

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the matter of )  
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Media Bureau Data Review ) MB Docket No. 10-103  
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**COMMENTS ON REVIEW OF MEDIA BUREAU DATA PRACTICES  
FROM THE NEW AMERICA FOUNDATION**

**August 13, 2010**

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**INTRODUCTION**

The New America Foundation’s Media Policy Initiative (“MPI”), part of the Open Technology Initiative (“OTI”), respectfully submits these comments in response to the public notice issued by the FCC’s Media Bureau entitled *Comments on Review of Media Bureau Data Practices*.<sup>1</sup> The Notice proposes an examination of the Bureau’s current processes related to the collection, analyses and dissemination of data.

New America’s OTI program promotes affordable, universal and ubiquitous communications networks through partnerships with communities, researchers, industry, and public interest groups. The MPI program, which is part of OTI, develops ideas concerning the media and technology of the 21st century and is currently engaged in a broad effort in developing creative and critical responses to the challenges facing the media. Both initiatives combine smart strategies across government and the nonprofit and for-profit sectors to support media and revive the democratic role of the press in America. For that reason, we recognize and appreciate the agency’s reform agenda to improve its fact-based, data-driven decision making processes that will undoubtedly shape communication policy in the future.

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<sup>1</sup> Public notice, DA 10-1195, MB Docket No. 10-103 (rel. June 29, 2010).

The following addresses the Bureau's practices for collection, use, analysis and dissemination of data, and encompass four broad areas for the Bureau's consideration:

- *The utility and rationale for each of its existing and potential data collection sets*
- *The need for additional data that the Bureau needs to inform Commission policymaking activities*
- *Improved collection and analysis processes for existing collections*
- *Consideration and adoption of Open standards to share the reports it produces to the public*

As the policy-making process becomes increasingly more data-driven, procuring timely and substantive information is crucial. The following provides recommendations on this process, which informs communication policy-making specific to the media environment within the U.S. We also recommend that the FCC adopt and promulgate the eight Open Government Data Principles as outlined by a group of Open Government advocates and leaders, including the FCC's Greg Elin, Carl Malamud, and many other leaders in the field. We consider these data principles a normative standard in the spirit of openness and information for a healthy information ecosystem.

Government data shall be considered open if it is made public in a way that complies with the principles below:

1. [Complete](#): *All public data is made available. Public data is data that is not subject to valid privacy, security or privilege limitations.*
2. [Primary](#): *Data is as collected at the source, with the highest possible level of granularity, not in aggregate or modified forms.*
3. [Timely](#): *Data is made available as quickly as necessary to preserve the value of the data.*
4. [Accessible](#): *Data is available to the widest range of users for the widest range of purposes.*

5. [Machine processable](#): *Data is reasonably structured to allow automated processing.*
6. [Non-discriminatory](#): *Data is available to anyone, with no requirement of registration.*
7. [Non-proprietary](#): *Data is available in a format over which no entity has exclusive control.*
8. [License-free](#): *Data is not subject to any copyright, patent, trademark or trade secret regulation. Reasonable privacy, security and privilege restrictions may be allowed.*<sup>2</sup>

## I. THE UTILITY AND RATIONAL FOR EACH OF ITS EXISTING AND POTENTIAL DATA COLLECTION SETS

Historically, the federal government's data collection reflects a basic, yet robust set of conditions ranging from American life to information regarding the infrastructure and activities of regulated industries. Most recently, policymakers and the courts are increasing their demand for sophisticated empirical research to aid in the drafting of communications policy. Thus, it comes to no surprise that the collection and analysis of quantitative data has become a focal point in the policymaking process.

A 2009 Knight Commission report from the Knight Foundation states, "[t]he digital age is creating an information and communications renaissance. But it is not serving all Americans and their local communities equally. It is not yet serving democracy fully."<sup>3</sup> The past few years have been a time of rapid and continuing transition in the provision of information needed by communities. The report highlights three important elements to consider when measuring the information needs of communities:

- The availability of relevant and credible information to all Americans and their communities;<sup>4</sup>
- The capacity of individuals to engage with information;
- Individual engagement with information and the public life of the community.

