Before the
Federal Communications Commission
Washington, D.C. 20554

2006 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 06-121
2002 Biennial Regulatory Review	)	MB Docket No. 02-277
Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	MM Docket No. 01-317
Definition of Radio Markets	)	MM Docket No. 00-244
Ways to Further Section 257 Mandate and To Build on Earlier Studies	)	MB Docket No. 04-228

FURTHER REPLY COMMENTS OF CONSUMERS UNION, CONSUMER FEDERATION OF AMERICA AND FREE PRESS

Gene Kimmelman
Vice President for Federal and International Policy
Consumers Union
1101 17th Street, NW Suite 500
Washington, DC 20036
202-462-6262

Mark Cooper
Director of Research
Consumer Federation of America
1424 16th Street, NW Suite 310
Washington, DC 20036
301-384-2204

Ben Scott
Policy Director
Free Press
501 Third Street, NW, Suite 875
Washington, DC 20001
202-265-1490

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Introduction

The Consumer Federation of America, Consumers Union and Free Press respectfully submit these reply comments in the above captioned proceeding. The big media corporations have fallen victim to the FCC's research scam.[1] Because they heard an answer they liked, rather than scrutinize the FCC analysis, they have simply regurgitated the results of the FCC. As a result, their comments add nothing of value to the record. Our complete refutation of the FCC analysis stands unscathed. Indeed, the big media companies have failed to notice that for the first time in 30 years, the ban on newspaper-TV cross ownership stands on a rock solid foundation of scientific analysis.

Cross-ownership reduces the amount of news available and does not increase the number of TV News voice in the market[2]

The big media corporations have been mislead by the failure of the FCC studies to conduct an analysis of the impact of newspaper-TV combinations at the market level, which is the correct level of analysis. At the market level, the claim that newspaper-TV cross-

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[1] Unless otherwise noted, all references are to the initial comments on the FCC's research studies. *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 22, 2007.

[2] See the following for statements along these lines, Comments of Belo Corp, pp. 4-7, Comments of Bonneville International Corporation, pp. 4-5, Comments of Media General, pp. 3-12, Comments of Morris Communications Company, pp. 6-11, Comments of Newspaper Association of America, pp. 9-11, Comments of National Association of Broadcasters, pp. 4-8; These issues are dealt with in the Comments of Consumers Union, Consumer Federation of America, and Free Press ("Comments of CU, et al.") at Study IV and Part III.

ownership serves the public interest is thoroughly rejected by a rigorous statistical re-analysis of the FCC's data.

Contrary to the claims that newspaper-TV combinations produce more news, we have shown definitively that markets where such combinations exist have less news and do not have more voices producing broadcast TV news. The markets where such combinations have been in place for a long period of time – the grandfathered markets – have consistently less news and fewer broadcast TV news outlets.

Stations that have been cross-owned for a long period of time exhibit bias in reporting[3]

The only analysis that makes sense at the station level is the analysis of bias. Here, too, the claims of the big media corporations that cross-ownership does no harm are refuted. Re-analyzing the variables that are reasonable measures of slant – the amount of time that candidates are shown speaking on the news or the coverage of candidate campaigns – we show a clear pattern of bias among the grandfathered stations.

Thus, looking at the long term effects of newspaper-TV cross-ownership, the FCC's own data demonstrates that the TV news market does not have more voices, has less total news output and the cross-owned TV stations slant the news in favor of Republicans.

[3] See the following for statements along these lines, Comments of Belo Corp, pp. 8-10, Comments of Bonneville International Corporation, pp. 4-5, Comments of Media General, pp. 10-11, Comments of Morris Communications Company, p. 7, Comments of Newspaper Association of America, pp. 16-18, Comments of National Association of Broadcasters, pp. 8-10; These issues are dealt with in the Comments of CU, et al. at Study IX and X.

Stations that have been cross owned for a long period of time exhibit a clear pattern of a coordinated point of view between their editorial position and the slant of their news coverage[4]

Because the big media corporations failed to exercise objective judgment in parroting the FCC's erroneous analysis, they have also failed to correctly analyze the question of the coordination of slant between the newspaper and TV properties in a combination. Thus, Belo claims that Study 6 shows there is no coordination of viewpoints or opinions. The statement is incorrect and not supported by the results of the study.

