers to the fact that computers, unlike humans, will unquestioningly process the most nonsensical of input data and produce nonsensical output.” Available at http://en.wikipedia.org/wiki/Garbage_In,_Garbage_Out.

Congressional record.¹⁸⁷ The members of Congress were categorized as right or left on the basis of their ADA rankings. The think tanks were then categorized as right or left depending on the ranking of the members who cited them.¹⁸⁸ If a lot of conservatives (liberals) cite a particular think tank, it ends up with a conservative (liberal) score. With this “objective” left-right ranking of think tanks in hand, the study then counts the number of times a newspaper, magazine or TV newscast cites the think tank. The Congressional citations cover a ten-year period from January 1, 1993 to January 1, 2003. The study then counts the number of times that major media outlets cite those same think tank/policy groups in the period from roughly 1997 to 2003.

What Drives Media Slant

The second study that is prominent in the field also used phrases spoken by members of Congress, although it dropped the intervening role of think tanks. It simply tried to categorized two and three word phrases according to whether they were uttered more frequently by Democrats or Republicans. It looked at the Congressional Record from 2005. If Republicans (Democrats) use a phrase (statistically, significantly by a Chi Square test)

¹⁸⁷ Tim Groseclose and Jeffrey Milyo, “Glenclose and Milyo Respond,” *Language Log*, August 2, 2004, state that the words “think tank” was applied to a mix of different types of groups “only because it is unwieldy to call them throughout the paper, e.g. “think tanks, activist groups, and other policy groups.” They respond to criticism of the mix of groups that distinguishes think tanks from advocacy groups, as described below.

¹⁸⁸ The Consumer Federation of America turned up on the list of think tanks. CFA ranks 12th among the 200 groups in citations by members of Congress. It ranks 16th in citation by major news outlets. Combining the two rankings, CFA comes in 10th. CFA is the second most liberal think tank/policy group on the list with an average ADA score of 81.7. CFA is nestled comfortably between the most liberal media outlet (the *Wall Street Journal*, with a rank of 85.1, and the *New York Times*, with a rank of 73.7. Critics of the methodology have suggested (and the *Wall Street Journal* has claimed) that what the citations really reflect is the quality of the research done by the think tanks/policy groups, not their political leaning. This is one occasion in which we agree with the *Wall Street Journal*.

more frequently than Democrats (Republicans) it is declared a Republican (Democratic) phrase.

Having categorized 1,000 phrases in this way, the study then counted the number of times newspapers used those phrases. If Democrats (Republicans) used certain phrases and then newspapers tended to use similar phrases, they are considered Democrat (Republican) leaning newspapers. After assigning scores to each newspaper, the authors then do statistical tests to examine the behavior of the outlets and to test certain policy relevant variables. However, if the underlying indices are flawed, the meaning and relevance of the statistical analysis are dubious.

PROBLEM: MEANING

A Measure of Media Bias

The *Wall Street Journal* maintains that references to a think tank in reporting have nothing to do with slant or bias. Yet, this approach fails to distinguish between reporting and editorial opinion and to evaluate the way a citation is made is inherent in the approach. Because it wants to automate the counting process, the methodology simply cannot read the stories. As the *Wall Street Journal* put it:

First, its measure of media bias consists entirely of counting the number of mentions of, or quotes from, various think tanks that the researchers determine to be “liberal” or “conservative.” By this logic, a mention of Al Qaeda in a story suggests the newspaper endorses its views, which is obviously not the case. And if a think tank is explicitly labeled “liberal” or “conservative” within a story to provide context to readers, that example does not count at all. The researcher simply threw out such mentions.¹⁸⁹

¹⁸⁹ Memo from Jim Romenesko, “Dow Jones Responds to Media Bias Study,” December 21, 2005.

This is a fundamental meaning problem. What does it mean for a media outlet to report on a subject or to use a source or a phrase? The assumption in the studies is that every reference implies a slant (or in the case of a perfectly neutral referent lack thereof). In fact, if a statement explicitly criticized a think tank, or explained why the think tank was wrong, it was excluded from the count. Interestingly, what the Wall Street Journal finds to be a natural part of the reporting process – to identify the leaning of the source as context for the reader – the researchers see as a form of bias itself.¹⁹⁰

Linguists have chimed in on this point as well:

One difficult question is what the rhetorical content of “citing” a source is. The implications of G&M’s model is that citing X is a sign of political agreement with X, and thus the rhetorical context would be something like “As X showed, its true that P.” But sometimes people go out of their way to find support from those whose views they don’t share” “Even X admitted that P.” And there are other rhetorical frames entirely: “The evil ones have no shame: X just proposed that P;” or “When my opponent suggests that P, she is echoing the ideas of X; or just “Here’s something new: X said P”.¹⁹¹

Thus, neither the rhetorical practice of legislators, nor the journalistic practices of reporters and editors is properly reflected in the simplification and objectification sought by the citation counting methodology.

What Drives Media Slant

The study of media bias tied media ratings to ADA rankings. The logic is that the ADA is in the business of rating the left right position of members of Congress. The study of media slant just sifted phrases to see if Democrats (Republicans) used them more often. However, it is not clear that many of the phrases it identified are inherently Democratic or

¹⁹⁰ “We think that such an asymmetric treatment of think tanks (i.e. to give labels more often to one side) is itself a form of media bias.” pp. 1198-1199.

¹⁹¹ Mark Liberman, “Marc: Red or Blue?,” *Language Log*, October 31, 2004.

Republican, liberal or conservative. As the American Journalism Review put it “Examining all 1,000 phrases reveals a huge number that have nothing to do with ideology – phrases such as “pass the bill,” “urge support,” “assistant secretary,” and “witness may testify,” all deemed to have Republican slant”.¹⁹² The top phrases include the following

Democratic

American people, African American, central American, Asian Pacific American, American people deserve, American workers, million Americans, middle class Americans. American free trade, credit card, card companies, credit card industry

Republican

American Farm Bureau, American Bar Association, Pass the bill, urge support, witness may testify, law we can change, legal system, banking housing and urban, fifth circuit court, Grand Ole Opry, near earth objects

Even for those phrases that are plausibly ideologically charged, how they are used may be misleading. A senator who rises to support the President’s handling of the Iraq war or insists that the Iraq war must be won is counted as using a Democratic phrase. The North America Free Trade Agreement was vigorously supported by President Bush; American free trade is a democratic phrase.

More importantly, the methodology does not distinguish between reporting and editorial slant. “Among the most liberal newspapers in the study: the Times-Picayune of New Orleans. Among the most Democratic phrases: ‘Hurricane Katrina.’”¹⁹³ The Times-Picayune has to report on Hurricane Katrina a lot more than other newspapers. Because it does its job, it is tagged as liberal.

If a newspaper reports that Senator X says “repeal of the death tax is my number one priority,” the newspaper is presumed to be expressing an editorial bias, when in fact, it is

¹⁹² *American Journalism Review*, December 26, 2006

¹⁹³ *American Journalism Review*, December 26, 2006

simply quoting the Senator.¹⁹⁴ Moreover, if the Senator has actually made it his number one priority and talks about it a lot, the newspaper is going to use the phrase a lot. Since the Senator is likely to be Republican and the district is likely to be Republican, then the newspaper is going to look like it pandering to the electorate for profits, when it is just reporting the news.

PROBLEM: CATEGORIZATION AND SELECTION OF REFERENTS

A Measure of Media Bias

The second problem cited by the *Wall Street Journal* stems from the categorization and selection of referents (think tanks). Why are these particular referents categorized as “liberal” or “conservative,” “Democrat” or “Republican” and why are some referents included, but not others?

Second, the universe of think tanks and policy groups in the study hardly covers the universe of institutions with which the Wall Street Journal reports come into contact. What are we to make of the validity of a list of important policy groups that doesn't include, say, the Chamber of Commerce, the National Association of Manufacturers, the AFL-CIO or the Concord Coalition, but that does include People for the Ethical Treatment of Animals? Moreover, the ranking the study gives to some of the groups on the list is simply bizarre. How seriously are we to take a system that ranks the American Civil Liberties Union slightly to the right of center, and that ranks the RAND Corp. as more liberal than Amnesty International? Indeed, the more frequently a media outlet quotes the ACLU in this study, the more conservative its alleged bias.”¹⁹⁵

¹⁹⁴ *Id.*

¹⁹⁵ Memo from Jim Romenesko, “Dow Jones Responds to Media Bias Study,” December 21, 2005.

The authors respond to criticism about the list of think tanks by asserting that “all we need is that the set is chosen exogenously.”¹⁹⁶ We believe that a systematic bias in the sample of referents can be a problem, whether or not the list is exogenous or endogenous, if as we argue the underlying process by which the data is generating differs across the three rhetorical spheres (congresspersons, think tanks, media outlets) that are being linked.

Citing a few examples, the authors go on to attempt to buttress their claim that the choice of which groups to include. The exclusion of the National Association of Manufacturers was mentioned by several critics.¹⁹⁷ The authors provide numbers that indicate if NAM had been included it would have been the third most frequently cited think tank. If the Republicans and Democrats who cited it were average, it would have been the fourth most conservative think tank. The authors use an example and show that for a single media outlet, the second most moderate outlet (i.e. closest to the center) among the 20, including NAM would not have made a difference. This is the media outlet least likely to have been affected, given the assumption of affinities between congresspersons, think tanks and media outlets.

The authors respond to these complaints with a series of ad hoc explanations and interpretations.

The authors excluded two types of references that are important. They exclude instances in which the member of Congress criticized a think tank, or explained why it was wrong.¹⁹⁸ (This accounts for a substantial number of citations Congress = 5%; Media = 1%). This could be the strongest reflection of leaning. The authors also excluded instances where

¹⁹⁶ Tim Groseclose and Jeffrey Milyo, “Groseclose and Milyo respond,” *Language Log*, August 2, 2004.

¹⁹⁷ Memo from Jim Romenesko, “Dow Jones Responds to Media Bias Study,” December 21, 2005; Geoff Nunberg, “Liberal Bias, Noch Einmal,” *Language Log*, July 5, 2004.

¹⁹⁸ No explanation given.

an outlet characterized the leaning of the think tank. (This accounts for a substantial number of citations: Congress = 2%, Media = 5%).¹⁹⁹ As noted by the *Wall Street Journal*, this could be defined as proper reportorial practice. These two decisions eliminate 13% of all citations. Including them could certainly impact the analysis. For the second example, the authors state

In the same spirit, we omitted cases where a journalist or legislator gave an ideological label to a think tank (e.g., “Even the left-wing Urban Institute favors this bill.”). The idea is that we only wanted cases where the legislator or journalist cited the think tank as if it were a disinterested expert on the topic at hand.”²⁰⁰

Simple partisanship, which has become quite common in the contemporary political environment, is excluded from the analysis. This carries over to the exclusion of editorials.

The authors excluded editorials on the grounds that “there is little controversy over the slant of editorial pages-e.g. few would disagree that *Wall Street Journal* editorials are conservative, while *New York Times* editorial are liberal.”²⁰¹ On the contrary, there is a rather loud dispute over whether the *New York Times* editorial page is liberal.²⁰²

Sentences are rejected as the basis for counting citations because some results “are in stark disagreement with common wisdom.”²⁰³ But other instances where the results defy “common wisdom” are included.

The ratings of a number of individual groups raised some eyebrows and the authors went looking for explanations. The ACLU is rated to the right of the average voter (49.8) and

¹⁹⁹ The authors argue that labeling a think tank is a form of bias itself, but a reporter might see it as providing useful information. The premise of the study is that the leanings of the think tanks are known, to the members of Congress and the authors cite numerous examples where common wisdom or conventional wisdom classifies think tanks.

²⁰⁰ P. 1198.

²⁰¹ P. 1199.

²⁰² See Comments of Consumers Union, Consumer Federation of America and Free Press, Part II, “Study 5: Media Ownership and Viewpoint,” Available at http://www.stopbigmedia.com/filing/part_2.pdf.

²⁰³ P. 1232.

more conservative than 28 of the 50 most cited groups. The explanation lies in its stand on campaign finance reform and the fact that a single Senator (McConnell) cited it repeatedly in the debate. During the period of study, the McCain-Feingold campaign finance reform bill was being debated, a bill which the ACLU and many Republicans opposed. Republicans referred to the ACLU frequently, which drove its conservative ranking. This explanation for how the ACLU managed to be categorized as conservative in this study underscores the importance of the first flaw in the methodology – meaning – and points to the third flaw, sampling of citations, discussed below.

Other groups that presented anomalous results were handled in similar ad hoc fashion. The Rand Corporation is deemed to have a split personality (liberal on publicly available (non-military) studies, conservative on secret military studies, so the public face of Rand is liberal.

The opinion of a conservative think tank CEO and evidence from public opinion polls are cited as support for the contradiction to “common wisdom.”²⁰⁴ The *Wall Street Journal* could have taken the split personality explanation as a compliment,²⁰⁵ but as noted above, it chose to criticize the methodology.

Another interesting example is that of NPR. As the authors note “Conservatives frequently list NPR as an egregious example of a liberal news outlet. However, by our

²⁰⁴ P. 1214.

²⁰⁵ The authors quote Irvine and Kincaid “The Journal has had a long-standing separation between its conservative editorial pages and its liberal news pages.” And Sperry “notes that the news division of the Journal sometimes calls the editorial division “Nazis.” “Fact is,” Sperry writes, “the Journal’s news and editorial department are as politically polarized as North and South Korea.” P. 1213.

estimate the outlet hardly differs from the average mainstream news outlet.”²⁰⁶ The authors quote the head of a think tank: “I think the conventional wisdom has overstated any liberal bias at NPR.”²⁰⁷ The authors compare their finding to another analysis of bias in the media based on data from a similar period.

Hamilton finds that the average NPR listener holds approximately the same ideology as the average network news viewer or the average viewer of morning news shows, such as *Today* or *Good Morning America*. Indeed, of the outlets that he examines in this section of his book, by this measure NPR is the ninth most liberal out of eighteen.²⁰⁸

The reference to Hamilton’s ranking is highly selective. On the facing page, Hamilton gave a second set of rankings (based on a 5 point scale instead of a 6 point scale) that told a somewhat different story (see Exhibit IX-1). By those rankings, NPR was substantially more liberal. Exhibit IX-1 includes the ideological score of the average respondent and the average media outlet, in addition to the three media outlets the authors picked out of the Hamilton research. There is a fundamental disagreement in the ratings of the outlets relative to the individuals. In “A Measure of Media Bias” the average outlet and all three of the examples mentioned by the authors are substantially more liberal than the individuals. In the Hamilton data, the outlets are quite close to the average respondent, with the one exception that NPR is much more liberal in Hamilton’s short scale. Other outlets are ranked rather differently by the two data sets. The authors found daily newspapers well to the left of center (with the exception of the *Washington Times*), but Hamilton’s respondents found the category of daily newspapers at the center or slightly to the right.

²⁰⁶ P. 1213.

²⁰⁷ P. 1214.

²⁰⁸ Id.

Exhibit IX-1: Comparison of Ideological/Bias Rankings of News Outlets
 (Higher scores indicate more liberal)

Outlet	Measure of Media Bias^a	Hamilton 1-6 scale^b	Hamilton 1-5 scale^c
National Public Radio	66.3	3.31	2.95
National Nightly News	65.3	3.28	2.81
Morning News Shows	62.2	3.34	2.76
Daily Newspaper			
Without Washington Times	71.6	3.21	2.81
With Washington Times	56.3		
Average voter/ Respondent	50.6	3.28	2.81
Outlet Rating			
Average	62.6	3.32	2.81
Standard Deviation	3.5	0.16	0.13

a/ “A Measure of Media Bas,” p. 1212.

b/ James T. Hamilton, *All The News That’s Fit to Sell* (Princeton: Princeton University Press, 2004), p. 108.

c/ James T. Hamilton, *All The News That’s Fit to Sell* (Princeton: Princeton University Press, 2004), p. 109.

PROBLEM: SAMPLING OF CITATIONS

A Measure of Media Bias

The *Wall Street Journal* also noted very different sampling periods for different media outlets.

Third, the reader of this report has to travel all the way to Table III on page 57 to discover that the researchers’ “study” of the content of the *Wall Street Journal* covers exactly Four Months in 2002, while the period examined for CBS News covers more than 12 years, and National Public Radio’s content is examined for more than 11 years. This huge analytic flaw results in an assessment based on comparative citings during vastly differing time periods, when the relative newsworthiness of various institutions could vary widely. Thus, *Time Magazine* is “studied” for about two years, while *U.S. News and World Report* is examined for eight years. Indeed, the periods of time covered

for the Journal, the Washington Post, and the Washington Times are so brief that as to suggest that they were simply thrown into the mix as an afterthought. Yet the researchers provide those findings the same weight as all others, without bothering to explain that in any meaningful way to the study readers²⁰⁹

Using different sampling periods could affect the rating of outlets because different issues would be on the legislative agenda and covered by the press. The problem with the ACLU is the result of a unique issue being prominent.

Some have argued that the mix of “think tanks” interacts with the different rhetoric of politicians and the press to create a problem in the process by which the data was generated. The authors have mixed together think tanks and policy advocates who have different practices which may trigger differential citation ratings among members of Congress and the press.

Technocratic centrist to liberal organizations like Brookings and the Center on Budget and Policy Priorities tend to have more credentialed experts and peer-reviewed publications than their conservative counterparts. This may result in a greater number of citations by the press, which seeks out expert perspectives on the news, but not more citations by members of Congress, who generally seek out views that reinforce their own.²¹⁰

The authors respond to this by attempting to measure “think tankness” using two characteristics – whether there is open membership and whether the organization has fellows – rather than try to assess the education and publication record of the organization (See Exhibit IX-2).

Exhibit IX-2: Rankings of Different Types of Referent Groups

Type of Group	Groups Included	ADA Rating
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²⁰⁹ Memo from Jim Romenesko, “Dow Jones Responds to Media Bias Study,” December 21, 2005.

²¹⁰ Brendan Nyhan, “The Problem with the Glroseclose/Milyo Study of Media Bias,” December 22, 2005.

Advocacy Groups	NAACP, NRA, ACLU, Sierra Club, AARP, Common Cause, NOW, Federation of American Scientists	65.4
Mixed Groups	Heritage Foundation, Amnesty Intl., Center for Responsive Politics, Consumer Federation of America, Christian Coalition, Economic Policy Institute	54.8
Think Tanks	Rand, Brookings, Center on Budget Priorities, Council of Foreign Relations, Center for Strategic and Intl. Studies, American Enterprise Institute, CATO, Institute on International Economics, Urban Institute, Family Research Council, Carnegie Endowment for Intl. Peace	52.4

As shown when applied to the top 25 referents, which account for about 56 percent of all media citations, this approach does sort the referent institutions into three groups – advocacy organizations, think tanks and mixed groups. It does not address the question of quality of think tanks. However, the results suggest dramatic differences between the groups. The advocacy groups chosen for referents are much more liberal and only one of the eight is a “common wisdom” conservative group (the NRA). The think tanks are much more moderate, on average. Three of the eleven are “common wisdom” conservative groups in this set (American Enterprise Institute, CATO and the Family Research Council). Finally there is a mixed group, (in between, but much closer to the Think Tanks) with two of five groups being “common wisdom” conservative groups (Heritage Foundation and the Christian Coalition).

The authors recognize that “if members of Congress do not practice the same tendencies as journalists, then this can cause a bias in our method.” They go on to state that

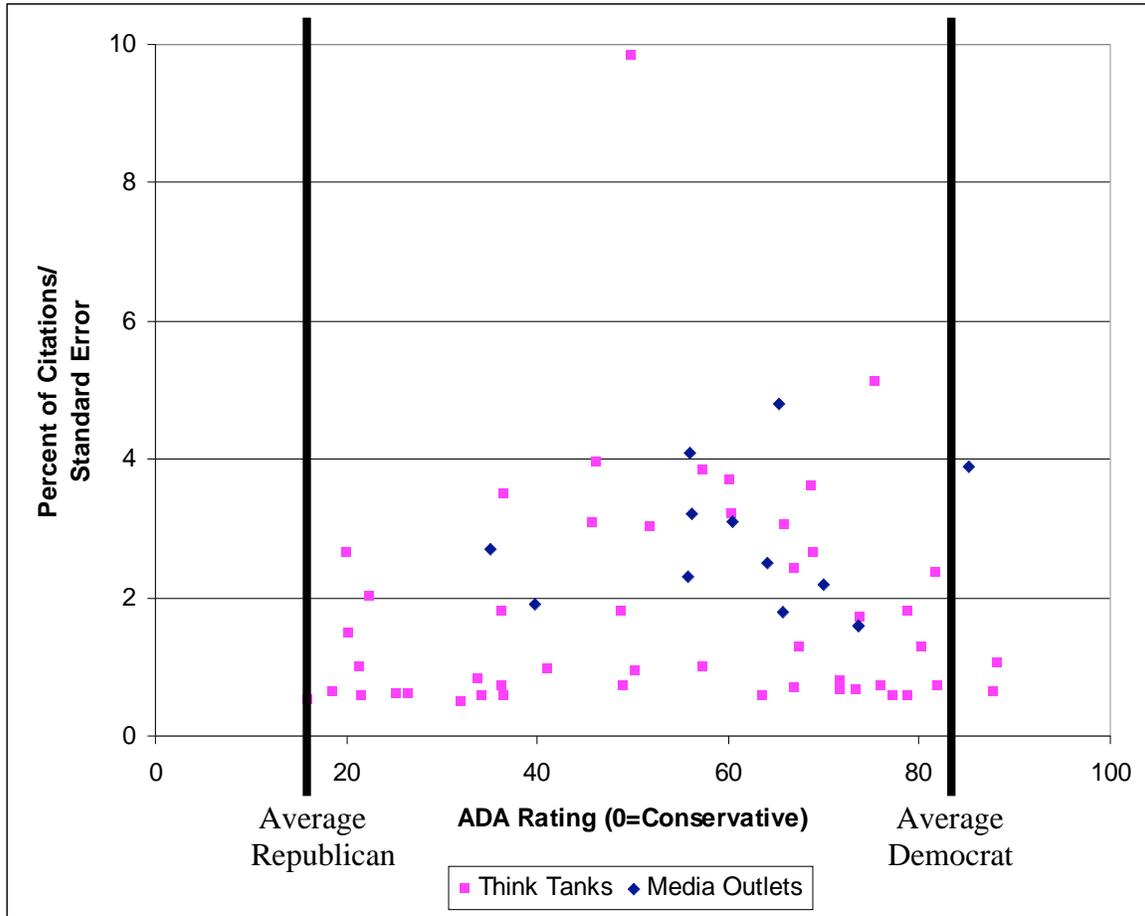
But even here, it is not clear in which direction it will occur. For instance, it is possible that members of Congress have a greater (lesser) tendency than journalists to cite such academics. If so, then this will cause our method to make media outlets appear more liberal (conservative) than they really are.²¹¹

This is one of a number of instances in which the authors note that the bias in the data could go either way and, since they have no opinion about which way it goes, assume there is no bias. Just because one does not know which way the bias goes, does not mean there is none. Indeed, the authors are so fixated on the fact, for the group of think tanks chosen, the media appear to lean a little left that they do not investigate the potential bias in their data.

