13 COMM. L. & POL'Y 1–27 (2008)

ISSN: 1081-1680 print / 1532-6926 online
DOI: 10.1080/10811680701754910

ONE OWNER, ONE VOICE? TESTING A CENTRAL PREMISE OF NEWSPAPER-BROADCAST CROSS-OWNERSHIP POLICY

DAVID PRITCHARD*
CHRISTOPHER TERRY**
PAUL R. BREWER***

Empirical questions about the relationship between ownership structure and media content are central to the debate about media ownership policy in the United States. At the core of the debate is the concern that an individual or company owning multiple media outlets will slant news and opinion in an attempt to distort public opinion and / or influence public policy. The premise is that a single owner represents a single voice, regardless of how many media outlets the owner operates. This article, which features a study of news and commentary about the 2004 presidential campaign from commonly owned newspapers, television stations and radio stations in three communities, tests the validity of the one owner, one voice premise in the context of newspaper-broadcast cross-ownership. The results of the study—one of the very few studies of newspaper-broadcast cross-ownership to incorporate radio content—suggest that there is no empirical basis for believing that cross-owned media do any less than other media to serve the public interest.

---

*Professor, Department of Journalism and Mass Communication, University of Wisconsin-Milwaukee.

**Ph.D. student, School of Journalism and Mass Communication, University of Wisconsin-Madison.

***Associate Professor, Department of Journalism and Mass Communication, University of Wisconsin-Milwaukee.

Jessica Birthisel, Melody Hoffmann, Jennifer Janscha, Zak Mazur, Angela McManaman and Kristi Shileny, graduate students at the University of Wisconsin-Milwaukee, provided coding and research assistance.

The debate over media-ownership policy in the United States is mired in a conceptual bog.[1] Activists depict the "corporate media" as a grave threat to democracy,[2] despite the fact that virtually all American media outlets—even those that editorially oppose "corporate media"—are themselves corporations. Policymakers make frequent use of the marketplace of ideas metaphor, but fail to define it clearly or use it in a consistent fashion.[3] An increasing number of scholars suggest that the marketplace metaphor may not be a very useful image for people who seek to enhance democracy. One media scholar wrote that "[p]ublic life needs to be recognized not as a market but as a forum where reasoned discourse is the goal, where citizens seek to achieve understanding rather than expressive victory."[4] A professor of public policy noted that "[t]he metaphor of news coverage as a marketplace of ideas generates more questions than answers."[5]

Meanwhile, the Federal Communications Commission (FCC) has considered diversity to be an important policy goal,[6] but the concept applies so broadly[7] that it has come to be seen as "an end in

[1]The "conceptual bog" phrase is borrowed from Richard Schultz, *Measuring Media Diversity: Problems and Prospects* 2 (Shorenstein Ctr. on Press, Pol. & Pub. Pol'y, Harvard University, Working Paper 2005–7, 2005), *available at* http://www.ksg.harvard.edu/presspol/research_publications/papers/working_papers/2005_7.pdf.

[2]*See, e.g.,* ROBERT W. MCCHESNEY, CORPORATE MEDIA AND THE THREAT TO DEMOCRACY (1997); NEWS INCORPORATED: CORPORATE MEDIA OWNERSHIP AND ITS THREAT TO DEMOCRACY (Elliott D. Cohen ed., 2005).

[3]For an overview of how the Supreme Court of the United States has used the metaphor *see* W. Wat Hopkins, *The Supreme Court Defines the Marketplace of Ideas*, 73 JOURNALISM & MASS COMM. Q. 40 (1996). On the Federal Communications Commission's use of the metaphor, *see* Philip M. Napoli, *The Marketplace of Ideas Metaphor in Communications Regulation*, 49 J. COMM. 151 (Autumn 1999).

[4]DAVID S. ALLEN, DEMOCRACY, INC.: THE PRESS AND LAW IN THE CORPORATE RATIONALIZATION OF THE PUBLIC SPHERE 157 (2005).

[5]JAMES T. HAMILTON, ALL THE NEWS THAT'S FIT TO SELL: HOW THE MARKET TRANSFORMS INFORMATION INTO NEWS 30 (2004).

[6]*See, e.g.,* Further Notice of Proposed Rulemaking, *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) July 24, 2006 (released), incorporating unresolved issues from *2002 Biennial Regulatory Review* (MB Docket 02-277), *Cross-Ownership of Broadcast Stations and Newspapers* (MB Docket 01-235), *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets* (MM Docket 01-317), and *Definition of Radio Markets* (MM Docket No. 00-244) (hereinafter *2006 Quadrennial Review*).

[7]A widely cited article identified at least eight distinct definitions of diversity in the media policy arena. Philip M. Napoli, *Deconstructing the Diversity Principle*, 49 J. COMM. 7 (Autumn 1999).

itself."[8] One scholar has gone so far as to decry "the fetishization of diversity as a policy principle."[9] Another noted that the FCC and Congress have "usually soft-pedaled the conceptual difficulties associated with diversity, sticking to generic praise of the policy."[10] A third concluded that "no one has been able to develop a working definition of diversity—not the content providers, not the policymakers, not the scholars, and not the courts."[11]

In the context of media ownership policy, the notion that a marketplace of ideas will foster various kinds of diversity in the American media has much in common with the fear of "corporate media." In both cases, the concern is that if one individual or company owns multiple media outlets, the owner will use all of its outlets to convey a narrow range of viewpoints in an attempt to influence public opinion and/or public policy. The premise is that a single owner represents a single voice, regardless of how many media outlets the owner operates. This concern is especially acute when one company owns multiple media outlets in a single community. One scholar recently asserted that when "a newspaper company also owns television and radio stations, it can easily use its stranglehold on local journalism to promote its own vested corporate interests."[12] A lawyer arguing against the FCC's proposed relaxation of local cross-ownership rules expressed the same idea more colorfully in 2004 when she told the U.S. Court of Appeals for the Third Circuit that permitting newspaper-broadcast cross-ownership was "like giving one person two megaphones and saying that's diversity," even though "they're now providing the same news and it's the same editorial viewpoint."[13] The premise that each media owner in a community, even one that possesses multiple media

[8]DENIS MCQUAIL, MEDIA PERFORMANCE: MASS COMMUNICATION AND THE PUBLIC INTEREST 142 (1992).

[9]Sandra Braman, *The Limits of Diversity*, *in* MEDIA DIVERSITY AND LOCALISM: MEANING AND METRICS 139, 139 (Philip M. Napoli ed., 2007).

[10]Robert B. Horowitz, *On Media Concentration and the Diversity Question*, 21 THE INFO. SOC'Y 181, 183 (2005).

[11]MARA EINSTEIN, MEDIA DIVERSITY: ECONOMICS, OWNERSHIP AND THE FCC 6 (2004).

[12]ERIC KLINENBERG, FIGHTING FOR AIR: THE BATTLE TO CONTROL AMERICA'S MEDIA 125 (2007).

[13]*Id.* at 272 (quoting from the oral argument of Angela Campbell before the U.S. Court of Appeals for the Third Circuit in *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004), *cert. denied*, 545 U.S. 1123 (2005)).

outlets, constitutes a single editorial "voice" has influenced Congress,[14] the Federal Communications Commission,[15] and the courts.[16]

But is the premise true? When a single company owns a daily newspaper, a television station and a radio station in the same community, do the commonly owned media outlets speak with a single voice, or does their owner permit the expression of multiple viewpoints about public affairs? This article tests the validity of the one-owner, one-voice premise with evidence from a content analysis of news and commentary about the 2004 presidential campaign disseminated by commonly owned newspapers, television stations and radio stations in three communities: Chicago, Illinois; Milwaukee, Wisconsin; and Dayton, Ohio. The article breaks new ground in two ways. First, it incorporates news and commentary from radio, a politically influential medium[17] that has been ignored in modern debates over cross-ownership, which focus almost exclusively on newspaper-television cross-ownership. Second, the article's study contains a control group of independently owned media

---

[14] In the Telecommunications Act of 1996, for example, Congress highlighted the need to "promote the policies and purposes of this Act favoring diversity of media voices. . . ." Pub. L. No. 104-104, 110 Stat. 56, § 257(b).

[15] The FCC "has historically used voice-count tests as a means of promoting diversity." Sinclair Broadcast Group v. FCC, 284 F.3d 148, 162 (D.C. Cir. 2002). In 1999, for example, the commission defined the total of "media voices" in a community as the sum of the number of (a) independently owned, full-power, primary, broadcast television stations within the DMA of the community of license, (b) independently owned, primary, broadcast radio stations in the radio metro market of the community of license, (c) all English-language newspapers within the TV station's DMA which are published at least four days a week and have a circulation of at least 5% of the DMA households, and (d) if cable is generally available in the DMA, one cable system. Report and Order, *In the Matter of Review of the Commission's Regulations Governing Television Broadcasting*, 14 F.C.C.R. 12,903, 12,950 (1999). *See also* Order and Notice of Proposed Rulemaking, *In the Matter of Cross-Ownership of Broadcast Stations and Newspapers and Newspaper/Radio Cross-Ownership Waiver Policy*, MM Docket Nos. 96-197 and 01-235, paras. 42–47 (2001). For a critical view of the Commission's use of the "media voices" concept, *see* Loy A. Singleton & Steven C. Rockwell, *Silent Voices: Analyzing the FCC 'Media Voices' Criteria Limiting Local Radio-Television Cross-Ownership*, 8 COMM. L. & POL'Y 385 (2003).

