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

In the Matter of	)	
	)	
Structuring of the 2010 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules	)	MB Docket No. 09-182

COMMENTS

Media General, Inc., by its attorneys, hereby files these comments in response to the FCC Public Notice, released October 21, 2009, announcing media ownership workshops that were held on November 2-4, 2009, and seeking comment on the structuring of the 2010 Quadrennial Regulatory Review of media ownership rules.[1] The workshops included discussion of local Internet news sites, and Media General below provides evidence and metrics to guide the FCC's further inquiry. The workshops also included discussion of the measurement of news in cross-owned markets and, based on the record developed in the 2006 Quadrennial Regulatory Review proceeding, Media General submits that suggestions that such measurement be made on a market-wide basis are not credible and should be avoided by the Commission.

Local Internet News Sites. During the workshops, several participants raised questions about the prevalence and use of Internet sites that provide local news and are unaffiliated with existing media outlets in a market. Media General has found that, while such websites may not be as prominently branded as national news sites or national aggregators' websites, they are growing quickly in number and attaining substantial audiences.

[1] FCC Public Notice, "Media Bureau Announces Agenda and Participants for Initial Media Ownership Workshops and Seeks Comment on Structuring of the 2010 Media Ownership Review Proceeding," DA 09-2209, MB Docket No. 09-182, released October 21, 2009.

To demonstrate this point, and also to suggest a means by which the FCC may collect additional data on this point, Media General randomly selected a market in each quartile of the first 100 Nielsen Designated Market Areas ("DMAs").[2] This exercise yielded Boston (DMA #7), Austin (DMA #48), Charleston-Huntington (DMA #63), and Chattanooga (DMA #86) as the randomly selected markets. Media General then researched the availability of websites in each market, not owned by existing media, that provide local news. In each instance, the research yielded between three and eight sites, totals that are not exhaustive and would have grown with the expenditure of more research time. These websites are listed in Appendix A.

Using information from free site profiles available at Compete.com, Media General then calculated the number of "unique visitors" and "total visitors" to each site over a twelve-month period.[3] The data show that each site had significant use with "visits" rivaling the circulation figures of local newspapers, demonstrating that residents in markets of all sizes have embraced independent local internet news sites and are using them extensively. Such sites have become another established outlet for local content and compete for "eyeballs" and, in many cases, for advertisers.

As it proceeds with the 2010 Quadrennial Regulatory Review, the FCC must evaluate the availability of news on the Internet and should expand on this type of evidence. Media General is confident that such analyses will show that the Internet vigorously competes with more

[2] Media General first divided the Top 100 DMAs into four groups of 25 each, with the first consisting of markets 1-25, the second consisting of markets 26-50, the third consisting of markets 51-75, and the fourth consisting of markets 76-100. Next, each of the four groups was placed on a separate Excel spreadsheet, to which Media General applied the Microsoft Excel "=rand()" command in the cell next to each market. This command assigns a randomly generated number to each market. Media General then selected the market in each of the quartiles that had the lowest randomly generated number assigned to it.

[3] *See* http://siteanalytics.compete.com

traditional outlets, removing any doubt as to its significant contribution to content and competition in all markets, large and small.

Measurement of News in Cross-Owned Markets. In the 2006 Quadrennial Regulatory Review proceeding, three FCC peer-reviewed studies demonstrated that the newspaper/broadcast cross-ownership rule harms the public interest because of the correlation that they showed between cross-ownership and a greater quantity and better quality of news and informational programming.[4] In comments in that docket, parties advocating tighter regulation ("Regulatory Parties") labeled these studies "junk science" and offered what they claimed were their own "studies."[5] According to the Regulatory Parties, their analyses, which claimed to measure television news in a market overall rather than on individual stations, purportedly showed that the presence of cross-owned properties tended to decrease the amount of news in a market.

At the workshops earlier this month, the Regulatory Parties' "studies" were mentioned, along with suggestions that the FCC might want to adopt their methodology and market definitions in measuring news in cross-owned markets. Such an approach is not only unnecessary, but would be mistaken. In two thorough econometric critiques submitted in the 2006 Quadrennial Regulatory Review, Media General and the Newspaper Association of America devoted extensive resources to demonstrating that the Regulatory Parties' "studies"

[4] Gregory Crawford, "Television Station Ownership Structure and the Quantity and Quality of TV Programming: FCC Media Ownership Study #3," DA 07-3470A4, July 2007; Daniel Shiman, "FCC Media Study 4: "News Operations" – Section I: 'The Impact of Ownership Structure on Television Stations' News and Public Affairs Programming,'" DA 07-3470A5, July 2007; "The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News," DA 07-3470A7, as revised September 2007.

[5] Further Comments of Consumers Union, Consumer Federation of America and Free Press, MB Dkt Nos. 06-121 *et al.*, filed October 22, 2007.

suffered from a number of fundamental and econometric mistakes that undermined their reliability.[6] These mistakes included the following:

1. Misstatement of basic statistical terminology;
2. Inappropriately distinguishing between grandfathered and other cross-ownerships in their regression analyses;
3. A failure to establish causation with respect to cross-ownership; and
4. Regression analyses that included undefined variables without transparent data.

These and other flaws are discussed at length in the critiques attached hereto as Appendix B. As one of the econometric reviews of the "studies" noted, "[i]ndividually, these shortcomings limit the analytical techniques employed in [Regulatory Parties'] Comments. Collectively, they substantially limit the reliability of the findings."[7]

In proceeding with the 2010 Quadrennial Regulatory Review, the FCC should view skeptically calls for reformulated analyses that may be based on the faulty "studies" discussed in Appendix B. The Commission has limited resources. Undertaking market definitions or analytical techniques that have already been discredited and shown to be flawed is not a wise expenditure of those resources or FCC staff time.

[6] "Statement of Dr. Harold Furchtgott-Roth," attached as Appendix A to Reply Comments on FCC Research Studies on Media Ownership, Media General, Inc., MB Docket Nos. 06-121, *et al.*, filed Nov. 1, 2007; Kurt W. Mikkelsen, "Effects of Newspaper-Television Cross-Ownership on Total Market News Minutes: Response to 'Further Comments of Consumer Union, Consumer Federation of America and Free Press,'" attached to Reply Comments of the Newspaper Association of America on Media Ownership Research Studies, MB Docket Nos. 06-121, *et al.*, filed Nov. 1, 2007.

[7] Statement of Dr. Furchtgott-Roth, *supra*, note 6 at 4-5.

Media General applauds the Commission's willingness to start thinking about its 2010 Quadrennial Regulatory Review before 2009 has concluded and urges the FCC to proceed posthaste to conduct the review mandated by Section 202(h) of the 1996 Telecommunications Act.[8] Media General has every confidence that the Quadrennial Review will once again produce evidence conclusively showing that the newspaper broadcast cross-ownership rule is no longer "necessary in the public interest as the result of competition."[9]

Respectfully submitted,

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[8] Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 112 (1996), as amended by Consolidated Appropriations Act of 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3, 99 (2004).

[9] *Id.*

APPENDIX A

Usage of Local Independent Internet News Sites

Website	*Unique Visitors (November 2008-October 2009)*	*Total Visits (November 2008-October 2009)*
	Boston	
www.universalhub.com	509,056	1,184,701
www.bluemassgroup.com	134,638	819,401
www.bostonist.com	567,333	727,228
www.hinghamweather.com	78,850	220,699
www.massresistance.org	152,451	207,823
www.bpdnews.com	145,110	202,849
www.openmediaboston.org	41,255	44,375
www.thathottness.com	7,284	7,841
	Austin	
www.austinist.com	364,515	748,062
www.burntorangereport.com	198,851	406,728
www.austinpost.org[1]	31,566	95,221
www.republicofaustin.com[2]	7,364	9,193
	Charleston-Huntington	
www.huntingtonnews.net	215,577	1,178,826
www.putnamlive.com	72,377	330,809
www.wvutoday.wvu.edu	118,797	157,949
www.wvablue.com	25,168	26,395
www.abetterwestvirginia.com	4,026	4,181
	Chattanooga	
www.chattanoogan.com	1,150,821	3,526,258
www.chattarati.com	32,861	55,418
www.sigmtn.com	18,212	19,486

Source: Usage estimates based on free site profiles from Compete.com (available at http://siteanalytics.compete.com.)

Note: "Unique Visitors" reported above represents the sum of the number of unique visitors each month over a year-long period. Within each month, Compete.com's count of "unique visitors" includes a person only one time regardless of how many times he or she visits a site in that month. "Total Visits" represents the total number of visits to a site. A "visit" is initiated when a user first enters a site during an internet session and is considered "live" until that user's interaction with the entire internet session has ceased for 30 minutes. *See* Compete. Com Metric Descriptions at http://www.compete.com/help/s2.

[1] Data available only from 7/09 through 10/09.

[2] Data available only from 7/09 through 10/09.

