Center for American Progress

Local Media Diversity Matters

Measure Media Diversity According to Democratic Values, Not Market Values

Mark Lloyd and Phil Napoli

Progressive Ideas for a Strong, Just, and Free America

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Executive Summary

In June 2006, the Federal Communications Commission opened a rulemaking proceeding that at least in part was a response to its failed 2002 effort to allow the nation's big media conglomerates to further concentrate their control over local print, radio and television markets in the United States. The 2002 decision by the FCC was denounced by members of the public across the political spectrum, limited in scope by Congress, and in the end sent back for reconsideration by the U.S. Court of Appeals for the Third Circuit in Philadelphia.

As the court said in the case, "The FCC's delegated responsibility to foster a robust forum for national debate is unique in administrative law and essential to the vibrancy of our deliberative democracy." The court then issued a withering critique of the FCC's analysis, arguing, among other things, that the Commission "entirely failed to consider" the problem of minority ownership.

Access to independent and diverse media outlets is essential to our democracy, as the appeals court rightly recognized in its ruling. That's why congressional oversight over the pending FCC rulemaking will be so crucial to the agency's congressionally mandated quadrennial review of local media ownership rules. But oversight and critique is not sufficient. Progressives must now offer a thoughtful and pragmatic alternative to the FCC's business-as-usual approach to media ownership.

Americans' ability to learn about and debate local, state and national issues and to monitor our representatives depends upon our exposure to news and discussion that is not controlled by a small group of mostly like-minded corporations. Moreover, a strong democracy requires that many different parts of our community have an opportunity to contribute to the broader public debate. These basic principles are deeply rooted in our Constitutional rights of free speech, and are at the core of all our communications laws.

Yet the FCC does not have the means today to determine whether its policies are promoting or discouraging independent and diverse speech. The last time the commission proposed ownership rules it relied on an unreliable and increasingly irrelevant market concentration formula designed for antitrust purposes to craft its so called Diversity Index.

That's the index employed by the FCC under former Chairman Michael Powell in 2002 to justify the commission's decision to allow one corporation to own several radio stations, newspapers, and television stations in the same community. After howls of protest from millions of Americans, Congress and ultimately a federal appeals court, the FCC under its new Chairman, Kevin Martin, must now reconsider its approach.

Alas, in its request last year for public comment the FCC is once again asking many of the wrong questions about market concentration. The agency wants to know what limits it should place on the number of stations that can be commonly owned in one market, and how it should address radio/television and newspaper/broadcast cross-ownership issues. The real question on the minds of the FCC commissioners, however, is this: Have new technologies created sufficient market competition to allow for greater media concentration?

FCC Chairman Kevin Martin has announced ten studies tied to the media ownership review. While the studies have not been fully described, it is at least clear that the none of the studies focus on the impact of local media diversity on democratic engagement, or on the diversity of information available to minority communities. The studies seem to focus on the financial well-being of the various media industries, not the democratic well-being of our communities.

That's the challenge for those of us who care about the dangers of increased media concentration on our democracy. Accordingly, we must reframe the debate so that it is about public access to diverse sources of information which educate and inform all Americans, not about marketplace competition important only to the bottom line of big corporations. And we must demonstrate the importance of new sources of information on local democratic engagement.

These are not small challenges. Even though the FCC tips its hat to the idea that access to independent and diverse media is essential to our democracy, it quickly turns the conversation around to markets and no one seems to notice. The FCC is captured by administrators who, by and large, don't even know how to ask questions about the democratic needs of the public.

Given this predicament, the Center for American Progress has worked with a small but diverse group of media scholars and lawyers over the past year to develop a way to really measure local media diversity, and a way to determine what level of media diversity actually supports strong local democracies. What we have developed is a series of measurements that are clear and easy to understand, and not too burdensome for the FCC to perform. We call it a "Metric for Local Media Diversity."

In brief, our proposed Metric for Local Media Diversity is based on a set of four distinct but related measures:

1) Determine media markets in a way that captures the diversity of sources available to both the general public and significant distinct "ethnic" audiences.

2) Count all "independent" media outlets that serve the local media market, including print, broadcast, cable, and Internet media; but include only those sources contributing locally produced news and public affairs.

3) Measure the potential audience of each particular media source in the market.

4) Measure the news workers for each media source in the market, with additional points given for gender and ethnic diversity.

Armed with these four measures, the FCC should then directly tie these numbers to measurements of local civic engagement and civic knowledge, such as voting levels, participation in civic groups, and knowledge of local political and civil information in a few sample communities. In this fashion the FCC can determine what combination of diversity measures produces the most participation and the most knowledge. Rather than market competition, the level of media diversity can now be determined by the impact of that diversity on the goal of civic engagement and civic knowledge.