Exhibit IX-3 shows that the think tanks cluster to the liberal (Democratic) side. However, even more evident in the Exhibit is the fact that both think tanks and media outlets are more moderate than the politicians. That is, approximately 95 percent of the think tanks and media outlets have ADA ratings that fall between the average Republican and the average Democrat. Indeed, the only media outlet that falls outside this range is the ultraliberal *Wall Street Journal*. Moreover, the media outlets tend to more tightly clustered in the center than the think tanks. This suggests that there are different rhetorical practices in the four sets of speakers (politicians, think tanks, advocacy groups. and journalists) that are linked in the counting methodology.

²¹¹ P. 1225

Exhibit IX-3: The Distribution of Think Tank, Media and Congressperson Bias



The authors emphasize that the media are to the left of this set of think tanks/policy groups, but they cannot say the media would be left of a representative sample of think tanks/policy groups.

What Drives Media Slant

Taking think tanks out of the middle of the rating process does not solve the problem of the failure to read the newspaper articles. Even for those phrases that are unequivocally partisan, like “death tax” vs. “estate tax,” the measure is imperfect for at least two reasons.

First, systematic errors of coding can result from contentless, content analysis. For example, the program counts “real estate tax” as a Democratic phrase.

Some partisan phrases have multiple meanings. Consider the very first example they highlight in the paper: The Washington Post used Democratic phrase “estate tax” 10 times more often than Republican “death tax.” But that calculation includes every time the Post wrote “real estate tax” in the metro, business and homes sections (which accounts for a majority of all mentions, my review in Nexis shows).²¹²

There is no weighting of the issues in either of the approaches. All of the issues are treated as though they are equally determinative of slant.

The counts of phrases are perplexing, as the AJR noted.

Then there are strange gaps in their data. Is it true that the Washington Post did not use the phrase “political party” at all last year? Or mention the National Security Agency... Or “senior citizen” or “natural gas.”

Most perplexing is the substantial mismatch between what the authors write and what their data show.

The text of the paper gives the impression that politically loaded phrases such as “death tax,” “tax cuts for the wealthy” and “war on terror” drive the results.

But in the New York Times, for example, “death tax” and “estate tax” were used a combined 149 times. “Credit card” (1,238 times) and “Justice Department” (1,128 times) were the “partisan phrases” used the most. Both phrases, according to the study, have a Democratic slant.

Assume that the New York Times never used the phrase “tax cuts for the wealthy.” What would have happened to its score?

Virtually nothing. Indeed, eliminating all mentions of “Memorial Day” would have had a bigger impact. Killing references to “Rhode Island” or “credit cards” also would have changed the Time’s score more.

Looking at data for 12 large papers provided by the authors for this story, “African American” had more impact than any other phrase. If those newspapers used “black” instead of African American,” the score would have moved a full four percentage points to the right – a huge change. The Republic

²¹² *American Journalism Review*, December 26, 2006.

phrase with the most impact was “natural gas” (which also happens to be one of those phrases subject to strange data gaps).²¹³

Ironically, the most direct measure of editorial leaning, the position the newspaper takes in its editorial pages (which might then provide a basis of ascertaining reportorial bias), is excluded by the methodology. At least the authors claim it is, but there appear to be problems with the program, so one cannot be sure whether editorials were included.²¹⁴ It is certain that the authors did not ascertain the editorial position on any issue and then investigate the slant in reporting, which is the much more traditional and direct approach to the topic.

What Drives Media Slant

There are biases in the samples used to identify the phrases and to categorize the newspapers. Just as there appear to be biases in the sample of think tanks, there are biases in the phrases. “Of the 1000 phrases, 617 are Democratic and 383 are Republican.”²¹⁵

The sample of newspapers is also not representative.

The researchers include 417 newspapers – a big number, but just a third of the newspapers nationwide. The authors said their study used all papers available in their databases, which meant they got almost all the larger papers in the country but a much smaller share of small papers. By a wide margin the larger papers were on the liberal side of the authors’ rankings.

²¹³ *Id.*

²¹⁴ “Or take opinion pieces, which they excluded “whenever possible.” While I’m not using the same news database they did, it is possible to come close to matching their data runs. Their data, for example, have the New York times printing the Democratic phrase “bring our troops home” 20 times last year; my review of Nexis has 21 mentions of that phrase, but none of those are in letters, columns or editorials (the rest are news stories that quote or paraphrase politicians or war protestors). Their data have “tax cuts for the rich” in the Times 22 times; my review has it 20 times and 18 of these are editorials, columns or letters to the editor. In other words, content that should have been excluded and the kind of opinion-page matter that could have skewed a newspaper’s measure of ideological slant.” *Id.*

²¹⁵ *Id.*

There are also major biases in the selection of citations.

The researchers excluded copy from wire services, such as the Associated Press, because these stories aren't always archived in news databases. But for the vast majority of small and mid-size newspapers, wire services supply all national and international news. One of an editor's greatest sources of ideological power is deciding whether to run a national story at all. So it's impossible to know how ideological most papers are if a huge amount of the news they run isn't measured. The lack of such wire service stories is partly why some papers were analyzed based on 3,000 or 4,000 phrase mentions while others were analyzed based on 50,000 or more.²¹⁶

This objection echoes the earlier criticism from the *Wall Street Journal* that the number of citations varies widely between referents. In fact, the problem is more severe than the above quote suggests, as will be discussed in the next section.

PROBLEM: CREATION OF INDICES

A Measure of Media Bias

The *Wall Street Journal's* complaint about equal weighting of sources is based on very different samples of citations from the sources. Others have pointed out the problem of equal weighting in another context –

In fact, even though the ADA rating that G & L [sic]'s method assigned to the Rand Corporation (53.6) was much closer to the mean for all groups than that of the Heritage Foundation (6.17), G & L [sic] ignored that difference in computing the effect of citations of one or the other group on media bias... That is, a media citation of a moderately left-of-center group (according to G & M's criteria) balanced a citation of a strongly right-wing group."²¹⁷

The authors have responded to this criticism, but not laid it to rest. Their response points out that the methodology cannot distinguish the relative strength of the ideological position on the referent think tanks.

²¹⁶ *Id.*, see also Geoff Nunberg, "Liberal Bias, Noch Einmal," *Language Log*, July 5, 2004.

²¹⁷ See <http://itre.cis.upenn.edu/~myl/language-log/archives/001301.html>

Substantively, this means that while our method can reveal that the Heritage Foundation is to the right of the Economic Policy Institute, it cannot say, e.g., that the Heritage Foundation is to the right of the political center of the U.S., while the EPI is to the left of the center. Although our results are consistent with this statement, our results are consistent with many other possibilities, including (1) Heritage is far to the right of the political center while EPI is near the political center, or (2) Heritage is near the political center while EPI is far to the left of the political center. Indeed any statement that describes EPI to the left of Heritage would be consistent with our results.”²¹⁸

Whatever one believes about the overall slant of the media, which was the primary issue addressed in the original study, the value of the methodology for examining differences between media outlets is dubious. In response to criticism about the methodology, the authors have shown the results of a total of 19 different approaches to rating the slant of the top 20 medial outlets. These approaches involve including different sets of referents, ranging from as few as 50 to as many as 90, in addition to controlling for the think tankness of the referents. They also involved analyzing whole sentences, instead of short phrases. They involved excluding (including) citations that characterize the leaning of the think tank (i.e. in the preferred approach, a citation in which the media outlet said something like “the conservative Heritage Foundation” was not included).

Since the central theme of the article was that the media has a liberal bias, and all of the approaches yield an average score that is liberal, the authors conclude that the approach to ranking media does not affect their basic conclusion. By their reckoning, the typical voter has an ADA rating of 50.7. The average of the 20 outlets varies across the 19 runs from a low of 59.4 to a high of 65.2.

For the purpose of evaluating individual media outlets, the variability of rankings is much more of a concern. The magnitude of the difference in the rating of outlets is large. To

²¹⁸ Tim Groseclose and Jeffrey Milyo, “Glenclose and Milyo Respond,” *Language Log*, August 2, 2004.

appreciate this, we can note that in defending their preferred scale, the authors compared the ranking of NPR (66.3) to both the ranking of Joe Lieberman (74.2) and the *New York Times* (73.7). The differences of 7.4 and 7.9 points are both statistically significant at the .001 level. The *Wall Street Journal* is off the charts by this standard, being 9.9 points to the left of Joe Lieberman and 11.4 points to the left of the *New York Times*.

Exhibit IX-4 shows that for more than half of the top 20 outlets, across the various rating approaches, the difference in ratings is larger than the ranking difference of NPR and Joe Lieberman. The average may not vary much, but the individual ranks vary widely.

Exhibit IX-4: Rankings of Major Outlets Across Different Sets of Rating Approaches

Outlet	Most Conservative	Most Liberal	Difference
Good Morning America	45.4	63.9	18.5
Washington Times	32.9	48	15.1
Today Show	55.5	68	12.5
CBS Early Show	56.8	69	12.2
Washington Post	56.7	68.9	12.2
Fox News Special	33.4	42.5	9.1
USA Today	60.4	69.5	9.1
Jim Lehrer	50.9	59.3	8.4
NPR Morning	59.2	67.4	8.2
Drudge Report	55.3	63.1	7.8
CBS Evening News	69.9	77.6	7.7
Average Top 20	59.4	65.4	6

Moreover, the changes in rankings are not uniform across the various different approaches. That is, the individual outlets move around relative to one another. The difference between the *New York Times* and Fox Special Report varies from 28.4 points to 37.4 points. The difference between the *New York Times* and Good Morning America varies

from 12 points to 25.4 points. The difference between the *New York Times* and the CBS Early show varied from 6.9 to 14 points. All of these are large enough to be statistically significant. In each of these examples, it is true that the *New York Times* is always more liberal than the comparison outlet.

However, where outlets are ranked closely, their relative liberal/conservative ranking changes across the various runs. Thus, Good Morning America (GMA) and CNN with Aaron Brown are just .1 points apart in the main ranking. In the 18 alternatives, the difference varies from GMA being +3.3 points (more liberal) to -5.7 points (more conservative). In 10 of the runs, GMA is more liberal and in 8 it is more conservative. Similarly, the *New York Times* and the CBS Evening News had identical scores in the main ranking, but across the 18 alternatives, the difference was as large as the *New York Times* being 2.3 points more liberal to -.9 points more conservative, with the *New York Times* being more liberal in 8 runs and CBS evening news being more liberal in 10 runs. No data has been provided to check the internal validity of the measure of slant in this case.

This variability in the rankings of the individual outlets is based only on the results of the 19 runs provided for the top 20 outlets. One shudders to think of the variability of the rankings for the remaining 30 to 70 outlets for which there are smaller numbers of citations. Whatever one believes about the usefulness of the approach for evaluating the overall slant of the media, its usefulness for evaluating the slant of individual outlet is highly suspect, to say the least, yet that is precisely what the FCC has done by importing the general approach into its media ownership research.

What Drives Media Slant

The study on newspaper slant finds that the “average newspaper has a slant of .47 or slightly to the left of center,” but produces anomalies.

It says three major newspapers – the New York Times, the Los Angeles Times, and the Washington Post have a slant of .43 and are similar to a “fairly liberal congressperson such as Democratic Sens. Barbara Boxer of California or Chuck Schumer of New York. The Study also ranks members of Congress based on the language they use. Oddly, the senator ranking closest to those papers is Republican Johny Isakson of Georgia; Sen. Tom Coburn of Oklahoma ranks to the left of all three. Both score a perfect 100 percent on the American Conservative Union’s congressional ratings.²¹⁹

In fact, there is a major disconnect in the analysis that raises questions about the results. Although the slant index is the starting point for the analysis, the key variable in the analysis is actually the “ideal slant” or “profit maximizing slant.” The main analytic conclusions of the paper involve the measurement and explanation for differences between ideal slant and actual slant.

We first ask whether newspapers appear to deviate from the profit-maximizing level of slant on average... We find no evidence of deviations on average for profit maximization: the average level of slant in our sample of 413 newspapers is 0.47, while the average profit maximizing point is 0.46.”²²⁰

The authors make hay of the left leaning bias suggested by their data, pointing back “A Measure of Media Bias.”

While our results do not suggest systematic deviation from profit-maximization on average, they are nevertheless consistent with Groseclose and Milyo’s (2005) finding that average news content resembles a left-of-center congressperson. We estimate that the average newspaper’s language is most similar to that of a 47 percent Republican district, while in the average newspaper’s market 53 percent of votes went to Bush in 2004. However, we find that the average profit maximizing point is *also* to the left of the average congressperson, and considerably closer to the average level of slant we observe. One possible explanation is that consumers with the highest

²¹⁹ Chris Adams, “Tilt,” American Journalism Review, December 2006/January 2007.

²²⁰ Id., p. 28.

propensity to read – or whose readership is most sensitive to slant – tend to be to the left of the median voter.²²¹

Ironically, after the authors of “A Measure of Media Bias” worked so hard to argue that the *Wall Street Journal* was properly categorized as an ultraliberal media outlet, as discussed above, the authors of “Measuring Media Slant,” “identify the *Wall Street Journal* as fairly right-leaning.” The authors note that the other five newspapers that are common to the two studies are categorized in similar fashion, with slight differences.

Unlike the authors of “A Measure of Media Bias,” who cite experts to explain why their ratings are contradictory to “common wisdom,” the authors of “What Drives Media Slant?” head in the opposite direction, looking for agreement with “common wisdom.” They offer the following text accompanying the figure reproduced in Exhibit X-5.

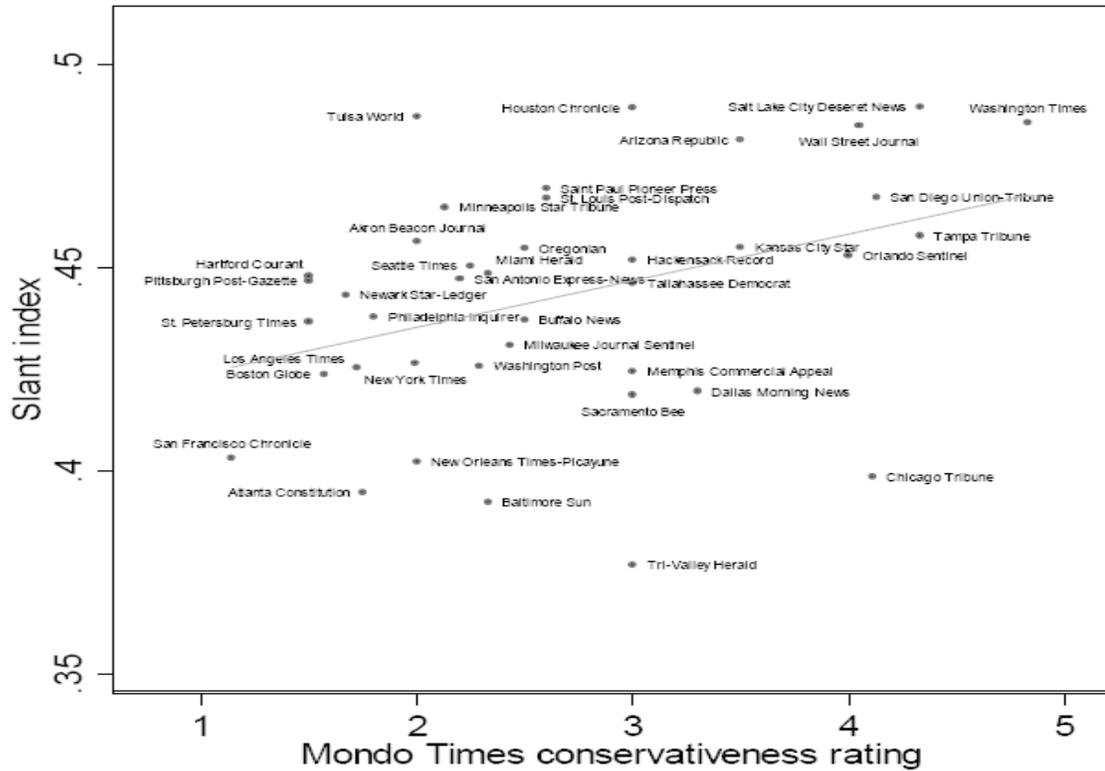
Across the newspapers in our sample, our slant measure correlates well with reader sentiment about the political leanings of different newspapers. For example, Figure 1 shows a graph of our measure of slant for large papers against ratings of political orientation submitted by users to the media directory website Mondo times. The graph shows a clear association in the expected direction: papers rated as more conservative by Mondo Times users are also more Republican-leaning according to our index. Formal statistical test confirm the visual evidence in Figure 1. Across the 101 papers in our sample rated by more than one individual on the Mondo Times website, there is a correlation of .20 with our slant index (- - value = .044) and a rank correlation of .25 (p – value = .011). Not that we would not necessarily expect these correlations to be perfect, both because most papers receive only a few ratings, and because Mondo Times users are rating the editorial as well as news content of papers, whereas our slant measure focuses on news content.²²²

²²¹ Id., p. 29.

²²² Id., p. 16.

Exhibit IX-5:

Figure 1 *Language-based and reader-submitted ratings of slant*



Source: Authors' calculations based on ProQuest database and *Congressional Record* (slant index), Mondo Times at <<http://www.mondotimes.com>> (bias ratings).
 Notes: Figure shows slant index (y-axis) against average Mondo Times user rating of newspaper conservativeness (x-axis), which ranges from 1 (liberal) to 5 (conservative). See section 3 for derivation of slant index. Figure includes all papers rated by at least two users on Mondo Times, with at least 25,000 mentions of our 1,000 phrases in 2005.

To say that the correlations are less than perfect is an understatement. The common variance is about 5 percent. Moreover, in a study that claims that papers pander to readers' tastes, to dismiss the lack of perfect correlation between "common wisdom" because users rate both "the editorial as well as news content of papers" raises an interesting question. Shouldn't the analysis include a measure of editorial slant, since consumers buy the bundle? The authors make no effort to measure this important determinant of "common wisdom."

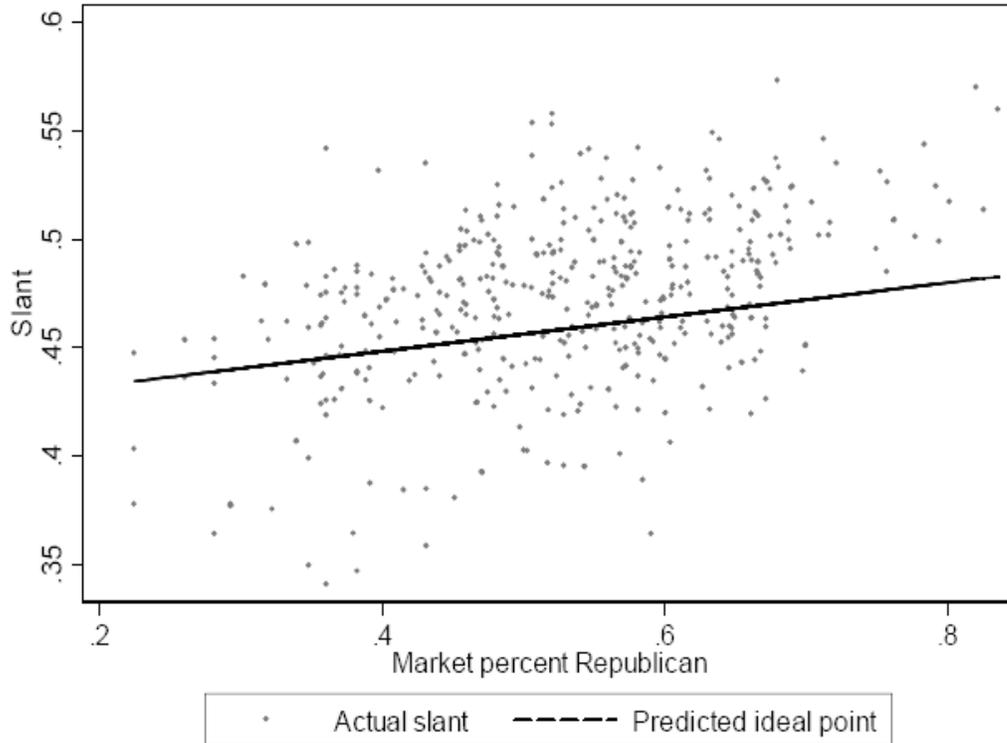
The authors do not provide a list of predicted and actual slant, but they provide the figure reproduced in Exhibit IX-6, which depicts that relationship, accompanied by the following text.

We turn next to the question of whether variation across markets in the preference of consumers can explain variation in newspaper slant. In figure 5, we graph the slant of a newspaper against the percent Republican in the newspaper's market, and plot a line showing our estimate of the ideal points *ideal_n*. Recall... that *ideal* varies across news markets as a linear function of the share Republican, so the ideal points appear as a straight line. The graph shows clearly that in more Republican markets, newspapers adopt a more right-wing slant, exactly as predicted by the cross-market variation in consumer ideal points. The correlation between the actual and profit-maximizing levels of slant is 0.44, which is highly statistically significant ($p < 0.001$). Put differently, variation in consumer preferences explains nearly 20 percent of the variation in slant.²²³

²²³ Id., p. 29.