APPENDIX B

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

REPLY COMMENTS ON FCC RESEARCH STUDIES ON MEDIA OWNERSHIP

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support and a detailed and persuasive explanation for altering the direction laid out in 2003.[8] Reregulatory Parties thus face a high bar in trying to argue that the 1975 Ban should be retained. As shown below, their latest comments on the FCC studies do not advance their goal.

II. REREGULATORY PARTIES' "STUDIES" ARE RIDDLED WITH EMPIRICAL AND ECONOMETRIC MISTAKES THAT UNDERMINE THEIR RELIABILITY AND RENDER THEM USELESS IN PETITIONERS' ATTEMPT TO REFUTE THE FCC'S PEER REVIEWED STUDIES

The centerpiece of the Reregulatory Parties' attack on the FCC's studies is a 321-page opus with over 2,000 pages of printouts from regression analyses.[9] Despite the great length and the public fanfare these materials have received, they offer no reason for the FCC to do anything but repeal the 1975 Ban.

In the comments that Media General and other industry parties filed on October 22, 2007, in support of FCC Studies 3, 4.1, and 6, they discussed how those studies demonstrate that the rule harms localism because of the correlation that they show between cross-ownership and a greater quantity and better quality of news and informational programming and the lack of any correlation between cross-ownership and "viewpoint diversity."[10] In comments filed the same day, Reregulatory Parties labeled those studies

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[8] *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970).

[9] Further Comments of Consumers Union, Consumer Federation of America and Free Press in MB Docket No. 06-121 (Oct. 22, 2007) ("CU Comments"). While echoing some of the same broad themes, the comments of other Reregulatory Parties fail to present any empirical information or empirical analysis akin to that set forth in the CU Comments. *See, e.g.* Comments of Office of Communication of United Church of Christ, Inc., National Organization for Women, Media Alliance, Common Cause, and Benton Foundation in MB Docket. No. 06-121 (Oct. 22, 2007) ("UCC Comments") at 12-27 (asserting critiques of the studies that overlap in places those in the CU Comments).

[10] Further Comments of Tribune Company on Research Studies on Media Ownership in MB Docket No. 06-121 (Oct. 22, 2007) ("Tribune Comments") at 3-8; Comments of the

"junk science" and offered what they claimed were their own "studies" filed in the CU Comments to support their point. As the econometric report attached as Appendix A shows, however, the Reregulatory Parties' "studies" are the ones that actually deserve that pejorative appellation. [11]

The attached Econometric Review concentrates on Chapters IV, VII, and VIII of the CU Comments, which bear the following titles:

Chapter IV --	Market Level and Station-Levels [sic] Analysis with Properly Defined Variables and Statistical Models
Chapter VII --	Station Revenue and News Production in Small Markets
Chapter VIII --	Assessing the Methodologies and Robustness of the Official Cross-Ownership Studies

While these chapters each address somewhat different aspects of the cross-ownership debate, the Econometric Review shows that they all share a number of fundamental economic and econometric mistakes that undermine their reliability. These mistakes include the following:

1. Reregulatory Parties incompletely discuss and review the comments of the peer reviewers of the FCC studies;
2. Reregulatory Parties assail, but do not refute, the statistical results of the peer reviewed FCC studies;
3. Regulatory Parties misstate basic statistical terminology;
4. Reregulatory Parties inappropriately distinguish between grandfathered and other cross-ownerships in their regression analyses;

Newspaper Association of America on Media Ownership Research Studies in MB Docket No. 06-121 (Oct. 22, 2007) ("NAA Comments") at 4-18; Comment on Research Studies on Media Ownership of Media General in MB Docket No. 06-121 (Oct. 22, 2007) ("Media General Comments") at 6-12.

[11] Statement of Dr. Harold W. Furchtgott-Roth ("Econometric Review"), attached as Appendix A.

5. Reregulatory Parties' approach does not establish causation with respect to cross-ownership; and
6. Reregulatory Parties run regressions with undefined variables and without transparent data.[12]

As the Econometric Review notes, "[i]ndividually, these shortcomings limit the analytical techniques employed in the Further Comments. Collectively, they substantially limit the reliability of the findings of the Further Comments."[13] The Econometric Review then presents separate discussions of the failures in each of CU's Chapters IV, VII, and VIII.

On the subject of the peer reviews, in particular, the Econometric Review points out the selective manner in which the Reregulatory Parties quote from the fifteen peer reviews of the FCC studies, failing to note in the case of FCC Studies 3, 4.1, and 6 that the peer reviewers, despite minor flaws they had flagged, endorsed the finding of those studies on an overall basis.[14] The Econometric Review also notes that the Reregulatory Parties do little to refute the statistical analyses and reliability of the FCC studies:

> Indeed, although in some instances Consumer Commenters transform existing information, add new variables, and suggest new specifications these alterations at most provide alternative explanations of the underlying data rather than render the FCC studies unreliable. Fifteen independent peer reviewers were unable to conclude that the results of the FCC studies were unreliable; the Consumer Commenters' Further Comments do not provide specific analyses that render the results of the FCC studies unreliable.[15]

While Reregulatory Parties claim that the FCC's studies improperly focused on station-level, rather than market-level data, the Econometric Review explains that aggregation in applied econometrics frequently leads to bias and masks the specific characteristics of

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[12] *Id.* at 3-15.

[13] *Id.* at 4.

[14] *Id.* at 4-5.

[15] *Id.* at 8 (footnotes omitted).

heterogeneous firms, characteristics which may have substantial effects on the production of news by a firm.[16]

As to Reregulatory Parties' keystone claim that their use of the FCC data in their own regressions yielded a decrease in news quantity when cross-ownerships are present, the Econometric Review attributes this result simply to incorrect specification of variables. The result was "an artifact of not directly including [a variable for] the number of stations rather than a reflection on the competition for news in the local market."[17]

In short, the FCC studies' peer reviewers got it right. Their peer reviews failed to detect any significant or fatal errors in Studies 3, 4.1, and 6, errors which might have undercut the studies' results. Instead, the peer reviews found the studies' overall findings to be reliable. The Econometric Review concludes that, despite the Reregulatory Parties' attempts at econometric sophistication, their latest filings fail to show that either the FCC's studies or the peer reviews are wrong.

III. THE DATA QUALITY ACT AND IMPLEMENTING GUIDELINES PROVIDE ABSOLUTELY NO GROUND ON WHICH TO CHALLENGE THE FCC'S MEDIA OWNERSHIP STUDIES

In their latest comments as well as in several pleadings filed prior to October 22, 2007, Reregulatory Parties put forth what they allege are ways in which the FCC's process related to the 10 media ownership studies failed to comply with the Data Quality Act ("DQA") and Office of Management and Budget ("OMB") guidelines implementing the DQA.[18] CU's allegations regarding the DQA, however, must be dismissed as that statute

[16] *Id.* at 17.

[17] *Id.* at 18.

[18] CU Comments at 4-5, 72-76. The DQA was passed as part of the Treasury and Government Appropriations Act for Fiscal Year 2001, Pub. L. No. 106-554, § 515, *codified at* 44 U.S.C. § 3516 Historical and Statutory Notes. *See also* Office of Management and

Appendix A

ECONOMETRIC REVIEW

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NOVEMBER 2007

I. Introduction

A. Qualification

My name is Harold W. Furchtgott-Roth. I am president of Furchtgott-Roth Economic Enterprises, an economic consulting firm. I was a commissioner of the Federal Communications Commission (FCC) from November 1997 through the end of May 2001. My statements as a commissioner at the FCC have been cited by federal courts. I have been a guest speaker at many conferences for the telecommunications industry. I serve on two corporate boards and several non-profit advisory boards.

From June 2001 through March of 2003, I was a visiting fellow at the American Enterprise Institute for Public Policy Research (AEI) in Washington, DC. I have worked for many years as an economist. From 1995 to 1997, I was chief economist of the House Committee on Commerce where one of my responsibilities was to serve as one of the principal staff members helping to draft the Telecommunications Act of 1996.

From 1988 to 1995, I served as a senior economist at Economists Incorporated where I worked on econometric matters in regulatory, antitrust, and commercial litigation cases. These cases included many matters in the broadcast, cable, and telecommunications industries. From 1984 to 1988, I served as a research analyst at the Center for Naval Analyses where I conducted quantitative studies on behalf of the Department of the Navy.

My academic research concerns economics and regulation. I am the author or coauthor of four books: *A Tough Act To Follow: The Telecommunications Act of 1996 and the Separation of Powers* (Washington, DC: American Enterprise Institute) 2006; *Cable TV: Regulation or Competition*, with R.W. Crandall, (Washington, DC: The Brookings Institution), 1996; *Economics of A Disaster: The Exxon Valdez Oil Spill*, with B.M. Owen, D.A. Argue, G.J. Hurdle, and G.R. Mosteller, (Westport, Connecticut: Quorum books), 1995; and *International Trade in Computer Software*, with S.E. Siwek, (Westport, Connecticut: Quorum Books), 1993. I am a frequent commenter on economic matters, and daily newspapers, including the *Wall Street Journal*, have published my opinion pieces. I have a weekly column in the business section of the *New York Sun*. I have testified on many occasions before committees of the U.S. Senate and House of Representatives.