The Study 6 analysis that addresses the question of a correlation between the editorial positions of the newspaper and the political slant of the cross-owned stations shows a consistent positive relationship. All of the coefficients are positive and larger than their standard errors (see Exhibit 1). Two of them are statistically significant.

Exhibit 1: Editorial Endorsement and Political Slant of Cross-Owned Stations

	Difference in Candidate Speaking Time		Difference in Candidate Coverage	
	Models		Model	
	4	5	4	5
Endorsement in 2004	6.3*	5.5*	5.1	4.0
(1=Kerry, Bush=-1)	(1.90)	(1.77)	(0.83)	(0.65)

Of course, these results are embedded in the incomplete statistical model that was operationalized in Study 6. Exhibits 2 and 3 present the analysis of the coordination

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[4] See the following for statements along these lines, Comments of Belo Corp, pp. 8-10, Comments of Bonneville International Corporation, pp. 4-5, Comments of Media General, pp. 10-11, Comments of Morris Communications Company, p. 7, Comments of Newspaper Association of America, pp. 16-18, Comments of National Association of Broadcasters, pp. 8-10; These issues are dealt with in the Comments of CU, et al. at Study IV and X.

hypothesis in the fully corrected specified statistical models presented in our earlier comments. Our analysis presented below establishes the proceeds in the manner of Study 6's models 1 and 5. We capture the difference between waived and grandfathered stations by running the statistical models in the two subsets of markets.

The results confirm the earlier conclusion and add the critical nuance in the relationship. The cross-owned grandfathered station exhibit a much larger and statistically significant correlation between the editorial position and the political slant variables.

We must, of course, caution the reader here that the independent variable suffers from the fundamental flaw that pervades the Study 6 analysis. It used 2004 election year characteristics to predict 2006 election year behavior. With that caveat, Study 6 contradicts the claim that there is no bias.

Moreover, this finding takes on particular importance because it is the only statistically valid evidence in the record on the "coordination" hypothesis and it refutes the claim of a lack of coordination or slant that was made on the basis of the anecdotal study of slant the FCC commissioned in 2002.

Exhibit 2: Editorial Endorsement and Candidate Speaking Time

Difference in Candidate Speaking Time	Waived Markets Only	G'fath Markets Only	All XO Markets	Waived Markets Only, w/ Controls	G'fathd Markets Only, w/ Controls	All XO markets, w/ Controls
kerry	1.6789	10.0107	5.8514	1.7225	11.5245	7.612
	[2.3089]	[5.4315]*	[3.6197]	[3.1753]	[6.2059]*	[3.5468]**
parentcover				0.3368	0.3796	0.253
				[0.2504]	[0.3134]	[0.1717]
networkowned				-9.2873	-11.7325	-7.8756
				[5.2662]*	[9.2086]	[4.5616]*
abc				-0.2481	-1.9972	4.1071
				[5.7038]	[6.4303]	[6.6901]
cbs				-4.6167	-2.5041	3.2719
				[6.9001]	[6.9598]	[7.3131]
fox				7.7502	9.1505	9.5185
				[3.9772]*	[6.2276]	[3.7646]**
nbc				-3.6828	-4.4004	2.3908
				[6.8365]	[7.8477]	[7.6840]
vhf				-3.8792	-0.0126	-0.5398
				[8.5318]	[3.9944]	[2.9966]
age				-0.1502	-0.1038	-0.1479
				[0.2668]	[0.1343]	[0.1137]
duopoly				-2.706	2.5062	2.8489
				[2.2476]	[5.0571]	[3.1208]
sta_locown				2.6747	3.8011	3.0448
				[2.5335]	[3.6025]	[2.6255]
mkt_hhirev				-0.0056	-0.0023	0.01
				[0.0054]	[0.0025]	[0.0040]**
Observations	90	204	312	90	204	312
Adjusted R-squared	0.01	0.05	0.04	-0.07	0.01	0.03
Hour Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Date Fixed Effecct?	Yes	Yes	Yes	Yes	Yes	Yes
Time Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Market Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes

Robust standard errors in brackets (clustered on station)
* significant at 10%; ** significant at 5%; *** significant at 1%