Exhibit IX-6:

Figure 5 *Slant and consumer preferences*



Source: Authors' calculations based on ProQuest database and *Congressional Record* (slant index), U.S. Presidential Atlas (county-level voting), Editor and Publisher International Yearbook 2000-2005 (newspaper location)

Because of data problems, in order to build their model of “ideal slant” or “profit maximizing slant” the authors are forced to use a subset of 290 newspapers rather than the full set of 413 newspapers. In other words, the key parameters of the econometric model are based on only 290 newspapers. One suspects that the largest papers in the unrepresentative sample of newspapers were selected into the even more unrepresentative sub-sample of papers with circulation numbers that form the database for the model. We say one suspects

because the authors provide no descriptive statistics of the sample of papers actually used in the analysis or describe the congressional districts served by those papers.

There are indications in the discussion, however, which suggest that the results are skewed. In justifying the measure of slant, the authors provide two graphs that identify the 60 largest papers in the creation of the slant measure. The figure reproduced in Exhibit IX-7 is accompanied by the following text.

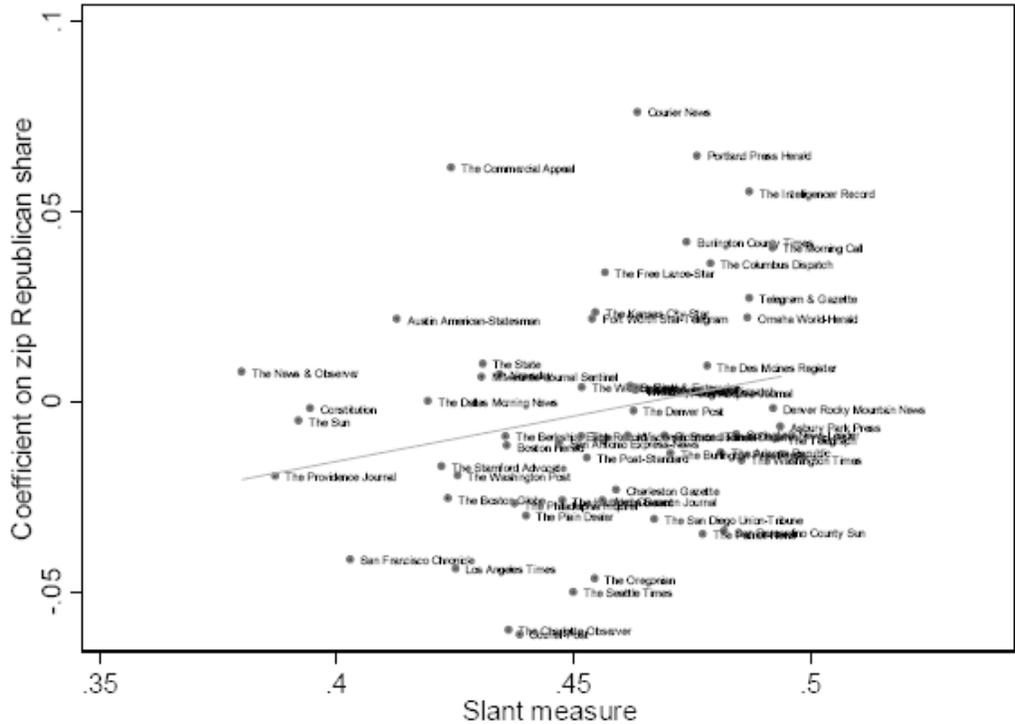
The figure shows data for the 60 newspapers that circulated in markets containing more than 300 zipcodes, because these are the newspapers that provide the richest variation for identifying [the] model. As predicted, the effect of zipcode Republicanism on circulation has a clear positive relationship with slant.²²⁴

The Figure does suggest a very weak positive relationship, but the authors never report what the correlation actually is. Note also that virtually all of these papers fall between .38 and .48 on the slant measure. As we show below, this is a much narrower range than in the total sample.

²²⁴ Id., p. 23.

Exhibit IX-7:

Figure 2 *Newspaper slant and consumer demand*



Source: Authors' calculations based on ProQuest database and *Congressional Record* (slant index), Audit Bureau of Circulations (newspaper subscriptions), Federal Election Commission (campaign contributions)
 Notes: Y-axis shows the estimated effect of the share contributing to Republican candidates on the share of households in the zipcode reading each newspaper, from a model in which readership shares are regressed, separately by newspaper, on contribution shares and market fixed effects. X-axis shows slant measure. Figure excludes data for newspapers circulating in fewer than 300 zipcodes.

The analysis rests on the estimation of the “ideal slant” or “profit maximizing slant” of newspapers which is predicted econometrically by a model that includes a series of economic

(e.g. market size), social (e.g. education) and political factors (e.g. percentage of contributions to “a political party, candidate or political action committee registered with the FEC.”)²²⁵

The results from the equations based on 290 papers are used to predict the ideal slant of the full set of 413 papers. The study then analyzes the predicted slant. The central conclusion of the paper is that the “ideal slant” or “profit maximizing” slant predicted by the model and the actual slant are quite close. As noted above, the authors find little difference between average slant and average ideal slant.

The authors describe their slant measure as follows.

Our final estimates of the structural parameters... indicate that a zipcode in which all political contributions go to Democrats prefers a newspaper with slant 0.40, and that the ideal slant moves by a statistically significant 0.009 with every 10 percentage point change in the share of contributing to Republicans in the zipcode. The positive and statistically significant estimate... implies that deviations from a zipcode’s ideal slant do indeed result in a loss of utility. To get a sense of the magnitude of the effect, note that the standard deviation of our slant measure is approximately 0.04, which is about two-thirds of the difference between the Washington Post and the Washington Times. Shifting a paper from a zipcode’s ideal point... would reduce the fraction of households reading by 3.4 percent.²²⁶

Since the percentage of contribution can only vary between 100 percent Democrat and 100 percent Republican, the implication of the above quote is that the “ideal slant” varies between .40 and .49. (If 100 percent Democratic = 0.40 and the shift to 100 percent Republican add $10 \times .009 = .09$). If we think about the parameters of the model and insert the minimum and maximum “ideal slant” values that the model can predict, given the boundaries of political contributions, which is how percent Republican is measured, it appears that the model seriously truncated the ideal Republican slant (see Exhibit IX-8, which reproduces Figure 5 from the study and adds the 100 percent Democratic and 100 percent Republican

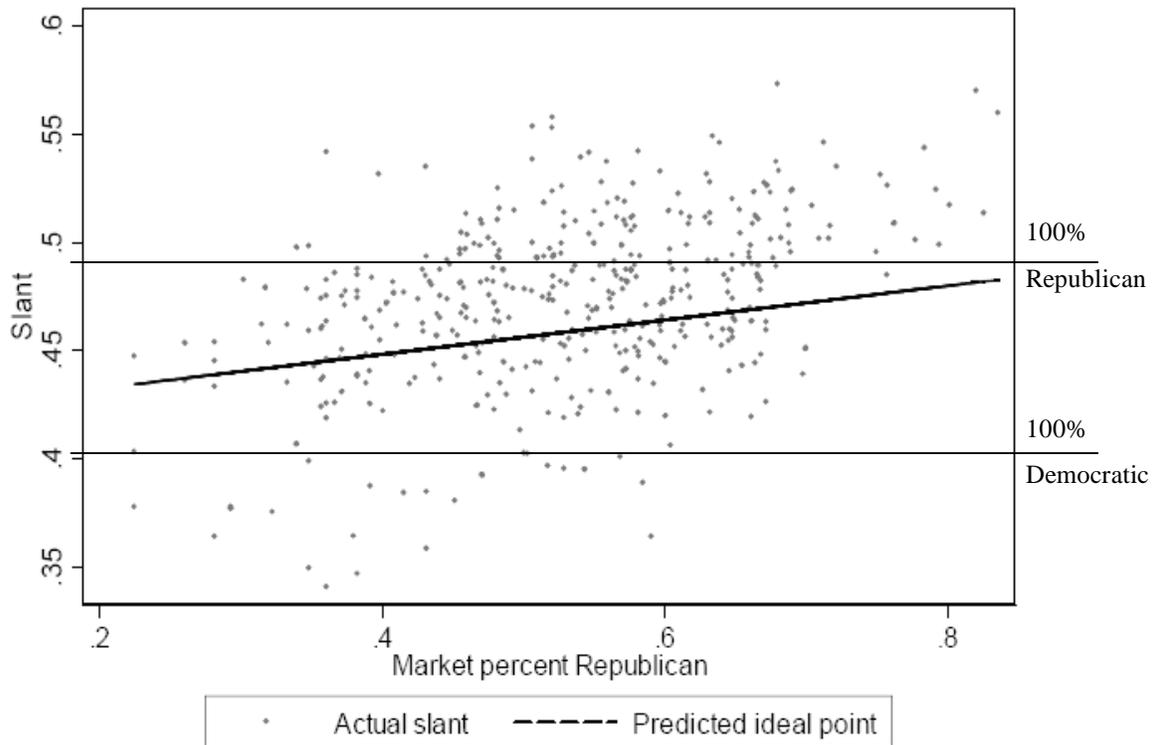
²²⁵ Id., p. 10.

²²⁶ Id., p. 24.

lines). There are many more Republican-leaning papers above the 100 percent Republican line than Democratic-leaning papers below the 100 percent Democratic line.

Exhibit IX-8:

Figure 5 *Slant and consumer preferences*



Source: Authors' calculations based on ProQuest database and *Congressional Record* (slant index), U.S. Presidential Atlas (county-level voting), Editor and Publisher International Yearbook 2000-2005 (newspaper location).

This could easily reflect the fact that the 290 papers used to generate the model parameters are not representative of the 413 papers to which the parameters were applied. The unrepresentative sub-sample of the unrepresentative sample leans liberal in population and newspapers and under-predicts more conservative ideal points.

The author’s explanation of the differences stated above – “One possible explanation is that consumers with the highest propensity to read – or whose readership is most sensitive to slant – tend to be to the left of the median voter”²²⁷ – is ironic in three senses. First, they were supposed to control for education. Second, “common wisdom” holds that conservatives complain more about liberal media and are likely to be more sensitive to bias. Third, and most importantly, when the authors introduced their measure of political preferences and campaign contributions, they invoked an opposite explanation.

Of course, the sample of donors to political causes is not fully representative of the entire population of a zipcode. Donors tend to be older, richer, and more educated than non-donors... However, these are also the demographic characteristics of likely readers of newspapers...and therefore, if anything may tend to make our measure more representative of the population for studying newspaper demand.²²⁸

To resolve the contradiction, one might say that Republicans have the money and Democrats have the brains (at least they read newspapers more).²²⁹

²²⁷ Id., p. 29.

²²⁸ Id., p. 10.

²²⁹ Mark Liberman has offered a more technical critique of the creation of the index in the Groselcose and Milyo (which may also apply to Genzkow and Shapiro) that has a similar effect. “As presented in the published paper, G&M’s model predicts that perfectly conservative legislators those with ADA ratings of 0% are equally likely to cite left-wing and right wing sources, basing their choices only on ideology-free “valance” qualities such as authoritativeness or accessibility. By contrast, perfectly liberal legislators are predicted to take both ideology and valence into account, preferring to cite let-wing sources as well as higher-quality or more accessible ones. Exactly the same pattern is predicted for media outlets, where the conservative ones indifferent to ideology, while the more liberal the media, the more strongly ideological the predicted motivation.

Common sense offers no reason to think that either politicians or journalists should behave like this, and everyday experience suggests that they don’t – the role of ideology in choice of sources, whatever it is, does not seem to be qualitatively different in this way across the political spectrum. Certainly Groseclose and Milyo don’t offer any evidence to support such a theory. (“Multiplying Ideologies Considered Harmful,” *Language Log*, December 23, 2005).

The simple fact of the matter is that if you do not start with a representative sample, and the authors never claimed that their sample of newspapers was representative, then you ought not make generalizations to the whole population of newspapers. Without a representative sample of political preferences, one must be very careful about interpreting the results. With a left skew in the number of phrases (over 60 percent Democratic) and a left skew in the newspaper sample and a left skew in the model parameters, there is little wonder that the authors find a left skew in the media. Combining the offsetting biases does not just cancel them out and render the results correct, it renders the whole undertaking dubious. “Sand sifted statistically is still sand.”²³⁰ It really is impossible to tell how deeply these biases affect the conclusion, because the authors have not presented descriptive statistics for the various subsets of newspapers analyzed, nor any sensitivity analysis that address the non-randomness of their sets of newspapers. But these biases certainly raise questions.

²³⁰ Geoff, Nunberg, “Liberal Bias, Noch Einmal,” *Language Log*, July 5, 2004.

X. CRITIQUE OF DATA, DEFINITIONS AND ANALYSES

THE FLAWED CONTENTLESS CONTENT ANALYSIS IN STUDY 6

Since Study 6 uses the contentless content analysis methodology most directly, we begin the discussion with that study. We begin with the sampling of citations since that sets the context for other problems.

Non-random Sampling of News Broadcasts

Study 6 chose one special week, the week before the 2006 balloting, as its database, even though the routine practice is to build a database of randomly selected days – called a constructed two-week sample. The study recognizes the risk of choosing a single week out of the year.

Nevertheless, an important caveat to keep in mind is that the behavior of local news stations may not be the same during the week just prior to the general elections compared to other times of the year. For example, the temptation and means to slant the news may be particularly abundant during this period. On the other hand, the viewing public may be particularly sensitized to any slant in election coverage, which in turn may serve to deter such behavior. Consequently, the findings of this study may not be representative of differences in local news coverage by cross-ownership throughout the rest of the year. Even so, this study does investigate the presence and extent of such differences during a particularly important period, when local and unbiased news content should be especially valuable and salient for the viewing audience.²³¹

The study tells us nothing about what might happen in other weeks. The problem is particularly great with a special week, like the one leading up to an election. The other 207 weeks of the mid-term elections cycle (or 103 weeks of the biennial cycle) are radically different.

²³¹ Jeffrey Milyo, “The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News,” Federal Communications Commission, Study 6, p. 9.

The choice of this particular week is especially dangerous because the study cannot even claim that bias would likely be greater or less during this particular week. One view of elections claims that the media are less biased as the election approaches, since there is a great deal of scrutiny during this period, while another view claims that the media would try to influence the outcome by slanting the news in this critical period.²³² In other words, a finding of no bias during election week might tell us nothing about how the media would behave during the non-election week, or it might tell us a great deal. Study 6 cannot shed any light on the matter. At best, it can tell us something about what happens during this unique week.

Meaning

A second major problem is that counting references to phrases or issues does not reveal how those phrases were used or issues portrayed. The uniqueness of the week highlights the meaning problem. In this case, the problem is that the method seeks to identify issues that are “owned” by one party or candidate and then count the amount of time that issue gets, without evaluating the actual content of the reporting. Thus, a news piece that reports on a study that is challenging a candidate’s position on an issue is counted as favoring the candidate.

In Chapter IV we noted that there is a vast array of issues, other than elections, that are important to cover where bias might be exhibited. Indeed, a good case can be made that elections entail the least amount of media bias and influence. Local issues that directly affect owner interests are better candidates for the study of bias.

²³² Steffan Walgrave and Peter van Aelsts (“The Contingency of the Mass Media Political Agenda Setting Power,” *Communications*, p. 96) *argue* that “the short campaign period of several weeks before election day is fundamentally different from routine periods.” They see less opportunity to slant the agenda, but note that others see more.

The quantity of time devoted to an issue is only one of the critical aspects of reporting. The actual slant of the reporting is important as well.

In Chapter IV we used two of the measures of political coverage that seem to provide a clear benefit to politicians running for office – the amount of time the candidate speaks on the news and the amount of coverage the candidate gets. The other two indicators of political coverage are dubious at best.

Reporting on polls that are ‘favorable to one party or another’²³³ is hardly a partisan act. If the polls are conducted by independent organizations, which then release the results, it could well be argued that refusing to report poll results is the partisan act. If the polls are running against the preferred candidate and the outlet refuses to report it in an effort to make the bad news disappear, not reporting is the partisan act.

We are also dubious as to whether issue coverage measured in the contentless content analysis is a sound indicator of slant. Issue coverage is not only less directly a benefit to the candidate, but the measurement was devoid of any attempt to assess how the issue was covered or described in greater detail. We are also skeptical of the list of issues used (see Exhibit X-1).

²³³ Jeffrey Milyo, “The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News,” Federal Communications Commission, Study 6, p. 11.

Exhibit X-1: Democratic and Republican Issues

DEMOCRATIC ISSUES

Ethics Charges
Endorsements
Negative Ads
Vote Suppression
Bush Low Approval Rating
Minimum Wage
Stem Cell Research
Cost of Immigration Reform
Iraq War audit
Rumsfeld Resignation
Crist avoids Bush
Mark Foley Page Scandal

REPUBLICAN ISSUES

Ethics Charges
Endorsements
Negative Ads
Voter Fraud
Kerry's Botched Joke
Tax Cuts
Gay Marriage
Low unemployment
Economy
Liberal Democratic Leaders

Among the specific issues in Study 6 that raise this concern is the claim that the Iraq war was a Democratic issue. In fact, in the 10 days before the 2006 election, President Bush launched a series of speeches and victory rallies. He visited ten states to hold press events with local candidates or give major speeches. In fact, 7 of the 20 states are included in the Study 6 sample,²³⁴ so the President clearly thought his presence would help Republican candidates in those states. President Bush introduced the candidates and certainly hit issues identified by Study 6 as Republican, particularly taxes. However, he actually talked more frequently and at much greater length about the Iraq war. He mentioned how hard it was to fight, but also how important it was to win the war. Coverage of these events hardly seems a “pro-Democratic” act.

²³⁴ Jeffrey Milyo, “The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News,” Federal Communications Commission, Study 6, p. 33.

The fact that the President was participating so actively in the electoral process during the key week recalls our criticism of the Pritchard studies in the earlier round of comments in these proceedings.²³⁵ When the President visits the state to stump for local candidates, he is going to get coverage from everyone. The visit may squeeze out other coverage, or he may force stations to devote more time, but the visit is likely to be covered (that is its intended purpose).

The inclusion of stories about calls for Rumsfeld's resignation as a Democratic issue is quite ironic. Prominent Republicans (like Arlen Specter) are convinced that if the President had made his resignation public before the election, the Republicans would not have lost their Senate majority.²³⁶

Categorization and Selection of Referents

The meaning question applies to all of the key phrases or issues. The counting methodology does not really tell us what is being reported. A different problem arises in the creation of the list or phrase of issues to be counted. There are more Democratic issues than Republican issues (12 to 10).

These are also two Democratic issues that are very state specific – the fact that Governor Crist avoided President Bush in Florida and the Mark Foley Page Scandal. Both of these were big news items affecting Florida, although the latter also affected House Speaker Hastert. Reporting on stories such as these create a Democratic slant, when, in fact they are big stories that are hard to avoid in the affected states.

²³⁵ See Comments of Consumers Union, Consumer Federation of America and Free Press, Part II, "Study 5: Media Ownership and Viewpoint," Available at http://www.stopbigmedia.com/filing/part_2.pdf.

²³⁶ See for example Michael A. Fletcher, "Rumsfeld Resigned as Defense Secretary on Day Before Elections," Washington Post, August 16, 2007, Page A03.

To examine whether this might have an affect on the analysis, we compared the means for each slant variable in the four DMAs in which news reporting would be affected by these issues (three in Florida, one in Indiana) to the remaining DMAs (see Exhibit X-2). There is a very large and highly statistically significant difference on the political issue measure. The reporting in the affected DMAs leans heavily democratic (+48); while the unaffected DMAs lean Republican (-13). The difference is statistically significant at greater than the .001 level. None of the other three slant measures exhibit large or statistically significant differences.

Exhibit X-2: Slant in DMAs Affected and Unaffected by Specific Political Issues

Slant Measure (Dem.-Rep.)	Affected DMA	Unaffected DMA
Issues	48.92	-12.92*
Speaking Time	.02	-.12
Coverage	.31	1.57
Polls	-.72	2.22

Significant at the .001 level

Creation of Indices

Study 6 apparently adopts a simple approach to index creation, summing up minutes devoted to issues, but as we understand the methodology, all issues are counted equally.

Kerry’s botched joke counts as much as ethics charges, voter fraud and the Iraq war. Does this reflect an impact on the public’s voting?

There are other flaws in the conceptualization of the analysis that undermine their usefulness for the media ownership proceedings. The issues chosen for the study tend to be national issues. While it is certainly the case that coverage of elections for federal office is an important part of democratic discourse, they are only a part of the issues that are important.

There are many much more local issues – e.g. city councils, school board local bond issues – that are important too. To the extent that media owners have a direct stake in these more local issues, very different behaviors may be found.

Other Concerns

There is also a major disconnect in the analysis. The dependent variable is defined with Congressional races, but then the study measures political orientation with Presidential election outcomes. ‘Television station W covered the candidates this way, but the DMA voted X% for Kerry and the employees of Outlet Z contributed Q% to the democrats.’ The study uses the wrong political variables. Kerry votes in 2004 do not necessarily correlate with Congressional votes in 2006. The political contribution measure is heavily influenced by contributions to the presidential election. If we are trying to measure the fit between the voter, the Congressperson and the media, it makes a lot more sense to measure the political leaning of the district by the vote for the Congressperson. Voting statistics and newspaper circulation numbers are readily available at the county level to conduct such an analysis.