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<sup>2</sup> See "Open Data Principles". [http://wiki.opengovdata.org/index.php?title=Main\\_Page](http://wiki.opengovdata.org/index.php?title=Main_Page).

<sup>3</sup> See Knight Foundation. *Informing Communities: Sustaining Democracy in a Digital Age*. (2009)

<sup>4</sup> *Id.*

In the past, the FCC has often relied on proprietary or confidential data and centered overwhelmingly on the production of information. The information needs highlighted in the Knight Commission report includes the importance of access to and engagement with the most useful information to encourage vibrant civic life and participation. This includes using data to fully take advantage of municipal services and participate in government. One of the benefits of a healthy information system is that it considers everyday citizens and their daily information needs, an important consideration that helps to not only sustain our democracy in our increasingly digital age but also create more efficient municipalities.

## **II. THE NEED FOR ADDITIONAL DATA THAT THE BUREAU NEEDS TO INFORM COMMISSION POLICYMAKING ACTIVITIES – DETERMING LOCAL INFORMATION ASSETS**

While current agency data cover a range of information needs, additional qualifiers outlined by the Knight Commission Report suggest that widening the data sets will not only help to measure conditions of a healthy democratic community, but help to sustain it. Beyond currently attained data collections (i.e. broadband adoption rates), we encourage the agency to consider additional data collection discussed below. This includes: new media resources (i.e. blogs, streaming radio, online video etc.) and details of local media ownership.

In order to determine such key factors as the variety, origination, and circulation of information in a community, researchers will benefit from data that identifies the owners of local information assets, including broadcast licenses, spectrum licenses, and telecommunications infrastructure. In its 2006 Quadrennial Review, the FCC came under heavy criticism from numerous groups for its failure to adequately track broadcast ownership by women and people of color.<sup>5</sup> In response, the FCC recently made changes to the collection of data on minority and female ownership of broadcast stations, including expanding filing requirements to all full power commercial broadcast stations,

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<sup>5</sup> See, e.g. Comments of Free Press et al. filed MB Dkt 06-121 (Oct. 22, 2006). See also Derek Turner and Mark Cooper, *Out of the Picture 2007: Minority and Female TV Station Ownership in the United States*, Free Press (October 2007) <http://www.freepress.net/files/otp2007>.

removing exemptions for sole proprietorships and partnerships of natural born persons, adopting a uniform filing date, and implementing data quality and accessibility procedures.<sup>6</sup> These reforms are crucial (and long awaited) improvements, however, implementation of these changes have been stalled for technical reasons.<sup>7</sup>

We are pleased that the FCC has recently announced that these problems have been reconciled and that broadcasters have updated ownership.<sup>8</sup> The Commission has made recent strides in collecting such information; however it can contribute further to these efforts by gathering precise data and making them maximally accessible to the public. The agency should make the above data widely available, restoring the traditional presumption to share data wherever possible. As recommended in the National Broadband Plan, the FCC “should have a general policy of making the data it collects available to the public.”<sup>9</sup> In circumstances where competitive considerations preclude wide dissemination of the data, the FCC should institute procedures that enable outside researchers to access confidential data. These measures will strengthen various efforts to assess and improve the health of local information ecologies.

### **III. IMPROVED COLLECTION AND ANALYSIS PROCESSES FOR EXISTING COLLECTIONS – RE-EXAMING THE DIVERSITY INDEX (DI)**

A critical function of the FCC lies in its ability to collect and analyze data regarding media information sources available to the public, as well as the means of access in a given community. Not only do such assessments supply outside researchers and the public with important information, but data collection and analysis are also necessary to make reasoned and informed regulatory decisions. Both the courts and federal statutes, such as the Data Quality Act, place rigorous demands on agencies to justify their

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<sup>6</sup> Promoting Diversification of Ownership In The Broadcast Services, Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 09-33 (rel. May 5, 2009).