I received my undergraduate training in economics at MIT, and I received a Ph.D. in economics from Stanford University. My resume is attached as Appendix 1.

B. Assignment

I have been asked by Media General, Inc. to review the Further Comments of Consumers Union, Consumer Federation of America, and Free Press (hereinafter, "Consumer Commenters") for economic and econometric reliability. I have also been asked to review the comments filed jointly by the Office of Communications of the

United Church of Christ, National Organization of Women, Media Alliance, Common Cause, and the Benton Foundation (hereinafter, "UCC"). Since the latter comments do not present new empirical analyses, my review focuses on the Further Comments of the Consumer Commenters.

II. Summary of findings

I have reviewed the Further Comments of Consumer Commenters and the Comments of UCC. In focusing on Chapters IV, VII, and VIII of the Consumer Commenters, I reach the following conclusions:

- Consumer Commenters make several economic and econometric mistakes throughout the report that undermine its reliability;
- The Consumer Commenters make several economic and econometric mistakes in Chapter IV that render the chapter results unreliable;
- The Consumer Commenters make several economic and econometric mistakes in Chapter VII that render the chapter results unreliable; and
- The Consumer Commenters make several economic and econometric mistakes in Chapter VIII that render the chapter results unreliable.

III. Consumer Commenters make several economic and econometric mistakes throughout the report that undermine its reliability

Several shortcomings appear throughout the Consumer Commenters' Further Comments. These include the following:

- Consumer Commenters incompletely review the peer review comments;
- Consumer Commenters assail but do not refute the statistical results of the peer-reviewed FCC studies;
- Consumer Commenters misstate statistical terminology;
- The Consumer Commenters inappropriately distinguish between grandfathered and other cross-ownerships in regression analyses;
- Consumer Commenters' approach does not establish causation with respect to cross-ownership; and
- The Consumer Commenters run regressions with undefined variables and without transparent data.

Individually, these shortcomings limit the analytical techniques employed in the Further Comments. Collectively, they substantially limit the reliability of the findings of the Further Comments.

A. Consumer Commenters incompletely review the peer review comments.

Throughout the Further Comments, Consumer Commenters challenge and seek to discredit the findings of the series of research papers on media ownership issued by the FCC.[1] One stumbling block for challenging the FCC papers is that they were prepared by reputable scholars and were peer reviewed by other reputable scholars. Those peer reviews make suggestions and comments but largely support the methods employed and findings reached in the FCC studies.[2]

Nonetheless, the Consumer Commenters' Further Comments attempt to use the peer reviews to discredit the FCC studies. The Further Comments refer to the FCC's "peer review" comments in 80 instances but largely focus on alleged deficiencies in the peer review process.[3] The Consumer Commenters' Further Comments suggest that the peer reviews find that the FCC studies "suffer numerous methodological problems"[4] further listed with page references to the peer review comments in Exhibit III-2.[5] Yet Exhibit III-2 is merely a listing of peer review critical comments primarily for only three of the FCC "output" studies, studies 3, 4.1, and 5.[6] Each comment was addressed to one of the individual FCC studies, but the Consumer Commenters' Further Comments list them in aggregate as if they apply to all studies because, allegedly, "Many of the criticisms offered by the more conscientious reviewers apply to the studies reviewed by the less conscientious reviewers."[7] Yet it is speculative, even irresponsible, to assume that any of the criticisms listed in Exhibit III-2 apply to any matter beyond which the criticism was addressed, much less to all of the FCC studies.

More importantly, the discussion in the Consumer Commenters' Further Comments focuses only on the negative comments with respect to the FCC studies in the peer reviews. Yet each of the peer reviews also had positive comments about the FCC studies that are not mentioned in the Consumer Commenters' Further Comments. Exhibit III-2 focuses on the peer reviews of Professors George, Leslie, and Sweeting. Yet Prof. George in reviewing FCC study 3 states: "Overall, the study considers an interesting question with appropriate data and methods and should ultimately prove useful for policy purposes."[8] Professor Leslie in reviewing Study 4.1 concludes: "Overall, the conclusions of the paper are substantiated by the analysis."[9] Professor Sweeting observes with respect to study 5, "With this caveat (and others I outline below),

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[1] See Source Documents at http://www.fcc.gov/mb/peer_review/peerreview.html.
[2] See Peer Reviews, at http://www.fcc.gov/mb/peer_review/peerreview.html.
[3] Further Comments at 72-76.
[4] Ibid. at 76.
[5] Ibid., at 78.
[6] Ibid. Exhibit III-2 lists Study 6, but no references in the Exhibit are made to the peer review of Study 6 by Matthew Gentzkow. For that review, largely positive about FCC Study 6, see http://www.fcc.gov/mb/peer_review/prstudy6.pdf. In contrast, Exhibit III-2 does not include Study 5 in its header, yet includes the comments of A. Sweeting, a reviewer for FCC study 5.
[7] Ibid, at 77.
[8] See letter from Prof. L. George to M. Connolly, August 30, 2007, http://www.fcc.gov/mb/peer_review/prstudy3.pdf.
[9] P. Leslie, Review of FCC Study 4.1, http://www.fcc.gov/mb/peer_review/prstudy4.pdf.

do these highlighted results reflect a fair reading of the statistical results? I believe that the answer is yes."[10] Similar comments are found in other peer reviews.[11]

The Consumer Commenters' Further Comments selectively present some of the comments of Professor George with respect to Study 3, and Professor Leslie with respect Study 4.1, as guideposts for reassessing the FCC studies but omit and ignore the comments of Professor Gentkow entirely.[12] Although the Further Comments claim to have "conducted the suggested lines of analysis identified by the peer reviewers as necessary,"[13] any adjustments that are actually made are clearly on a selective rather than comprehensive basis.

Despite focusing attention on the peer reviews, most of the adjustments to the empirical analyses by the Consumer Commenters are not based on suggestions from the peer reviews. The Consumer Commenters transform station-level data to market level data,[14] try to distinguish between waived and grandfathered cross-ownership conditions,[15] insert various other new variables,[16] and apply a Heckman estimation technique for a censored dependent variable.[17] These alterations were not suggested by the peer reviews. Indeed, as will be seen below, many of the adjustments made by Consumer Commenters are incorrect.

Although some of the reviews suggest the possibility of examining other specifications, considering other data, and employing other estimation techniques, these comments by themselves do not undermine the reliability of the results presented in the FCC studies. None of the peer reviews concludes that any of the underlying FCC studies is unreliable, or lacking merit, or unworthy of consideration. Although the peer reviews provide important insights into the interpretations and limitations of the FCC studies, they do not provide a basis to undermine the credibility of the FCC studies or their findings.

B. Consumer Commenters assail but do not refute the statistical results of the peer-reviewed FCC studies

Even with the peer reviews supporting the FCC studies, other comments could nonetheless criticize the FCC studies. Such comments, if based on reasonable economic and econometric foundations and if sufficiently raising doubts about the techniques or results of the FCC studies, could potentially undermine the data, techniques, or findings of those studies.

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[10] A. Sweeting, Review of FCC Study 5, http://www.fcc.gov/mb/peer_review/prstudy5.pdf.
[11] See, e.g., the peer review of FCC Study 6 by Matthew Gentzkow, http://www.fcc.gov/mb/peer_review/prstudy6.pdf.
[12] Further Comments at 188-189.
[13] Further Comments at 2.
[14] Ibid., at 87-89.
[15] Ibid., at 89-91.
[16] Ibid., at 91-93.
[17] Ibid., at 204.

Despite claims to the contrary,[18] the Consumer Commenters' Further Comments do little to refute the statistical analyses and reliability of the FCC-sponsored studies. Indeed, although in some instances Consumer Commenters transform existing information, add new variables, and suggest new specifications,[19] these alterations at the very most provide alternative explanations of the underlying data rather than render the FCC studies and their conclusions unreliable. Fifteen independent peer reviewers were unable to conclude that the results of the FCC studies and their conclusions were unreliable;[20] the Consumer Commenters' Further Comments do not provide specific analyses that render the results of the FCC studies unreliable.

Much of the Consumer Commenters' Further Comments focuses on the alleged shortcomings in the *conception* of the FCC studies[21] rather than in detailed refutation of the results. Much of the remainder of the Further Comments then presents alternative analyses of the data—various forms of sensitivity analyses—and bemoans the absence of certain policy considerations such as minority ownership.[22] Little of the report, however, substantially undermines the credibility of the specific techniques, data, or findings of the FCC studies.

C. *Consumer Commenters misstate statistical terminology*

Throughout their report, Consumer Commenters are not precise in the use of statistical terminology. The imprecise language undermines the credibility of the Further Comments.