[16] In *Sinclair Broadcast Group* the Court was critical of the FCC's inconsistency in applying the "voices" concept, but did not question the Commission's right to use the concept in a non-arbitrary way. 284 F.3d at 162–65.

[17] *See* Keith Stamm, Michelle Johnson & Brennon Martin, *Differences Among Newspapers, Television, and Radio in Their Contribution to Knowledge of the Contract with America*, 74 JOURNALISM & MASS COMM. Q. 687, 697 (1997) ("Depending on the issue and the kind of listener, radio may be as influential as television and newspapers in informing the public."). *See also* DAVID C. BARKER, RUSHED TO JUDGMENT: TALK RADIO, PERSUASION, AND AMERICAN POLITICAL BEHAVIOR (2002); Gangheong Lee & Joseph N. Capella, *The Effects of Political Talk Radio on Political Attitude Formation: Exposure Versus Knowledge*, 18 POL. COMM. 369 (2001).

outlets in Chicago as a way of ensuring against inappropriate inferences about the content of the cross-owned newspaper-television-radio combination in Chicago.[18] The results of the article's study are directly relevant to the FCC's renewed inquiry into whether a company should be permitted to own a daily newspaper and one or more broadcast stations in the same community.[19]

The remainder of the article (a) reviews the history of the FCC's policy initiatives with respect to newspaper-broadcast cross-ownership, (b) provides an overview of empirical research about the effects of newspaper-broadcast cross-ownership from the first studies in the early 1940s through several FCC-sponsored studies released in late July 2007, (c) offers a new test of the one-owner, one-voice premise by analyzing partisan slant in the news and opinion content of cross-owned newspaper-television-radio combinations in Chicago, Milwaukee and Dayton, (d) examines whether the slant of news and opinion about the 2004 presidential campaign in the Tribune Company's Chicago newspaper-television-radio combination was significantly different from the slant of news and opinion disseminated by independently owned similar media in Chicago, and (e) makes policy recommendations consistent with the empirical evidence.

THE PRE-TELEVISION DEBATE

Before commercial radio was a decade old, policymakers began to question whether newspaper ownership of broadcast stations was in the public interest. During the Senate's deliberations about the bill that became the Radio Act of 1927,[20] a senator raised the issue.[21] In 1935 a prominent scholar expressed concern about "the increasingly monopolistic character of the media of communication (including the press)."[22] Congress broached the question upon more than one occasion in the 1930s, but passed no legislation relating to it, perhaps because newspapers and radio were seen more as antagonists than as potential collaborators for much of the decade.[23]

---

[18]The FCC criticized the lack of a control group in prior studies of newspaper-broadcast cross-ownership. *FCC Report and Order and Notice of Proposed Rulemaking*, 2002 Biennial Regulatory Review—Review of the Comm'n's Broad. Ownership Rules and Other Rules Adopted Pursuant to Section 202, 18 F.C.C.R. 13,620, para. 862 (2003), *aff'd in part and remanded in part sub nom.* Prometheus Radio Project v. FCC, *supra* note 13.

[19]*2006 Quadrennial Review*, *supra* note 6, paras. 23–32.

[20]Pub. L. No. 69-632, 44 Stat. 1162 (repealed 1934).

[21]Comments of Senator Clarence Dill, 67 CONG. REC. 12353 (1926).

[22]Frederick Seaton Siebert, *Freedom of Propaganda*, 12 JOURNALISM Q. 27, 36 (1935).

[23]Heated competition over radio's right to transmit news gathered by newspapers or newspaper-affiliated wire services led to the "press-radio war" of the early and

Several cases before the Federal Communications Commission in the late 1930s and early 1940s involved applications by newspapers to own and operate radio stations, but cross-ownership was rarely a reason for turning down an application.[24] One observer noted:

> When applications by newspapers and newspaper interests were denied, the denial was usually based on grounds other than the ownership of a newspaper. Most of the time, a newspaper applicant could soothe any misgivings the Commission harbored by showing that the radio station would be operated separately from the newspaper.[25]

By 1940 newspapers controlled almost a third of the radio stations in the United States.[26] In ninety-eight communities, the only radio station was owned by the community's only newspaper.[27] President Franklin D. Roosevelt, whose re-election and New Deal reforms had been opposed by the editorial writers of most American newspapers, became concerned that newspaper publishers would spread their anti-New Deal message to radio,[28] a medium he had been using with great effectiveness.[29] One historian summarized Roosevelt's thinking this way: "It was galling

---

mid-1930s. *See* GWENYTH L. JACKAWAY, MEDIA AT WAR: RADIO'S CHALLENGE TO THE NEWSPAPERS, 1924–1939 (1995); Giraud Chester, *The Press-Radio War: 1933–1935*, 13 PUB. OPINION Q. 252 (1949); George E. Lott, *The Press-Radio War of the 1930s*, 14 J. BROADCASTING 275 (1970); Herbert Moore, *The News War in the Air*, 12 JOURNALISM Q. 43 (1935). The war died down in the mid-1930s as newspapers began to move aggressively to gain control of radio stations. *See* Russell J. Hammargren, *The Origin of the Press-Radio Conflict*, 13 JOURNALISM Q. 91 (1936); Rudolph D. Michael, *History and Criticism of Press-Radio Relationships*, 15 JOURNALISM Q. 178 (1938); P.H. Wagner, *The Evolution of Newspaper Interest in Radio*, 23 JOURNALISM Q. 182 (1946).

[24] *See, e.g.*, Martinsville Broad. Co., 8 F.C.C. 46 (1940); Albert Steinfeld and Co., 6 F.C.C. 714 (1939); South Bend Tribune, 6 F.C.C. 783 (1939); Northwestern Publ'g Co., 5 F.C.C. 321 (1938); Lloyd C. Thomas, 5 F.C.C. 360 (1938); Pacific Radio Corp., 5 F.C.C. 427 (1938); Bend Bulletin, 5 F.C.C. 447 (1938); Dorrance D. Roderick, 5 F.C.C. 563 (1938); Harold M. Finlay, 4 F.C.C. 356 (1937); Telegraph-Herald, 4 F.C.C. 392 (1937); Times Publ'g Co., 4 F.C.C. 400 (1937); Hartford Broad. Co., 2 F.C.C. 330 (1936); Bell Broad. Co., 3 F.C.C. 90 (1936); Mason City Broad. Co., 3 F.C.C. 116 (1936); Union Tribune Publ'g Co., 3 F.C.C. 451 (1936). *But see* Port Huron Broad. Co., 5 F.C.C. 117 (1938), in which the Commission denied an application for a radio-station construction permit from two executives of a newspaper, granting the permit instead to a non-newspaper applicant.

[25] Daniel W. Toohey, *Newspaper Ownership of Broadcast Facilities*, 20 FED. COMM. B.J. 44, 45 (1966).

[26] *See* Harvey J. Levin, *Broadcast Regulation and Intermedium Competition*, 45 VA. L. REV. 1104, 1136 (1959). Newspaper control of radio declined after 1940. *See* Christopher H. Sterling, *Trends in Daily Newspaper and Broadcast Ownership, 1922–1970*, 52 JOURNALISM Q. 247 (1975).

[27] *See* ERIK BARNOUW, A HISTORY OF BROADCASTING IN THE UNITED STATES, VOLUME 2: THE GOLDEN WEB 170 (1968).

[28] *See generally* BETTY H. WINFIELD, FDR AND THE NEWS MEDIA (1990).

[29] On Roosevelt's use of radio, *see* PAUL STARR, THE CREATION OF THE MEDIA: POLITICAL ORIGINS OF MODERN COMMUNICATIONS 360 (2004); WINFIELD, *supra* note 28;

enough to be opposed by an overwhelming number of newspapers in the United States, but did those same economic royalists have to be granted licenses to broadcast? Shouldn't—couldn't—something be done to prevent a replication of the newspaper industry in radio?"[30]

In December 1940, shortly after being elected to an unprecedented third term, Roosevelt sent a one-sentence note to the chairman of the FCC. The note said: "Will you let me know when you propose to have a hearing on newspaper ownership of radio stations."[31] On March 19, 1941, a day after the chairman spent thirty minutes talking with Roosevelt at the White House about "matters of policy,"[32] the commission initiated a broad-ranging inquiry into newspaper ownership of radio stations.[33] Hearings were held in 1941 and 1942, studies were conducted, but intense opposition by media companies—then as now an important lobbying force in Washington—ultimately was successful.[34] In January 1944, the FCC closed the inquiry, noting the "grave legal and policy questions involved."[35]

A year later, in a media antitrust case that did not focus directly on newspaper-broadcast cross-ownership, the Supreme Court of the United States declared that the "widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."[36] Despite the court's pronouncement, the FCC—no doubt reluctant to re-open the question of newspaper-broadcast cross-ownership so soon after a major inquiry—declined to apply antitrust logic to questions of viewpoint diversity. For the next thirty years the FCC continued to allow newspapers to own broadcast stations, although not without occasional controversy.[37]

David Michael Ryfe, *Franklin Roosevelt and the Fireside Chats*, 49 J. COMM. 80 (Autumn 1999).