<sup>7</sup> Public Notice, Media Bureau Announces Revised Form 323 Will Be Available Online On April 9,2010, And Set New Filing Deadline Of July 8, 2010, filed MB Dkt, 07-294 (April 9, 2010).

<sup>8</sup> *Id.*

<sup>9</sup> National Broadband Plan, *supra* note 1, at 44.

decisions on the basis of their evidentiary record.<sup>10</sup> The Commission has made recent strides in collecting such information; however, it can contribute further to these efforts by gathering precise data and making them maximally accessible to the public.

In terms of the types of analysis that can most effectively guide policy making and policy analysis in this area, we believe the focus should be on developing thorough and rigorous typologies of journalistic resources that can facilitate future data gathering. That is, analyzing the quantity and quality of various forms of content is no longer a practical option in today's highly fragmented media environment. What can be done, however, is for the Commission to gather, at the local market level, detailed information about the number of individuals engaged in various forms of journalism, the percentage of their time devoted to such activities, and, importantly, the amount of financial resources that are being devoted at the local level to these various journalistic activities.

A solution we encourage the Bureau to re-examine is its Diversity Index (DI). The Commission created the Diversity Index to serve as a guide in assessing the status of local media markets and the appropriateness of permitting further ownership consolidation within these markets. The Commission's Diversity Index had as its basis the well-known Herfindahl-Hirschman Index (HHI), which measures market concentration via summing the squared market shares of each firm in a market. The Diversity Index extended and modified the HHI in a number of ways. The FCC described the methodology as follows:

*“In terms of calculating the Index, within each medium we combine commonly-owned outlets and calculate each owner's share of the total availability of that medium. We then multiply that share by the share of the medium in question in the total media universe (television plus newspaper plus radio plus Internet). Once these*

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<sup>10</sup> See Philip M. Napoli & Michelle Seaton, Necessary Knowledge for Communications Policy: Information Asymmetries and Commercial Data Access and Usage in the Policymaking Process, 59 FED. COMM. L.J. 295, 298-299 (March 2007) (“many observers of the policymaking process have identified a continued trend toward a greater reliance upon empirical research as part of a greater “rationalization” of policy decision making.”) (“Necessary Knowledge”). See also Administrative Procedure Act, 5 U.S.C. § 553 (2007); see also Data Quality Act (uncodified but contained in Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452 (2002).

*shares in the overall “diversity market” have been calculated, we add together the shares of properties that are commonly-owned (e.g., a newspaper and a television station), square the resultant shares, and sum them to get the base Diversity Index for the market in question.”*<sup>11</sup>

This description merits some clarification. First, as is indicated above, an owner’s holdings in each medium (television, newspapers, radio, and the Internet) are first computed separately, with an owner’s “share” of a particular medium calculated in terms of the proportion of the available outlets that the owner controls (thus, for instance, a firm owning two of the six television stations in the market would have a 33.3% share). Then, the owner’s share for each medium is weighted separately, with the weights being derived from a consumer survey in which respondents were asked to identify their primary sources of local and national news, and to assess the importance of different media as news sources. Specifically, the weights were derived from a survey question in which respondents were asked which types of media they had utilized for obtaining news and current affairs within the past seven days. Thus, for instance, 57.8% of respondents claimed to have utilized television to obtain news and current affairs within the past 7 days. Based on these responses, the weighting scheme employed for the media included in the Diversity Index was as follows: television—57.8%; newspapers—25.8%; radio—0.3%; Internet—6.1%.<sup>12</sup>

The weighting process would then be employed, with, for example, the 33.3% share of the broadcast television market described above multiplied by 57.8 (the weighting score for television)— and so on for each medium—to determine that firm’s share of the “diversity market.” Once this process had been completed for all of the holdings of each firm in the market, each firm’s total share was squared, then summed (following the HHI methodology) to produce the Diversity Index for that market. Based in part on the conclusions derived from employing this index in the analysis of a sample of media

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<sup>11</sup> Federal Communications Commission (2003). 2002 Biennial Regulatory Review, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd. 13620.