STUDY 4.1

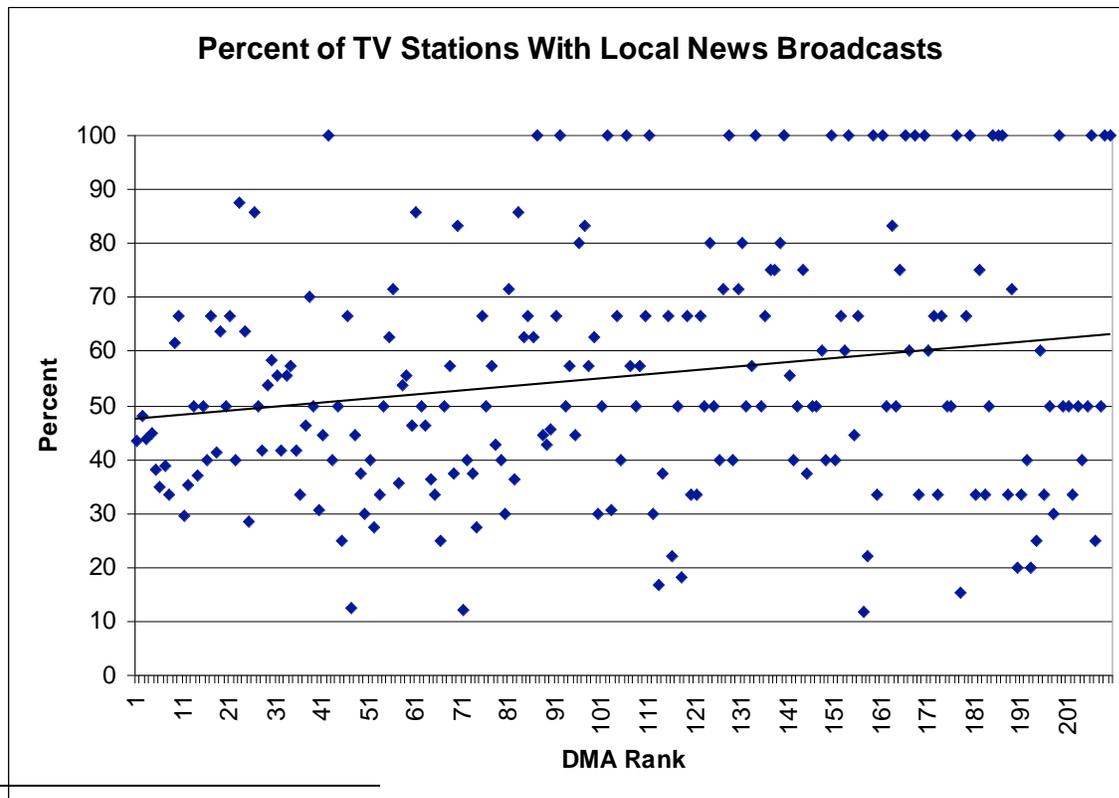
The Key Variable is Mis-defined

Study 4.1 has defined its dependent variables as total news and total public affairs programming, not local news and local public affairs programming. The news variable was loosely defined to include any programming that had news in the title, including prime time news magazines. As a result the relevance of the primary dependent variable to the policy decisions before the Commission is doubtful at best. This can be seen in the finding of study

4.1 that 88 percent of the stations included in the study provide news.²³⁷ This is an extremely high figure. Crawford found that “broadcast news is more widely available (to 66.4 percent of U.S. TV households).²³⁸ If only 66 percent of the national audience has any news programming available at all how can 88 percent of TV stations broadcast news?

One might try to hypothesize a pattern in which small market stations all do news and many large market stations do not, but that is contrary to the general understanding of the pattern in the industry (and contrary to the argument the Chief Economist made). Looking at the percentage of TV stations that broadcast news (from the 2002 data), it is hard to believe that such a pattern exists (see Exhibit X-3). There is a slight tendency for small market stations to broadcast local news, but it is quite weak.

Exhibit X-3



²³⁷ Study 4.1, p. I-15.

²³⁸ Study 3, p. 16.

Source: BIA Database 2005.

The more likely explanation is that the category of news includes a significant amount of programming that is not traditionally considered news. Study 4.1 notes that 10 percent of the total measured news time comes from programming that was classified in this way.²³⁹

Study 3, which tried to distinguish network news from local news, found that approximately 29 percent of the total broadcast news was network news, not local news. Study 4.1 made no attempt to make even the partial adjustment that Study 3 did. Study 6, which was based on a different data set, which was likely to have a larger amount of local news (because it focused on a period when mid-term elections were hot) found national news constituted 20 percent of the total news. Thus between 30 and 40 percent of the dependent variable in Study 4.1 may be national news or prime time magazine shows, not local news. When Study 4.1 concludes that “Stations cross-owned with a newspaper provides 11% (18 minutes) more news programming per day. Each additional co-owned station in the same market is associated with 15% (24 minutes) more news per day,”²⁴⁰ the difference could be entirely national news and prime time news magazines. The two studies that attempted to distinguish between local and national news found much smaller effects differences of between a quarter and a half a minute, not 18 to 24 minutes.

Incomplete Discussion

The Headline summary on Study 4.1 is as follows:

²³⁹ Study 4.1, p. I-14.

²⁴⁰ Study 4.1, p. i.

Stations cross-owned with a newspaper provided 11% (18 minutes) more news programming per day. Each additional co-owned station in the same market is associated with 15% (24 minutes) more news programming. Larger station groups nation wide tended to provide less news programming, although local ownership was associated with 4% (six minutes less news programming per day).

These are statistically significant findings in one of the three statistical models presented in the paper. The summary leaves out two other policy relevant findings that are equally clear in the results:

Each additional non-cross-owned station in a market (i.e. more competitors) provided 17% (28 minutes) more news. While larger parents by revenue provided more news, larger station groups by station count provided less news.

In short, these two findings omitted from the headline indicate that local market concentration and national consolidation are bad for news production. When the other statistical models presented in the paper are thrown into the mix and public affairs programming is taken into account, the picture becomes even more complex.

Exhibit X-4 shows the direction of each relationship, the size of the effect, measured as the percentage difference of a one unit change in the variable compared to the average, which is the preferred unit of measure consistently used in the study, as well as the statistical significance (***=1%, **=5%, * = 10%, as reported in the study, and ~ = the coefficient is larger than its standard error as calculated from the published results).

Exhibit X-4: Coefficients on Policy Variables

	NEWS			PUBLIC AFFAIRS		
	1	2	3	1	2	3
Competition	+17***	+31***	+1*	+26***	+28***	+4**
Parental Station Count	-2***	-0***	-0	-0	-0~	-0
Revenue	+0***	0	-0***	-0***	-0***	-0
TV-Radio XO	+0~	+4***	-0	+15***	+8*	+21***
TV-Newspaper XO	+18***	+9**	+3	-14	-10	+3
Duopoly	+15***	+25***	-10***	+5	+3	-16***
Local Owner	-4***	-6***	-10	+6~	+8**	+18***
Noncommercial	-8*	-19***	-***	+15	+82***	+5***

The other models are discussed in some instances in Study 4. For example, the text notes that for model 2, “There is one major difference, though, in that the TV-radio cross-ownership dummy is statistically significant and positive when we do not control for the network. Similarly, for the third mode some results are pointed out. For example,

While the non-commercial status continued to have a negative impact on the output of news, the coefficients on the TV-newspaper cross ownership terms were not statistically significant, although they remained positive.” They were considerably smaller than their standard errors.

If the positive, though insignificant, coefficient in model 3 is worth noting, then the negative and highly significant coefficient on duopolies in model 3 deserve attention, particularly since it is in the opposite direction of the findings in models 1 and 2.

Looking across all the models and both of the dependent variables, competition, as measured by the number of stations in the market, has by far the most consistent and largest effect. All of the coefficients are positive and significant.

Small corporate chains, measured by station counts are also consistent and strong. The higher the stations count, the lower the amount of news and public affairs. All of the coefficients are negative, but only two are statistically significant. The conclusion stated above holds. Local market concentration and national consolidation are bad for news and public affairs production on television.

Newspaper-TV cross-ownership has a positive effect on the amount of news, with no statistically significant effect on public affairs, although all three coefficients are negative.

Local ownership has a negative effect on news production, but a positive effect on public affairs production.

TV-radio cross ownership is strongly positively associated with public affairs and positive, though less strongly associated with more news production.

Noncommercial stations are negatively associated with news production and positively associated with public affairs production.

STUDY 9

Introduction

A close examination of the evidence in Study 9 shows that previous comments in the proceeding by the Independent Film and Television Association and Consumer Groups were correct in pointing out the growing pattern of vertical integration resulting in discriminatory foreclosure/self-promotion in the favoring of affiliated programming. Study 9 fails to address the fundamental problem in the industry: the extreme concentration of ownership of production of content and the lack of diversity in programming that results.

Study 9 shows the overwhelming dominance of vertically integrated programming and demonstrates the plausibility of anti-competitive discrimination in carriage, but then makes a feeble attempt to excuse the industry structure by regurgitating the efficiency theory without providing a meaningful test of that theory.

It documents the pervasiveness of the favoring of vertically integrated programming on cable, but tries to brush off this finding by claiming the competition from DBS might mitigate its negative impact in some market. Study 9 seems determined to reject the conclusions obvious in its data by invoking whatever alternative explanation it can dig up, no matter how strained and unsupported by the data it is.

In the process, Study 9 totally ignores several fundamental characteristics of the industry contemporary video industry:

- the relegation of the small number of independents in prime time to unscripted reality shows,
- the dominance of vertically integrated programming in pilots and syndication,
- the role of suites of cable programs from dominant content providers that force carriage of networks,
- program placement in cable tiers that discriminates against independent producers,
- the importance of broadcasters' cable must carry/retransmission rights, and
- the resulting vertical integration into cable by the dominant broadcasters through the leveraging of these quasi-property rights.

Overall, Study 9 is devoid of a historical perspective, which provides the proper context for policies to promote diversity of ownership of production of video content. Study 9 looks at a slice of the industry after vertical integration had taken place and after the high-quality content brought to prime time video had been eliminated from the airwaves. Without this historical perspective and in light of the many flaws in the analysis, Study 9 totally misses the fact that policies to promote diversity in ownership of content produced a more efficient

industry (measured by rankings) and a much more diverse body of high quality content, measured by nature of the shows shown on the air.

Prime Time Programming

A large part of the problem with Study 9 is that its literature review and theoretical discussion are perfunctory at best, missing a great deal of historical detail and qualitative analysis not only in the academic literature, but even in the prior studies placed in the record by the FCC and numerous commentators.²⁴¹ Perhaps, because of this severely limited familiarity with the history of prime time broadcasting, the statistical analysis misses critical factors that even an introductory analysis of the industry would have included.

Biased Data

The data set is biased against a finding of barrier to carriage for independents in two fundamental ways.

First, our analysis showed that independents were particularly disadvantaged in the category of new shows and pilots.²⁴² But the Study 9 data does not include short-lived shows. By missing short-lived shows, the data set misses the fact that vertically integrated shows are given many more opportunities to fail. The average ratings of vertically integrated shows are thus likely lower than they are depicted in the data set. This undercuts any analysis which claims that they have equal ratings.

²⁴¹ See Mark Cooper, “The Impact of the Vertically Integrated Television-Movie Studio Oligopoly on Source Diversity and Independent Production,” Appendix A attached to the *Comments of Independent Film and Television Alliance*, Chapter III; Mara Einstein, *Program Diversity and the Program Selection Process on Broadcast Network Television* (Federal Communications Commission, Media Bureau Staff Research Paper, No. 5, September 2002)

²⁴² Id.

Second, contrary to other serious analysis of prime time programming, Study 9 counts shows, not hours or time slots.²⁴³ Thus, prime time programming made up of two one-hour affiliated shows and two half-hour unaffiliated shows would be portrayed as equally divided between affiliated and non-affiliated, even though the affiliated programming was on-air twice as long.

While the study clearly documents the increasing vertical integration in the industry – 90 percent of prime time shows are owned by the vertically integrated broadcast networks -- the study noted competing explanations for the growth of vertical integration but is not designed to actually address the difference. “One view holds vertical integration and foreclosing/self-promoting behavior is a strategic move on the part of powerful monopolies and is anti-competitive in nature.”²⁴⁴ On the other hand, there is the argument that “vertical integration comes about because it is more efficient, that a combined entity is better able to create shows or networks that people watch or save money in producing the shows or in some other way generate a synergy.”²⁴⁵ Unfortunately, Study 9 is designed in such a way as to be essentially incapable of addressing this critical point.

- Lacking historical perspective it fails to note that the structure that included a substantial unaffiliated sector was, by measures of viewership and quality, at least as efficient, if not more efficient than the vertically integrated structure.
- Its contemporary analysis actually only tested the question of whether there is discrimination in carriage and found a partially positive answer; it could not properly address the efficiency argument to explain this discrimination because it does not have cost or profitability data.

²⁴³ See Cooper, Chapter IV, Mowg Study 5.

²⁴⁴ Study 9 at 4.

²⁴⁵ Id., at 9.

Study 9 resorts to measures of ratings and advertising revenues to measure the quality of the programming as the measure of whether affiliated programming is being favored, but the ultimate motivation is not ratings, which equate to revenue, but profits, which takes both revenues and costs into account. Although Study 9 argues that “without a measure of costs, this measure of revenue is the closest thing we have to short-run costs,” the truth is that without a measure of costs, revenue is a not a very good measure of short-run profits. Indeed, when we know that independent programmers in prime time are delivering low-cost reality shows, rather than high quality, high-cost scripted entertainment, revenues are a bad measure of short run profits.

The failure to recognize this cost difference is underscored when Study 9 invokes cost differences as a justification for excluding certain types of programming. “These regressions purposely exclude various types of programs where cost differences would be particularly problematic such as news programs which are almost always vertically integrated but also have a lower cost of production than scripted programs thus could potentially skew the results.” Non-scripted reality shows have a lower cost, but they were not excluded, suggesting that the results were skewed.

Having failed to actually measure costs and therefore “guessed” that independents are not discriminated against, Study 9 then offers a conjecture that the performance of younger shows may indicate something positive for independents – “the fact that different standards for outside network programming varies by the age of the show does not necessarily imply that it is driven by syndication profits but it is consistent with that idea.”²⁴⁶ Study 9 does not actually investigate this statistical conjecture. Our review of the literature on syndication

²⁴⁶ Study 9, p. 17.

indicates that the Study 9 conjecture is incorrect.²⁴⁷ Younger independent shows are getting less carriage in first run syndication. This second conjecture is not tested in Study 9 and contradicted by the available evidence in the record.

Cable Programming

There are two different data sets and different statistical analyses in the section on cable programming. They both suffer from sever flaws that are similar to those that afflict the prime time programming analysis.

Just as the Study 9 database for prime time programming omitted a critical set of programs and failed to include important ownership variables, so too did its analysis of cable programming carriage. Study 9 failed to examine movies, an increasingly important component of cable programming.²⁴⁸ It failed to consider the type of carriage programming receives. And, it failed to consider the role of broadcast networks, with must carry-retransmission rights.

The first dataset used in Study 9 to examine cable carriage of programming presents an even more severe problem, as the author admits. At best, as the author notes, “so the evidence on the subject will be, by its nature, more suggestive than the evidence available on the broadcast networks.”²⁴⁹ Study 9 claims that increasing capacity has reduced the problem of discriminatory carriage.

Some of these issues of vertical integration were more problematic when cable systems had low channel capacity and the system owner’s choice of networks was extremely binding. With the advent of satellite and of digital cable, though, the channel capacity has increased significantly (as has the number of

²⁴⁷ Cooper, Chapter IV

²⁴⁸ Cooper, Chapter IV.

²⁴⁹ Study 9, p. 20.

available networks) so the marginal channel not getting on the air is a much more niche network than in earlier years.

Nevertheless at one level Study 9 recognizes the enduring problem of vertical integration when it notes that “[i]t is difficult to find a single major cable network owned by someone other than a major media conglomerate.”²⁵⁰ For example, Study 9 identifies the 15 most popular networks by carriage and the 15 most popular networks by ratings. There are 21 networks across the two lists. Eight of the networks are owned by two cable MSOs (Time Warner and Disney). The remaining 13 are owned by four other entities, all of which are dominant broadcast network providers of content (ABC/Disney, NBC-Universal, Viacom/CBS, Fox-Paramount). This fact disappears from the econometric analysis of cable carriage.

While Study 9 stresses the importance of the growth in the size of cable networks, which would be expected to diminish the problem of discriminatory self-dealing, it fail to incorporate the equally important growth of tiering of cable carriage. It acknowledges recent research which “does show that there may still be interesting decisions regarding what networks get carried on the digital versus the analog tier.... Chen and Waterman (2006), for example, argue that even after the supposed rise of DBS, cable networks are still engaged in a new form of exclusion whereby competitors’ the relegate networks to digital tiers where fewer people subscribe.”²⁵¹

The analysis of aggregate carriage misses another major factor. All the major studies of discriminatory carriage on cable networks have recognized that the *1992 Cable Consumer Protection Act* granted broadcast quasi-property rights in cable networks that they have used

²⁵⁰ Study 9, p. 21.

²⁵¹ Study 9, p. 27.

to gain substantial preference in carriage.²⁵² By lumping independents, who have no carriage rights, with broadcast networks, Study 9 vastly underestimates the discrimination against true independent producers.

Recent research also demonstrates a pattern of reciprocity that Study 9 fails to model. Not only does the cable literature show reciprocity, but the analysis of prime time exhibited this reciprocity. The members of the cartel give preference to each other's programming. In a similar vein, Study 9 fails to analyze the increasingly important link between the ownership of content on the two media. Having ignored the important role of broadcast must carry on cable carriage, the study misses the important role of repurposing of broadcast content on cable.

In light of this fundamental flaw in the analysis, it is quite remarkable that the study actually found that there is substantial evidence to suggest that vertical integration has a negative effect on key measures of performance. The critical analysis, which looks at the ability of programming to attract viewers – critical since the vertically integrated cable and must carry-rich broadcaster have an advantage in the ability to gain carriage – shows a significant negative coefficient. Cable Networks vertically integrated with cable operators get on the air and stay on the air even though they perform worse in attractive viewers. The efficiency argument is not supported by this basic data, as it was not supported by the basic data in the prime time analysis.

The second study identifies a small number of individual networks and analyzes their pattern of carriage. This data is badly flawed.

²⁵² United States General Accounting Office, "Subscriber Rates and Competition in the Cable Television Industry, March 25, 2004.

The study excludes all networks carried on cable systems that reach 90 percent or more of the households. This has the effect of eliminating the networks that account for the vast majority of the availability of cable programming (as defined in Study 3) and of cable viewers. The overwhelming majority of the shows excluded are vertically integrated with cable or broadcasters.

The study also excludes networks that are available to less than 5 percent of cable households. This excludes most of the diversity programming available on cable. It excludes a huge number of networks owned by both cable and broadcasters. In fact, it is approximately a five percent sample of the networks that have carriage on levels in this range. The resulting analysis is restricted to an extremely small subsample of cable networks – a mere 12 out of a universe of about 500. Moreover, it is a sample of convenience, which means the results cannot be generalized to even the subgroup of networks from which it was drawn, not to mention the broader universe of cable networks.

The network carriage part of Study 9 failed to study the carriage of any independently owned networks at similar levels of carriage of with similar content, undermining the usefulness of the data. Prior research has shown that discrimination is targeted at programming that competes within specific genre, not across the board.

Nevertheless, the overwhelming evidence supports the conclusion that cable owners favor vertically integrated programming – “[o]f the eleven networks listed... nine show significant evidence that having an ownership in a network makes systems significantly more likely to carry it (one that is positive but not significant).”²⁵³ Indeed the twelfth network also

²⁵³ Study 9, p. 29

showed “a significant positive coefficient on vertical integration” but the author chose to because of a “strange probit result.”²⁵⁴

In the cable product space, Study 9 invokes competition from DBS as a factor that might mitigate the direct implications of these findings. “[T]he interaction of vertical integration with the DBS share has a significant negative coefficient. This evidence suggests, perhaps, an explanation rooted in competitive pressures rather than efficiencies”²⁵⁵ As a matter of policy, the argument is simply wrong. Study 9 has forgotten that competition and diversity of ownership are independent goals of the Communications Act. In this analysis, no matter the level of DBS competition, there would be greater diversity (more independent programming) if the discrimination resulting from vertical integration were prevented by policy.

As an empirical matter, the policy suggested by Study 9 is dubious. It suggests a threshold test that might be applied to exempt vertical integration where DBS competition is sufficient to offset the negative effects of vertical integration. “But applied with better data to more narrowly defined markets, this type of approach might be able to provide an empirical basis for the threshold-type exemption often used by the FCC and other regulatory agencies where certain markets or firms are exempted from regulation when they have been deemed to be competitive.”²⁵⁶ Finding such a threshold would be difficult, given that four of the eleven networks studied have a threshold value that is higher than the highest penetration of DBS in any DMA in the country (one has a positive coefficient so there is no level of DBS penetration that would counteract the negative effect of vertical integration). The fingerprints

²⁵⁴ Study 9, p. 29.

²⁵⁵ Study 9, p. 29.

²⁵⁶ Study 9, p. 30.

of putting together suites of programming are also evident in the data. Cox and Time Warner have six of the highest 20 subscriber count networks in the country. They are also the only two MSOs who have a network in the top 15 rated networks in the country. By the Study 9 measure of market power – i.e. the level of DBS penetration that it takes to counteract the negative effects of vertical integration – these two MSOs are exercising the greatest discriminatory self-promotion.

Finally, and most importantly, because of the way the sample of networks is drawn, the DBS variable tells us what it might take in terms of DBS penetration to have the members of the cable cartel stop discriminating against each other. It tells us nothing about how they treat programming from outside the cartel.

Conclusion

The frantic effort in Study 9 to build alternative explanations should not be allowed to obscure the basic message of the analysis – discriminatory, self-promoting vertical integration pervades the video product space. The failure to include a number of additional, negative aspects of the contemporary vertically integrated marketplace and the feebleness of the alternative explanations suggests that things are a lot worse than Study 9 indicates.

The FCC labeled Study 9 “influential scientific information,” but given all of its flaws, “junk science” seems more appropriate. The FCC should give Study 9 no weight in its decision-making and it should certainly not give it the special treatment accorded to influential scientific information.