1. Reporting the signs of estimated coefficients

Usually, in applied econometric studies, the signs of estimated coefficients are noted when they are significantly different from zero. Throughout their report, Consumer Commenters emphasize the sign of estimated coefficients that are not significantly different from zero. For these estimated coefficients, the estimated standard errors are relatively large. Because in these instances one cannot determine the sign of the underlying coefficient from the estimated parameter, there is little reason to emphasize the sign of the estimated coefficient.

[18] "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." Further Comments at 1.
"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." Further Comments at 1.
[19] See Further Comments at 2.
[20] See http://www.fcc.gov/mb/peer_review/peerreview.html.
[21] See Further Comments at 17-85.
[22] See Further Comments at 86-321.

2. Reporting the parameter estimates for cross-ownership

Some of the parameter estimates in the regression analyses in these studies are for cross-ownership variables that may help explain the dependent variables such as the number of minutes of news programming. A researcher might stipulate, for example, that more news programming is in the public interest, and the researcher could then perform a statistical test on the estimated parameter associated with cross-ownership conditions, holding other factors in the regression analysis constant.

Under this proper statistical approach, a finding that an estimated parameter for cross-ownership is not statistically different from zero means that one can reject the hypothesis that the cross-ownership restriction is necessary in the public interest for that particular set of quantifiable information. A finding that a parameter estimate is insignificant supports repeal of the cross-ownership rule. Implicitly, this is the approach taken in the FCC studies.

The Consumer Commenters' Further Comments present a different—and, by my understanding, legally incorrect—position on statistical testing for cross-ownership rules.[23] The Further Comments shift the statistical test to "Does Cross-ownership increase competition or improve diversity and localism?"[24] Under this improper statistical approach, a finding that an estimated parameter for cross-ownership is not statistically different from zero means that one can reject the hypothesis that the cross-ownership restriction is unnecessary in the public interest for that particular set of quantifiable information. Parsing through the language, this incorrect standard means that a finding of an insignificant coefficient on cross-ownership supports keeping the cross-ownership rule. This is an incorrect statistical burden, and it further means that rules that have no measurable benefit should be kept. Implicitly, this incorrect approach is taken in the Consumer Commenters studies.

3. Both quantifiable and non-quantifiable factors

FCC rules on restrictions on the ownership by broadcast licensees of newspapers are governed by Section 202 of the Telecommunications Act of 1996. Under Section 202(h), the Commission shall "review ... all of its ownership rules ... as part of its regulatory reform review under section 11 of the Communications Act of 1934 and shall determine whether any of such rules are necessary in the public interest as the result of competition."[25] For the Commission to retain an ownership rule such as newspaper cross-ownership, the obligation on the Commission is not to determine whether the rule does no harm but rather affirmatively to determine that the rule is "necessary in the public interest as the result of competition."

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[23] See Further Comments at 58-59.
[24] Ibid., at 59.
[25] Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 112 (1996), as amended by Consolidated Appropriations Act of 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3, 99 (2004).

Both quantifiable and non-quantifiable factors may enter into a determination of whether a rule is "necessary in the public interest as the result of competition." The regression analyses presented in both the FCC studies and the Consumer Commenters' Further Comments are based only on quantitative information and present quantitative information on which statistical tests can be conducted. Classical statistical inference allows a researcher to posit a testable hypothesis and then either reject or fail to reject the hypothesis; under classical statistics, one cannot "prove" the positive outcome of a hypothesis such as whether a rule is "necessary in the public interest as the result of competition."

Formal statistical tests cannot be altered to accommodate non-quantifiable information. The Consumer Commenters appear to recognize this impossibility but still suggest altering the statistical tests:

> 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 [in news]...
>
> 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. [26]

This articulation of the hypothesis tests is clearly wrong. The regression analyses can reveal the association of cross-ownership with quantities of news, but the regression analyses cannot weigh news with non-quantifiable factors.

D. The Consumer Commenters inappropriately distinguish between grandfathered and other cross-ownerships in regression analyses

The consumer Commenters inappropriately distinguish between cross-ownership situations that are grandfathered and cross-ownership situations created pursuant to temporary waivers. There is no clear theoretical reason for the distinction. In several instances, the Consumer Commenters speculate about economic behavior without any verifiable evidence:

- The Consumer Commenters speculate that there is a difference in behavior between grandfathered cross-ownership operations and those operating pursuant to waivers.[27] Consumer Commenters claim that licensees with waivers are on "good behavior" and therefore air more local news. It is unlikely that econometric tests will provide definitive evidence about motivation, but it is

[26] Ibid., at 88.
[27] At 89-91.

possible to test whether there are statistically different measures of local news. Given the many shortcomings in the econometric analyses of the Consumer Commenters, it would be difficult to construct a proper test with their methods, but the Consumer Commenters do not even attempt such a test.[28]

- The Consumer Commenters speculate that grandfathered operations reflect the "long-term effect of cross-ownership" and the waiver situations do not.[29] Yet many of the waivers have been in place for many years with anticipation of permanent authority, so that many waiver situations also reflect the "long-term effect of cross-ownership." Ultimately, the basis for the distinction is little more than speculation.

Even if there were a reasonable theoretical basis to distinguish between grandfathered newspaper cross-ownership operations and those relying on waivers, the data bases likely do not permit meaningful econometric distinctions. Although there appear to be at least 26 total cross-ownership situations in the data base from FCC Studies 3 and 4,[30] only 8 of those cross-ownership situations involve waivers for the 3 years of data with 207 DMAs.[31] The data base for FCC Study 4 also has only 8 cross-ownership waiver conditions for 4 years of data for 207 DMAs.[32]

The paucity of cross-ownership observations does not limit that station-level analyses in the FCC studies or in Chapters VII and VIII of the Consumer Comments, but the small number of cross-ownership conditions limits the market-level data analyses in Chapter IV of the Consumer Commenters. In those market-level analyses, the cross-ownership dummy variables merely capture the deviations of those DMAs with cross-ownership conditions relative to the sample means. Those deviations may reflect similar cross-ownership conditions but also other unmeasured common traits of the DMAs. The larger number of DMAs with cross-ownership conditions, the more likely cross-ownership is the primary common characteristic. With fewer DMAs with cross-ownership conditions, the more likely other common factors are captured in the dummy variables. In the case of cross-ownership waiver situations, only 8 DMAs are included in the Consumer Commenters' market-level reviews.

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[28] Assuming for argument's sake that the econometric methods of Consumer Commenters were correct, they could have proceeded according to the following discussion. Consumer Commenters have two dummy variables: one for grandfathered licenses and one for waiver licenses; but a formal test of restricting the coefficients on the two variables to be the same, easily performed, is never presented. Alternatively, any other specification would have a dummy variable for all cross-ownership licensees and a separate dummy-variable for either grandfathered or waiver situations. The simple test would be whether the coefficient on the separate dummy variable is zero.

[29] Further Comments at 89.

[30] According to Exhibit IV-3, there are 621 market observations corresponding to the 3 years of FCC study 3 and 840 market observations corresponding to the 4 years of FCC study 4. For the incidence of cross-ownership conditions, see Exhibit IV-10 at 108.

[31] According to Exhibit IV-10, there is 0.0386 incidence for waiver conditions in the study 3 data base, or 24 total, or 8 per year. For the study 4 data base, the incidence is 0.0381, or 32 total over 4 years, or 8 per year. The 207 DMAs can be seen in the regression results presented in the statistical appendix. See, e.g., Part2.pdf at 70-74.

[32] Ibid.

As can be seen in Consumer Commenters' statistical appendices where there are dozens of regression analyses with station-level data and DMA-specific dummy variables, there is substantial variation in news production and other factors across DMAs holding other factors constant. For example, for the regression presented in the fifth column of Exhibit VIII-6,[33] DMA dummy variables were used for 206 of the 207 DMAs with the Study 3 data.[34] The range of DMA effects unrelated to cross-ownership was as follows: -508 (significantly different from zero) in DMA 40 to +197 (not significantly different from zero) in DMA 191. For this regression, the measured effect of cross-ownership is 25.9 (not significantly different from zero).

At the station level, the effect of cross-ownership is small relative to the effect of DMA differences. One would expect to find similar underlying results with market-level data. It would not be surprising to find that differences in DMA characteristics unrelated to cross-ownership will be greater than the effect of cross-ownership in the 8 DMAs with cross-ownership waivers.

E. Consumer Commenters' approach does not establish causation with respect to cross-ownership

In reviews of econometric results, correlation is often confused with causation, something Consumer Commenters recognize.[35] In other instances, Consumer Commenters assert causation without offering any foundation: "Not only does cross-ownership not increase the 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."[36] There are other instances of claims of causation that simply cannot be supported.[37]

F. The Consumer Commenters run regressions with undefined variables and without transparent data

The Consumer Commenters construct many different variables. Some of these are aggregations of station-level information, which will be discussed in more detail below. Much of the data in Chapter IV appear to be aggregated from data presented in the FCC studies. Ultimately, none of the Consumer Commenters' transformed data or

[33] Further Comments, at 198.