<sup>12</sup> *Id.*

markets, the Commission concluded that the bulk of its ownership regulations could be substantially relaxed.<sup>13</sup>

The direct relevance of the Commission's Diversity Index to broader efforts to understand local media ecosystems arises primarily from the introduction of the notion of assessing the "diversity importance" of different information sources.<sup>14</sup> As Napoli and Gillis noted at the time, "*the long-term importance of the Commission's Diversity Index ultimately may not be in its continued application to policy questions . . . but in the extent to which the introduction of the index into the official media policy dialogue essentially has opened the door to a wider array of areas of inquiry*" than was the case in the past.<sup>15</sup> As it turned out, the Commission abandoned the Diversity Index amidst the waves of criticism that it received. However, the now deceased Diversity Index has indeed "*helped to legitimize certain areas of inquiry . . . as both the FCC and the courts have now acknowledged these areas of inquiry as directly relevant*" to media policymaking.<sup>16</sup>

Specifically, in incorporating the notion of the "diversity importance" of different information sources, the FCC's Diversity Index methodology institutionalized the following considerations that would bear directly on any wide ranging effort to systematically assess local media ecologies:

1. *The extent to which a media outlet serves as a meaningful source of local news or public affairs content*

In calculating its Diversity Index, the Commission explicitly excluded media platforms that it deemed to be insignificant sources of local news and public affairs information. While the local news situation may certainly be very different today, the key point here is that the extent to which media outlets serve as a meaningful source of original local news or public affairs information has, since the advent of the Diversity

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<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at p. 13777.

<sup>15</sup> Philip M. Napoli & Nancy Gillis (2006), *Reassessing the Potential Contribution of Communications Research to Communications Policy: The Case of Media Ownership*. *Journal of Broadcasting & Electronic Media*, 50(4), 671-691, p. 676.

<sup>16</sup> *Id.* at p. 607.

Index, essentially been institutionalized as an important point of focus for media policymakers and researchers.<sup>17</sup>

*2. The dynamics of how and why media consumers use different media sources*

While the Commission's efforts to accurately account for the complex dynamics of how and why citizens use different media sources came under intense criticism, once again, the key point here is that in the wake of the introduction of the Diversity Index, this issue has now been effectively embedded into media policymaking and policy analysis. Any effort to understand contemporary media ecosystems must be effectively grounded in the dynamics of citizens' media usage in order to meet the needs of policymakers and policy advocates.

*3. Levels of audience exposure to -- and the influence of -- different information sources*

Any meaningful assessment method must not only effectively inventory all of the information sources that are available to a particular community, but then also go further and assess the extent to which citizens actually use them. As the Commission has stated, the Index was intended to capture "differential impact on the user of television, radio, newspapers," etc. We believe that the overall impact of a medium is substantially determined by the physical attributes of its distribution technology, along with user preferences."<sup>18</sup> Thus, the extent to which a media outlet matters in the public sphere was introduced in the Diversity Index as a relevant policy concern -- and has remained one to this day as researchers, policymakers, and advocates all attempt to make sense of the changing dynamics of contemporary media ecosystems.

The point we wish to emphasize here is that the Diversity Index as designed and implemented as a modest extension of the HHI touched upon many of the important dimensions of any meaningful assessment of the extent to which the information needs of

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<sup>17</sup> See the Knight Commission Report, 2009 and the Pew Center's Baltimore report <http://pewresearch.org/pubs/1458/news-changing-media-baltimore>.

<sup>18</sup> Federal Communications Commission, 2003, p. 13787.

a community are being well-served by its media system. However, the nature of the data that was gathered and utilized in the calculation of the DI were not sufficiently expansive to produce a rigorous assessment tool. We encourage the Commission to revisit the construction of a Diversity Index or, perhaps more broadly, a Community Information Needs Index, that involves the gathering and analysis of information related to the journalistic resources that are being deployed, their usage, and their impact, in individual communities

#### **IV. CONSIDERATION AND ADOPTION OF OPEN STANDARDS TO SHARE REPORTS TO THE PUBLIC**

We urge the FCC to strongly consider the eight Open Government Data Principles. Moreover, the data that the FCC publishes should be in an accessible, standard format so it can be compared to and merged with data from other agencies, such as the NTIA's broadband mapping, Census, and the Bureau of Labor Statistics. Raw unpackaged, wholesale data for public consumption and mash-ups, as well as historical or backlogged data will result in a thriving information ecosystem. The Commission should consult with these agencies to share expertise as to what information to gather, such as how to classify small businesses as part of the information industry. Releasing these data in a raw and standardized form also will strengthen efforts to determine community information needs. The Commission can learn from these other agency's efforts, which often use participatory methodologies and combine qualitative and quantitative data.