PART IV. THE FAILURE OF THE FCC TO FULLY ADDRESS AND PROPERLY ANALYZE MINORITY AND DIVERSITY ISSUES

INTRODUCTION

This part examines the FCC studies on the issue of minorities and females in the broadcast media. It proceeds in a similar fashion as the examination of the broader issues above. It starts with an effort to fix the problems in the FCC data and analyses, then moves on to a description of the underlying flaws in the FCC data and their implication for the proceeding.

Chapter XI shows how the FCC could fix its data by diligently tracking down minority and female owners. It then shows how the FCC could analyze the impact of changes in public policy on minority and female ownership.

Chapter XII examines a new and important area in the analysis of the minority issue – minority-targeted programming. It attempts to correct a fundamental mistake in the FCC analysis: the failure to take into account the tiers on which minority-targeted programming is carried. These studies represent the beginning of meaningful research into the broad issue of minorities and females in the media that has been almost completely neglected by the FCC.

XI. THE COMMISSION HAS FAILED TO ADEQUATELY ACCOUNT FOR THE TRUE LEVEL OF FEMALE AND MINORITY OWNERSHIP OF FULL-POWER COMMERCIAL BROADCAST OUTLETS

INTRODUCTION: THE FAILURE TO PROPERLY ACCOUNT FOR AND ANALYZE MINORITY AND FEMALE OWNERSHIP ISSUES DESTROYS THE VALIDITY OF THE FCC'S RESEARCH

The failure of the FCC to adequately address minority issues in its “Final Order”²⁵⁷ drew a stern rebuke from the Third Circuit Court of Appeals in *Prometheus v. FCC*.²⁵⁸ Four years later, the ten research studies commissioned by the FCC show the sorry state of knowledge at the FCC about minority ownership of media. Four of the studies deal with minority and gender media issues in some respects. The Appendix to Study 2 describes the sad state of FCC data on minority and female ownership of media outlets.

The data problems that plague the FCC's efforts to account for the ownership of TV stations by minorities are so bad that one commentator has asked the Commission to remove the label of “influential scientific information” from Study 10.²⁵⁹ The criticism of Study 10 and the comments made in Study 7 about the gaps in the data on minority ownership are actually an indictment of the FCC on the minority issue, not the study authors who struggled with the

²⁵⁷ *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*, 18, FCC Recd 13260 (2003).

²⁵⁸ *Prometheus Radio Project, et al, v. F.C.C.*, 373 F.3d 372 (3d Cir. 2004).

²⁵⁹ “Comments and Data Quality Petition of the Center for Regulatory Effectiveness,” In the Matter of 2006 Regulatory Review of the Commissions Broadcast Ownership Rules and Other Rule Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; @002 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; Cross-Ownership of Broadcast Stations and Newspapers; Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; Definition of Radio Markets, MB Docket Nos. 06-121,02-277 and MM Docket Nos. 01-235, 01-317, and 00-244, October 2007.

FCC's bad data. Indeed, every study that utilized the minority owned and/or female owned variable is equally flawed.

Study 10 labors with the data because “many stations that may be owned by minorities and females may not show up by merely searching the form 323 data in the database.”²⁶⁰ Similarly, the Study 7 authors abandoned the FCC data base because the data “was to incomplete to utilized for any serious empirical purposes.”²⁶¹

While Study 10 made a good faith effort to find additional and alternative data sources to fill the gaps in the FCC data, Study 7 switched to an alternative data set that did not allow the authors to actually analyze station ownership. They ended up analyzing the number of firms in the industry, rather than the ownership of stations, which has always been the bedrock of FCC minority ownership policy. As a result, Study 7 is fundamentally flawed and should be disregarded as a basis for agency decisionmaking. On the other hand, to the extent Study 10 provides qualitative detail in charting the history of the fate of minority-owned stations since the adoption of the 1996, it can provide some enlightenment as to the impact of FCC policy.

The problem does not stop with the studies specifically targeted at the minority ownership. The econometric studies that rely on the FCC categorization of the minority and female ownership are, however, doomed. They embed the FCC's flawed data at the heart of their analysis. All three of the studies that analyze TV station behavior (Studies 3, 4.1, and 6) include the flawed minority and female data. Indeed, the preferred specifications of each of

²⁶⁰ Study 10, p. 37, cited in Center for Regulatory Effectiveness, p. 5.

²⁶¹ Study 7, p. 12, cited in Center for Regulatory Effectiveness, p. 5.

those studies include the flawed variables. Since the errors infect the econometric analysis, all of the studies should be rejected.

The neglect of the minority issue by the FCC is so deeply engrained in the FCC's DNA that in the only study on media usage (Study 1), the agency failed to include any questions or other mechanisms for identifying people of Hispanic origin. **Imagine that, the largest and fastest growing segment of the minority population is invisible in the only FCC study that addressed the central issue of media usage.** Since virtually every Census Bureau survey of the population and every private sector public opinion poll are easily able to obtain such information, one can only conclude that the FCC did not care to count Hispanics on the demand-side, just as it has failed to properly count minority-owners on the supply-side.

Thus, the supply-side studies of what TV stations produce are afflicted by data problems caused by the FCC's neglect to account for minority owners. The demand-side study of what types of media outlets people use to obtain their news and information is equally afflicted by the FCC neglect, in this case the failure to ask respondents about their Hispanic origin. The FCC has failed to analyze the question of minority ownership of the media in a meaningful way and cannot proceed in changing the rules until it executes a sound analysis of minority and female ownership.

The unrefuted evidence we have introduced into the record shows that consolidation raises the barriers to minority ownership and the qualitative analysis in Study 10 corroborates our findings.

HISTORY AND BACKGROUND ON EFFORTS TO IDENTIFY MINORITY AND FEMALE OWNED MEDIA OUTLETS

Historically, women and racial and ethnic minorities have been under-represented in broadcast ownership due to a host of factors -- including the fact that some of these licenses were originally awarded decades ago when the nation lived under segregation. The FCC, beginning with its 1978 *Statement of Policy on Minority Ownership of Broadcasting Facilities*, repeatedly has pledged to remedy this sorry history.²⁶²

Congress also has recognized the poor state of female and minority ownership. The Telecommunications Act of 1996 (“The Act”) contains specific language aimed at increasing female and minority ownership of broadcast licenses and other important communications media.²⁶³ The Act requires the FCC to eliminate “market entry barriers for entrepreneurs and other small businesses” and to do so by “favoring diversity of media voices.”²⁶⁴ The Act also directs the Commission when awarding licenses to avoid “excessive concentration of licenses” by “disseminating licenses among a wide variety of applicants, including small

²⁶² *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d, 979, 980 n. 8 (1978).

²⁶³ 47 U.S.C. §257, §309(j)

²⁶⁴ Section 257 is contained within Title II of the Communications Act and thus does not directly encompass broadcast services. However, the Commission has interpreted some aspects of the language of §257 to apply to broadcast licensing. In 1998, the Commission stated: “While telecommunications and information services are not defined by the 1996 Act to encompass broadcasting, Section 257(b) directs the Commission to ‘promote the policies and purposes of this Act favoring diversity of media voices’ in carrying out its responsibilities under Section 257 and, in its Policy Statement implementing Section 257, the Commission discussed market entry barriers in the mass media services.” See FCC 98-281, *Report and Order: In the Matter of 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications Rules, and Processes -- Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, MM Docket No. 98-43, November 25, 1998, herein after referred to as *the Form 323 Report and Order*.

businesses, rural telephone companies, and businesses owned by members of minority groups and women.”²⁶⁵

The Commission initially appeared to take this mandate seriously. In 1997, the Commission completed a proceeding, as required by the Act, which identified barriers to entry for small businesses (and has been interpreted to include minority- and female-owned entities) and set forth the agency’s plan for eliminating these barriers.²⁶⁶ Unfortunately, subsequent triennial reports have lacked substance.²⁶⁷

In 1998, the Commission further demonstrated its seriousness by taking a crucial first step to determine the actual state of female and minority ownership of broadcast radio and television stations. That year, the FCC began requiring all licensees of full-power commercial stations to report the gender and race/ethnicity of all owners with an attributable interest in the license.²⁶⁸ In the *Form 323 Report and Order*, the Commission stated:

Our revised Annual Ownership Report form will provide us with annual information on the state and progress of minority and female ownership and enable both Congress and the Commission to assess the need for, and success of, programs to foster opportunities for minorities and females to own broadcast facilities.²⁶⁹

²⁶⁵ 47 U.S.C. §309(j)

²⁶⁶ “In the Matter of Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses,” *Report*, GN Docket No. 96-113, 12 FCC Rcd 16802 (1997).

²⁶⁷ In his dissenting statement on the 2004 Section 257 report, Commissioner Michael Copps described the report as a “a slapdash cataloging of miscellaneous Commission actions over the past three years that fails to comply with the requirements of Section 257.”

²⁶⁸ 47 C.F.R. 73.3615

²⁶⁹ *Report and Order, In the Matter of 1998 Biennial Regulatory Review Streamlining of Mass Media Applications, Rules, and Processes Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, MM Docket Nos. 98-43; 94-149, FCC 98-281 (1998).

Other than this monitoring effort, the FCC has done very little to promote female and minority broadcast ownership (and the follow-up on this monitoring has been abysmal). In its 1999 Order that allowed television duopolies, the Commission paid lip service to concerns about the policy change's effect on minority and female ownership, but still went forward with rule changes that allowed increased market concentration.²⁷⁰ In 2004, the Commission sought input into how it could better implement Section 257 of the Act.²⁷¹ Until this current *Further Notice*, there has been virtually no action made towards evaluating the findings of the original Section 257 studies.

In the *2003 Order* the Commission assured the public that ownership diversity was a key policy goal underlying its approach to ownership regulation.²⁷² However, the Third Circuit found otherwise, stating that “repealing its only regulatory provision that promoted minority television station ownership without considering the repeal's effect on minority ownership is also inconsistent with the Commission's obligation to make the broadcast spectrum available to all people ‘without discrimination on the basis of race.’”²⁷³

Before considering the potential effects of policy changes on female and minority ownership, the Commission must first know the *current* state of ownership and evaluate the effects of previous policy changes. No one should be in a better position to answer these questions than the FCC itself. The Commission possesses gender and race/ethnicity

²⁷⁰ *Report and Order, In the Matter of Review of the Commission's Regulations Governing Television Broadcasting Television Satellite Stations Review of Policy and Rules*, MM Docket Nos. 87-8. 91-221, FCC 99-209 (1999).

²⁷¹ MB Docket No. 04-228, “Media Bureau Seeks Comment on Ways to Further Section 257 Mandate and to Build on Earlier Studies” DA 04-1690, June 15, 2004.

²⁷² See *2003 Order*, “Encouraging minority and female ownership historically has been an important Commission objective, and we reaffirm that goal here.”

²⁷³ See *Prometheus*, note 58.

information on nearly every single broadcast entity and knows exactly when licenses changed hands.

THE FAILURE OF THE FCC TO ACCURATELY COUNT MINORITY AND FEMALE OWNERS

However, **the FCC has *no* accurate picture of the current state of female and minority ownership, and shows no sign of taking the matter seriously.** Though the Commission has gathered gender and race/ethnicity data for the past seven years, it has shown little interest in the responsible dissemination of the information contained within the Form 323 filings.

This lack of interest or concern is made evident by the FCC's own Form 323 summary reports. Station owners began reporting gender/race/ethnicity information in 1999, and the FCC released its first "summary report" in January 2003 (for reporting in 2001).²⁷⁴ A second summary followed in 2004 (for reporting in 2003).²⁷⁵ The most recent report was issued in June 2006 (for the 2004-2005 period).²⁷⁶ However, calling these publications "summary reports" is somewhat misleading, as they are merely a listing of each minority- or female-owned station's Form 323 response and not aggregated in any manner. No information on the stations *not* reportedly owned by women or minorities is given.

²⁷⁴ Though this data summary is not directly displayed on the FCC's ownership data page (<http://www.fcc.gov/ownership/data.html>), it can be downloaded at <http://www.fcc.gov/ownership/ownminor.pdf> and <http://www.fcc.gov/ownership/ownfemal.pdf>

²⁷⁵ Though this data summary is not directly displayed on the FCC's ownership data page (<http://www.fcc.gov/ownership/data.html>), it can be downloaded at http://www.fcc.gov/ownership/owner_minor_2003.pdf and http://www.fcc.gov/ownership/owner_female_2003.pdf

²⁷⁶ http://www.fcc.gov/ownership/owner_minor_2004-2005.pdf and http://www.fcc.gov/ownership/owner_female_2004-2005.pdf

Closer examination of these summary reports reveals significant problems. For starters, on the FCC Web site where the most recent summary files are provided for download, there is a paragraph that explains the purpose of the data and provides a brief summary of the tally.²⁷⁷ This Web site lists the total number of stations that filed Form 323 or Form 323-E in the 2004-2005 calendar year, and then lists the total number of stations that the FCC determined are owned by women or people of color. All commercial stations are required to report the race/ethnicity and gender of station owners on Form 323. Form 323-E requires all non-commercial educational stations to report the identity of station owners, but does not require the disclosure of the race/ethnicity or gender information.

However, since stations that file Form 323-E *don't report gender or race/ethnicity* information, it is perplexing why the FCC Web site reports the total number of stations that filed *either* form. This ambiguous reporting has led to some observers using these summaries to erroneously report the wrong percentage of stations owned.²⁷⁸

Other problems exist in these summaries. Some station owners listed in the 2003 summary are missing from the 2004 report but reappear in the 2006 summary, despite the fact

²⁷⁷ <http://www.fcc.gov/ownership/data.html>

²⁷⁸ For example, Howard University Professor Carolyn M. Byerly in an October 2006 report writes: "FCC data indicate that in 2005, women owned only 3.4% and minorities owned only 3.6% of the 12,844 stations filing reports." This report was based on the flawed FCC summaries of Form 323 data (see "Questioning Media Access: Analysis of FCC Women and Minority Ownership Data," Benton Foundation and Social Science Research Council, October 2006). Also, in his book *Fighting For Air*, New York University Professor Eric Klinenberg writes that "by 2005, the FCC reported that only 3.6 percent of all broadcast radio and television stations were minority-owned, while a mere 3.4 percent were owned by women" (page 28). These are the exact but inaccurate percentages obtained from the information on the FCC 323 summary Web site. They were calculated by dividing the number of reported stations by the total number of stations that filed Form 323 or Form 323-E ($438/12,844 = 3.4$ percent women-owned; $460/12,844 = 3.6$ percent minority-owned).

that ownership had not changed during the interim period. Certain stations have ownership interests that add up to more than 100 percent. In some instances, the type of station facility (AM, FM or TV) is not specified.

But the most alarming problems are ones of omission. Not a single station owned by Radio One is listed by the FCC, even though the company is the largest minority-owned radio broadcaster in the United States. Stations owned by Granite Broadcasting, the largest minority-owned television broadcaster, are also missing from the summary reports. However, examination of the individual Form 323 filings for these stations shows that they are indeed minority-owned. Why aren't they in the FCC's summary?

The answer likely lies in how the larger-group stations report ownership information, and how the FCC harvests the information for their summary reports. Most of the licenses of those stations missed by the FCC are "owned" by intermediate entities, which are -- in some cases -- many degrees separated from the "actual" owner. Some stations file more than 20 separate Form 323 forms (one for each holding entity), with the true owners listed on only one form. And in many cases, the actual ownership information is attached as an exhibit and not listed on the actual form. Thus the FCC, which tabulates the information for its summaries by harvesting these electronic forms via an automated process, misses stations that file in this convoluted and confusing manner.

The Commission's lack of understanding of its own Form 323 data became even more apparent when the Media Bureau released previously unpublished internal studies that attempted to ascertain the true state of female and minority broadcast ownership.²⁷⁹ A draft

²⁷⁹ See <http://www.fcc.gov/ownership/additional.html> for documents released in December of 2006.

dated November 14, 2005, reports that there were, as of 2003, 60 television stations and 692 radio stations owned by women; and 15 television stations and 335 radio stations owned by minorities.²⁸⁰ However, our previous filings in this proceeding (containing the data in the Free Press study *Out of the Picture*) showed that by the fall of 2006 there were 44 minority-owned stations, and this was not the result of a massive increase in minority ownership. Indeed, the same FCC draft report indicated just a single African-American-owned television station in the 2003 sample period. However, a review of Granite Broadcasting's (an African-American-owned company) Form 323 filing in 2003 showed that they alone held nine full-power television station licenses.²⁸¹ This internal summary is deeply troubling in its inaccuracy and raises questions about the data analysis ability of Commission staff, and the commitment of the Commission to accurately monitor female and minority ownership.

But the biggest indication of the Commission's failure to take seriously its obligation to track female and minority ownership is seen in its most recent effort in this area -- the 10 Official "Research Studies on Media Ownership".²⁸² Study 2, "Media Ownership Study Two: Ownership Structure and Robustness of Media" authored by FCC staff fails miserably in its effort to tabulate the number of female and minority owned broadcast radio stations. It appears that Study 2 likely missed well over half of all the female- and minority-owned

²⁸⁰ <http://www.fcc.gov/ownership/materials/newly-released/minorityfemale011405.pdf>

²⁸¹ Furthermore, FCC data also indicates that during the timeframe of its analysis, there were at least three more African-American-owned stations (WJYS, KNIN-TV and KWCV), bringing the number of African-American-owned stations to 12. The FCC document reported two American Indian-owned stations; but at the time of this draft study, FCC records indicate at least four American Indian-owned stations (KHCV, KOTV, KWTW, and WNYB). The FCC document reported four Asian-owned stations; but at the time of this draft study, FCC records indicate at least seven Asian-owned stations (KBFD, WMBC, KBEO, KWKB, KCFG, KEJB and KKJB).

²⁸² <http://www.fcc.gov/ownership/studies.html>

broadcast station. As we demonstrate below, **the FCC missed 75 percent of the TV stations that were female-owned in 2005, and missed 69 percent of the TV stations that were minority-owned in 2005.** It is simply astonishing that the Commission could make such an error, especially given the fact that the CU/CFA/Free Press census of TV station racial/ethnic/gender ownership was readily available both in the record in this proceeding, as well as reported in numerous media outlets.

The authors of Study 2 chose to blame perceived imperfections in Form 323 data, and relied on flawed NTIA data as their starting point for assessing minority ownership. This was a fundamental flaw, and indicates a lack of seriousness on the part of the Commission in fulfilling the mandates of Sections 257 and 309(j). The simple fact is the raw data contained in Form 323 individual filings is extremely reliable and useful. The problems associated with Form 323 are not with the data, *but how the Commission automates the harvesting of the data from these forms.* There are various aspects of how Form 323 is submitted by owners that appear to be causing the Commission trouble in its efforts to automatically harvest the data. Some stations file multiple forms for a single station (because of the numerous shell or holding companies); some stations do not enter the racial/gender/ethnic ownership information in the form, choosing to attach this information separately (many forms that do this often have “See Exhibit” written where the ownership information should be listed); some owners choose write “No change; information on file” as opposed to properly filling out Form 323.

These are all roadblocks to the researcher who wishes to use automated scripts to harvest Form 323 data. But they are not roadblocks to those who actually examine each form. **The simple fact is the Commission appears to have taken the lazy way out when faced**

with the choice of inaccurate automated data harvesting or accurate but labor-intensive manual coding of Form 323 data.

Fortunately for the Commission, we did do the hard work of determining the ownership of nearly every single licensed full-power commercial broadcast radio and television station. The results from this effort and subsequent analysis are presented here as Appendix A (the television results were filed in our October 2006 comments; the radio results are presented here for the record for the first time).

Study 2 presented female and minority ownership information for the years 2002, 2003, 2004, and 2005. We analyzed the 2005 television data for accuracy and the results are presented below.

Exhibit XI-1 details the full *accurate* list of all the full-power commercial TV stations owned by women in 2005. For the stations that were female-owned but not captured by the Commission in Media Ownership Study 2, we have listed the associated FCC file numbers where confirmation of female-ownership can be found.