[34] One DMA is omitted for identification purposes.

[35] "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." Consumer Commenters, Further Comments, at 89.

[36] Ibid., at 88-89.

[37] For example, the following statement is incorrect both in terms of characterizing the actual results of the study and causation: "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." Consumer Commenters at 2. Similar incorrect statements of causation are: "At the market level, cross-ownership results in the loss of an independent voice as well as a decline in marketwide news production." Consumer Commenters at 2; and "Cross-ownership reduces the total amount of local news available in the market," Consumer Commenters at 7. These examples of causation are not exhaustive of those in the Further Comments.

new variables is immediately accessible to the public. Consequently, reviewers must take both the data and the regression results at face value.[38]

IV. The Consumer Commenters make several economic and econometric mistakes in Chapter IV that render the chapter results unreliable

The Consumer Commenters make several mistakes in Chapter IV. Among these are the following:

- Aggregating to market level to examine the effect of cross-ownership is incorrect;
- The specifications chosen by Consumer Commenters are clearly wrong;
- The use and interpretation of "policy variables" are incorrect;
- Consumer Commenters' theory of broadcaster behavior is speculative and not tested;
- The analysis of small markets in chapter IV is undocumented and wrong; and
- The conclusions presented for Chapter IV are inaccurate.

Each of these mistakes undermines the regression analyses and results presented in the chapter. Collectively, they render the results of the chapter unreliable.

A. Aggregating to market level to examine the effect of cross-ownership is incorrect

In response to the several station-level analyses in the FCC studies, including studies of cross-ownership, none of the peer reviews states that the FCC analyses are invalid because they should have been conducted at the market level. Yet Consumer Commenters argue that the proper level of analysis for the effect of cross-ownership is at the market level.[39] Curiously, despite the central importance that they attach to market-level analysis,[40] Consumer Commenters later in their report focus their attention on station-level analyses.[41]

Consumer Commenters suggest that "[t]he policy concern is about the total amount and diversity of news available to citizens in the market."[42] Although Consumer Commenters do not describe, much less provide a data base, of how the news variable used in their market-level regression analyses is constructed in each market, it appears to be based on hours of broadcast television news only. Excluded is news provided by

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[38] Particularly given positions that Consumer Commenters have taken in the past about public accessibility of information, it would be ironic if decision makers were to use the results of the analyses presented in the Further Comments.
[39] Consumer Commenters, Further Comments, at 87-89.
[40] "The most important step is to undertake a **market level analysis**. This is the central policy question, but the three studies that targeted the newspaper-TV ownership limit failed to conduct this type of analysis." Ibid., at 87.
[41] Ibid, e.g,. at 114-216.
[42] Ibid., at 88.

newspapers, radio stations, internet sites, etc.[43] Thus, despite claiming the centrality of total news and diversity of news in a market, Consumer Commenters' revised regressions presented in Chapter IV measure neither.[44]

Without aggregation, one observes the output of news by station. Within the same DMA, variations in news output can be attributed to variations in specific characteristics of the station such as ownership. When data are aggregated, the news output for a DMA reflects only the characteristics of the DMA, with more hours of broadcast news not surprisingly associated with larger DMAs in which there are more stations. Moreover, there are several econometric reasons that analysis of station-level data, where available, is preferable to more aggregated market-level data including the following:

- Aggregation is a common problem in applied econometrics and can lead to bias.[45] Aggregation from firm-level data to the market-level data masks the specific characteristics of heterogeneous firms. Many of those characteristics may have substantial effects on the production of news by the firm. Aggregating data loses this firm-specific information, such as ownership, affiliation, channel location, etc.
- In this specific instance, researchers are attempting to identify firm-level information—increases in news at the station-level—that cannot be identified with market-level data.
- With time-series cross-section data, a market-level aggregation would leave one with observations of news output for a DMA that likely vary little over time, certainly with less annual variation than station-level data. Clustering standard errors on DMAs does not compensate for including three or four observations for each DMA with little variation other than time in either explanatory or dependent variables. Not surprisingly, most of the market-level regression analyses find little significance in time-specific dummy variables.

B. The specification chosen by Consumer Commenters is clearly wrong

Most broadcast stations offer some news.[46] Consequently, in a market-level approach, if the quantity of broadcast news in a market is measured simply as the sum of news offered by each broadcast station in a market, one of the strongest predictors of the quantity of broadcast news in a market would be the number of stations in the market. That single variable, curiously, is omitted in the specifications by Consumer Commenters

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[43] It is unclear whether cable local news, included in FCC study 3, is used by the Consumer Commenters in their studies.
[44] Ibid., at 87-109.
[45] The classical discussions of aggregation and aggregation bias are in H. Theil, *Principles of Econometrics*, John Wiley & Sons, Inc., 1971, at 556-570.
[46] See discussion of censored data with respect to Heckman regression techniques in the Consumer Commenters report. Ibid. at 204-07.

in Chapter IV.[47] The omission of that variable means that the regression results are much less precise.

Some of the variables included in the Chapter IV specifications are obvious proxies for the number of stations, but far less precise than would have been achieved directly by including a variable for the number of stations. The variable for DMA homes is a measure both of the size of the DMA and a proxy, although an inadequate substitute, for the number of stations in the DMA. Not surprisingly, as DMA homes increase, Consumer Commenters find the quantity of news and public affairs programming increases.[48]

The HHI for station revenues is not fully explained by the Consumer Commenters in describing their regression analyses.[49] The higher the HHI, the more likely that there are fewer stations and thus less news. Not surprisingly, as HHI increases, Consumer Commenters find the quantity of news and public affairs programming decreases.[50] But this is just an artifact of not directly including the number of stations rather than any reflection on the competition for news in the local market.

The regression factors described in the paragraphs above, together with the constant, are the consistent significant findings in the regression analyses presented in Exhibit IV-3. The regression results would likely have been more precise if, instead of these proxies, the regressions had included one variable: the number of broadcast stations.

C. *The use and interpretation of "policy variables" is incorrect*

Consumer Commenters examine a series of "policy variables" in Chapter IV with percentages in the regression analyses.[51] Some of these percentages become proxies for the number of commercial stations. For example, the percentage of Big 3 stations among commercial stations has an estimated negative coefficient, meaning that as the percentage of commercial stations that are Big 3 increases, the measured number of minutes of local news decreases.[52] The estimated coefficient is negative because the Big 3 are almost ubiquitously present, and thus the percentage of Big 3 stations is larger where there are fewer commercial stations, and thus there is less total local news in the market given the overall decline in station number.[53] The uninformed interpretation would be that more Big 3 stations lead to less news; this is exactly the opposite of the underlying data.

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[47] Curiously, such variables are included in regressions presented in Chapter VII. See Further Comments at 174-179.

[48] Ibid., Exhibit 3, at 96.

[49] This assumes that the HHI for station revenues is measured correctly. Consumer Commenters at 91 note that they will measure HHI, but there is no precise description of how it is constructed from underlying data.

[50] Consumer Commenters' Further Comments, Exhibit IV-3, at 96.

[51] Ibid., at 91.

[52] Ibid., at Exhibits IV-3, at 96.

[53] Stated slightly differently, the relevant variable, the number of commercial stations, is in the denominator of the variable, and the number of Big 3 stations is in the numerator. News and the number of stations are

A better and more accurate method to measure the contribution of various types of stations to total news would have been to have a dummy variable for each major network or ownership type as was done in FCC Study 3.[54] In that manner, one could more precisely attribute incremental news to different categories of stations.

Consumer Commenters interpret the policy variables and cross-ownership variables presented in Exhibit IV-3 as meaning that cross-ownership leads to less news;[55] this interpretation is incorrect for several reasons. The misinterpretation of causation is described above. Some of the problems with the underlying construction of variables are described above. Most of the estimated coefficients are insignificant. The Consumer Commenters note that some of the estimated coefficients for cross-ownership are negative, but most of these estimated coefficients should not be emphasized because they are still largely insignificant.

D. Consumer Commenters' theory of broadcaster behavior is speculative and not tested

Consumer Commenters postulate a theory of broadcaster behavior in markets with newspaper cross-ownership that has at least three parts:

1. Stations with newspaper cross-ownership possibly may air more news;
2. Other stations in the market will react by offering less news; and
3. The net sum of broadcast news in a market will decline.[56]

The proper test for at least the second part of this theory is not the market-level regression analysis suggested, but never actually run, by Consumer Commenters. Rather, a better test would be based on station-level data with a dummy variable for cross-owned stations and a separate dummy variable for non-cross-owned stations in the same market with cross-owned stations. With a specification similar to that of Crawford, Table 17,[57] one would then test whether the estimated coefficient on non-cross-owned stations in the same market with cross-owned stations is negative and significantly different from zero, or at least less and significantly different from the estimated coefficient for cross-ownership. If one can reject the hypothesis, then one has a foundation to claim that decreases in news market wide, at least as measured,[58] is associated with increases in cross-ownership. If one cannot reject the hypothesis described above for the estimated

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closely and positively related. The estimated coefficient for any variable with number of stations in the denominator will likely be negative.