For the purposes of our proposal, we chose Madison, Wisconsin and Los Angeles as the sample communities because of the wealth of media information available in these two cities. And in the report that follows, we assume that media markets with the highest level of diversity will experience the greatest level of political participation and the most informed citizenry, and that markets below median level of media diversity will experience the lowest level of political participation and the least informed citizenry.

But these are merely assumptions. They should be tested by the FCC in the real world. Indeed, our Metric for Local Media Diversity may well reveal that some media markets boast enough diverse voices to allow some of the big media groups to consolidate further their local media holdings. Other media markets may not.

Either way, though, the work of determining whether our present or future media ownership policies promote democratic engagement and civic knowledge should not be left to static assumptions but hard research. We believe that the proposed Diversity Metrics and Civics Index will help clarify the true impact of the FCC's media ownership rules on our democracy.

Introduction

Access to independent and diverse media is essential to our democracy. Our ability to learn about and debate local, state, and national issues and to monitor our representatives depends upon our exposure to news and discussion that is not controlled by any one person, corporation, or faction of our community. Moreover, a strong democracy requires that many different parts of our community have an opportunity for expression, and to contribute to the public debate. This basic principle is deeply rooted in our laws of free speech; it is at the core of all our communications laws. And yet the Federal Communications Commission does not have a means to determine whether its policies are promoting or discouraging independent and diverse speech.

Mark Lloyd at the Center for American Progress in collaboration with Phil Napoli, the Director of the Donald McGannon Communication Research Center at Fordham University, pulled together a small but diverse group of scholars and lawyers (Diversity Metrics Working Group—"Working Group"—see Appendix A) to develop a "Metric for Local Media Diversity." The goal was to create a series of measurements that are clear and easy to understand, that utilize existing resources, and is therefore not unduly burdensome for a government agency to perform. What follows is a proposed method for measuring the diversity of media available in local communities. Not all of this proposed metric was agreed upon or developed by the Working Group; this proposal represents the views of the authors.

In brief, the Working Group decided to pursue a set of four distinct but related measures to determine the diversity of media sources available to local communities. The first (Market Size) allows us to distinguish media markets as measurable communities and to capture the diversity of sources available to distinct "ethnic" audiences. The second measure (Independent News Source) is a count of all "independent" media outlets in the local media market, including print, broadcast, cable, and Internet media, but to count only those contributing to news and public affairs. The third (Reach) is a measure of the potential reach of each outlet in the market.

The Working Group decided that although it would be ideal to be able to measure the actual output and quality of news and public affairs content in each market, the consensus was that these kind of content measures are too susceptible to observer bias and too burdensome. In its place, the Working Group agreed that a useful proxy of news and public affairs output would be a measure of news capability. This paper proposes that a final measurement should be the number and the gender and ethnic makeup of "news workers" in each medium of the market.

The measurement can be expressed as the following formula:

(O) x (R) x (J1-3) X (E) / N = D

Σ of D'S = M

O = outlet (value = 1)
R = Potential Audience Reach
N = # outlets owned by owner
J = News Worker Index
J1 = in Large Markets
J2 = in Medium Markets
J3 = in Small Markets
E = Gender and Ethnic Make-up Index
D = Diversity contribution of owner
M = Diversity metric for market

Finally, this paper suggests the development of an index for media diversity tied to measurements of local civic engagement and civic knowledge. In other words, measure local civic engagement (voting levels and participation in civic groups) and knowledge of local political/civil information, and determine what combination of measures produces the most participation and the most knowledge. Rather than market competition, we propose that the level of media diversity should be determined by the impact of that diversity on the goal of civic engagement and civic knowledge.

Background

Section 202(h) of the Telecommunications Act of 1996 requires the Federal Communications Commission to review its media ownership rules biennially "to determine whether any of such rules are necessary in the public interest as the result of competition."[1] A long-standing public interest goal of U.S. communications policy is to promote the expression of a diversity of independent voices on issues of local controversy and importance. With this in mind, Congress and the FCC have placed limits on the number of broadcast licenses that any one person (or entity) can obtain, and they have placed limits on the licensing of broadcast operations to persons who also own other communications operations, such as newspapers or cable television operations.

For the 2002 review, Federal Communications Commission Chairman Michael Powell initiated what he described as "the most thorough and comprehensive review of our broadcast ownership rules in their sixty year history."[2] Powell specifically emphasized the importance of developing the necessary factual record to guide the Commission's decision-making in this area.