Exhibit XI- 1: Accurate List of Female-Owned TV Stations (2005)

Accurate List of Female-Owned TV Stations in 2005					
Call	Corporate Parent/ Owner	DMA	On Study 2?	On 2005 323 Summary?	FCC Files Confirming Ownership Status
KCEN-TV	Anyse Sue Mayborn	Waco-Temple-Bryan	Yes	Yes	
KEYC-TV	Brown Family	Mankato	No	Yes	BOA-20040930BDK, BOA-20041001AKV, BOA-20060929AJI, BOA-20060929BEL
WWNY-TV	Brown Family	Watertown	No	Yes	
WWSB	Brown Family	Tampa-St. Pete (Sarasota)	No	No	
KSBI	Brus Family	Oklahoma City	Yes	No	
KVTH	Caldwell Family	Little Rock-Pine Bluff	No	Yes	BOA-20050111AAS
KVTJ	Caldwell Family	Jonesboro	No	Yes	
KVTN	Caldwell Family	Little Rock-Pine Bluff	No	Yes	
KDKF	Carolyn Chambers	Medford-Klamath Falls	No	No	
KDRV	Carolyn Chambers	Medford-Klamath Falls	No	No	BOA-20050930BKK, BOA-20050930BKA
KEZI	Carolyn Chambers	Eugene	No	No	
KAIL	Claire Reis	Fresno-Visalia	No	No	BOA-20050721ADW
WNYB	Coonce Family	Buffalo	No	Yes	BOA-20050201BHY
KFOX-TV	Cox	El Paso (Las Cruces)	No	No	All Cox 2005 ownership info is contained in BOA-20050527AK; KFOX, KICU, KRXI and KTVU were considered female by FCC until 2005; Cox did transfer ownership then, but into a trust that did not make any change in the actual voting control over the company; see
KICU-TV	Cox	San Francisco-Oak-San Jose	No	No	
KRXI-TV	Cox	Reno	No	No	
KTVU	Cox	San Francisco-Oak-San Jose	No	No	
KIRO-TV	Cox	Seattle-Tacoma	No	No	
WAXN-TV	Cox	Charlotte	No	No	
WFTV	Cox	Orlando-Daytona Bch-Melbrn	No	No	
WHIO-TV	Cox	Dayton	No	No	
WJAC-TV	Cox	Johnstown-Altoona	No	No	
WPXI	Cox	Pittsburgh	No	No	
WRDQ	Cox	Orlando-Daytona Bch-Melbrn	No	No	
WSB-TV	Cox	Atlanta	No	No	BALCT-20051123AGT
WSOC-TV	Cox	Charlotte	No	No	BALCT-20051123AGT
WTOV-TV	Cox	Wheeling-Steubenville	No	No	BALCT-20051123AGT
WMYA-TV	Cunningham	Greenvil-Spart-Ashevl-And	No	No	BOA-20050728AGP
WNUV	Cunningham	Baltimore	No	No	BOA-20050601AXM
WRGT-TV	Cunningham	Dayton	No	No	BOA-20050601AXM
WTAT-TV	Cunningham	Charleston, SC	No	No	BOA-20050728AGP
WTTE	Cunningham	Columbus, OH	No	No	BOA-20050601AXM
WVAH-TV	Cunningham	Charleston-Huntington	No	No	BOA-20050601AXM
WLJC-TV	Drake Family	Lexington	Yes	Yes	
WTXL-TV	Ellis/Smith/Hardy	Tallahassee-Thomasville	No	No	BALCT-20050609AAK; BOS-20060214ADL
KCHF	Gonzalez Family	Albuquerque-Santa Fe	Yes	Yes	
KIDY	Hawk/Brown	San Angelo	No	Yes	BOA-20050401BQC
KXVA	Hawk/Brown	Abilene-Sweetwater	Yes	Yes	
WBPH-TV	Huber Family	Philadelphia	Yes	Yes	
KGWC-TV	Julie Jaffee	Casper-Riverton	No	No	BALCT-20030826ALR; BOS-20060629AAX
KGWL-TV	Julie Jaffee	Casper-Riverton	No	No	BALCT-20030826ALR; BOS-20060629AAX
KGWR-TV	Julie Jaffee	Casper-Riverton	No	No	BALCT-20030826ALR; BOS-20060629AAX
WZVN-TV	Lara W. Kunkler	Ft. Myers-Naples	Yes	No	
KPXJ	Lauren Wray Ostendorf	Shreveport	No	Yes	BOA-20050121AEB
KTSF	Lincoln-Howell Family	San Francisco-Oak-San Jose	Yes	Yes	
KIDA	Marcia T. Turner	Twin Falls	No	No	BLCT-20030409AAG; BON-20060420AAH
KBMY	Marcil Family	Minot-Bismarck-Dickinson	No	No	BOA-20050201AXJ; BOA-20051129ACG
KMCY	Marcil Family	Minot-Bismarck-Dickinson	No	No	BOA-20050201AXJ; BOA-20051129ACG
WDAY-TV	Marcil Family	Fargo-Valley City	No	No	BOA-20050201AXJ; BOA-20051129ACG
WDAZ-TV	Marcil Family	Fargo-Valley City	No	No	BOA-20050201AXJ; BOA-20051129ACG
WTVA	Margaret & Mary Spain	Columbus-Tupelo-West Point	Yes	Yes	
WFMJ-TV	Mark & Betty Brown	Youngstown	No	No	BOA-20050509AAY
WINK-TV	McBride Family	Ft. Myers-Naples	No	Yes	BOA-20040929AEL; BOA-20060929ABH
KBEO	Myoung Hwa Bae	Idaho Falls-Pocatello	No	Yes	BOA-20050601BSS
KCFG	Myoung Hwa Bae	Phoenix (Prescott)	No	Yes	BOA-20050601BOE
KEJB	Myoung Hwa Bae	Monroe-El Dorado	Yes	Yes	
KWKB	Myoung Hwa Bae	Cedar Rapids-Wtrlo-IWC&Dub	Yes	Yes	
KPIF	Myoung Hwa Bae	Idaho Falls-Pocatello	Yes	Yes	
KNOE-TV	Noe Family	Monroe-El Dorado	No	No	BTCCT-20050809ACF; BOS-20050926ADC
WHIZ-TV	Norma Jean Littick	Zanesville	No	Yes	BOA-20050517AAU; BOA-20050517AAW
KLSR-TV	Patricia Smullen	Eugene	Yes	Yes	
KOBI	Patricia Smullen	Medford-Klamath Falls	Yes	Yes	
KOTI	Patricia Smullen	Medford-Klamath Falls	Yes	Yes	
KLEI	Racine Family	Honolulu	No	Yes	BOA-20051007AAB
WACY	Shirly A. Martin	Green Bay-Appleton	No	Yes	BOA-20050727AII
WKTC	Stefanie D. Rein	Columbia, SC	Yes	No	
WOAY-TV	Thomas Family	Bluefield-Beckley-Oak Hill	No	No	BON-20040528ALI; BOA-20060601BCL
KTMW	Whitney/Openshaw	Salt Lake City	Yes	No	

Exhibit XI-2 2 list stations that were deemed to be female-owned by the FCC in Study #2, but were in fact not. As shown in the associated FCC file numbers, these stations were either sold to non-female owners in 2005, had their license canceled, or did not have greater than 50 percent of the voting shares held by one or more women.

Exhibit XI-2 2: Stations Erroneously Listed in FCC Study 2 As Female-Owned (2005)

Stations Listed in Study 2 As Female Owned in 2005, But Not Actually Female-Owned		
Call	Status in 2005	FCC Files Confirming Ownership Status
KCWE	Sold in 2005	BOS-20061101AAC, BALCT-20050810ABL
KMVT	100% Male votes	BOS-20040907AAR, BOS-20040907AAQ, BOS-20060302ABC, BOA-20060530ADU, BALCT-20040422AAY
KNMT	50% Male, 50% female	BOA-20050729DKH
KTBS	Female Votes = 35.57%	BOA-20050127AHW
WGSA	Female votes = 29.5% (but voted by a man)	BON-20041201ATE, BOA-20061201AGH
WWRS	50% Male, 50% female	BOA-20050729DKJ
KTFL	Female as of 5/05, but license cancelled later that year	BLCT-20001220ACN
KLWB	50% Male, 50% female	BOS - 20051110AEZ

In total, the FCC only accounted for 17 of the 68 stations that were actually owned by women in 2005. This means that in its most recent, official, and presumably best effort at assessing female ownership, the Commission missed 75 percent of the actual female-owned TV stations (see Exhibit XI-3).

Exhibit XI-3: FCC's Failure to Accurately Assess Female TV Ownership (2005)

Accounting of FCC's Ability to Accurately Report Female-Ownership (TV, 2005)	
Total Number of Actual U.S. Full-Power Commercial Stations Owned by Women in 2005	68
Total Number of Actual U.S. Full-Power Commercial Stations Owned by Women in 2005 Accounted for in Study 2	17
Total Number of Actual U.S. Full-Power Commercial Stations Owned by Women in 2005 Missed by Study 2	51
Percent of Female-Owned Stations (2005) Missed by FCC Study #2	75%

Exhibit XI-4 details the full *accurate* list of all the full-power commercial TV stations owned by minorities in 2005. For the stations that were minority-owned but not captured by the Commission in Media Ownership Study 2, we have listed the associated FCC file numbers where confirmation of minority-ownership can be found.

Exhibit XI-5 lists stations that were deemed to be minority-owned by the FCC in Study 2, but were in fact not. As shown in the associated FCC file numbers, these stations were all sold to Liberty Corporation far before 2005. In fact, these stations are the three formerly owned by Frank Melton, WLBT, KTRE and KLTV. WLBT in particular is a very noteworthy station in the history of minority broadcasting, being one of only two stations to have had its license revoked by the FCC (for violations of the Fairness Doctrine via its flagrant, pro-segregationist activities in the 1950s and 1960s – which included selling airtime to the Klu Klux Klan). After being stripped of its license in 1971, WLBT came under the control of the African-American-owned group Communications Improvement, which sold the station in 1980 to TV3 Inc., a group owned by Melton, an African-American. Melton helped improve the station's news operations and took over first place in the ratings. However, by

Exhibit XI- 4: Accurate List of Minority-Owned TV Stations (2005)

Accurate List of Minority-Owned TV Stations in 2005							
Call	Corporate Parent/ Owner	Race	Gender	DMA	On Study 2?	On 323 Summary?	FCC Files Confirming Ownership Status
WGEM-TV	Alejandro Santo Doming	H/Lat.	M	Miami-Ft. Lauderdale	No	No	BOS-20050824ACK
KBFD	Chung Family	A	M	Honolulu	No	Yes	BOA-20050930BRS
WNYB	Coonce Family	AI/AN	F	Buffalo	No	Yes	BOA-20050201BH
KTGF	Darnell Washington	B/AA	M	Great Falls	No	Yes	BOS-20050207ABF; BOA-20051201BFK; B
KCHF	Gonzalez Family	H/Lat.	F	Albuquerque-Santa Fe	Yes	Yes	
KBJR-TV	Granite	B/AA	M	Duluth-Superior	No	No	BOA-20050801DPW
KBWB	Granite	B/AA	M	San Francisco-Oak-San Jose	No	No	BOA-20050801DPW
KRII	Granite	B/AA	M	Duluth-Superior	No	No	BOA-20050801DPW
KSEE	Granite	B/AA	M	Fresno-Visalia	No	No	BOA-20050801DPW
WEEK-TV	Granite	B/AA	M	Peoria-Bloomington	Yes	No	
WISE-TV	Granite	B/AA	M	Ft. Wayne	No	No	BOA-20050801DPW
WKBW-TV	Granite	B/AA	M	Buffalo	Yes	No	
WMYD	Granite	B/AA	M	Detroit	No	No	BOA-20050801DPW
WTVH	Granite	B/AA	M	Syracuse	Yes	No	
KOTV	Griffin Family	AI/AN	M	Tulsa	No	Yes	BOA-20050425ABY
KQCW	Griffin Family	AI/AN	M	Tulsa	No	No	BALCT-20051006ACI
KWTV	Griffin Family	AI/AN	M	Oklahoma City	No	No	BOA-20050425ABX; BOA-20050425ABO
KFWD	Hernandez Family	H/Lat.	NCI	Dallas-Ft. Worth	No	Yes	BOA-20050324ADG
WJJA	Joel Kinlow	B/AA	M	Milwaukee	Yes	Yes	
WJYS	Joseph Stroud	B/AA	M	Chicago	Yes	Yes	
KHCV	Kenneth Casey	AI/AN	M	Seattle-Tacoma	No	Yes	BOA-20050927AHC
KMPX	Lieberman Family	H/Lat.	M	Dallas-Ft. Worth	No	No	BOA-20050801BTL
KRCA	Lieberman Family	H/Lat.	M	Los Angeles	No	No	BOA-20050801BTL
KZJL	Lieberman Family	H/Lat.	M	Houston	No	No	BOA-20050801BTL
KNIN-TV	Lyle Banks	B/AA	M	Boise	No	No	BOA-20050613AEG
KSCW	Lyle Banks	B/AA	M	Wichita-Hutchinson Plus	Yes	No	
KIDA	Marcia T. Turner	B/AA	F	Twin Falls	No	No	BLCT-20030409AAG; BON-20060420AAH
KBEO	Myoung Hwa Bae	A	F	Idaho Falls-Pocatello	Yes	Yes	
KCFG	Myoung Hwa Bae	A	F	Phoenix (Prescott)	No	Yes	BOA-20050601BOE
KEJB	Myoung Hwa Bae	A	F	Monroe-El Dorado	Yes	Yes	
KPIF	Myoung Hwa Bae	A	F	Idaho Falls-Pocatello	Yes	Yes	
KWKB	Myoung Hwa Bae	A	F	Cedar Rapids-Wtrlo-IWC&Du	Yes	Yes	
KTAS	Palazuelos Family	H/Lat.	NCI	SantaBarbra-SanMar-SanLuOl	No	Yes	BOA-20050728AQA
KVIQ	Palazuelos Family	H/Lat.	M	Eureka	Yes	Yes	
WSBS-TV	Raul Alarcon Jr.	H/Lat.	M	Miami-Ft. Lauderdale	No	No	BOS-20050824ADX; BOA-20031001BNP
WMBC-TV	Rev Sun Young Joo	A	M	New York	No	Yes	BOA-20050110AAT
WRBJ	Roberts Brothers	B/AA	M	Columbia, SC	Yes	No	
WZRB	Roberts Brothers	B/AA	M	Jackson, MS	Yes	No	
KTDO	Ronald Gordon	H/Lat.	M	El Paso (Las Cruces)	No	No	BOA-20060531AFP; BALCT-20040706AAV
KVMD	Ronald L. Ulloa	H/Lat.	M	Los Angeles	No	No	BOA-20050801CYV
KXLA	Ronald L. Ulloa	H/Lat.	M	Los Angeles	No	No	BOA-20050801CVA
WMGM-TV	Sydney L. Small	B/AA	M	Philadelphia	No	No	BOA-20060130ASX; BOS-20040430AAR
KTLM	Vale/Falcon	H/Lat.	M	Harlingen-Wslco-Brnsvl-McA	No	Yes	BOA-20050401ALQ
KJLA	Walter Ulloa	H/Lat.	M	Los Angeles	No	No	BOA-20050801DBR
KVAW	Zavaletta	H/Lat.	M	San Antonio	No	No	BOS-20041115AFF; BALCT-20031215ABQ

2000, Melton felt he could no longer compete with the large corporate station owners for programming and advertising revenue, and sold all three stations to Cosmos Broadcasting, a subsidiary of Liberty Corp. (now called Raycom Media, the 14th-largest broadcast owner in the nation).²⁸³ For the Commission to compound its error of missing numerous minority-owned stations with this failure to recognize a pivotal loss of a minority-owned TV company is truly tragic.

²⁸³ Kay Mills, “Changing Channels: The Civil Rights Case That Transformed Television,” *Prologue Magazine*, Vol. 36, No. 3, Fall 2004.

Exhibit XI-5: Stations Erroneously Listed in FCC Study 2 As Minority-Owned (2005)

Stations Listed in Study 2 As Minority-Owned in 2005, But Not Actually Minority-Owned		
Call	Status in 2005	FCC Files Confirming Ownership Status
KLTV	Non-Minority Owned (Liberty Corp.)	BTCCT-20000801ACU; BALCT-20011116AAT; BTCCT-20050909ADZ' BOA-20050531BLR
WLBT-TV	Non-Minority Owned (Liberty Corp.)	BTCCT-20000801ACU; BALCT-20011116AAT; BTCCT-20050909ADZ' BOA-20050531BLR
KTRE	Non-Minority Owned (Liberty Corp.)	BTCCT-20000801ACU; BALCT-20011116AAT; BTCCT-20050909ADZ' BOA-20050531BLR

In total, the FCC only accounted for 14 of the 45 stations that were actually owned by people of color in 2005. This means that in its most recent, official, and presumably best effort at assessing minority ownership, the Commission missed 69 percent of the actual minority-owned TV stations (see Exhibit XI-6 6).

Exhibit XI-6: The FCC’s Failure to Accurately Assess Minority TV Ownership (2005)

Accounting of FCC's Ability to Accurately Report Minority-Ownership (TV, 2005)	
Total Number of Actual U.S. Full-Power Commercial Stations Owned by Minorities in 2005	45
Total Number of Actual U.S. Full-Power Commercial Stations Owned by Minorities in 2005 Accounted for in Study 2	14
Total Number of Actual U.S. Full-Power Commercial Stations Owned by Minorities in 2005 Missed by Study 2	31
Percent of Minority-Owned Stations (2005) Missed by FCC Study #2	69%

Though we did not verify the accuracy and completeness of Study 2's radio ownership data, there is compelling evidence to suggest the Commission also omitted a substantial number of female- and minority-owned radio stations. In the 2007 Free Press census of the racial/ethnic/gender ownership status of full-power commercial broadcast radio stations (published in the study *Off The Dial* and made available in Appendix A of these comments), we found that there were at least 609 female-owned stations and at least 776 minority-owned stations as of February 2007. In Study 2, the FCC reported 376 female-owned and 378 minority-owned radio stations in 2005. There is simply no evidence to suggest a near doubling in the level of female and minority radio ownership in the interim, suggesting that the FCC missed approximately 40 percent of the female-owned radio stations and missed approximately 50 percent of the minority-owned radio stations. Given that in the case of TV the Commission included in its tally stations that were not female- or minority-owned, **it is likely that in total, the Commission missed over half of the actual female- and minority-owned broadcast radio and television stations.**

This inability to even come close to accurately assessing the state of female and minority ownership simply because of a methodological choice shows an obvious lack of concern by the Commission. This lack of concern is truly troubling given the Commission's legal obligation to foster improved female and minority broadcast ownership. The FCC has both the raw data and the resources to adequately address the issues raised by the Third Circuit regarding minority ownership but chooses instead to ignore this issue and rely on public commenters to do its job.

We hope that this exposure of failure will cause the Commission to take pause and reassess its approach towards undertaking this proceeding. The issue of ownership diversity is

far too important to be built upon a flimsy foundation of basic empirical data. Chairman Martin recently said, "To ensure that the American people have the benefit of a competitive and diverse media marketplace, we need to create more opportunities for different, new and independent voices to be heard."²⁸⁴ If the Chairman and the other Commissioners truly believes this to be the case, then they should demand a complete and accurate assessment of the ownership status of every single full-power commercial broadcast station.

²⁸⁴ "Remarks of FCC Chairman Kevin J. Martin, 2007 AWRP Annual Leadership Summit Business Conference, March 9, 2007, Available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-271371A1.pdf. At the same event, Commissioner Robert McDowell stated that the data on female and minority ownership was "extremely troubling" to him, and that he wanted to find out "why that number is lower than in other industries." See <http://www.broadcastingcable.com/article/CA6423119.html?title=Article&spacedesc=news>.

XII. THE COMMISSION HAS FAILED TO ASSESS THE IMPACT OF GENERAL POLICY CHANGES ON MINORITY AND FEMALE OWNERSHIP

As the above data demonstrates, the Commission does not possess its own basic and accurate knowledge of the status of female and minority broadcast ownership, and thus cannot adequately fulfill the mandates of Section 257, Section 309(j), nor the remand of the elimination of the Failed Station Solicitation Rule by the 3rd Circuit Court of Appeals in *Prometheus*.

Yet despite this lack of basic knowledge, the Commission has offered this *Further Notice* and sought comments on policies that are purported to promote ownership by women and people of color (under the banner of “Socially Disadvantaged Businesses” or “SDBs”).

ACCURATE DATA SHOW THAT RELAXING OWNERSHIP LIMITS REDUCES MINORITY OWNERSHIP

Since we have created an accurate and complete database on the racial/ethnic/gender ownership status of all broadcast stations, and have used this information to conduct substantial policy analysis concerning ownership regulations, we are prepared to offer comment on this *Further Notice*. However, the Commission is considering not only the 34 proposals contained in the FNPRM, but is in general conducting a wholesale comprehensive review of all its broadcast ownership regulations as a part of the *2006 Quadrennial Review*. The potential rule changes under consideration in the *2006 Review* and those of the *2002 Review* remanded by the 3rd Circuit will undoubtedly have tremendous direct impacts on current and potential future female and minority owners.

Given the potential impact of rule changes on female and minority ownership, and the demonstrated pitiful Commission assessment of the basic status of this ownership, it is imperative that the Commission not move forward with any rule changes until it has thoroughly and adequately repaired the mistakes of Study 2.

Data in the record, particularly data gathered from the 2000 Section 257 studies, indicates that the primary factors influencing female and minority broadcast ownership are media market concentration, access to capital and equity, and access to deals.

Theory supports these findings. As markets become more concentrated, the costs of stations become artificially inflated, driving away potential new entrants in favor of existing large chains. Concentration has the effect of diminishing the ability of smaller and single-station owners to compete for both advertising and programming contracts. This, combined with the inflated asset values creates immense pressure for the smaller owners to sell their station licenses to larger owners.

This destructive cycle disproportionately impacts women and minority owners, as they are far more likely to own just a single station in comparison to their white-male and corporate counterparts. Current owners are driven out of markets; and discrimination in access to deals, capital and equity combined with the higher barriers to entry created by consolidation shut out new female and minority owners from market entry.

Thus it is clear: if the Commission intends to promote ownership diversity, it cannot accomplish this goal while simultaneously enacting policies that increase market concentration. It also follows that **policies that allow increased market concentration concurrently with efforts to increase ownership by SDBs simply won't work.** In fact, it is likely that any **short-term gains from such policies** in terms of the number of stations owned

by women or people of color **will be offset in the long term by a loss of unique SDB owners, a loss of SDB stations, and a loss of unique and independent media voices.**

Exhibit XII-2 and 3 illustrate the impact of increasing local market concentration on the level of minority TV station ownership. Exhibit XII-2 plots the predicted probability of a market having a minority owner present against the HHI calculated from audience share (the probability is based upon the size of the market, the percentage of minority and female population, the presence of a female owner in the market, and the market audience share HHI). As the Exhibit shows, a small modest increase in the median market concentration level could lead to a substantial drop in the number of markets with minority owners present. Exhibit XII-2 illustrates the same effect on the probability of a station being minority owned, showing that a modest increase in HHI would lead to a large drop in the level of minority ownership.