[54] G.S. Crawford, "Television Station Ownership Structure and the Quantity and Quality of TV Programming," July 2007, FCC Study 3, Tables 17-26.

[55] Consumer Commenters' Further Comments at 95-98.

[56] Consumer Commenters' Further Comments at 88.

[57] Crawford, at 46.

[58] One is still left with the task of measuring overall news or programming in a market. As noted earlier, the Consumer Commenters only appear to include broadcast television programming, omitting all other forms of news such as newspapers, radios, cable, internet, etc.

coefficient on the non-cross-owned station for step 2 above, one need not proceed with constructing a test for step 3, based on the overall market.

E. The analysis of small markets in chapter IV is undocumented and wrong

In Section IV, Consumer Commenters present an analysis of cross-ownership in small markets comparing all markets and small markets both with respect to the minutes of news produced and the number of stations airing news.[59] The regression results for the number of stations airing news do not appear to be presented in the statistical appendices. Moreover, the mean of the number of stations airing news is 7 for all markets and 4.2 for small markets.[60] With dependent variables that are almost entirely single-digit integers, ordinary least squares (OLS) regression analysis, the approach used by Consumer Commenters, is not likely an appropriate estimation technique. A limited dependent variable regression technique would be more appropriate.

Even if the Consumer Commenters had used a more appropriate regression technique, even if the documentation of their analyses were more complete, and even if all of the other errors in Consumer Commenters' econometric analyses described in this report were solved, the splitting of the sample for market level variables is inappropriate for analysis of cross-ownership effects.[61] As described above, there are too few observations of DMAs with cross-owned properties to permit meaningful measurement and distinctions between grandfathered situations and waiver situations in a market-level analysis. To further divide the sample into two parts increasingly diminishes the interpretation of the cross-ownership variables. Fewer observations of cross-ownership in a partitioned data set mean that the DMA-level cross-ownership dummy variables are more likely to capture DMA information unrelated to cross-ownership.

Sample statistics are not even available to determine how many cross-ownership situations fall into large and small markets in this analysis, much less which ones. The further splitting of a small number of cross-ownership DMA observations in small markets into DMAs with separate grandfathered situations and DMAs with cross-ownership operations with waivers almost certainly yields a very small number of observations for each.[62] The resulting estimated coefficients on these variables in the analyses presented by the Consumer Commenters cannot be meaningfully interpreted.

F. The conclusions presented for Chapter IV are inaccurate

Among the conclusions that Consumer Commenters present in Chapter IV with respect to cross-ownership based on their analyses constructed from market-level data are the following:

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[59] Consumer Commenters' Further Comments at 98-101.
[60] Ibid., Exhibit Iv-4 at 100.
[61] Surprisingly, Consumer Commenters provide no formal tests of whether estimated coefficients are the same for the partitioned data set.
[62] Indeed, Consumer Commenters, in a different context with station-level data, note the problems associated with partitioning data into small samples. See Consumer Commenters with respect to WGN at 208.

- 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. [63]

The initial conclusion—even if the Consumer Commenter regression analyses were all fundamentally sound and correct, which, as explained above, they are not—is simply incorrect. The results in Consumer Commenters' own Exhibit IV-3 tend to show no significant effect of cross-ownership on levels of news or public affairs programming aired in a market, meaning that a conclusion cannot be drawn one way or the other. These results of no significant effect are at variance with many of the findings in the FCC studies of a significantly positive effect of cross-ownership on news programming.[64]

The next two conclusions of Consumer Commenters with respect to the effect of cross-ownership on the number of stations offering news programming—even assuming the Consumer Commenter methodology is correct which it is not— may or may not be accurate. The results for these analyses summarized in the report are not documented or reflected in the statistical appendix in a manner that can be reviewed and replicated.

The entire separate analysis of small markets is so flawed for so many reasons described above that the results with respect to cross-ownership cannot be meaningfully interpreted.

V. The Consumer Commenters make economic and econometric mistakes in Chapter VII that render the chapter results unreliable

In Chapter VII, the Consumer Commenters make several findings with respect to the factors affecting station revenue.[65] To examine the relationship between station revenues and various factors, the Consumer Commenters perform a series of OLS regression analyses with the results presented in Exhibits VII-9 through VII-14.

Curiously, the specification includes the number of minutes of programming, including local and national news as predictors of station revenue. But, given the high cost of producing news, station revenue is also likely a predictor of the number of minutes of local news that a station produces and the number of minutes of national news that a station implicitly purchases. Moreover, in much of Chapters IV and VIII, the Consumer Commenters go to great lengths to use regression analysis to estimate the

[63] Further Comments at 109. They also include "Ownership matters, as measured by slant in political coverage." I have not reviewed this issue in-depth here.
[64] See Crawford, FCC Study 3.
[65] Ibid., at 174-186.

factors determining the number of minutes of local news programming. The proper approach to models in Chapter VII is to treat them as a simultaneous equations problem, yet the Consumer Commenters choose to estimate their regressions instead with OLS. A description of the resulting coefficient biases and other problems with such estimations can be found in any introductory econometrics text book. The results of the OLS regression analysis are particularly deficient because the estimated coefficients of interest are those associated with the number of minutes of local news.[66] Those estimated coefficients are likely to be biased. The Consumer Commenters in Chapter VII claim to make several findings about station revenues and differences between large and small markets. Those findings are unreliable given that they were estimated with an improper regression technique.

VI. The Consumer Commenters make economic and econometric mistakes in Chapter VIII that render the chapter results unreliable

The Consumer Commenters make several mistakes in constructing Chapter VIII including the following:

- The Consumer Commenters misinterpret the results of FCC study 3 with respect to station-specific effects;
- The Consumer Commenters misinterpret the overwhelming corporate parent-specific fixed effects;
- The Consumer Commenters verify but largely ignore the positive effect of cross-ownership on news in FCC study 4.1;
- The partitioning of the database into smaller subsamples may mask the effects of cross-ownership;
- The Consumer Commenters do not adequately document or explain the Heckman regression analyses; and
- The Consumer Commenters make incorrect conclusions from the analyses in Chapter VIII.

A. The Consumer Commenters misinterpret the results of FCC study 3 with respect to station-specific effects.

The Consumer Commenters misinterpret the results of FCC study 3 and consequently conclude that their regression results are substantially different. In fact, they are quite similar.

The FCC Study 3 by Professor Crawford presents two different sets of regression results for the effects of ownership (including newspaper cross-ownership) on the news production of local broadcast television stations.[67] One set of regression results is based

[66] Ibid., at 177-180.
[67] Crawford Study, at http://fjallfoss.fcc.gov/edocs_public/openAttachment.do?link=DA-07-3470A4.pdf.

on DMA fixed effects presented in Table 17 and finds a significant positive coefficient with newspaper cross-ownership.[68] The other set of regression results is based on station fixed effects as presented in Table 26 and does not find a significant coefficient for newspaper cross-ownership.[69] Both specifications are presented, and Professor Crawford emphasizes that the former rather than the latter represents the "strongest" results.[70] Perhaps that is because the station fixed effects may make it more difficult to identify the varying effect of one station effect, such as cross-ownership. In any event, Professor Crawford was certainly aware of the regression results with station fixed effects.

The Consumer Commenters focus only on the results from Table 17 of the Crawford study and label column 9 as "Study 3's preferred model."[71] When the Consumer Commenters add a few station factors such as age and VHF status, the estimated coefficient on cross-ownership is no longer significantly different from zero, meaning that there is no measurable relationship of cross-ownership to news production.[72] The same result holds for adding station-effects for parent-ownership specific effects in Exhibits VIII-5 and VIII-6.[73]

> But the most damming [sic] 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 ommited [sic] 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 ommited [sic] 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.[74]

Yet the results that Consumer Commenters find are neither "damming" nor "damning" at all. These results simply reflect the results with station fixed effects already presented by Crawford in Table 26.

Professor Crawford's results for the estimated cross-ownership parameters in Table 17 measure the difference between the news aired by a cross-owned station and non-cross-owned station in the same DMA. That is a meaningful distinction because the threshold question is whether a station is cross-owned or not. As it turns out, holding DMA factors constant, the amount of news aired by a cross-owned station is estimated to be greater than the amount of news aired by a non-cross-owned station. In other words, if a station that is not cross-owned in any market were to be purchased by the unspecified parent of a local newspaper, the expected news aired by the station would *increase* as measured by the single cross-ownership variable.

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[68] Crawford, at 46.
[69] Crawford at 55.
[70] Crawford at 4 and 26.
[71] Consumer Commenters at 191. This is not Crawford's description.
[72] Ibid., at 192-194.
[73] Ibid., at 197-198.
[74] Ibid. at 194.