[30] LUCAS A. POWE JR., AMERICAN BROADCASTING AND THE FIRST AMENDMENT 70 (1987). *See also* Joon-Mann Kang, *Franklin D. Roosevelt and James L. Fly: The Politics of Broadcast Regulation, 1941–1944*, 10 J. AM. CULTURE 23 (1987).

[31] BARNOUW, *supra* note 27, at 170.

[32] Ford Risley, *A First Step: The FCC's Investigation into Newspaper Ownership of Radio Stations*, 3 J. RADIO STUD. 118, 122 (1995–96).

[33] FCC Orders No. 79 and 79-A, 6 Fed. Reg. 1580, 3302 (1941).

[34] Accounts of the hearings and media companies' opposition to them can be found in James F. Foley, *The Newspaper-Radio Decision*, 7 FED. COMM. B. J. 11 (1944); Risley, *supra* note 32; Toohey, *supra* note 25.

[35] Newspaper Ownership of Radio Stations, Notice of Dismissal of Proceedings, 9 Fed. Reg. 702 (1944).

[36] Associated Press v. United States, 326 U.S. 1, 20 (1945).

[37] Some critics claimed that licensing decisions during the 1950s were more influenced by the political views of a newspaper's publisher than by any consistently applied non-political criteria. *See* STERLING QUINLAN, THE HUNDRED MILLION DOLLAR LUNCH 19–20 (1974); BERNARD SCHWARTZ, THE PROFESSOR AND THE COMMISSIONS 156–57 (1959).

THE BAN ON CROSS-OWNERSHIP

In the late 1960s, the Antitrust Division of the Department of Justice urged the Commission to ban local newspaper-broadcast cross-ownership.[38] In January 1969, Richard M. Nixon was inaugurated as President, bringing his long-standing grudge against the news media to the White House. The media were quite critical of the Nixon presidency, especially with respect to the Vietnam War and, later, the Watergate scandal.[39] In 1970 the FCC, chaired by Nixon appointee Dean Burch, unanimously voted to begin an inquiry into newspaper-broadcast cross-ownership.[40]

The *Washington Post*, whose aggressive reporting had linked the Watergate burglars to Nixon's re-election campaign,[41] owned radio and television stations. Possibilities for retaliation against the *Post* were discussed in a remarkable conversation in the Oval Office the same day in 1972 that the Watergate burglars were indicted by a federal grand jury. "The main thing is the *Post* is going to have damnable, damnable problems out of this one," Nixon told two of his top aides. "They have a television station, and they're going to have to get it renewed."[42]

The first *Post* stations up for renewal after Nixon's comments were in Jacksonville and Miami, Florida. Their license renewals were challenged by several people associated with Nixon. The challenges, which caused the price of the Washington Post Company's stock to drop by about 50%,[43] failed. However, shortly thereafter, the FCC—pressured by Justice Department challenges to licenses of cross-owned stations on antitrust grounds[44]—began drafting rules that would prohibit a company from owning both a daily newspaper and a broadcast station in the same community. Not coincidentally, the *Post* owned a television station and two radio stations in Washington, D.C.

---

[38]*See* Herbert H. Howard, *Television Station Ownership in the United States: A Comprehensive Study*, 8 JOURNALISM & COMM. MONOGRAPHS 3, 57 (2006).

[39]*See* DAVID HALBERSTAM, THE POWERS THAT BE (1979); J. ANTHONY LUKAS, NIGHTMARE: THE UNDERSIDE OF THE NIXON YEARS (1976). The Nixon administration's threats to the news media are concisely summarized in William B. Blankenburg, *Nixon vs. the Networks: Madison Avenue and Wall Street*, 21 J. BROADCASTING 163 (1977).

[40]Further Notice of Proposed Rule Making, Docket No. 18110, 22 F.C.C. 339 (1970).

[41]*See, e.g.*, Carl Bernstein & Bob Woodward, *Bug Suspect Got Campaign Funds*, WASH. POST, Aug. 1, 1972, at A1.

[42]Taped Statement of Richard Nixon to H. R. Haldeman and John Dean, Sept. 15, 1972, *quoted* in Senate Select Comm. on Presidential Campaign Activities, Final Rep. S.REP. No. 981, 93d Cong., 2d Sess. 149 (1974). Full transcript *available at* http://nixon.archives.gov/find/tapes/watergate/trial/exhibit_04.pdf.

[43]*See* CARL BERNSTEIN & BOB WOODWARD, ALL THE PRESIDENT'S MEN 221 (1974).

[44]The story of the Justice Department's intervention is told in Lorna Veraldi, The Newspaper-Broadcast Cross-Ownership Rules and the Public Interest 21–23 (paper presented to the Association for Education in Mass Communication, Washington, D.C., Aug. 2007).

In 1975 the Commission adopted rules prohibiting a company from owning either a television station or a radio station in a community where it also published a daily newspaper.[45] Numerous studies and comments about whether newspaper-broadcast combinations, and especially newspaper-television combinations, served the public interest were submitted to the Commission.[46] Taken as a whole, the evidence was inconclusive, but the Commission banned future newspaper-broadcast cross-ownership in local markets anyway, declaring: "[I]t is unrealistic to expect true diversity from a commonly-owned station-newspaper combination. The divergency [sic] of their viewpoints cannot be expected to be the same as if they were antagonistically run."[47] Existing local newspaper-broadcast cross-ownerships were permitted to continue in operation,[48] with the exception of sixteen "egregious cases" where the combination involved a community's only daily newspaper and its only broadcast station or the only television station that provided the entire community with a clear signal.[49]

In 1978 the Supreme Court upheld the Commission's ban on future newspaper-broadcast cross-ownerships: "Notwithstanding the inconclusiveness of the rulemaking record, the Commission acted rationally in finding that diversification of ownership would enhance the possibility of achieving greater diversity of viewpoints."[50] Fearing that an adverse decision would have depressed the value of their television stations, a number of companies that owned both newspapers and broadcast stations in the same community divested cross-owned media outlets before the Supreme Court issued its ruling. Notably, the *Washington Post* and the *Detroit News* swapped their Washington and Detroit television stations rather than risk being ordered to sell them at bargain-basement prices.

Having won the support of the Supreme Court for its newspaper-broadcast cross-ownership rules, the FCC turned its attention to other issues. For the next twenty-five years the Commission left the

[45]Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations, Second Report and Order, 50 F.C.C.2d 1046 (1975), *as amended upon reconsideration*, 53 F.C.C.2d 589 (1975).

[46]The various inputs into the FCC's 1975 decision on local newspaper-broadcast cross-ownership are described in RICHARD T. KAPLAR, CROSS OWNERSHIP AT THE CROSSROADS: THE CASE FOR REPEALING THE FCC'S NEWSPAPER-BROADCAST CROSS OWNERSHIP BAN (1997); Lorna H. Veraldi, *Carpooling on the Information Superhighway: The Case for Newspaper-Television Cross-Ownership*, 8 ST. THOMAS L. REV. 349 (1996).

[47]Second Report and Order, 50 F.C.C.2d 1046 (1975), 1079–80.

[48]*Id*. at 1088–89.

[49]*Id*. at 1084–86.

[50]FCC v. Nat'l Citizens Comm. for Broad., 436 U.S. 775, 796 (1978).

newspaper-broadcast rules untouched, although it did grant four permanent waivers to them.[51]

THE TELECOMMUNICATIONS ACT

The Telecommunications Act of 1996[52] shifted the burden of proof with respect to media ownership rules. Before the 1996 Act, ownership rules could be overturned only if a challenger could show that a decision of the Commission had been "arbitrary and capricious."[53] The 1996 Act, in contrast, required the Commission to review each of its media ownership rules and to "determine whether any of such rules are necessary in the public interest as the result of competition."[54] The statute added: "The Commission shall repeal or modify any regulation it determines to be no longer in the public interest."[55] In other words, challengers no longer had to show that a media-ownership rule was arbitrary or capricious. Instead, the Commission had to affirmatively demonstrate that the rule was necessary for the public interest. The new standard led a U.S. Court of Appeals to overturn the cable-broadcasting cross-ownership rule[56] and to send two other rules (the national television

[51]Kortes Commun., Inc., *Memorandum Opinion & Order*, 15 F.C.C.R. 11846 (2000) (allowing co-ownership of newspaper and AM station, based on the fact that the station was financially troubled and might go off the air, and was a small participant in the market); Columbia Montour Brdcst. Co., *Memorandum Opinion & Order*, 13 F.C.C.R. 13007 (1998) (allowing co-ownership of newspaper and small AM station, based on the fact that the station was financially troubled and could not be sold, and was a small participant in a competitive, diverse market); Fox TV Stations, Inc., *Declaratory Ruling*, 9 F.C.C.R. 5341 (1993) (allowing co-ownership of newspaper and TV station in large market, based on the fact that the station was reacquiring the newspaper such that the combination did not constitute a new ownership pattern, and the newspaper might not be financially viable on its own), *aff'd sub nom*. Metropolitan Council of NAACP Branches v. FCC, 46 F.3d 1154 (D.C. Cir. 1995), *waiver continued to new owner*, Applications for Transfer of Control of Fox TV Stations, Inc., *Memorandum Opinion & Order*, FCC 06–122 (released Oct. 6, 2006); Field Commun. Corp., 65 F.C.C.2d 959 (1977) (allowing co-ownership of two newspapers and a TV station, based on the fact that the newspapers were reacquiring the TV station such that the combination did not constitute a new ownership pattern, and the TV station had only recently become financially viable).

