<u>Media Ownership 1: The utilization of FCC research</u> (Greenway Ballroom A, J)
Chair: S. Derek Turner - Research Director, **Free Press**

Danilo Yanich - University of Delaware - When is Local Local?: Media Ownership, Localism & the FCC

In June 2003 the Federal Communications Commission (FCC) voted to significantly relax the ownership rules governing local television stations. The vote was along party lines (three Republican votes for the new rules and two Democratic votes against them) In essence, the new rules would have allowed for more consolidation of television ownership and the possibility of increased cross-ownership of television stations and newspapers within the same television market.

The new rules caused immediate and wide-spread concern in Congress, among media advocacy groups and public interest organizations across the political spectrum. The Prometheus Project (among others) appealed the decision and filed suit against the FCC. The Third Circuit Court of Appeals blocked the implementation of the rules and in June 2004, the Court ruled against the FCC. The FCC decided not to appeal to the U.S. Supreme Court. The FCC Chairman resigned and one of the remaining four commissioners was elevated to the chairmanship. Effectively, then, the FCC determined that it would reconsider the rules at a later time.

That time has arrived. In June 2006 a new FCC commissioner was confirmed by the Senate to fill the vacant seat left by the former chairman. In that same month the new FCC Chairman announced that the agency would reconsider the ownership rules. In December 2007, in the face of overwhelming criticism, FCC Chair Kevin Martin forced a vote on a portion of the ownership rules that relaxed the restrictions regarding the cross-ownership of newspapers and television stations in local markets. However, legislation has been proposed to negate the rule change. And, although, the FCC backed away from a wholesale change in the ownership rules, its preference for market forces is clear. Further, the agency must consider the possible effect of any ownership changes on the concept of localism.

In spite of mounting evidence that media ownership consolidation has negative effects on local content, the FCC has already reached its conclusion---consolidation is preferred. It is the classic captured agency---captured by the very industry that it is supposed to regulate. This study directly challenges the FCC's position regarding consolidation and localism. I examine the relationship between local news content and ownership structure in five local television markets. It is an extension of the localism research that was conducted by researchers at the Federal Communications Commission in 2004. The findings of this study confirm that ownership does matter in the production of total news and local news on local television news broadcasts. There were statistically significant relationships that linked total content and local content to ownership profiles. In general, independent stations (stations that were neither owned-and-operated by a network nor part of a duopoly) broadcast more local content on their newscasts than those stations that were either (1) owned-and-operated and part of a duopoly; (2) owned-and-operated only; or (3) part of a duopoly only. In summary, consolidated media ownership negatively affects the production of local content on local television newscasts.

Williams Kunz - University of Washington - FCC Analysis of Prime Time Programming and Cable Services: Flawed Measurements and Unsupported Conclusions

In spite of the overwhelming evidence presented in a series of hearings about the damage from media concentration and the demise of independent producers, the Republican majority on the Federal Communications Commission voted to relax critical rules in December 2007. The dichotomy between public sentiment and Commission actions had been addressed in various forums, but what has not received enough attention are the flawed findings is research studies used to justify FCC decisions, with the evaluation of the ownership of prime time programs and video programming services two examples.

FCC commissioned research on the ownership of prime time programming is problematic on various fronts. The report that is part of the 2006 Quadrennial Regulatory Review concludes that the vertical integration is "large and rising" and that the networks treat programs from independent producers different than their own. What is remarkable about these conclusions is that the extent of network ownership is under-measured in the study. The blame for that, moreover, rests with the FCC. In 1991, the Commission mandated that broadcast networks disclose programs in which they held a financial interest. When the Financial Interest and Syndication Rules were eliminated in 1995, the Commission said such reporting was not longer necessary.

The result of that decision is that it is difficult to confirm the parties that have a financial interest in programs, even for the FCC. The 2007 report draws data from the International Television and Video Almanac. It is one of the best available sources for this information, but it reports “Suppliers” and “Producers” and does not address ownership. The result is that the Almanac does not include all parties with a financial interest. When one cross-references these listings with credits in trade publications and end-of-show credits and copyrights, the network interests rise, sometimes dramatically.

The examination of the ownership of cable services is also problematic. The Commission uses a narrow definition of vertical integration, with the focus on common ownership of cable systems and services. The connections between Time Warner Cable and the HBO and Turner cable services are important, but this focus excludes connections that influence the marketplace and undermine the prospects of non-aligned channels. The Commission does not address common ownership of satellite systems and programming services or vertical connections between cable services and content producers. This is quite important given the market power that broadcast station owners wield in retransmission consent negotiations.

Far more significant is the measure of programming services. The annual assessment on competition in the video programming marketplace is emblematic of these problems. In its 13th annual report, the Commission heralded the presence of 565 satellite-delivered national programming networks. The problem with this total is that the FCC appears to use no criteria for what constitutes a national programming network, neither hours programmed, households reached nor distributors. This gives equal status to services that reach over 90 million households and those that reach less than 1% of that total. This results in an unrealistic measure of conglomerate reach.