In contrast, the results in Table 26 with station-specific information, presumably including ownership, yield an entirely different type of estimated cross-ownership coefficient. Those estimated coefficients, similar to those estimated by Consumer Commenters and presented in Exhibit VIII-9 and VIII-10,[75] measure the expected difference between the news aired by a station owned by a specific parent in one DMA and a station owned by the same parent company in the same DMA without cross-ownership. As a specific example, if a station that is not cross-owned in a market were to be purchased by Company A, the expected change in news aired by the station would depend on both the Company A ownership dummy variable and whether Company A owns a newspaper in the DMA.[76] On the other hand, if the same station were to be purchased instead by Company B, the expected change in news aired by the station would depend on both the Company B ownership dummy variable and whether Company B owns a newspaper in the DMA. Based on the regression results underlying Exhibits VIII-9 and VIII-10, the range of the estimated corporate-parent-specific effects is quite large, much larger than the estimated cross-ownership specific effect.[77] Thus, the expected difference in news depends not only on cross-ownership but on the identity of the parent.

Knowledge of parent identities does not discredit the straightforward finding that Professor Crawford presents in Table 17: cross-owned stations holding DMA factors constant air more news. Thus, it is not surprising that Professor Crawford emphasizes the results of Table 17.

B. The Consumer Commenters misinterpret the overwhelming corporate parent-specific fixed effects

Consumer Commenters present regression results for their preferred specifications with the addition of corporate-parent specific effects in Exhibits VIII-5, VIII-6, and VIII-9, and VIII-10.[78] Consumer Commenters observe that the estimated coefficient on cross-ownership becomes negative for grandfathered stations with the addition of the parent corporation dummy variable.[79] A negative coefficient in this case means that a station in a specific DMA with a specific ownership is estimated to have less news output with cross-ownership. All of these other factors have estimated coefficients that are large

[75] Ibid., at 202-203.
[76] The standard error of the combined effect can only be calculated with information from the variance-covariance matrix. Moreover, if one wants to measure the expected difference in news for a specific DMA for a specific transaction, one would also include the DMA-specific factors from the regression analysis.
[77] For example, a review of the parent-specific effects for the regression in the last column in Exhibit VIII-6 reveals an extraordinary range of news outputs depending on the station's parent. (To review the estimated results for this regression, see Consumer Commenters pdf file Part3.pdf at 58-74.) There are 544 ownership variables, only a few of which were dropped for this regression. Although the estimated coefficients for all of these variables were not significant, many were significant. The magnitudes of the estimated coefficients range from approximately -800 to +1,600. These parent-specific effects completely overwhelm the estimated effects of cross-ownership, the estimated coefficients for both of which were much less than 100 and insignificant.
[78] Further Comments, at 197-203.
[79] Ibid., at 198.

relative to the estimates of pure cross-ownership factors presented by Consumer Commenters in Exhibits VIII-9 and VIII-10. A review of these other estimated coefficients suggests that they are likely to overwhelm the pure cross-ownership effect.[80]

To examine the effect of cross-ownership on a specific parent company in a specific market, one must measure the sum of the changes in all relevant variables and measure the standard error based on the variance-covariance matrix. The result leads to a market-specific and company-specific effect of cross-ownership. The challenges of correctly interpreting these results for cross-ownership are discussed above.

Perhaps the most obvious misinterpretation of corporate parent specific effects is with respect to the analyses of data from FCC study 6.[81] The data set contains 312 observations for stations in markets with cross-ownership. Without parent specific effects, the estimated coefficients on newspaper cross-ownership are insignificant.[82] With 44 parent specific dummy variables, the estimated coefficient on cross-ownership is large, negative, and significant different from zero.[83] But for some of these parent companies, the only stations in the sampled markets are cross-owned; for others, none is cross-owned.

The proper interpretation of the estimated cross-ownership variable is again in combination with the estimated parent ownership coefficient. The estimated corporate dummy variables for the regression in the first column of Exhibit VIII-17 range from -385 to +793.[84] If a parent company with a cross-owned paper in a market has an estimated coefficient greater than 259, the net result for a station is *more* news. Thirteen of the 44 parent variables have an estimated coefficient greater than 259.[85] Moreover, one must look at the variance-covariance matrix to determine whether the combination of the effect of cross-ownership and parent ownership leads to an estimated coefficient different from zero. None of this analysis for any cross-owned station is provided in Consumer Commenters' report.

C. The Consumer Commenters verify but largely ignore the positive effect of cross-ownership on news in FCC study 4.1

The Consumer Commenters find positive and significant association of newspaper cross-ownership with news based on the data from FCC study 4.1 as reported in Exhibit VIII-13.[86] Consumer Commenters report the results but discount their importance because: "We think that the lessons from Study 4 on the impact of cross-

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[80] For example, a review of the parent-specific effects for the regression in the last column in Exhibit VIII-6 reveals an extraordinary range of news outputs depending on the station's parent. (See Consumer Commenters pdf file Part3.pdf at 58-74.)
[81] Further comments, at 213-215.
[82] Ibid., Exhibit VIII-16 at 214.
[83] Ibid., Exhibit VIII-17 at 215.
[84] To see the estimated results for this regression, see Consumer Commenters pdf file Part4.pdf at 165-167.
[85] Ibid.
[86] Consumer Commenters Further Report, at 208-209.

ownership are limited by the study's lack of observations on local news programming."[87] To the contrary, Study 4.1 provides substantial insights into the effects of cross-ownership on news programming.

D. The partitioning of the database into smaller subsamples may mask the effects of cross-ownership

The Consumer Commenters present in a favorable manner the partitioning of the data set between big-4 stations and other stations.[88] There may be sound econometric reasons to partition the database, but the Consumer Commenters do not present straightforward tests for the partitioning and any testing as to whether one can reject the hypothesis that estimated parameters are the same in each subsample. More importantly, if the purpose of the exercise is to determine the effect of newspaper cross-ownership on broadcast news, there may be good reason not to partition the database. Specifically, there are so few observations of newspaper cross-ownership that their effect becomes more difficult to identify with fewer observations in each subsample. The Consumer Commenters recognize an extreme form of this problem:

> 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.[89]

The same problems of partitioning the database apply to the analyses of the data from Study 4.[90]

E. The Consumer Commenters do not adequately document or explain the Heckman regression analyses

The Consumer Commenters correctly observe that there is potentially a statistical censoring issue because some stations produce zero news. The volume of news produced is a two-step process: first, determine whether to produce any news; second, if a station determines to produce news, determine how much to produce. To model this process, Consumer Commenters suggest one type of Heckman regression analysis.[91]

The results of the Heckman regression analyses are presented in Exhibits VIII-11 and VIII-12[92] for the data from FCC study 3 and Exhibit VIII-15 for the data from FCC study 4. Few of the reported estimated coefficients, including those for cross-ownership, are significant. The Consumer Commenters present surprisingly little information about the specification of the Heckman analysis; they do not present the estimates of lambda and other parameters associated with a Heckman analysis. Based on the reported

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[87] Ibid., at 208.
[88] Ibid., at 199-204.
[89] Ibid., at 203.
[90] Ibid., at 210-212.
[91] Ibid., at 204-207.
[92] Ibid., at 206-207.

information alone, it is impossible to determine either precisely how the model is specified or whether the analysis has been properly conducted.

F. The Consumer Commenters make incorrect conclusions from the analyses in Chapter VIII.

Consumer Commenters make summary comments for Chapter VIII that are not supported by the analyses.

> 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.[93]

The analyses in Chapter VIII merely replicate the findings of Chapter 3 rather than reach different conclusions. There is no statistically significant result that cross-ownership leads to less news at the market level, nor is there any credible evidence that there is no financial benefit to cross-ownership outside the largest markets. Thus, the concluding advice on a "clear" path for the commission is unsupported—and therefore results in the wrong path.

[93] Ibid., at 207-208.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
2006 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 06-121
	)	
2002 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 02-277
	)	
Cross-Ownership of Broadcast Stations and Newspapers	)	MB Docket No. 01-235
	)	
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	MB Docket No. 01-317
	)	
Definition of Radio Markets	)	MB Docket No. 00-244

REPLY COMMENTS OF THE NEWSPAPER ASSOCIATION OF AMERICA ON MEDIA OWNERSHIP RESEARCH STUDIES

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November 1, 2007

Effects of Newspaper-Television Cross-Ownership on Total Market News Minutes: Response to "Further Comments of Consumers Union, Consumer Federation of America and Free Press"

Kent W Mikkelsen

November 1, 2007

1. My name is Kent W Mikkelsen. I am a Senior Vice President at Economists Incorporated, an economic research and consulting firm. I hold a Ph.D. in Economics from Yale University. I have extensive experience analyzing both the newspaper industry and the television industry. I have prepared a number of reports on the subject of newspaper-television cross-ownership that were submitted in earlier Commission proceedings on behalf of the Newspaper Association of America (NAA).