Exhibit 3: Editorial Endorsement and Candidate Coverage

Difference in Candidate Coverage	Waived Markets Only	G'fath Markets Only	All XO Markets	Waived Markets Only, w/ Controls	G'fathd Markets Only, w/ Controls	All XO markets, w/ Controls
kerry	-12.8893	16.7348	5.2085	-2.1761	18.8145	10.1671
	[6.1736]**	[9.0895]*	[6.7399]	[5.6111]	[9.8255]*	[6.9224]
parentcover				0.9027	0.6473	0.4747
				[0.3339]**	[0.6814]	[0.3558]
networkowned				-9.9087	-30.243	-20.7807
				[7.5332]	[20.3630]	[10.5379]*
abc				10.2078	8.781	16.875
				[13.0424]	[18.6335]	[15.9249]
cbs				-3.1422	16.536	21.0341
				[15.7746]	[19.7555]	[16.8014]
fox				30.7421	12.9249	24.865
				[3.7374]***	[15.2089]	[9.5760]**
nbc				-1.1503	21.5201	26.7827
				[14.8802]	[20.9019]	[17.8639]
vhf				5.0322	4.2666	2.643
				[10.7956]	[13.9724]	[9.8328]
age				-0.7344	-0.6735	-0.8194
				[0.2514]***	[0.4095]	[0.3134]**
duopoly				-0.4611	3.7477	4.464
				[3.7108]	[14.5885]	[8.3248]
sta_locown				6.1872	8.6834	9.9366
				[5.5587]	[7.1237]	[5.7763]*
mkt_hhirev				-0.0122	-0.0058	0.0101
				[0.0079]	[0.0051]	[0.0063]
Observations	90	204	312	90	204	312
Adjusted R-squared	0.16	0.04	0.05	0.18	0.03	0.06
Hour Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Date Fixed Effecct?	Yes	Yes	Yes	Yes	Yes	Yes
Time Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes
Market Fixed Effects?	Yes	Yes	Yes	Yes	Yes	Yes

Robust standard errors in brackets (clustered on station)
* significant at 10%; ** significant at 5%; *** significant at 1%

The evidence on usage shows that the traditional mass media remain the overwhelmingly dominant source of local news and information[5]

The big media corporations have failed to comprehend the demand-side data just as thoroughly as they misinterpret the supply-side analysis. The survey of usage patterns does

[5] See the following for statements along these lines, Comments of Morris Communications Company, p. 4-6, Comments of Newspaper Association of America, pp. 5-8, Comments of National Association of Broadcasters, pp. 33-35; these issues are dealt with in the Comments of CU, et al. at Study V and VI.

not demonstrate that the central role of traditional mass media has been eliminated by the growth of alternative media. To the contrary, the data shows overwhelmingly that the traditional mass media remain thoroughly dominant as sources of local news and information.

The only way one can make the claim that alternative sources of local news and information are "in the same league" as traditional mass media is to ignore the FCC's data entirely.[6] We reiterate the basic findings:

> **89 percent of respondents say the traditional media are both the first and second most important source of local news and current affairs. In contrast, only 3 percent of respondents say alternatives are their first and second most important source of local news and current affairs.**
>
> **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 the use alternative media for local news and current affairs, only 1 percent say they use only alternative media.**

Forty six times as many respondents say they rely solely on traditional media for news and current affairs as rely solely on alternative media and 30 times as many respondents say traditional news are the first and second most important source of local news and current affairs as say alternative media play that role. It is certainly true that ten years ago these alternatives probably had no such role, but the alternatives have barely begun to diminish the dominant role of the traditional media as sources of local news and current affairs.

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[6] Comments of Morris Communications Company, p. 5.

The performance of broadcast television in providing coverage of elections has been abysmal[7]

The big media corporations have aped the FCC in its failure to note how poor the performance of the broadcast media has been in covering the elections. Elated to find that individual stations provide 10% to 20% more news, they fail to note that this constitutes a minuscule addition. On average, the stations analyzed in Study 6 provided a scant 3 minutes of state and local politics news coverage per broadcast. The amount of coverage of state and local politics provided by cross-owned stations was statistically significant in some but not all of the original runs. The increment was 25 to 50 seconds. However, when we reexamined these models using some of the critiques raised by peer reviewers and adding important missing variables such as station age, the effect on seconds of state and local politics by the cross-ownership variable was not statistically significant.