[52]Pub. L. No. 104-104; 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C.) (1996).

[53]Fox Television Stations v. FCC, 280 F.3d 1027, 1033 (D.C. Cir. 2002).

[54]Pub. L. No. 104-104 § 202(h); 110 Stat. 56, 111–12 (1996).

[55]*Id.* The act initially required the Commission to review each of its rules every two years. In 2004 Congress changed the requirement to a review every four years. Consolidated Appropriations Act, Pub. L. No. 108-199, sec. 629, 118 Stat. 3 (2004) (amending secs. 202(c) and 202(h) of the Telecommunications Act of 1996).

[56]*Fox Television Stations*, 280 F.3d, at 1049–53.

ownership caps[57] and the local television ownership rule[58]) back to the Commission for justification in light of the standard set forth in the Telecommunications Act.

It was in this changed legal context, which included required reviews of ownership rules at regular intervals and an apparent presumption that ownership rules would be repealed or relaxed, that the Commission in September 2001 announced a new review of the newspaper-broadcast cross-ownership rule.[59] The review later was incorporated into the mandatory 2002 review of all of the Commission's broadcast ownership rules.[60] In June 2003, despite widespread opposition from the public,[61] the Commission voted to do away with most restrictions on newspaper ownership of broadcast stations as part of a broader relaxation of its broadcast ownership rules.[62] A coalition of "public interest and consumer advocacy groups"[63] challenged the liberalized ownership rules, and in September 2003 the Court of Appeals for the Third Circuit blocked the new, less-restrictive rules from going into effect.[64] In June 2004 the court sent the cross-ownership issue (as well as certain other issues relating to media ownership) back to the Commission for further consideration.[65] On July 24, 2006, the Commission released a Further Notice of Proposed Rulemaking establishing the parameters for its renewed inquiry.[66]

---

[57]*Id*. at 1040–49.

[58]Sinclair Broad. Group v. FCC, 284 F.3d 148, 156–69 (D.C. Cir. 2002).

[59]Cross-Ownership of Broad. Stations and Newspapers, 16 FCC Rcd 17283 (2001).

[60]2002 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Cross-Ownership of Broadcast Stations and Newspapers, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, Definition of Radio Markets, 17 FCC Rcd 18503 (2002).

[61]Pew Research Center for the People and the Press, *Strong Opposition to Media Cross-Ownership Emerges*, released July 13, 2003, *available at* http://people-press.org/reports/display.php3?ReportID=188. The Court of Appeals noted the flood of communication to the FCC about media ownership: "[N]early two million people weighed in by letters, postcards, e-mails, and petitions to oppose further relaxation of the rules." Prometheus Radio Project v. FCC, 373 F.3d 372, 386 (3d Cir. 2004), *cert. denied,* 545 U.S. 1123 (2005).

[62]The Commission's action would have replaced two existing rules limiting cross-ownership in a single community (the newspaper-broadcast cross-ownership rule and the radio-television cross-ownership rule) with a single set of "cross-media limits." *See Report and Order and Notice of Proposed Rulemaking*, 18 F.C.C.R. 13,620 (2003).

[63]*Prometheus Radio Project*, 373 F.3d at 381.

[64]Prometheus Radio Project v. FCC, No. 03-3388, 2003 U.S. App. LEXIS 18390, 2003 WL 22052896 (3d Cir. Sept. 3, 2003).

[65]*Prometheus Radio Project*, 373 F.3d 372, 386 (3d Cir. 2004), *cert. denied,* 545 U.S. 1123 (2005).

[66]2006 Quadrennial Regulatory Review, *supra* note 6.

EXISTING EMPIRICAL STUDIES

Relatively few studies have directly addressed the premise that newspaper-broadcast cross-ownership constitutes a single voice. The first such study was in the early 1940s, when the FCC was investigating newspaper-radio cross-ownership. The results showed that newspaper-owned radio stations generally "did not reflect the editorial policies of the associated newspapers."[67] More recent studies also have looked for, but failed to find, evidence of a single editorial voice in commonly owned newspapers and broadcast stations in the same community. For example, an extensive content analysis of news and opinion about the 2000 presidential campaign showed considerable diversity of viewpoints in commonly owned newspapers, television stations, and radio stations in Chicago and Milwaukee.[68] Television news tended to be balanced overall, while the slant of radio news and commentary in both cities was in the opposite direction from the slant of the editorials in the newspaper owned by the same company. When an editorial page favored Democratic positions, news and commentary on the co-owned radio station tended to favor Republican positions, and vice versa. In addition, the general partisan slant of letters to the editor about the presidential campaign was in the direction opposite of the newspapers' editorials, indicating that the owners were willing to permit the expression of different voices.[69] A related study of 2000 campaign coverage by cross-owned newspapers and television stations in ten large American communities found "no generalized evidence of ownership manipulation of the news."[70] Similarly, a study of television news found no relationship between newspapers' partisan endorsements for president in 2004 and the political slant of news broadcast by their commonly owned television stations in the same community two years later.[71]

Although only a handful of studies have tested the validity of the one-owner, one-voice premise, several have compared the news and

---

[67]Foley, *The Newspaper-Radio Decision*, *supra* note 34, at 15.

[68]David Pritchard, *A Tale of Three Cities: "Diverse and Antagonistic" Information in Situations of Local Newspaper-Broadcast Cross-Ownership*, 54 FED. COMM. L. J. 31 (2001).

[69]Not only was this true with the *Chicago Tribune* and the *Milwaukee Journal Sentinel*, but also with the *Dallas Morning News*, part of a newspaper-television cross-ownership that also was included in the study. On the mutual influences among topics on newspaper front pages, in editorials, and in letters to the editor, *see* David Pritchard & Dan Berkowitz, *How Readers' Letters May Influence Editors and News Emphasis: A Content Analysis of 10 Newspapers, 1948–1978*, 68 JOURNALISM Q. 388 (1991).

[70]David Pritchard, *Viewpoint Diversity in Cross-Owned Newspapers and Television Stations: A Study of News Coverage of the 2000 Presidential Campaign*, Federal Communications Commission Media Ownership Working Group study no. 2, Oct. 2002.

[71]Jeffrey Milyo, *The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News*, Federal Communications Commission Media Study 6, July 2007, Table 17 and associated text.

information output of cross-owned stations with that of stations not owned by newspapers. For example, studies in the early 1940s, when the FCC was investigating cross-ownership of daily newspapers and radio stations, concluded that "the entertainment and news services of the newspaper-owned stations are as good as, if not better than, the performance of comparable stations otherwise owned."[72]

Journalistic quality can be a somewhat elusive concept, so scholars have often measured factors they believed to be surrogates for quality. Studies using data from the 1970s showed that cross-ownership had no negative effect on the size of a television station's news staff[73] and no negative effect on the amount of money a station spent on local news.[74] Cross-owned stations and newspapers in the same community had more story overlap than did independently owned stations and newspapers in similar communities,[75] and cross-owned stations were less likely to editorialize than comparable non-cross-owned stations,[76] but whether newspaper-broadcast story overlap and lack of broadcast editorializing are indicators of low quality or high quality is open to interpretation.

A study of all commercial stations in the United States over a six-year period in the 1970s showed that stations in local cross-ownerships broadcast more news, and more local news, than did other stations.[77] Later studies, analyzing similar data with more powerful statistical techniques, concluded that at the very least, cross-owned stations performed no worse than other stations in the amount of news they provided,[78] and may have performed better than non-cross-owned

[72]Paul F. Lazarsfeld, *The Daily Newspaper and its Competitors*, 219 ANNALS AM. ACAD. POL. & SOC. SCI. 32, 42 (1942). For other summaries of the data gathered by the commission during its newspaper-radio cross-ownership inquiry, *see* Howard N. Gilbert, *Newspaper-Radio Joint Ownership: Unblest be the Tie that Binds*, 59 YALE L.J. 1342 (1950); Levin, *supra* note 26; Wagner, *supra* note 23.

[73]John C. Busterna, Ownership, CATV, and the Quality of Local Television News (paper presented to the annual meeting of the Association for Education in Journalism, Seattle, Aug. 1978).

[74]John C. Busterna, *Ownership, CATV, and Expenditures for Local Television News*, 57 JOURNALISM Q. 287 (1980).

[75]WILLIAM T. GORMLEY JR., THE EFFECTS OF NEWSPAPER-TELEVISION CROSS-OWNERSHIP ON NEWS HOMOGENEITY 130–72 (1976); Guido H. Stempel III, *Effects on Performance of a Cross-Media Monopoly*, 29 JOURNALISM MONOGRAPHS 1 (June 1973).