Exhibit XII-1: The Negative Impact of Increasing Market Concentration - Predicted Probability of a Market Having a Minority Owner vs. Market Concentration

Negative Impact of Market Concentration on Minority Ownership

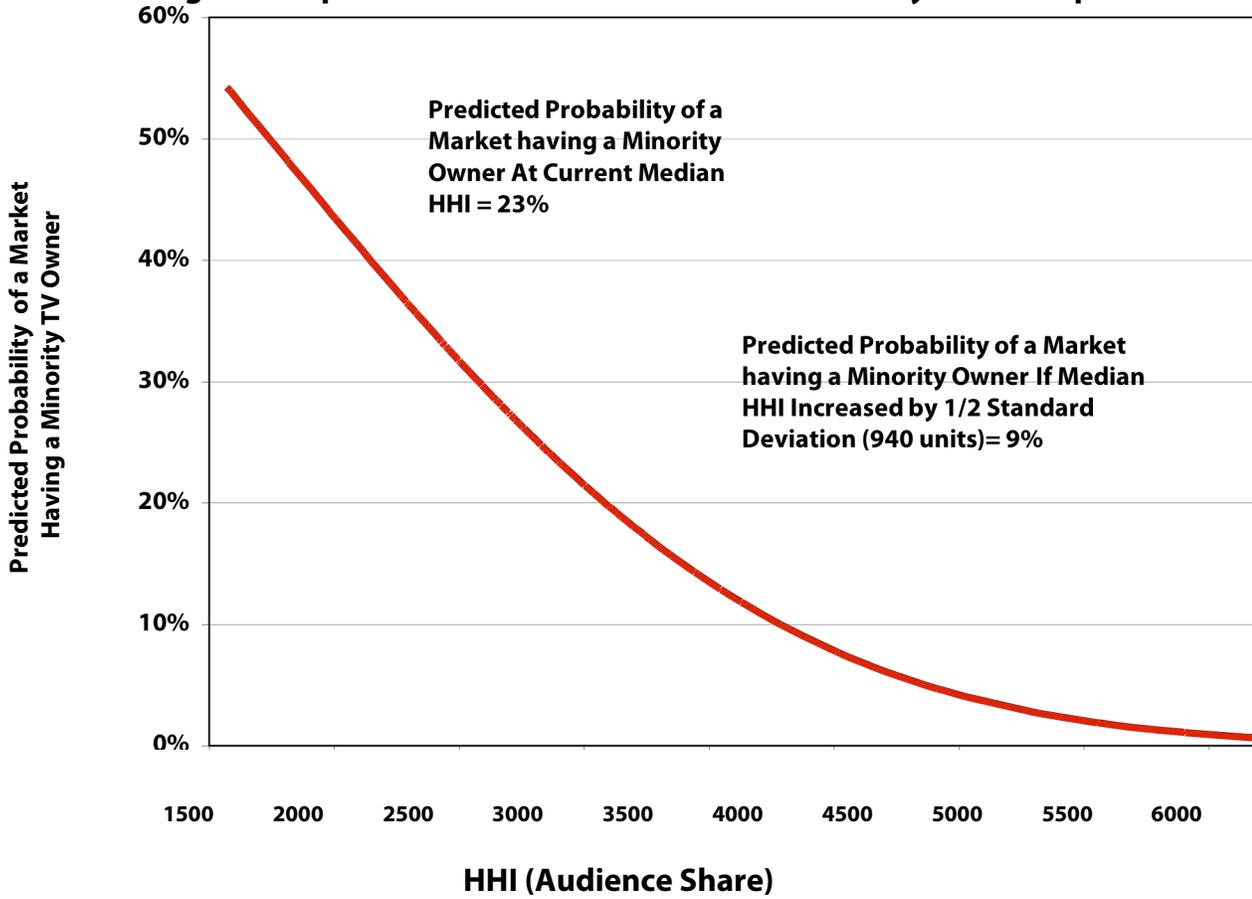
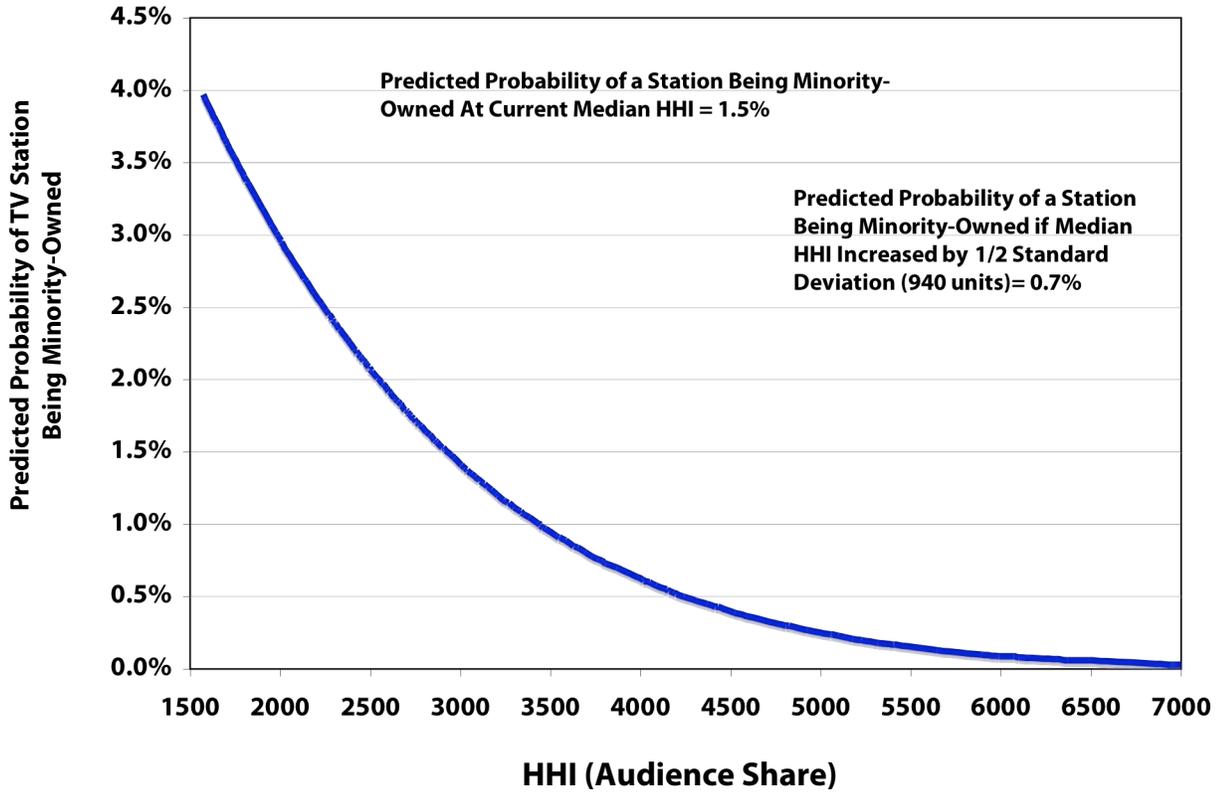


Exhibit XII-2: The Negative Impact of Increasing Market Concentration - Predicted Probability of a Station Being Minority-Owned vs. Market Concentration
Negative Impact of Market Concentration on Minority Ownership



The curves illustrated above in Exhibits XII-1 and XII-2 run both ways. The Commission has a stark choice facing it; it can choose to go down the curve towards more concentrated markets resulting in less minority and female ownership; or it can choose to go back up the curve, towards less concentrated markets and higher levels of female and minority ownership. We remind the Commission that the public interest obligations it must uphold are clear: The Act necessitates that it implement policies that “favor a diversity of media voices”. Therefore any policies that further increase consolidation and thus decrease the diversity of media voices should not be adopted.

EVALUATION OF FCC MINORITY STUDIES

Study 7

Study 7 looks at minority and female ownership of media outlets, although it uses a different data set and adopts a measure of minority ownership that completely distorts the reality. It counts the number of owners, but ignores the number of outlets that each owner possesses. Since non-minority owners tend to own many more outlets, this study vastly overestimates the role of minorities in the broadcasting sector.

After mangling the analysis, Study 7 suggests that the FCC reconsider the entire enterprise of the regulation of media ownership and “examine the rationale behind this exercise.”²⁸⁵ With no references to the extensive literature on the importance of ownership, the authors cite one recent, severely criticized study,²⁸⁶ which “suggests that media content is driven more by demand (i.e. consumer preferences) than supply (i.e. owner preferences).”²⁸⁷ This single study cannot be the basis for FCC decision-making. Even if the data were provided for review, the methodology is so fundamentally flawed that the FCC must reject the study. Indeed, because the methodology, with many of its flaws, was adopted in other FCC studies, a careful look at the flaws is necessary and will be provided in the next chapter.

Perhaps because the FCC has done such a bad job at tracking media ownership Study 7 resorted to an external, industry census to look at media ownership in broader perspective. It concludes that “under-representation of females and minorities is an economy-wide

²⁸⁵ Arie Beresteanu and Paul B. Ellickson, “Minority and Female Ownership in Media Enterprises,” Federal Communications Commission, Study 7, June, 2007, p. 3.

²⁸⁶ M. Gentzkow and J.M. Shapiro, “Media Bias and Reputation,” *Journal of Political Economy*, 114(2), pp. 280-316).

²⁸⁷ Beresteanu and Ellickson, Study 7, p. 3.

phenomenon, it is not industry specific.”²⁸⁸ It reaches this conclusion because it analyzed the number of firms providing goods and services with no reference to the size of the firms. In essence, it treats all firms as though they are equal in size. This is the very assumption that led the Commission astray in the past. The court frowned on such unrealistic assumptions.

The simple fact of the matter is that male and non-minority firms tend to own more TV stations. By counting firms without counting TV stations owned or output (audience or revenue), the study completely misrepresents the current status of female and minority ownership in the broadcasting sector. Needless to say, the conclusion reached by this misleading approach, stands in stark contrast to the conclusions reached when the analysis is properly done.

The publicly available did not allow us to replicate the FCC study at a disaggregated level and the FCC did not make the underlying data available for Study 7 available. Using the underlying data, we constructed a more inclusive category of broadcast market ownership which included all firms in the (radio and TV broadcast sector) to assess the impact of relying on firms, rather than stations. We have compiled data on firms and stations independently. These are presented in Exhibit XII-3.

As shown in Exhibit XII-3, the firm counting approach vastly overstates the share of females and minorities in the broadcast sector. In the case of minorities, it also misrepresents the share of minority owners in the sector compared to the rest of the economy. When it comes to station ownership, the percentage of stations owned by minorities and females is about one-tenth, or less of their share of the population.

²⁸⁸ Id.

Exhibit XII-3: Female and Minority Ownership of Broadcasting Firms and TV Stations Compared to All Businesses

Gender/ Racial/Ethnic Groups	Percent of Total							
	Populatio n	All Firms	B'cast Firms	All Revenue	B'cast Revenue	Firms Owning TV Stations	TV Stations Owned	
Female	51.1	28.5	19.72	0.98	2.33	11.6	5.1	
Hispanic	13.4	6.85	6.08	0.98	0.24	4.1	1.1	
Black	12.7	5.21	6.02	0.39	0.35	2.61	1.1	
Asian	4.41	4.8	3.38	1.45	0.11	1.1	0.4	
Amerindian	1.22	0.88	0.61	0.12	0.01	1.1	0.4	

Study 10

Study 10, which tries to assess the impact of recent policy changes, acknowledges that the FCC data cannot be trusted. Still it finds that “minority ownership has not benefited from the relaxation of media ownership limits.” The data supports a stronger conclusion – that minority ownership has been harmed by these changes.

Given the weakness of the FCC’s minority reporting system, Study 10 attempted to construct a more complete and accurate picture of minority ownership. Having built a new census of minority-owned stations, the study went on to attempt to ascertain the effect of the change in duopoly policy. Study 10 identified 17 sales in duopoly markets and 2 sales in non-duopoly markets (see Exhibit XII-4). The Study concluded that sales were twenty times as likely to take place in duopoly markets as in non-duopoly markets.

Exhibit XII-4: Disposition of Minority-Owned Stations 1999-20006

	Minority Stations Sold	Minority Stations Remaining
Study 10		
Duopoly Markets	17	26
Non-Duopoly Markets Markets	2	18
Total	19	44
Free Press Sales to non-minorities		
Enabled by duopoly policy	9	
Facilitated by duopoly policy	7	
Total Sales	17	44

Source: Study 10; Consumer Group Comments.

Our earlier analysis examined the individual sales to ascertain whether or not the sale was enabled or facilitated by the change in policy. The conclusions are consistent. The relaxation of the rules appears to have opened the door to sales of TV stations by minorities to non-minorities. Study 10 estimates a large decline in the total number of minority owned stations, Free Press did not identify such a large absolute decline, although it did see a relative decline.

XIII. MINORITY PROGRAMMING: STILL AT THE BACK OF THE BUS

INTRODUCTION

In the past, discussions of the ability of broadcast media to meet the needs of minority populations have focused on media ownership. The rationale for this focus is the empirically demonstrated fact that minority owners tend to provide more minority-oriented and other programming that is important to the community²⁸⁹ and the conceptual belief that the experience of media ownership is important to the ability of minority groups to represent their interests in society.²⁹⁰ This research has shown a severe deficiency in minority ownership, measured by the proportion of media ownership compared to the proportion of minority groups in the population, making television stations ownership, in particular, one of the worst performing areas of American society.²⁹¹

Minority groups (Black, Hispanic, Asian, Native American and Pacific Islanders) represent about 34 percent of the population.²⁹² Our analysis shows ownership figures of less than 4 percent for the five minority groups.²⁹³

²⁸⁹ Joel Waldfogel and Peter Siegelman, "Race and Radio: Preference Externalities, Minority Ownership, and the Provision of Programming to Minorities," October 24, 2001.

²⁹⁰ Comments of the Consumer Federation of America, Consumers Union, Center for Digital Democracy and Media Access Project, *In the Matter of 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*, January 2, 2003, Section IV.

²⁹¹ S. Derek Turner, "Out of The Picture: Minority & Female TV Station Ownership in the United States," October 2006.

²⁹² U.S. Census Bureau, American Community Survey, 2006.

²⁹³ Kiran Duwadi, Scott Roberts, and Andrew Wise, "Ownership Structure and Robustness of Media," Federal Communications Commission, Study 2, Appendix A, p. 17.

In the ongoing media ownership proceeding, the FCC appears to have opened the door to another aspect of the analysis of minorities in the media. For the first time, it has gathered data on minority-oriented programming.²⁹⁴ Distinguishing between the ownership of programming and the ownership of distribution facilities has a long history in the media ownership debate, although it has not been as prominently applied in the minority area as the outlet ownership issue. The Financial and Syndications rules were applied to broadcasters under the reasoning that even though there were a small number of outlet owners, policies that dispersed ownership of the production of content would help to diversify the media product space.²⁹⁵ A similar argument could be applied to minority-targeted programming.

Interestingly, in the order proposing new media ownership rules in 2003, the FCC rejected, incorrectly, in our opinion,²⁹⁶ the notion that the diversity of the sources of

²⁹⁴ Gregory S. Crawford, “Television Station Ownership Structure and the Quantity and Quality of TV Programming,” Federal Communications Commission, Study 3.

²⁹⁵ See Reply Comments of Consumers Union, Consumer Federation of America, and Free Press, Study 3, “The Impact of Vertical Integration on Diversity in the Video Product Space,” January 16, 2007 and comments of Independent Film & Television Alliance, 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; In the Matter of 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; In the Matter of Cross-Ownership of Broadcast Stations and Newspapers, MB Docket No. 01-235; In the Matter of Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, MB Docket No. 01-317; In the Matter of Definition of Radio Markets, MB Docket No. 00-244., October 23, 2006.

²⁹⁶ Petition For Reconsideration, Consumer Federation of America and Consumers Union, In the Matter of 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; In the Matter of Cross-Ownership of Broadcast Stations and Newspapers, MB Docket No. 01-235; In the Matter of Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, MB Docket No. 01-317; In the Matter of Definition of

programming are important to promoting the goal of diversity. Whether the decision to study the nature of programming offered to the public represents a reversal on the matter of source diversity is unclear, but the compilation of data on programming is a welcome expansion of the scope of the proceeding.

THE FCC ANALYSIS OF MINORITY-TARGETED PROGRAMMING

Minority programming is identified by the FCC as falling into four categories:

Networks

- Targeting Black Audiences,
- Targeting Latino Audiences,
- Spanish Language Programming, and
- Targeting Other Diverse Audiences.²⁹⁷

The FCC provides four types of data on each category of programming:

- Production, defined as the fact that a show could be viewed by someone, somewhere in the U.S.
- Availability – i.e. how many households could actually view the programming (e.g. homes passed in the cable sense),
- Ratings of the programming (compiled by Nielsen), and
- Performance, measured by the ability of programming to deliver the audience to which it is available (Nielsen ratings divided by the availability).²⁹⁸

Radio Markets, MB Docket No. 00-244, September 4, 2003; . Comments of Consumers Union, Consumer Federation of America, and Free Press, Part VI, “Study 17: Faulty Reading of the Record on Program Ownership and the Broadcast Ownership Rules,” Available at http://www.stopbigmedia.com/filing/part_6.pdf.

²⁹⁷ Gregory S. Crawford, “Television Station Ownership Structure and the Quantity and Quality of TV Programming,” Federal Communications Commission, Study 3, Table 6.

²⁹⁸ FCC Study 3 calls this quality, but we prefer the term performance. The ability of a network to deliver audiences is really popularity rather than quality and depends on many factors other than quality. The claim that popularity is the relevant measure of

The FCC provides detailed data on the cable medium. The FCC analyzed 192 cable networks that have data available in Kagan's database.²⁹⁹ These are obviously the largest of the cable networks. Included in that database are 23 programs identified as minority audience programs (see Exhibit XIII-1).

Exhibit XIII-1: Minority-Targeted Cable Networks

Networks Targeting Black Audiences

BET BET Gospel, BET Jazz, Black Family Channel, Starz in Black, TV One and VH1 Soul

Networks Targeting Latino or Spanish Speaking Audiences

Azteca, Discovery en Espanol, Discovery Kids en Espanol EcuTV, ESPN Deportes, Galavision, Go!TV, History Channel en Espanol, HITN, HTV 10, La Familia, Mun2, SITV, Telefutera, Telemundo, Travel and Living en Espanol, and Univision

Networks Targeting Other Minority Audiences

AZN TV, CNBC World, CNN International, History Channel International, Logo

Source: Gregory S. Crawford, "Television Station Ownership Structure and the Quantity and Quality of TV Programming," Federal Communications Commission, Study 3, p. 3.

The FCC provides much less data on the broadcast side. There are no Networks Targeting Black or Other Audiences. There are unidentified Networks Targeting Latino Audiences and Spanish-Language Programming, although Telemundo and Univision are certainly among the broadcast networks included in this category.

Exhibit XIII-2 shows the share of networks identified as minority-targeted in the total production, availability and rating for each medium separately. The cable networks represent about 12 percent of the total in the Kagan database. This may seem like a much higher

quality for economic analysis may say more about the poverty of economic analysis than the quality of programming.

²⁹⁹ Gregory S. Crawford, "Television Station Ownership Structure and the Quantity and Quality of TV Programming," Federal Communications Commission, Study 3, p. 8.

percentage than the ownership data, but the data on availability and ratings shows a much lower share. Availability is about 9 percent and ratings represent about 4 percent of the total.

Exhibit XIII-2: Output of Minority-Targeted Programming

	Broadcast	Cable
Production	na	12%
Availability	8.5%	9.9%
Ratings	4.3%	4.2%

Source: Gregory S. Crawford, “Television Station Ownership Structure and the Quantity and Quality of TV Programming,” Federal Communications Commission, Study 3, Tables 7, 8, 9.

Moreover, a quick glance at the list of minority-targeted networks reveals that the majority of the networks are owned by large conglomerates, not minorities (see Exhibit XIII-3). Four of the five of the Networks Targeting Black Audiences are owned by the dominant cable programmers. Three of the five Networks Targeting Other Minority Audiences are spin offs of popular majority-targeted networks that are not minority-owed. Seven of the thirteen Networks Targeting Latino or Spanish Speaking Audiences are owned by major media players.

Exhibit XIII-3: Ownership of Minority-Targeted Networks in the FCC Database

NETWORK	MAJOR MEDIA OWNERSHIP
AZN Television	Comcast
Azteca America	
BET	Viacom
BET Gospel*	Viacom
BET J	Viacom
Black Family Channel	
CNBC International*	NBC Universal
CNN International*	Time Warner
Discovery en Español	Liberty Media/ Cox Communications/Advance Newhouse
Discovery Kids en Español	Liberty Media/ Cox Communications/Advance Newhouse
Ecuatv	
ESPN Deportes	Disney
Galavisión	Univision
Gol TV	
History Channel en Español	Disney/Hearst/NBC
History Channel International	Disney/Hearst/NBC Hispanic Information and Telecommunications Network, Inc
HITN	
HTV 10	
La Familia Cosmovision	
Logo*	
mun2	NBC Universal
Sí TV	Comcast
Starz InBlack	Liberty
Telefuturo	Univision
Telemundo	NBC Universal
Travel and Living en Espanol	
TV One	Comcast
Univision	Univision
VH1 Soul**	Viacom

Source: Gregory S. Crawford, “Television Station Ownership Structure and the Quantity and Quality of TV Programming,” Federal Communications Commission, Study 3, Table 30; Consumers Union, Consumer Federation of America, and Free Press database.

The FCC analysis attributes the low ratings of minority targeted programming on cable to poor quality, but it ignores an important factor – placements. Unlike broadcast networks, where availability means anyone can get every network carried, on cable systems, availability is only part of the story. Because cable bundles programming, it restricts the

choices of consumers. Different programs are available on different tiers and consumer must pay a premium to watch programming on some tiers.

Exhibit XIII-4 plots the availability of programming categories against ratings. The relationship is much stronger for broadcasting than cable. Note also, that the ratings for minority targeted programming in broadcast are right in the line with the other programming, while the minority targeted cable networks are well below the line for cable. Suspecting that the placement decision is the cause, we have compiled a database on minority targeted cable programming.