2. I have been asked by counsel for NAA to analyze a portion of "Further Comments of Consumers Union, Consumer Federation of America and Free Press (CU/CFA/FP)," submitted in this proceeding on October 22, 2007. In particular, I was asked to comment on the CU/CFA/FP analysis contained in Chapter 4 relating to the effects of newspaper-television cross-ownership on television news minutes in a market.

3. Early in this chapter, CU/CFA/FP cites with approval a statement by Dr. Leslie Marx, the former Chief Economist at the FCC:

> 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 the local media. If it does not, then one could justify dropping or significantly relaxing the cross-ownership restriction on those grounds alone.[1]

The standard laid out in this statement is one that would be adopted by most economists: if certain conduct causes no harm, then the conduct should not be prohibited. Applying this standard, I find that the analysis of the effect of cross-ownership on news minutes within a market presented in CU/CFA/FP—assuming its validity—supports "dropping or

[1] CU/CFA/FP pp. 87-88, quoting Leslie M. Marx, "Summary of Ideas on Newspaper-Broadcast Cross-Ownership," June 15, 2006, p. 3.

significantly relaxing" the newspaper-television cross-ownership restriction rather than retaining it. The results presented in CU/CFA/FP show no statistically significant reduction in total market news minutes when a market has a cross-owned television station.

4. Before turning to the statistical results, it is important to point out that, in addition to there being no significant statistical evidence for a decrease in news minutes within a market with cross-ownership, CU/CFA/FP provides no coherent theory of why one might expect a market-wide decrease in broadcast news minutes to result from cross-ownership. CU/CFA/FP's argument appears to run as follows. First, CU/CFA/FP apparently accepts that a cross-owned station will have an advantage in producing news, and that as a result it will tend to produce more minutes of news than if it were not cross-owned, holding other factors constant. CU/CFA/FP then asserts without support that other stations will react by reducing the amount of news they provide. The reader is left to make the leap from potential reductions by other stations in the market to a conclusion that any such reductions would exceed the increase in news minutes at the cross-owned station, thereby reducing total news minutes in the market.

5. Several studies, including three sponsored by the FCC for this proceeding, have found that a cross-owned television station tends to have more news minutes. The principal reason for this result appears to be that when a television station is cross-owned with a newspaper, resource sharing reduces the station's cost of producing news. When the cost of production for a firm is reduced, economic theory predicts that the firm will expand output, other factors being equal. With a given level of demand for news in the market, this would tend to increase the share of total news minutes produced by the cross-owned station. However, the net effect on total news minutes should be positive, not negative. Even if one or more of the non-cross-owned stations were to decrease their news output—which has not been shown to be the case—no theory has been offered that predicts they would reduce their news minutes by an amount greater than the amount of the increase by the cross-owned station. Following the reduction of cost for a firm in the market, the market should be able to sustain profitably more news minutes—or certainly no fewer news minutes—than without the cross-ownership.

6. CU/CFA/FP's statistical result—finding no significant decrease in market-wide news minutes associated with cross-owned stations—is therefore unsurprising. The principle results are shown in CU/CFA/FP's Exhibit IV-3. CU/CFA/FP uses data from FCC-sponsored Study 3 and Study 4 to create market-level variables for news minutes and public affairs minutes. Regressions are estimated using a set of market-level variables. The estimated coefficient on the variable indicating the presence of a cross-owned firm in the market, though negative, is statistically not significantly different from zero in any of the four regressions. Failure to find a statistically significant negative effect is support for eliminating the restrictions on cross-ownership.

7. I have not tested how sensitive CU/CFA/FP's results are to the particular variables included in the regressions. It is my understanding that the transformed data CU/CFA/FP used for its regressions has not been made available. There are a number of peculiarities in the choice of variables and the way those variables were defined. For example, in enumerating the ways in which its analysis improves on various FCC-sponsored studies, CU/CFA/FP claims as a virtue of its study that it includes "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." (p. 91) First, this claim appears to be incorrect. TV-radio cross-ownership is not listed as a variable included in the regressions in CU/CFA/FP's Exhibit IV-2 or on pages 94-95, nor does it show up in the regression results in Exhibit IV-3. Second, even though some of these may be policy variables of interest to the FCC, it is appropriate to include them as explanatory variables in a regression only if there is some reason to believe that they influence the dependent variable, total news minutes in the market. On page 97, CU/CFA/FP states that there is no hypothesis that female-owned or minority-owned stations will carry more minutes of news. One wonders how the results of CU/CFA/FP's regressions were affected by the omission of one variable CU/CFA/FP claims to be relevant and the inclusion of two other variables it believes are irrelevant—but which could nonetheless alter the regression estimates.

8. Another peculiarity in CU/CFA/FP's regressions is the way that certain variables were defined. It is not unreasonable to suppose that stations affiliated with one of the major broadcast networks will tend to produce more news minutes, other factors being the same, than stations without such an affiliation. It is odd, however, that CU/CFA/FP treats affiliation with Fox quite differently than it treats affiliation with ABC, CBS or NBC ("big 3"). At the market level, CU/CFA/FP calculates the number of stations in a market affiliated with one of the "big 3" as a percentage of the commercial stations in the market. The practical effect of this procedure is that the effect of a "big 3" affiliate in a market with many stations is smaller than the effect of such an affiliation in a market with few stations. By contrast, CU/CFA/FP assumes that the presence of a Fox affiliate in the market changes the total news minutes by some standard amount that does not vary with the number of other commercial stations in the market. The effect of stations being owned and operated by ABC, CBS, NBC or Fox is treated like the "big 3" affiliation—i.e., calculated as a percentage of commercial stations in the market—except that in this case Fox O&Os are included in the same variable as O&Os of the other major networks. The effect of cross-ownership on total market news minutes is assumed to have the same form as the presence of a Fox affiliate—i.e., the presence of a cross-owned station in the market is assumed to increase or decrease total news minutes by a standard amount that does not vary with the number of other commercial stations in the market. Again, one wonders whether CU/CFA/FP's regression results would be altered if these variables were defined in a consistent fashion.

9. CU/CFA/FP searches further for a statistically significant result from cross-ownership by distinguishing between "grandfathered" cross-owned stations, which were already cross-owned when the FCC's 1975 cross-ownership ban was introduced, and "waived" cross-owned stations that were granted temporary permission after 1975. CU/CFA/FP's rationale for examining grandfathered and waived cross-owned stations separately is that the behavior of the waived stations may be altered because they are "on their best behavior." (p. 90) When regressions are run permitting the presence of a grandfathered cross-owned station to have a different effect on total news minutes than a waived cross-owned station, CU/CFA/FP achieves (with grandfathered cross-owned sta-

tions) the only negative result that is statistically significant at the conventional 5 percent level.

10. Unfortunately, the reason CU/CFA/FP gives for making this distinction is contradicted by other statements that CU/CFA/FP makes. On page 194, CU/CFA/FP notes that "waived stations were outperforming grandfathered stations. This is consistent with our theory of 'good behavior' by the owners of these stations." To further clarify the meaning of "good behavior," one can consult CU/CFA/FP's Exhibit VIII-2 on page 193. There it is reported that a waived cross-owned station has a greater increase in news minutes (relative to a non-cross-owned station) than a grandfathered cross-owned station. In other words, "good" or "best" behavior by a waived cross-owned station means increasing its output of news minutes by a large amount.

11. This finding can now be applied back to the market-level effects of cross-ownership that are the subject of Chapter 4. The theory in Chapter 4, as described above, is that an increase in news minutes by a cross-owned station causes other stations in the market to decrease their news minutes by such a large amount that total news minutes in the market are reduced. Given that waived stations on their "best behavior" have a larger increase in news minutes than grandfathered cross-owned stations, as CU/CFA/FP affirms on pages 193-4, one would expect that if there is a reduction in total market news minutes associated with cross-ownership, it should be larger for waived cross-owned stations than for grandfathered cross-owned stations. But this is the exact opposite of what CU/CFA/FP finds when they estimate separate waived and grandfathered cross-ownership effects on total market news minutes.

12. In fact, if it were true that cross-ownership led to a reduction in total market news minutes, there is no reason to think it would be appreciably different for waived and grandfathered cross-owned stations. If, as CU/CFA/FP believes, rival stations will respond to a cross-owned station by reducing their news minutes, it would not take long to put this decision into effect. There is no basis to believe that only stations in markets with grandfathered cross-owned stations would have had time to make such an adjustment.

13. In conclusion, most economists believe that regulations should only be maintained if they are demonstrably deterring some harmful behavior. While there are questions that can be raised about the details of its methods, CU/CFA/FP's findings provide support for the elimination of the FCC's cross-ownership rule, not for their retention. Taken at face value, CU/CFA/FP's analysis provides evidence that the cross-ownership of television stations and newspapers is not demonstrably harmful to total television news minutes in a market.