[76]GORMLEY, *supra* note 75, at 175–81.

[77]James A. Wollert, *The Newspaper as a Broadcaster: Violation of the Public Interest Doctrine?,* 2 NEWSPAPER RES. J. 40 (July 1981). *See also* Robert J. Prisata, *The Impact of Media Concentration and Economic Factors on Broadcast Public Interest Programming*, 21 J. BROADCASTING 321 (1977); Michael O. Wirth & James A. Wollert, *Public Interest Programming: FCC Standards and Station Performance*, 55 JOURNALISM Q. 554 (1978); Michael O. Wirth & James A. Wollert, *Public Interest Program Performance of Multimedia-Owned Television Stations*, 53 JOURNALISM Q. 223 (1976).

[78]Michael O. Wirth & James A. Wollert, *Public Interest Programming: Taxation by Regulation*, 23 J. BROADCASTING 319 (1979); Michael Z. Yan, *Newspaper-Television*

stations.[79] The most recent studies suggest that television stations owned by companies that also own newspapers, regardless of whether the television station and the newspaper were in the same community, air more local news than do other stations.[80]

As part of its renewed inquiry into its media ownership rules, in 2006 the FCC commissioned five empirical studies that focused on how newspaper-broadcast cross-ownership influenced the amount of news produced by media outlets. Two of the studies looked at whether cross-owned television stations provided more news than other television stations. A study of the programming of about 6,700 stations from 2002 to 2005 found that cross-owned stations provided 11% more news programming per day than did non-cross-owned stations.[81] A study comparing the late-evening newscasts of cross-owned stations with those of non-cross-owned stations in the same markets found that cross-owned stations aired 6–8% more local news, and about 30% more coverage of state and local political candidates in the week before the general election in November 2006, than did non-cross-owned stations in the same communities.[82] Meanwhile, a study of the formats of about 8,000 radio stations between 2002 and 2005 showed that a radio station cross-owned with a

Cross-Ownership and Local News and Public Affairs: An Empirical Analysis (Donald McGannon Communication Research Center working paper, Oct. 2006), *available at* http://www.fordham.edu/images/undergraduate/communications/cross-ownership%20study.pdf.

[79] John C. Busterna, *Television Station Ownership Effects on Programming and Idea Diversity: Baseline Data*, 1 J. MEDIA ECON. 63 (1988).

[80] *See* Philip M. Napoli, *Television Station Ownership Characteristics and Local News and Public Affairs Programming: An Expanded Analysis of FCC Data*, 6 INFO: THE J. OF POL'Y, REG. & STRATEGY FOR TELECOMM. 112 (2004); Thomas C. Spavins, Loretta Denison, Scott Roberts & Jane Frenette, *The Measurement of Local Television News and Public Affairs Programs*, Federal Communications Commission Media Ownership Working Group Study No. 7, Oct. 2002. In addition, the results of an unpublished FCC staff study suggest that locally owned stations whose owner also possesses a newspaper may air more local on-location news, even if the newspaper is not in the same community as the station. *See Do Local Owners Deliver More Localism? Some Evidence from Local Broadcast News* 23, Table 5 (Federal Communications Commission staff working paper, June 17, 2004), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-267448A1.pdf. The study, whose main finding supported the proposition that local ownership of a television station leads to the station broadcasting more local news, was released publicly after claims that the FCC had suppressed it. On the alleged suppression of the study, *see* Jim Puzzanghera, *FCC Lawyer Says TV Study Was Hushed*, L.A. TIMES, Sept. 15, 2006, C3; Associated Press, *Media Ownership Report Allegedly Buried by FCC*, CHI. TRIB. Sept. 15, 2006, at 3–3.

[81] Daniel Shiman, *The Impact of Ownership Structure on Television Stations*, Federal Communications Commission Media Study 4, sec. I, July 2007, *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A5.

[82] Milyo, *supra* note 71.

newspaper is four to five times more likely to be a news/talk station.[83] Another study showed that newspaper-broadcast cross-ownership had no negative effect on the amount of news published by cross-owned newspapers.[84]

Only one study has directly measured television newscast quality in a way that would enable a comparison of the quality of newscasts aired by cross-owned stations with those aired by other stations. That study gathered a panel of fourteen respected local television news professionals from around the United States to generate normative criteria of newscast quality.[85] The criteria were then used in a massive content analysis of more than 23,000 news stories that aired on 154 stations over a five-year period in the late 1990s and early 2000s. The study concluded that the news produced by stations in local cross-ownerships with newspapers tended to be of higher quality than the news produced by other stations.[86] Such findings are consistent with those of a 2002 FCC staff study, which found that television stations co-owned with newspapers (regardless of whether the television station and the newspaper were in the same community) had higher audience ratings and won more journalism awards than did stations not associated with newspapers.[87]

Despite the generally benign, and sometimes mildly favorable, portrayal of newspaper-broadcast cross-ownership in existing empirical studies, research also shows that cross-owned newspapers tend to cover federal regulation of television in a slanted manner. Specifically, three studies have shown that newspapers owned by companies with television holdings are more likely to publish news and opinions favoring the interests of television-station owners than are newspapers owned

---

[83]Craig Stroup, *Factors that Affect a Radio Station's Propensity to Adopt a News Format*, Federal Communications Commission Media Study 4, sec. III, July 2007, *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A5.

[84]Pedro Almoguera, *The Effect of Ownership and Market Structure on News Operations*, Federal Communications Commission Media Study 4, sec. IV, July 2007, *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A5.

[85]The criteria included the extent to which a newscast covered the whole community, was significant and informative, demonstrated enterprise and courage, was fair and balanced, was authoritative, and was highly local. *Does Ownership Matter in Local Television News: A Five-Year Study of Ownership and Quality* 18–20 (Project for Excellence in Journalism, study released April 29, 2003), *available at* http://www.journalism.org/resources/research/reports/ownership/Ownership2.pdf.

[86]*Id*. at 11–12. The findings of the Project for Excellence in Journalism's five-year national study contradicted the conclusion of Guido Stempel, who wrote after his study of three small Ohio communities in 1970 that "ownership of broadcasting companies by newspapers is associated with a lower level of broadcast news performance." Stempel, *supra* note 75, at 30.

[87]Spavins et al., *supra* note 80.

by companies that do not also own television stations.[88] Another study showed that newspapers owned by companies with broadcast holdings tended to editorialize more favorably about the President's State of the Union speech than did other newspapers, presumably because of corporate interest in protecting the company's government-granted broadcast licenses.[89]

In general, studies that have directly tested the one-owner, one-voice premise have failed to find support for it in the context of newspaper-broadcast cross-ownership. In addition, empirical research since the 1940s that has compared newspaper-associated broadcast stations with other stations fails to support the premise that cross-ownership dilutes stations' journalistic performance. Many studies found no discernable difference between cross-owned and non-cross-owned stations. When studies have uncovered differences, it has been the cross-owned stations that seem to be producing more and better journalism than stations not associated with newspapers.

CONTEXT OF THE STUDY

We used a series of analyses of news and opinion about the 2004 presidential campaign to test the premise that a media owner constitutes a single voice. The 2004 election was crucial for companies that owned newspapers and broadcast stations in the same community. The Court of Appeals for the Third Circuit had just overturned the FCC's attempt to relax media ownership rules and had sent the issue back to the Commission.[90] Republican President George W. Bush favored looser media ownership rules, while Democratic challenger John Kerry wanted to maintain relatively tight limits on media ownership.[91] If ever a media corporation had an incentive to compel its various news

[88]Martin Gilens & Craig Hertzman, *Corporate Ownership and News Bias: Newspaper Coverage of the 1996 Telecommunications Act*, 62 J. POL. 369 (2000); Alf Pratte & Gordon Whiting, *What Newspaper Editorials Have Said about Deregulation of Broadcasting*, 63 JOURNALISM Q. 497 (1986); James H. Snider & Benjamin I. Page, Does Media Ownership Affect Media Stands? The Case of the Telecommunications Act of 1996 (Northwestern University Institute for Policy Research Working Paper 97-12, 1997).

[89]Christopher Weare, Titus Levi & Jordan Raphael, *Media Convergence and the Chilling Effect of Broadcast Licensing*, 6 HARV. INT. J PRESS/POLITICS 47 (June 2001).

[90]Prometheus Radio Project v. FCC, 373 F.3d 372 (3d Cir. 2004), *cert. denied* 545 U.S. 1123 (2005).

[91]For the candidates' positions on media ownership policy, *see* Harry Berkowitz, *Media Ownership Limits May Depend on Election*, NEWSDAY, Sept. 8, 2004, A44; John Nichols, *Kerry: Bring 'Em On; Newspapers, That Is—Candidate Reads Avidly*, CAP. TIMES (Madison, Wis.), Aug. 7, 2004, at 1A; Todd Shields, *Media Regulation in a Kerry Administration*, EDITOR & PUBLISHER, Aug. 9, 2004, *available at* http://www.mediainfo.com/eandp/departments/business/article_display.jsp?vnu_content_id=1000603126.

outlets to speak in a single voice, the 2004 presidential campaign season—which took place in a context of great uncertainty about the future of newspaper-broadcast cross-ownership rules—was such a time.