Because Study 6 was improperly framed, we do not know whether the presence of cross-owned stations results in more state and local political news coverage in the market (since no comparison markets were included in the study). Given the other evidence that in the long term total news in markets with cross-ownership is lower, that owners slant their political coverage and that there is coordination between the editorial leaning and the slant of coverage, this feeble result is not a grounds for relaxing the cross-ownership ban.

[7] See the following for statements along these lines, Comments of Belo Corp, pp. 4-5, 9, Comments of Bonneville International Corporation, p. 4, Comments of Media General, pp. 10-11, Comments of Morris Communications Company, pp. 6-7, Comments of Newspaper Association of America, p. 10, Comments of National Association of Broadcasters, p. 5; these issues are dealt with in the Comments of CU, et al. at pp. 213-15.

The claim that these studies prove the cross-ownership ban "harms localism" is incorrect[8]

The recent FCC studies failed to address the basic definition of localism that the research at the Commission had begun to explore in 2003-2004. The coverage of local events – measured by the geographic focus of the story and the production of on location news – has disappeared from the FCC research agenda. The two studies that allow for a proper market level analysis (Studies 3 and 4.1) relied on program guides and made no attempt to assess the local content of the newscast. Indeed, Study 4 includes national content in its news output variable.

Study 6, which cannot support a market level analysis, provided broad categories of news, which covered, at best, both state and local content. It made no attempt to provide geographic specificity to the local news variable, nor did it evaluate on location production of news. In short, the FCC abandoned the most direct measures of localism.

Given the history of cross-ownership, the local ownership variable provides some insight here. It is the large chains that are pushing for the repeal of the ban and that means the properties are not likely to be locally owned, yet our re-analysis of the data shows that local ownership is associated with more local news production.

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[8] See the Comments of National Association of Broadcasters, p. 10.

The suggestion that the recent FCC studies deserve special treatment because they are objective and consistent with the "literature" is false.[9]

Some commenters claim that the recent FCC studies provide an objective and scientific assessment of the fact is simply wrong. The FCC's research agenda was thoroughly biased, its implementation of the studies was clandestine and the peer review process was not transparent. Because it failed to follow proper scientific procedure and an open planning process, the studies are badly flawed. The big media corporations make the mistake of uncritically pointing to the same third party studies that several of the FCC study authors rely upon. Our careful analysis of those studies shows that they are fatally flawed, flaws that have been incorporated into the FCC studies.

[9] [9] See the following for statements along these lines, Comments of Belo Corp, pp. 2, Comments of Media General, pp. iii, Comments of Newspaper Association of America, p. 3, Comments of National Association of Broadcasters, p. 2; these issues are dealt with in the Comments of CU, et al. at Study II and III.

The Evidence Clearly Demonstrates that Increased Market Concentration Leads to Lower Levels of Female and Minority Broadcast Ownership: The Attack on this Basic Empirical Fact by the Center for Regulatory Effectiveness is Baseless

In their reply comments the Center For Regulatory Effectiveness (CRE) baselessly attacks the Consumer Groups assertion that ownership concentration lowers the opportunities for female and minority broadcasters. In their filing titled "Consumers Union et. al. Has Not Demonstrated a Link Between Market Concentration and Minority/Female Station Ownership", **CRE offers a theory, but no evidence to support it**. But in our filings in this proceeding, we offered not only a theory as to why consolidation diminishes the level of female and minority ownership, **but we offered actual empirical data that provides irrefutable evidence of the harms that market concentration causes to female and minority owners.**

CRE's reading of the Consumer Group's theory is incorrect. CRE offers a theory that can be described as "a rising tide lifts all boats" (they assert that consolidation is good for minority owners because it increases the value of their stations). The truth supported by the data is -- a rising tide lifts only the biggest boats, and sinks the small boats that are tied to the moor.