BUILDING A LARGER DATABASE WITH CARRIAGE

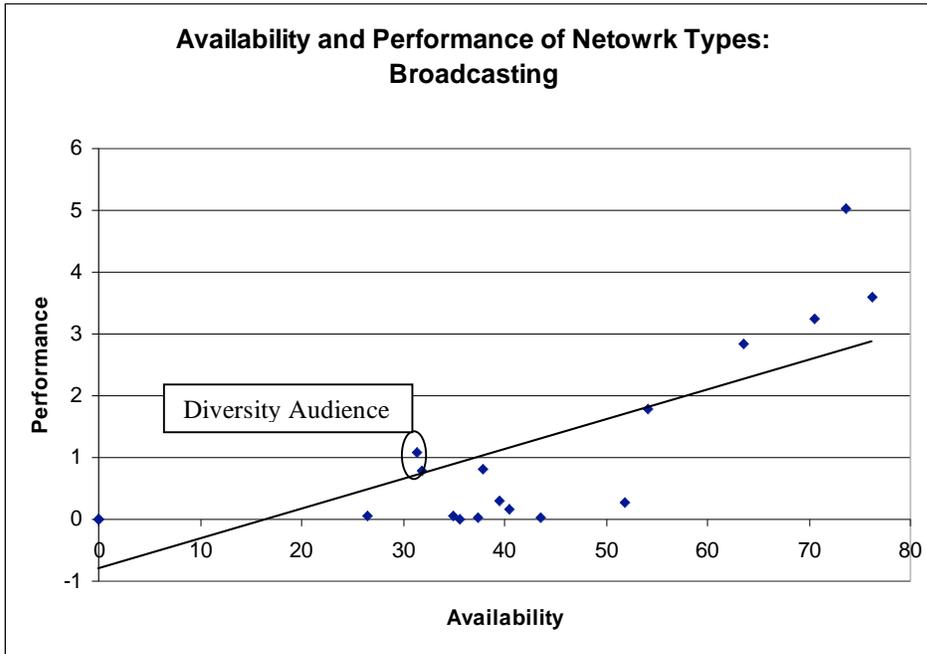
Methodology

In order to conduct the analysis, we compiled a more complete list of minority-targeted networks. This list was derived from The Alliance for Diversity in Programming (“Diversity Coalition” etc).³⁰⁰ We compiled a list of 192 minority-targeted networks and sought to find subscriber counts for as many as we could.³⁰¹ We combined this with a list of

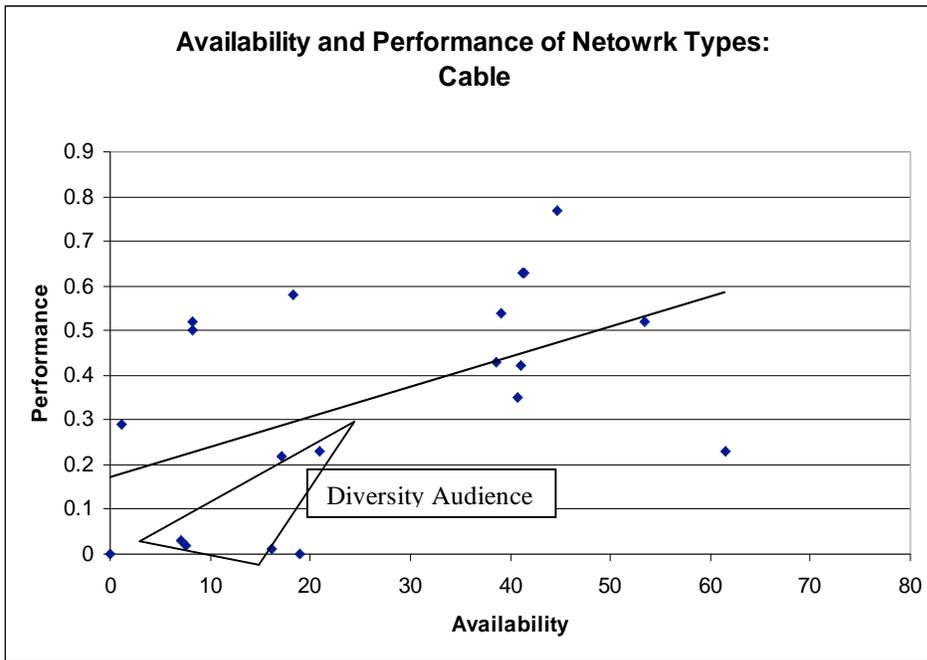
³⁰⁰ See http://www.diversitytv.org/foreign_support.html.

³⁰¹ Our list of minority-targeted networks did not include the five starred networks included in the FCC list. International networks are not included in the (“Diversity Coalition” etc) list because they are not targeted. If these networks were included, the BBC should also be included. Logo is a gay and lesbian oriented network, which has not traditionally been treated as a minority group for these policy purposes. Our list included VHUNO, but not VH1 Soul.

Exhibit XIII-4: Availability & Performance of Minority-Targeted Programs by Medium



Performance = .0409*Availability - .798;
 (.009) (.411); adjusted r-squared = .57



Performance = .0068*Availability .1677;
 (.003) (.085); adjusted r-squared = .22

Source: Gregory S. Crawford, "Television Station Ownership Structure and the Quantity and Quality of TV Programming," Federal Communications Commission, Study 3, Tables 7 and 9.

240 non-minority-targeted networks for which we had subscriber data.³⁰² The total of 440 networks is somewhat larger than the total of 362 identified by the FCC.³⁰³ The FCC chose to analyze only 192 networks for which Kagan has data, 29 of which were classified by the FCC as minority-targeted as described above.³⁰⁴

However, we were able to find subscriber data for 65 of the minority-targeted networks, over twice the number the FCC used. Even if we assume that all of the minority-targeted networks for which we could not find subscriber data have a subscriber base equal to the smallest network for which we could find data (set at 50,000), the minority-targeted networks represent about 8.4 percent of total availability, somewhat lower than the 9.9 percent in the FCC data. This difference reflects the fact that the FCC data captured all the large minority-targeted networks, but few of the small ones. The non-minority-targeted networks excluded from the FCC sample were larger than the minority-targeted ones excluded. The 21 networks included in the FCC list of minority-targeted networks that we included in our list of 192 minority-targeted networks represent about 60 percent of all minority-targeted carriage we identified (including the assignment of subscribers for missing values).

We then identified 48 DMAs, which account for approximately three quarter of the target population (78 percent of Asians and 75 percent of Blacks and 73 percent of Hispanics) (see Exhibit XIII-5). We examined the programming in the largest cable operator in each

³⁰² Screen Actors Guild, “2006-2008 Extension to the Commercials Contract Memorandum of Agreement,” Exhibit B-1: 2006-2008 Cable Unit Values (updated and additions made).

³⁰³ **Gregory S. Crawford, “Television Station Ownership Structure and the Quantity and Quality of TV Programming,” Federal Communications Commission, Study 3, p. 10.**

³⁰⁴ Id.

Exhibit XIII-5: DMAs Selected

Market Name	National Rank	Percent of National Total		
		Asian	Black	Hispanic
New York, NY	1	13.16	9.80	10.14
Los Angeles, CA	2	15.59	3.47	17.85
Chicago, IL	3	3.74	4.70	4.18
Philadelphia, PA	4	2.34	3.79	1.30
San Francisco-Oakland-San Jose, CA	5	11.60	1.25	3.41
Dallas-Ft. Worth, TX	6	2.09	2.32	3.67
Boston, MA	7	2.32	0.87	0.97
Washington, DC	8	3.34	3.81	1.36
Atlanta, GA	9	1.50	4.10	1.12
Houston, TX	10	2.29	2.48	4.17
Detroit, MI	11	1.32	2.93	0.39
Tampa-St Petersburg-Sarasota, FL	12	0.61	1.16	1.13
Seattle-Tacoma, WA	14	2.91	0.51	0.70
Miami - Ft. Lauderdale, FL	16	0.63	2.43	4.43
Cleveland-Akron, OH	17	0.44	1.49	0.23
Denver, CO	18	0.86	0.39	1.72
Orlando-Daytona Beach-Melbourne, FL	19	0.63	1.18	1.14
Sacramento-Stockton-Modesto, CA	20	2.96	0.70	2.11
St. Louis, MO	21	0.42	1.40	0.12
Baltimore, MD	24	0.70	1.99	0.15
Indianapolis, IN	25	0.32	0.74	0.19
Charlotte, NC	26	0.44	1.37	0.36
San Diego, CA	27	2.31	0.44	2.11
Raleigh-Durham, NC	29	0.51	2.00	0.43
Nashville, TN	30	0.28	0.81	0.20
Kansas City, KS-MO	31	0.38	0.69	0.30
Milwaukee, WI	34	0.39	0.77	0.37
Greenville-Spartanburg, SC-Asheville, NC	36	0.16	0.80	0.16
San Antonio, TX	37	0.24	0.32	2.78
Birmingham, AL	40	0.11	1.25	0.09
Norfolk-Portsmouth-Newport News, VA	42	0.39	1.66	0.14
Memphis, TN	44	0.20	2.02	0.11
Albuquerque-Santa Fe, NM	45	0.18	0.09	1.65
Greensboro-High Point-Winston Salem, NC	47	0.19	0.85	0.26
Jacksonville, FL	50	0.28	0.98	0.16
New Orleans, LA	54	0.30	1.63	0.17
Fresno-Visalia, CA	55	0.84	0.21	2.10
Little Rock-Pine Bluff, AR	57	0.09	0.73	0.07
Mobile, AL-Pensacola, FL	59	0.19	0.80	0.06
Richmond-Petersburg, VA	61	0.21	1.14	0.08
Tucson, AZ	70	0.20	0.08	0.91
Shreveport, LA	81	0.06	0.82	0.11
Columbia, SC	83	0.10	1.06	0.06
Jackson, MS	87	0.05	1.17	0.03
Burlington, VT-Plattsburgh, NY	90	0.07	0.03	0.03
Baton Rouge, LA	93	0.10	0.79	0.04
Montgomery, AL	117	0.04	0.76	0.02
TOTAL		78.06	74.78	73.26

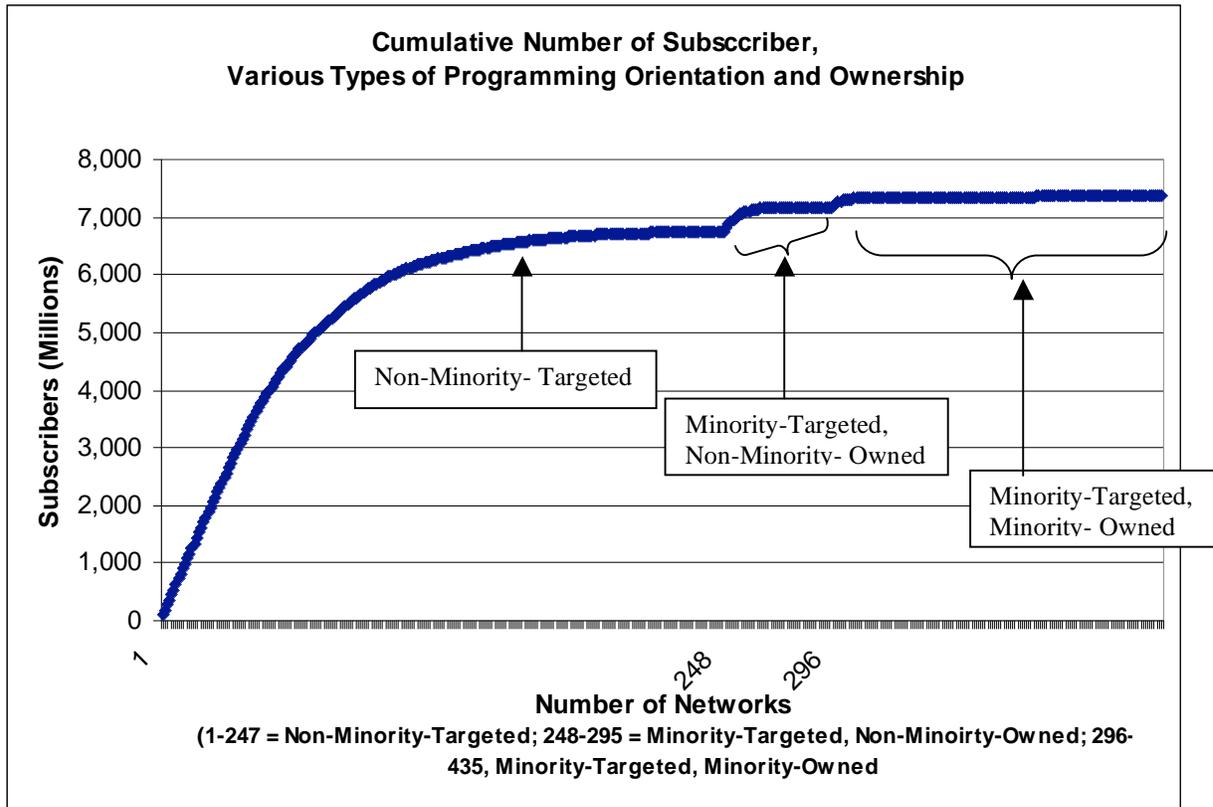
DMA (with 2 for New York, since Time Warner and Cablevision have large market shares). Again, our aggregate statistics are in accord with those of the FCC. If each of the networks were carried on each of the cable systems, we would have 9216 availabilities (192 x 48). In fact, we found only 1156 availabilities. This is 12.5% of the total possible. This is quite close to the availability in the FCC data.

Results

Although the number of minority-targeted programs is large, they only get about 8.4 percent of the carriage on cable systems. Moreover, 44 networks that are owned in whole or in part by large broadcast and cable entities account for over two-thirds (69 percent) of that carriage.

Adding the minority-owned broadcasters (Univision, Television Azteca) and assuming that all the minority-targeted networks that are not owned by cable or broadcasters, we find that 3.7 percent of the programming carried on cable systems is minority-owned, minority targeted programming (see Exhibit XIII-6). These are low single digits that parallel the

Exhibit XII-6:



problem in the ownership of broadcast outlets. About one third of the minority-owned, minority-targeted programming is accounted for by a single broadcaster – Univision.

As troubling as these results based on carriage are for cable, the above availability analysis still leaves out the problem of placement (although the subscribership numbers include subscribers on all tiers). Exhibit XIII-7 shows the results of our analysis of the placement of minority networks within tiers.

Exhibit XII-7: Availability and Pricing of Minority-Targeted Programming

TIER	AVAILABILITY	PRICE
Expanded basic	2.1%	\$49.07
Digital Basic	2.8	61.00
Digital Expanded	1.2	78.30
Digital Premium	.7	103.59
Latino Package		
As an addition	4.3	7.16
Standing alone	na	47.25
Premium	1.4	11.10
Total	12.5	

Only one sixth of the carriage that minority programming receives is in the expanded basic tier, the tier in which all of the most popular non-minority programming is carried. With approximately 74 channels in the basic plus-expanded basic tier these minority-targeted networks account for about 5 percent of the availability. Moreover, five networks, three owned by broadcasters (Univision and Galavision owned by Univision and Telemundo owned

by NBC) and one by a major cable programmer (BET owned by Viacom) account for 80 percent of the carriage in the basic tier.

In order to gain access to the vast majority of minority-targeted programming, the consumer must incur a substantial increase in cost – between \$15 and \$50 – to buy one of the larger bundles, where about half of the minority-targeted programming is found, or over \$10 to purchase programs on an a premium basis.

The most prevalent offer is a separate Latino package, but these too come at a price. The consumer can purchase a Latino package at an added cost above the package price for on average \$7.16. The only way to get a lower price for Latino-targeted programming is in combination with various elements. However, these alternatives are still expensive, costing an average of \$42.75, as shown in Exhibit XIII-8. Fifteen of the cable systems allow the consumer to purchase basic plus a digital box plus the Latino package for an average cost of \$28.16. These “savings” come at the price of not having access to the most popular non-minority-targeted programming. Fifteen of the systems will allow you to include the Latino package in their digital basic package for an average price of \$57.35. These packages are not available for the programming targeted at other minorities and many systems do not offer these alternative packages at all.

Exhibit XIII-8: Price of Alternative Packages

Number of Systems	Combination	Price
15	Digital Basic + Latino	\$57.35
15	Basic + Digital Box + Latino	\$28.16
Average		\$42.75

Every cable customer in America is forced to face the hard reality that they must pay for many channels that do not interest them in order to view the channels that do. This trend is exacerbated for those seeking to view diversity-oriented programming. We demonstrated earlier that few channels aimed at Latino, African American and Asian American audiences make it on to the basic tier of service and many of these channels require an additional per month fee, below we provide a few snapshots of what this looks like from a local cable customer’s perspective.

According to the data we compiled, the average cable consumer looking for access to diversity oriented programming beyond what is already available over broadcast (and BET) must subscribe to a digital tier of service with their cable operator. Only Latinos have the “privilege” of tacking on another monthly fee to receive a package of Spanish language channels. This means to get the popular Spanish, African American or Asian channels a consumer will be paying substantially more than a consumer looking for the popular non diversity-oriented networks. Even with an increased monthly bill a consumer is still extremely limited in what they can receive.

For example, a Comcast customer in Mobile receiving the largest package available, at a cost of \$95.99 per month, would receive only five (BET, MTV Tr3s, Starz InBlack, TV One and the Black Family Channel³⁰⁵) of the 192 diversity channels analyzed. Similarly, a Charter customer in St. Louis will receive only nine (AZN, BET, BET J, MTV Tr3s, Starz InBlack, TV One, Univision, VHUno and The Word Network) diversity channels after paying \$103.99 for the largest package. The same problem exists for a Brighthouse customer in Indianapolis, who can only receive eight (BET, BET J, Fox Sports en Español, Gol TV, HBO Latino, Starz InBlack, Univision and The Word Network) diversity channels after paying \$102.90 for the largest package. Even in a city as large and diverse as Los Angeles, a customer can only gain access to less than fifty of the channels, regardless of how much they pay per month. This picture becomes even bleaker when considering that many Americans cannot afford the most expensive package.

A Comcast customer in Philadelphia who can find the money for \$75 per month for their cable bill has the “choice” of receiving the Spanish package and broadcast basic channels or the digital basic package. The Spanish package is composed of Cine Latino, Cine Mexicano, CNN en Español, Discovery en Español, ESPN Deportes, Fox Sports en Español, The History Channel en Español, MTV Tr3s, Vene Movies, and WAPA America. In order to receive any of these channels, the customer must pass up the most popular non-minority-targeted programming such as TBS, A&E, Discovery Channel, ESPN, USA, CNN, Disney, History Channel, Comedy Central, and TNT. In order to keep the cost to the considerable sum

³⁰⁵ The Black Family Channel has ceased its cable operations, citing difficulty in getting carriage and become a purely online network.

of \$75 per month and enjoy Latino programming, the customer is forced to lose access to the most popular channels in America.

The same situation exists in Chicago and Albuquerque, among others. Not to mention that in many markets Asian Americans are left with no diversity choices at all. Our analysis of cable system's channel lineups demonstrates that cable operators use a variety of tactics, which at best give subscribers seeking diversity oriented programming a false choice at a premium price.

The Reality Behind the Numbers

Given the meager carriage available for independent, minority-owned, minority-targeted programming and its placement in expensive tiers, it is not surprising to find complaints about the lack of carriage among the producers in this group. Minority owners of minority-targeted programming recognize that they are severely disadvantaged in gaining carriage.

Hispanic Information & Telecommunications Network CEO Jose Rodriguez says, "Current video platform companies want minority channels and networks that do get on television to be placed in a digital ghetto. We are being put in a high-numbered tier where members of minority communities have to pay extra to be able to view desired minority channels."³⁰⁶

"Cable operators tell us they need compelling programming to compete. However, from the MSO perspective, it is getting crowded," SÍTV chief operating officer Leo Perez said. "There is room on the bus, but the ticket is expensive"

With its distribution stuck at under 4 million subscribers for the last two years, LATV has been forced to take another tack. "We have content that has had critical success, with our audience, [but] we haven't been able to translate that

³⁰⁶ "Blacks Support Congress Bill for Fairness in Television Opportunities," DogonVillage.com, Available at http://www.dogonvillage.com/african_american_news/Articles/00000482.html.

into a national audience,” said network president Daniel Crowe. “We are now learning the best way to get through this distribution labyrinth.”³⁰⁷

The cost is expensive prices for the consumer who must buy the digital tier where programming gets placed and the producer, who faces the need to give equity ownership in programming to get carriage.

BFC is one of six channels targeting African-Americans that have launched in the last 10 years. And as Black History Month begins nearly all of them have yet to crack the 25 million subscriber mark. The exception is TV One, a service born with investments from DirecTV and Comcast Corp.

Indeed, Bob Reid, EVP and general manager of one-year-old The Africa Channel, says that one of his biggest surprises in moving over from a gig heading the Discovery Health Channel was learning how difficult the distribution game has become.³⁰⁸

"The landscape is intensely difficult right now," says Cathy Rasenberger, a consultant to many start-up networks. "There are still networks getting launched, but in fewer and fewer categories."

"Their cable network strategy has been put on the back burner because it's just too hard to get distribution right now," she says. "You need an equity partner these days among the distributors, and there aren't that many guys that will take an equity interest."³⁰⁹

The advantage enjoyed by affiliated programming is evident to independent content producers.

"Today, if you want to start a cable network, it might be easier to schedule a ride to the moon," says Rick Newberger, chief executive of the Black Family Channel.

³⁰⁷ Luis Clemens, “Cable Channels Vie For Young Latino Audiences,” *Multichannel News*, February 13, 2006, Available at <http://www.multichannel.com/article/CA6306527.html>.

³⁰⁸ Janet Stillson, “Mainstream Dreams,” *CableWorld*, February 5, 2007, Available at <http://www.cable360.net/cableworld/programming/networks/21894.html>.

³⁰⁹ “Are Independents’ Days Over?” *CableWorld*, June 20, 2005, Available at <http://www.cable360.net/cableworld/business/deals/16282.html>.

The Black Family Channel was repeatedly denied carriage by cable and satellite operators, who cited a lack of community interest in its programming

Many cable and satellite operators believed viewers had enough African-American programming from channels like BET, and another African-American channel called TV One.³¹⁰

Conclusion

The state of minority-targeted programming on cable parallels the state of minority ownership of broadcast outlets – it is dismal. Minority-targeted programming is vastly underrepresented in availability and more expensive, where it is available. Large media companies and non-minority owners dominate the available programming. Thereby, depriving cable consumers of innovative minority focused programming on the primary outlet for video in America.

Respectfully submitted,

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³¹⁰ Bobby White, “TV Channels Move to Web, Think Outside the Cable Box,” *Wall Street Journal*, August 10, 2007, Available at <http://online.wsj.com/article/SB118670346621793681.html>.