Media owners' incentive to try to influence citizens to cast votes favoring owners' corporate interests was especially strong in states where the election was expected to be close. This was so because the President is elected not by popular vote, but rather by the Electoral College. Each state has a fixed number of votes in the Electoral College, and the presidential candidate who wins the popular vote in a state receives all of that state's electoral votes (except in Maine and Nebraska), regardless of the margin in the popular vote.[92] This is why presidential campaigns invest little time and money in states that are overwhelmingly Democratic or Republican; the investment is unlikely to pay off in additional electoral votes.

In the so-called battleground states, however, candidates compete fiercely for the slightest advantage. In these states, media coverage that was consistently slanted in favor of one candidate could lead some citizens to change their mind about which candidate they preferred (or perhaps about whether to vote at all), and thus conceivably could move the state's electoral votes to the candidate favored by a media corporation, possibly changing the outcome of the entire election.[93] In 2004 such battleground states offered excellent conditions for testing the validity of the one-owner, one-voice premise.

There were ten newspaper-television-radio local cross-ownerships in the United States at the time of the data collection.[94] Only two were battleground-state cross-ownerships that included a daily newspaper, a television station with local news, and a radio station with a news/talk format and independently produced local content: Journal Communications' cross-ownership in Milwaukee and Cox Enterprises'

---

[92] States can establish their own rules for how their electoral votes are apportioned. For an assessment of this peculiarity of the Electoral College, *see* Robert C. Turner, *Do Nebraska and Maine Have the Right Idea? The Political and Partisan Implications of the District System*, 35 PRES. Q. 116 (2005).

[93] Americans learned in 2000 that a relatively small number of votes in a single state can determine the outcome of a presidential election. That year Bush won the Florida popular vote by 537 votes, and thus gained all twenty-five of Florida's electoral votes, a huge prize. He ended up with a five-vote margin in the Electoral College, and thus the presidency, despite losing the popular vote by more than a half-million votes.

[94] They were in Chicago (TRIBUNE, WGN-TV, WGN-AM); Atlanta (JOURNAL & CONSTITUTION, WSB-TV, WSB-AM, WSB-FM); Milwaukee (JOURNAL SENTINEL, WTMJ-TV, WTMJ-AM, WKTI-FM); Columbus, Ohio (DISPATCH, WBNS-TV, WBNS-AM, WBNS-FM); Salt Lake City (DESERET NEWS, KSL-TV, KSL-AM, KSL-FM, and other FM stations); Dayton, Ohio (DAILY NEWS, WHIO-TV, WHIO-AM, and three FM stations); South Bend, Ind. (TRIBUNE, WSBT-TV, WSBT-AM, WNSN-FM); Cedar Rapids, Iowa (GAZETTE, KCRG-TV, KCRG-AM); Fargo, N.D. (FORUM, WDAY-TV, WDAY-AM); and Quincy, Ill. (HERALD-WHIG, WGEM-TV, WGEM-AM, WGEM-FM).

cross-ownership in Dayton.[95] Although Illinois was not considered a battleground state in 2004, we added the Tribune Company's Chicago-based newspaper-television-radio cross-ownership for two reasons. One was that the Tribune Company had a huge stake in relaxation, if not outright abolition, of the newspaper-broadcast cross-ownership rule. Although the corporation's long-standing Chicago cross-ownership was preserved when the FCC banned future newspaper-broadcast combinations in 1975, the company had created four other cross-ownerships through acquisitions. In the late 1990s the Tribune Company purchased a television station in a South Florida community where it already had a newspaper, and in 2000 it spent more than $8 billion to buy Times-Mirror, a diverse media company that included newspapers in New York, Los Angeles, and Hartford, Conn.—media markets in which the Tribune Company already had television stations. The FCC gave the Tribune company temporary waivers for the four new cross-ownerships, but refused to grant permanent waivers.[96] Without some form of legal relief, the Tribune Company would have to sell either its newspaper or its television station in each of the four markets.[97] One scholar noted: "More than any other media company, Tribune has wagered its future on repealing the cross-ownership ban."[98] Literally billions of dollars of investment were at stake, and the Tribune Company openly supported elimination of the cross-ownership rule,[99] consistent with its reputation for using its media properties "to advance its corporate goals and political projects."[100]

The second reason for including Tribune's Chicago cross-ownership was our desire to include a control group in the study. To do this, we had to identify communities that had both a newspaper-television-radio cross-ownership and a similar daily newspaper, television station, and news/talk radio station, all independently owned (and with no financial ties to the cross-owned media outlets). The only two communities in the United States that satisfied these criteria were Chicago and Salt Lake

[95]On the presidential campaign in Wisconsin and Ohio, *see* R. W. Apple Jr., *Despite a Razor-Thin Loss in 2000, G.O.P. Again Forecasts a Victory in Wisconsin*, N.Y. TIMES, Oct. 16, 2004, A11; Mark Memmott, *Commercial War Centers on 10 States*, USA TODAY, Oct. 13, 2004, 4A; Jeff Zeleny & John McCormick, *Race Tight in Key Midwest States*, CHI. TRIB. Oct. 13, 2004, 1.

[96]*See, e.g.*, Ellis v. Tribune Television Co., 443 F.3d 71 (2d Cir. 2006); Tribune Co. v. FCC, 133 F.3d 61 (D.C. Cir. 1998).

[97]*See* Frank Ahrens, *Cross-Ownership Muddies Tribune Sale*, WASH. POST, Nov. 3, 2006, at D1.; Michael Oneal, Phil Rosenthal & Becky Yerak, *Tribune May Eye Breakup*, CHI. TRIB., Nov. 2, 2006, at sec. 3, p. 1; Jim Puzzanghera, *Tribune Faces Key Tests to Seal Deal*, L.A. TIMES, July 5, 2007, at C1.

[98]KLINENBERG, *supra* note 12, at 116.

[99]*See, e.g.*, Editorial, *It's a big universe*, CHI. TRIB., June 22, 2006, at 20.

[100]KLINENBERG, *supra* note 12, at 122.

City. We chose Chicago for our study because the cross-owned media in Salt Lake City had an unusual kind of owner—the Church of Jesus Christ of Latter-day Saints (the Mormons), a non-profit religious group. The Tribune Company, in contrast, is a secular, profit-seeking corporation typical of the companies that own most mainstream American media outlets.

SOURCES OF DATA

The data for this study consisted of non-advertising news and opinion content about the 2004 presidential campaign from four newspaper-television-radio clusters: Journal Communications' cross-ownership in Milwaukee (the *Journal Sentinel*, WTMJ-TV and WTMJ-AM); Cox Enterprises' cross-ownership in Dayton (the *Daily News*, WHIO-TV and WHIO-AM), the Tribune Company's cross-ownership in Chicago (the *Tribune*, WGN-TV and WGN-AM), and a Chicago control group composed of three media outlets owned independently of each other (the *Sun-Times*, WMAQ-TV and WLS-AM).

The study's analyses focus on coverage during the last fifteen days of the presidential campaign (that is, from Monday, October 18, 2004, through Monday, November 1, 2004). All non-advertising items about the campaign published by the newspapers were analyzed, including news stories (whether produced by the newspaper's own journalists or by a wire service) and opinion content (unsigned editorials, staff-written columns of opinion, syndicated columns, and letters to the editor, editorial cartoons, for example). During the time period under study the newspapers published 1,157 items about the presidential campaign, totaling more than 26,000 column inches.

The analysis also included every non-advertising item about the presidential campaign from the four television stations' late-evening local newscasts, comprising 114 items totaling 142 minutes of coverage. Local radio paid much more attention to the presidential campaign than did local television news. We sampled radio newscasts and locally produced talk shows for each of the eleven weekdays during the study period, ending up with 1,538 minutes (more than twenty-five hours) of radio news and commentary about the 2004 presidential campaign.

An ideologically diverse team of graduate students trained in content analysis entered information about each newspaper and broadcast item onto coding sheets designed specifically for this project. Standard content analysis procedures were used.[101] The key coding decision for

---

[101] For an introduction to content analysis, see EARL BABBIE, THE PRACTICE OF SOCIAL RESEARCH 314–24 (10th ed. 2004).

each item was the “slant” of the item. Coders were instructed to code the slant of a published or broadcast item about the presidential campaign from the point of view of a hypothetical “interested but undecided” voter. If coders judged an item to be likely to make such a voter more inclined to vote for Democrat Kerry than for Republican Bush (or for a third-party candidate), then the item was coded as “favorable to Kerry.” If an item was likely to make a voter more inclined to vote for Bush, then it was coded as “favorable to Bush.” Items that favored third-party candidates, items that were equally flattering or unflattering to Bush and Kerry, and items about poll results and campaign strategy were coded as “neutral.”[102]

We computed a “slant coefficient” for each media outlet in our study. The slant coefficient could vary from −100 (which would indicate that all items disseminated by a given media outlet favored Kerry, none were neutral, and none favored Bush) to +100 (which would indicate that all items disseminated by a media outlet favored Bush, none were neutral, and none favored Kerry).[103] We used standard statistical tests to determine whether the slant of items from one media outlet differed significantly from the slant of items from a different media outlet.[104] It is important to note that the analysis assessed only the slant of news and opinion content from the viewpoint of a hypothetical audience member. No attempt was made to evaluate the journalistic quality of the content under study or to determine the cause of any slant that items contained.