Colleen Mihal - University of Colorado - Research as Alibi: Analysis of the FCC's 2007 Media Ownership Studies

On December 18, 2007 the Federal Communications Commission's Republican commissioners voted to loosen the 32-year old newspaper-broadcast cross-ownership rule, which was initially created to ensure media-viewpoint diversity. This was not the first time that a Republican-dominated FCC attempted to repeal the rule. The rule initially went up for review in 2001, and then in 2003, Michael Powell's FCC voted to repeal it, replacing it with standard cross-ownership limits. This decision, along with other rules part of the FCC's 2003 expansive changes, were challenged in the landmark case Prometheus vs. FCC (Prometheus), tried in the U.S. Third Court of Appeals. In the 2004 decision, the court opined, "we cannot uphold the Cross-Media Limits themselves because the Commission does not provide a reasoned analysis to support the limits that it chose" (Prometheus Radio Project vs. FCC, 2004, p. 47). The court's argument was based on an examination of the data sets and conclusions in 10 studies sponsored by the FCC in 2002. The reliance of the court on research studies to determine whether or not it should remand a FCC decision underscores the importance of research in legitimizing media policy decisions.

When the cross-ownership rule came up for review again in 2007, the FCC commissioned 10 new Research Studies on Media Ownership (Ownership Studies) in order to meet the requirements of "reasoned analysis," as outlined the Prometheus decision, and to thwart future legal challenges. Drawing on detailed textual analysis of the 10 Ownership Studies and Martin's public statements, this paper investigates the theoretical approaches, analytical tools, findings, and conclusions developed in the studies. The textual analysis is guided by concerns of how the studies meet the requirements of the Prometheus order and how, if at all, they justify the recent changes to the newspaper-broadcast cross-ownership rule. The aim is to provide citizens, policy makers, academics, and media activists with a useful framework for interpreting the hidden biases in social science research.

The findings of this paper indicate that economic and business perspectives are the dominant frameworks that were used to analyze media diversity in the 2007 Ownership Studies. This confirms the continuance of the economic trend in FCC-sponsored research noted by Blevins and Brown (2007) in the 2002 studies. By selecting economists, who analyze media without attention to the cultural aspects of media, Martin, like Powell, stacked the deck in favor of research interpretations that would meet the instrumental needs of a deregulatory agenda. Arguing that media cannot be adequately analyzed as a regular commodity, Nicholas Garnham (2000) asserts, "Media are special because of the immaterial nature of the symbolic forms being circulated and of their use value" (p. 55). The paper also finds that some of the studies do not speak to issues specific to cross-ownership, some do not adequately conceptualize the phenomena under investigation, some rely on faulty data, and some lend support for retaining ownership regulations. This paper concludes by discussing the implications of economic research for media policy and suggesting potential avenues for resistance.

References:

Blevins, J. and Brown, D. (2007). The political economy of media ownership rulemaking within the U.S. Federal Communications Commission: An analysis of media ownership studies. International Association for Media and Communication Research: Paris France, July 23-25, 2007.

Garnham, N. (2000). The media as cultural industries. In Emancipation, the media and modernity, pp. 39-62. Oxford: Oxford University Press.

Prometheus Radio Project vs. FCC, No. 03-3388 (3rd Cir. June 24, 2004). Retrieved on September 12, 2007 from www.fcc.gov/ogc/documents/ opinions/2004/03-3388-062404.pdf

Mark Cooper - Consumer Federation of America - When counting counts

Part 1: On December 17, 2007 the morning before Chairman Martin forced a vote on a new plan to lift the limit on newspaper-TV combinations in the same market, the New York Times editorialized against what it called a “Flawed Media Plan.” At the heart of the editorial were five statements about the reality of media markets at the beginning of the 21st century. One of those statements was backed up by citing “a study of FCC data by consumer groups.” In fact, it was public interest research that inserted and documented all five of the statement in the record at the FCC.

This outcome is the result of a sustained public interest research program focused on the media ownership proceeding that stretches back to 2000. The effort to establish basic facts about media markets with high quality public interest research went beyond putting evidence in the record. It also involved the production of research studies that could be published and presented in academic contexts. The academic discourse strengthens the quality of subsequent research and contributes immeasurably to the willingness of policy makers to rely on our research.

Below we identify the five statements in the editorial and the public interest research produced by a coalition of consumer groups (The Consumer Federation of America, Consumers Union and Free Press) that have addressed these issues. Needless to say, research from other played a role and many other issues were raised in the proceeding, but the editorial provides a rare opportunity to take notice of the importance of a sustained research effort.

Part 2: The media ownership proceeding at the Federal Communications Commission (FCC) has carried social science research to a level of prominence at the agency that is unprecedented, In the most recent proceeding, the FCC commissioned ten studies and subjected them to a formal peer review and even declared a dozen third party studies as "influential scientific information," and subjected them to peer review.

The most recent round of analysis involved sophisticated econometric models applied to large data sets consisting of a mix of cross-sectional and temporal data. The central research disputes would be familiar to any academic – framing of research hypotheses, selection of the unit of analysis, definition and measurement of the variables, specification of models, and choice of statistical tests.

When the dust had settled, the Congressional Research service, presumably a disinterested bystander, concluded …

This paper will discuss the strategies that directed the consumer advocacy research effort that produced over two dozen studies.