#### **CONCLUSION**

We appreciate the opportunity to submit these comments. As we outline above, the Commission, specifically the Media Bureau, should consider the following as it proceeds with its data review:

- Assess the utility and rationale for each of its existing and potential data collection sets in respect to the guidelines of the 2009 Knight Commission report outlining information needs for an informed & democratic community in the digital age.

- Consider the addition of substantive and reliable data that contributes to the discussion around the current media environment; specifically, media ownership and journalistic resources data.
- Improve collection and analysis processes for existing collections with the re-exploration of the Diversity Index.
- Consider and adopt Open standards to share the reports it produces to the public.

Our comments reflect an appreciation for accessible information that will result in better communication policymaking. The Bureau's intent to provide quality data to the public in a consumable and accessible way will only enrich the Nation's information ecosystem. We hope that the Commission finds value in our perspective as it undertakes this critical task of examining its data review processes.

Respectfully Submitted,

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## APPENDIX

Linked below are examples of and works pertaining to information ecologies and the media environment. Over the past several months, the Media Policy Initiative (MPI) of the New America Foundation has published a series of case study reports examining prototypical information communities across the country. MPI has published reports on Scranton, PA, Seattle, WA, and Washington, D.C.—linked below—and two reports on Minneapolis-St. Paul and Durham, North Carolina, are forthcoming. Yet, we recognize that these studies are by no means comprehensive and would benefit from additional reliable data. Therefore, we appreciate and encourage the FCC’s efforts to examine its own data collection and analysis processes. The FCC’s data can contribute to continued MPI research as well as the overall intelligence of the ecosystem.

**Case Studies:**

[An Information Community Case Study: Scranton](#) (Scranton, PA)

[[http://mediapolicy.newamerica.net/sites/newamerica.net/files/program\\_pages/attachments/Scranton%20Case%20Study.pdf](http://mediapolicy.newamerica.net/sites/newamerica.net/files/program_pages/attachments/Scranton%20Case%20Study.pdf)]

[An Information Community Case Study: Washington, D.C](#) (Washington, D.C.)

[[http://mediapolicy.newamerica.net/publications/policy/an\\_information\\_community\\_case\\_study\\_washington\\_dc](http://mediapolicy.newamerica.net/publications/policy/an_information_community_case_study_washington_dc)]

[Seattle: A digital community still in transition](#) (Seattle, WA)

[[http://mediapolicy.newamerica.net/sites/newamerica.net/files/program\\_pages/attachments/Seattle%20Case%20Study\\_0.pdf](http://mediapolicy.newamerica.net/sites/newamerica.net/files/program_pages/attachments/Seattle%20Case%20Study_0.pdf)]

**Recent FCC Filing:**

[Future of Media FCC Comments](#) (May 10, 2010)

[[http://mediapolicy.newamerica.net/sites/newamerica.net/files/profiles/attachments/FoM\\_10-25%20Comments\\_NAF\\_FP\\_MAP.pdf](http://mediapolicy.newamerica.net/sites/newamerica.net/files/profiles/attachments/FoM_10-25%20Comments_NAF_FP_MAP.pdf)]

## **Relevant Research/Key Works**

[The Crisis in Journalism and Potential Policy Responses](#) (May 6, 2009)

[ [http://mediapolicy.newamerica.net/publications/resources/2009/crisis\\_journalism\\_and\\_potential\\_policy\\_responses](http://mediapolicy.newamerica.net/publications/resources/2009/crisis_journalism_and_potential_policy_responses)]