RESULTS: CROSS-OWNED MEDIA CLUSTERS

If the one-owner, one-voice premise is valid, then we presumably would expect no significant differences among commonly owned newspapers, television stations, and radio stations in a community. In other words, if a media company is speaking in a single voice, we would expect a common partisan slant of items about the presidential campaign published in a company’s newspaper, broadcast on its late-evening television newcast, and aired on its news/talk radio station. Table 1 shows

[102]Intercoder reliability on the slant variable was at acceptable levels (kappa = .76). Other studies that have operationalized slant in a fashion similar to this study include Kim Fridkin Kahn & Patrick J. Kenney, *The Slant of the News*, 96 AM. POL. SCI. REV. 381 (2002); James N. Druckman & Michael Parkin, *The Impact of Media Bias: How Editorial Slant Affects Voters*, 67 J. POL. 1030 (2005); Pritchard, *supra* note 68.

[103]The formula for computing the slant coefficient for the number of items is ((K+(N*2)+(B*3))/(K+N+B)-2)*100, where K is the number of pro-Kerry (or anti-Bush) items in a category, N is the number of neutral items in a category, and B is the number of pro-Bush (or anti-Kerry) items in a category.

[104]*Test for the Equality of Two Means, in* JAN KMENTA, ELEMENTS OF ECONOMETRICS 136–39 (2nd ed. 1986).

Table 1. Mean Slant by Ownership Cluster

	Milwaukee (Journal)	Dayton (Cox)	Chicago (Tribune)
Newspaper	−7.1 (382)	−10.4 (202)	−7.1 (396)
Television	−5.0 (40)	+3.4 (29)	−3.1 (32)
Radio	+***36.7****** (188)	+***15.5****** (84)	−0.7 (140)

The figures in parentheses are the number of published or broadcast items upon which the analysis was based. Negative coefficients represent a pro-Kerry slant, positive coefficients a pro-Bush slant. An asterisk (*) indicates that the difference between the mean slants of a company's newspaper and radio station was statistically significant at $p \leq .05$.

the results of such an analysis for the cross-ownerships in Chicago, Milwaukee and Dayton.

The results reveal stark differences in slant within the Milwaukee and Dayton cross-ownerships. In Milwaukee, the slant of news and commentary on Journal Communications' news/talk radio station strongly favored Bush, while the company's local daily newspaper (which endorsed Kerry) featured campaign content that was fairly balanced, with a barely perceptible slant toward Kerry. The difference in slant between the radio station's coverage and the newspaper's coverage was statistically significant. The same pattern held in Dayton, where the Cox Enterprises news/talk radio station favored Bush, but the Cox-owned newspaper endorsed Kerry and featured campaign coverage that was mildly pro-Kerry. There were no significant differences in slant of campaign coverage among the Tribune Company's cross-owned properties in Chicago, with the slant coefficients of all three of the company's media outlets being statistically indistinguishable from 0. Such a result indicates generally balanced coverage of the campaign in the newspaper, on the late-evening local television newscast, and in the content of the locally produced radio news and public affairs programming.

Overall, the results of the analyses shown in Table 1 fail to support the one owner, one voice premise. In Milwaukee and Dayton there was a clear difference in partisan slant between a company's newspaper and its radio station. In Chicago there were no appreciable differences in slant among the Tribune Company's newspaper, television station, and radio station. All three media outlets provided balanced coverage of the campaign rather than the coordinated, strongly partisan slant that the one owner, one voice premise presumes.

RESULTS: CROSS-OWNED VS. INDEPENDENTLY OWNED MEDIA

Our second analysis compared the coverage of the presidential campaign in the Tribune Company's newspaper, television station, and radio

Table 2. Mean Slant, Tribune Co. Outlets in Chicago and Independently Owned Similar Media

	Chicago (Tribune)	Chicago (Control Group)
Newspaper	−7.1 (396)	−15.3 (177)
Television	−3.1 (32)	−7.7 (13)
Radio	−0.7 (140)	−2.0 (51)

The figures in parentheses are the numbers of published or broadcast items upon which the analysis was based. Negative coefficients represent a pro-Kerry slant, positive coefficients a pro-Bush slant. None of the differences between the means in this table was statistically significant.

station with the coverage of a similar group of Chicago media outlets that had no corporate links with each other (the *Sun-Times*, WMAQ-TV and WLS-AM). As the results in Table 2 show, the slant of the coverage in the three non-Tribune media outlets is slightly more pro-Democratic than the slant of the outlets owned by the Tribune Company, but the differences are small and do not approach traditional levels of statistical significance.

The message of the analysis in Table 2 is that it was difficult, if not impossible, to distinguish between cross-owned and similar non-cross-owned media outlets in Chicago merely by looking at the slant of their coverage of the presidential campaign. Put another way, an observer would not have been able to discern, simply from looking at the news and opinion content of the two Chicago newspaper-television-radio clusters under study, which set of media outlets was owned by one company and which was owned by three independent companies.

DISCUSSION

Our study tested the one-owner, one-voice premise that provides much of the theoretical foundation for the ban on new newspaper-broadcast cross-ownerships. The study's results suggest that the premise is not valid. The companies whose Milwaukee and Dayton newspapers endorsed Democratic candidate Kerry on their editorial pages allowed local programming on their news/talk radio stations to favor Republican candidate Bush (in Milwaukee, overwhelmingly so). In Chicago, despite the Tribune Company's strong interest in eliminating the ban on newspaper-broadcast cross-ownership, the firm's newspaper, television station, and radio station all provided as much coverage in favor of the candidate who favored continuing the ban (Kerry) as of the candidate who favored eliminating the ban

(Bush).[105] In other words, the proprietors of the cross-ownerships in our study permitted their media outlets to publish and broadcast a diversity of viewpoints about the 2004 presidential campaign. What is more, the slant of news and opinion in non-cross-owned media was not significantly different from that of cross-owned media, as our analysis of the newspaper-television-radio clusters in Chicago showed.

At least in the context of newspaper-broadcast cross-ownership, such findings undermine the premise that each media owner constitutes a single voice on important subjects such as presidential elections. Cross-owned newspapers and broadcast stations may not always provide more viewpoint diversity than do similar media without common ownership, but there is no reason to believe that they systematically provide less. In addition, virtually all of the empirical research on the journalistic performance of cross-owned media from the 1940s to the present day suggests that the quality of journalism aired by cross-owned stations tends to be as good, if not better, than that of non-cross-owned stations. Some advocates of strict limits on media cross-ownership argue that this kind of empirical evidence is "simply irrelevant" to media ownership policy,[106] but even they acknowledge that the FCC and the courts require such evidence.[107]

Our study's results argue for a more sophisticated understanding of the interests and behavior of media owners than is provided by the one owner, one voice premise. A growing body of research demonstrates that news content responds to an economic logic which incorporates audience preferences, the value of certain segments of the audience to advertisers, the costs of producing various kinds of news, and the positioning of competing media products, among other factors.[108] Media cross-ownership

---

[105] Another indication of the separation of the corporate interests of the Tribune Company from the political content of its newspapers is the fact that six of the eight Tribune-owned daily newspapers which endorsed a candidate for president endorsed Kerry. They were the ALLENTOWN (Pa.) MORNING CALL, the BALTIMORE SUN, NEWSDAY (New York), the ORLANDO SENTINEL, the SOUTH FLORIDA SUN-SENTINEL, and the STAMFORD (Conn.) ADVOCATE. Two Tribune-owned papers, the Chicago TRIBUNE and the Hartford COURANT, endorsed Bush. The Tribune Company was not alone in giving its newspapers freedom to endorse whichever candidates they preferred; Gannett, which owns almost 100 daily newspapers throughout the United States, did the same. *See* Ann Clark, *Gannett Newspaper Endorsements Nearly Even on Bush, Kerry*, NEWS WATCH, Nov. 5, 2004, *available at* http://www.gannett.com/go/newswatch/2004/november/nw1105-2.htm.

[106] C. EDWIN BAKER, MEDIA CONCENTRATION AND DEMOCRACY: WHY OWNERSHIP MATTERS 20 (2007).

[107] *Id.* at 19–20.

[108] *See, e.g.*, HAMILTON, *supra* note 5; Bharat Anand, Rafael Di Tella, & Alexander Galetovic, *Information or Opinion? Media Bias as Product Differentiation*, 16 J. ECON. & MGMT. STRATEGY 635 (2007); David P. Baron, *Persistent Media Bias*, 90 J. PUB. ECON. 1 (2006); Matthew Gentzkow & Jesse M. Shapiro, *What Drives Media Slant? Evidence from U.S. Daily Newspapers* (Nat'l Bureau Econ. Res. Working Paper 12707, Nov. 2006);

and other forms of media consolidation such as chain newspaper or television ownership seem to have little, if any, influence.[109]

This is not to say that media owners do not have the ability, in theory, to slant the news and opinion their newspapers, television stations, and radio stations disseminate. It is to say, however, that there is no evidence that the owners of mainstream media outlets—those that cater to broad, ideologically diverse audiences—systematically use their theoretical power to slant the news. Some media outlets intentionally appeal to narrower swaths of the population, tailoring their content to the presumed orientations of their target audiences. Conservative talk radio, for example, makes no pretense of objectivity or balance.[110] Other media outlets may be associated with advocacy organizations that take strong stands on public issues (the magazines of organizations such as the National Rifle Association, the Sierra Club, and the American Association of Retired Persons, for example). Because such media are part of an organization's advocacy strategy, it should come as no surprise if they slant their news and commentary in the direction of their owners' interests.