Because CRE has misstated our theory, we will restate it. Increased market concentration artificially increases the value of stations, *but only those stations* that can take advantage of the artificial economies of scale that are created by large-scale industry consolidation. For female and minority owners, who are far more likely to be single station owners, the value of their asset is not increased as an asset they can continue to *hold*, but as an acquisition target for the large station group owners. Increasing market concentration thus forces current female and minorities out of the market by making them easy targets for acquisition. Consolidation also raises further barriers to entry for female and minority companies, because they can't, in many cases, enter the market by buying a single station; they need to purchase station groups in multiple markets just to be able to compete. Because of the established record of discrimination in capital markets, this high barrier to entry is virtually impossible to overcome for new female and minority entrants. But theory aside, **the empirical data is unassailable -- there is a direct and strong connection between the level of market concentration and the level of female and minority ownership.** As the data shows, **as markets become more concentrated the probability that a given market will have a female/minority owner or that a given station will be female/minority owned drops sharply.**

CRE offers a theory that is unsupported by the evidence. And though they attack our theory, **CRE did not attempt to refute our empirical evidence**. The evidence we put into the record stands, having not been critiqued by any commenter in this proceeding.

CRE also uses statistical trickery to incorrectly assert that there has been and increase in minority ownership. CRE asserted that the Consumer Groups' data showed an increase in minority ownership. However, our data showed the opposite. CRE was able to claim an increase by pointing out the absolute increase in the number of minority owned television stations from 1998 to 2006 (as shown on page 68, Figure 13 of our filing in the *Second Further Notice*). However, what CRE failed to point out was that **the total number of *all* TV stations increased over this time. The *level* of minority TV station ownership actually decreased from 3.31 percent in 1998 to 3.26 percent in 2006**. Furthermore, as we pointed out in our initial comments, the data from 1998 that this number is based on is *a floor*. This figure was generated using the list of minority owners produced by NTIA in 1998 and augmenting that list with current minority owners who were missed by NTIA's survey. Thus it is completely possible that there were other minority owners missed by NTIA in 1998 that sold before 2006 and were thus missed in our attempt to correct the 1998 data. Therefore it is likely that the drop in the level of minority TV ownership in recent years was even more pronounced than we estimated.

Finally, CRE's asserts that the evidence offered by the Consumer Groups in this proceeding does not meet OMB Data Quality act and thus should be ignored by the Commission. This is simply absurd. The Consumer Groups are not a governmental agency and thus evidence we put in the record is not subject to the DQA. Under CRE's reading of the law, the Commission would have to ignore nearly *all* of the evidence in this record. This extreme and incorrect reading of the law should be rejected out of hand. Evidence offered by the Consumer Groups and others in this proceeding should be given the weight it deserves.

Conclusion

The record in this proceeding is clear. Media consolidation has been a disaster for localism, competition and diversity. Gutting the few remaining rules is clearly not in the public interest. Though the 10 Media Ownership Studies were constructed in a secretive and biased environment, with the authors often missing important variables and asking the wrong policy questions, the underlying data is of value.

Using the data from the 10 studies and implementing the substantive critiques of the peer reviewers we find that:

- Though the Commission has claimed that cross-owned stations do more local news, the FCC's own data reveal that **<u>Markets</u>** with cross-owned stations produce <u>less</u> <u>total minutes</u> of local news, a result that is even <u>more</u> pronounced in smaller markets.
- Higher levels of <u>local</u> ownership lead to more local news at the market level.

- Increasing market concentration decreases the production of local news at the market level.
- Locally owned so-called “Big 4” affiliates produce more local news than their non-locally-owned counterparts.
- Cross-owned stations aired less hard local news in the days leading up to the 2006 elections.
- Cross-owned stations, particularly grandfathered combinations, exhibited biased political coverage in the days leading up to the 2006 elections.
- Traditional media continues to be the overwhelmingly dominant source for local news and information, and the Internet and cable alternatives have yet to emerge as even a minor competitive threat.
- There is no evidence to suggest that the removal of the rules will have any financial benefit in the medium and small sized markets where stations are claiming poverty.

We strongly urge the Commission to pay attention to the facts in the record, which lead to only one conclusion: the current ownership rules remain vital to serving the public interest.

Respectfully submitted,

S. Derek Turner
Free Press
501 Third Street NW, Suite 875
Washington, DC 20001
(202) 265-1490

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