The mainstream media, in contrast, tend to be less partisan and more centered on maintaining, if not continually increasing, the flow of revenue from advertisers, audience members, and other sources.[111] To maintain their flexibility to obtain additional revenue whenever they see an opportunity to do so, media corporations generally favor less, rather than more, government regulation. In 2004, the interests of media owners would have been better served by the re-election of Republican Bush than by the election of Democrat Kerry. No one made this point more bluntly than Sumner Redstone, chairman and CEO of Viacom (parent company of CBS and many other media properties), who said in September 2004 that although he personally was a liberal Democrat, he hoped that George W. Bush would be re-elected. He explained:

Milyo, *supra* note 71; Sendhil Mullainathan & Andrei Shleifer, *The Market for News*, 95 AM. ECON. REV. 1031 (2005).

[109]One scholar who reviewed empirical research from media sectors ranging from newspapers to the music industry concluded that "there is just no empirical support" for the hypothesis that media consolidation results in less diversity. EINSTEIN, *supra* note 11, at 38. *See also* Benjamin M. Compaine, *The Impact of Ownership on Content: Does it Matter?,* 13 CARDOZO ARTS & ENT. L. J. 755 (1995).

[110]*See* Christopher Terry, Milwaukee's Radio News Trinity: Clear Channel, Journal Communications, Wisconsin Public Radio and Coverage of the 2004 Election (August 2005) (unpublished M.A. thesis, University of Wisconsin-Milwaukee) (on file with Golda Meir Library, University of Wisconsin-Milwaukee); CTR. FOR AM. PROGRESS, *The Structural Imbalance of Political Talk Radio* (study released June 2007), *available at* http://www.americanprogress.org/issues/2007/06/talk_radio.html.

[111]*See* Pamela J. Shoemaker (with Elizabeth Kay Mayfield), *Building a Theory of News Content: A Synthesis of Current Approaches*, 103 JOURNALISM MONOGRAPHS 1 (June 1987).

"Viacom is my life, and I believe that a Republican administration is better for media companies than a Democratic one."[112] Despite owners' interest in less regulation, however, our study found no evidence that media outlets systematically slanted their political coverage in favor of candidates who supported greater deregulation of media ownership.[113]

This finding suggests that the owners of mainstream media may define their interests in a more socially useful way than has been commonly assumed. The owners may perceive their interests as being best served by presenting a buffet of information and opinion so that citizens of varied mainstream political orientations will be able to find news and commentary they appreciate. Citizens with non-mainstream orientations may feel that their views are excluded from the mainstream media, but almost by definition such groups are small in number.[114] In any case, there is no reason to believe that cross-owned commercial media differ from other commercial media in the extent to which they pay attention to non-mainstream viewpoints.

It is also important to note that only financially strong news organizations with large audiences have the means and the influence to act as the Fourth Estate, revealing abuses of power by large institutions and holding them accountable for their actions.[115] The wealth and wide readership of the *New York Times*, for example, enable it not only to devote thousands of person-hours to important projects, but also to fight for the right to publish the fruits of such journalistic labor.[116] Similarly, the financial strength of the *Washington Post* enabled it to

---

[112]Neil Gough, *10 Questions for Sumner Redstone*, TIME, Oct. 4, 2004, at 8. *See also Guess Who's a GOP Booster?,* ASIAN WALL ST. J., Sept. 24, 2004, at A-11; Carol Hymowitz, *It's a Growing Trend, But Should CEOs Back Candidates for Office,*" WALL ST. J., Sept. 28, 2004, at B-1.

[113]The media may choose to ignore certain issues, but whether they ignore issues in an attempt to limit public debate about media policy or simply because they perceive little audience interest in certain topics is an open question.

[114]We are not unaware of the self-fulfilling prophecy implicit in this formulation. Viewpoints that are excluded from the mainstream media are delegitimized, just as viewpoints which the media highlight gain legitimacy. This process of allocating legitimacy is never neutral. As one media scholar noted, the media—along with other ideology-shaping institutions in society—serve "to certify the limits within which all competing definitions of reality will contend." TODD GITLIN, THE WHOLE WORLD IS WATCHING: MASS MEDIA IN THE MAKING AND UNMAKING OF THE NEW LEFT 254 (1980).

[115]In a well-known article about the media's role in checking abuses of power, Vincent Blasi wrote of "the need for well-organized, well-financed, professional critics to serve as a counterforce to government—critics capable of acquiring enough information to pass judgment on the actions of government, and also capable of disseminating their information and judgments to the general public." Vincent Blasi, *The Checking Value in First Amendment Theory*, 2 AM. B. FOUND. RES. J. 521, 541 (1977).

[116]*See, e.g.*, New York Times v. United States, 403 U.S. 713, 715 (1971) (Black, J., concurring). A more recent example of the *Times*' watchdog reporting came in late 2005, when the newspaper revealed that the Bush Administration was systematically tapping into international telephone calls and e-mail traffic in the United States without the

resist government pressures in its coverage of the Watergate scandals and in many other instances since then.[117] American democracy would be weaker without in-depth journalism of the kind that the mainstream media often produce.

There is no denying the existence of a generalized and rather diffuse concern about concentration of media ownership in the United States,[118] but the sources of that concern are not at all clear. What is clear is that the Telecommunications Act of 1996 requires the FCC to determine periodically whether its media ownership rules, including the ban on newspaper-broadcast cross-ownership, are "necessary in the public interest." Studies over the past sixty-five years leave little doubt that cross-owned stations are just as likely to serve the public interest as other stations. This is not to suggest that government is impotent to challenge demonstrated negative effects of concentration of media ownership in specific situations of abuse, but media-ownership rules of general application are not the best regulatory tool to counter occasional abuses of economic power.[119] What is more, it is far from certain that a repeal of the cross-ownership ban would lead to additional newspaper-broadcast mergers.[120]

Whether they are cross-owned or not, virtually all mainstream media outlets in the United States are owned by large, profit-seeking corporations that respond to similar economic incentives. Accordingly, it should not come as a shock that the content similarities between cross-owned and non-crossed-owned media—whether in terms of viewpoint diversity, journalistic quality, or other characteristics—are far greater than the differences. There is no systematic evidence that cross-owned media perform worse on any number of measures than do independently

court warrants that federal law seemed to require. *See* James Risen & Eric Lichtblau, *Bush Lets U.S. Spy on Callers Without Courts*, N.Y. TIMES, Dec. 16, 2005, at A1.

[117]*See* BERNSTEIN & WOODWARD, *supra* note 43. For more a recent example of watchdog reporting from the *Post*, *see* Dana Priest, *CIA Holds Terror Suspects in Secret Prisons: Debate Is Growing Within Agency About Legality and Morality of Overseas System Set Up After 9/11*, WASH. POST, Nov. 2, 2005, at A1.

[118]*See, e.g.*, Pew Research Center, *supra* note 61.

[119]Some scholars argue that antitrust law is sufficient to maintain viewpoint diversity within cross-owned media. For a thoughtful statement of this view, *see* Lili Levi, *Viacom-CBS Merger: Reflections on the FCC's Recent Approach to Structural Regulation of the Electronic Mass Media*, 52 FED. COMM. L. J. 581, 593–600 (2000). *See also* Howard A. Shelanski, *Antitrust Law as Mass Media Regulation: Can Merger Standards Protect the Public Interest?,* 94 CALIF. L. REV. 371 (2006).

[120]*See* Frank Ahrens, *Newspaper-TV Marriage Shows Signs of Strain*, WASH. POST, Jan. 11, 2007, at D1; David Lieberman, *View of Media Ownership Limits Changes*, USA TODAY, Jan. 29, 2007, at 1B; Richard Siklos, *In a Blurry World, Ownership is Yesterday's News*, N.Y. TIMES, Oct. 29, 2006, at BU-3; Jacques Steinberg & Andrew Ross Sorkin, *Easier Rules May Not Mean More Newspaper-TV Deals*, N.Y. TIMES May 26, 2003, at C1.

owned media. Put another way, there is no empirical basis for believing that cross-owned media do any less than other media to serve the public interest.

More broadly, it is important to remember that the vital social, political and cultural functions of the media ultimately flow from their content, not from their ownership structure. Unless the Federal Communications Commission can present a convincing case that cross-ownership limits the range of viewpoints media outlets disseminate and harms the quality of the news they provide, it should repeal the ban on newspaper-broadcast cross-ownership and explore other means of ensuring the diverse and vibrant public sphere that a healthy democracy requires.