As part of this process, the Commission created a Media Ownership Working Group, which conducted internally—and commissioned from external sources—a series of research projects on a wide range of issues relevant to the media ownership proceeding. The end result of this was a newly-developed Diversity Index, which the Commission created internally to serve as a guide to assess the status of local media markets and the appropriateness of permitting further ownership consolidation within these markets. There was also a June 2, 2003 Report and Order that substantially relaxed a wide range of media ownership regulations, including the local television ownership rule (limiting the number of television stations a single entity could own within a single market), the broadcast-newspaper cross-ownership rule (limiting broadcast-newspaper combinations within a single market), and the national television ownership rule (limiting the national audience reach of a television station owner).

The ramifications of the Commission's decision are well-documented. The FCC decision was denounced by members of the public across the political spectrum, limited in scope by Congress, and remanded for reconsideration by the U.S. Court of Appeals for the Third Circuit in Philadelphia in the case *Prometheus Radio Project v. Federal Communications Commission*.[3] The Third Circuit ruled that the Commission failed to justify its "Cross-Media Limits" and its modification of numerical limits on broadcast licenses with reasoned analysis. While the court did not "object in principle to the Commission's reliance" on the HHI as a starting point, the court was critical of the Diversity Index on a number of fronts.

Despite widespread public disapproval over its last attempt to relax ownership rules, the FCC is under increasing pressure from the broadcast industry to allow greater local media concentration. The media industry will likely produce academic analysis to justify this action. We anticipate that the Commission is likely to try to rework its Diversity Index in a way that it will allow greater media concentration but will withstand judicial scrutiny.

The FCC Diversity Index

Included in the FCC decision to allow greater media consolidation was a newly-developed Diversity Index ("DI"), which the Commission created internally to serve as a guide to assess the status of local media markets and the appropriateness of permitting further ownership consolidation within these markets. The Commission's Diversity Index had as its basis the well-known Herfindahl-Hirschman Index, developed as a tool in anti-trust considerations to measure *market concentration* by summing the squared market shares of each firm in a market. The DI extended and modified the HHI in a number of ways. The FCC described the methodology as follows:

In terms of calculating the Index, within each medium we combine commonly-owned outlets and calculate each owner's share of the total availability of that medium. We then multiply thatshare by the share of the medium in question in the total media universe (television plus newspaper plus radio plus Internet). Once these shares in the overall "diversity market" have been calculated, we add together the shares of properties that are commonly owned (e.g., a newspaper and a television station), square the resultant shares, and sum them to get the base Diversity Index for the market in question.[4]

This description merits some clarification. First, as is indicated by the above description, an owner's holdings in each medium (television, newspapers, radio, and the Internet) are first computed separately, with an owner's "share" of a particular medium calculated in terms of the proportion of the available outlets that the owner controls (thus, for instance, a firm owning two of the six television stations in the market would have a 33.3 percent share). Then, the owner's share for each medium is weighted separately, being derived from a consumer survey[5] in which respondents were asked to identify their primary sources of local and national news, and to assess the importance of different media as news sources. Specifically, the weights were derived from a survey question in which respondents were asked which types of media they had utilized for obtaining news and current affairs within the past seven days. Thus, for instance, 57.8 percent of respondents claimed to have utilized television to obtain news and current affairs within the past seven days. Based on these responses, the weighting scheme employed for the media included in the Diversity Index was as follows: broadcast television—57.8 percent; newspapers—25.8 percent; radio—10.3; Internet—6.1 percent. Magazines were discarded by the Commission as a meaningful source of local news and information, due to data gathered in the Nielsen Media Research study, as well as on the basis of data from other sources. Cable television was also excluded for similar reasons.

The weighting process would then be employed, with, for example, the 33.3 percent share of the broadcast television market described above multiplied by 57.8 (the weighting score for television)—and so on for each medium—to determine that firm's share of the "diversity market." Once this process has been completed for all of the holdings of each firm in the market, each firm's total share is squared, then summed (following the HHI methodology) to produce the Diversity Index for that market.

The Commission's key objective in creating this index was to have a mechanism for empirically assessing viewpoint diversity within local media markets that could provide guidance as to when to allow mergers to take place within these markets. To the extent that the Commission incorporated data on media usage into the calculus, the index represents a significant extension beyond more traditional approaches to assessing diversity.[6] Based in part on the conclusions derived from employing this index in the analysis of a sample of media markets, the Commission concluded that the bulk of its ownership regulations could be substantially relaxed.

The ramifications of the Commission's decision have been well-documented.[7] Amidst a substantial outcry from both the public and members of Congress,[8] the Commission's media ownership decision was challenged in court by public interest advocates arguing that the rule changes had gone too far in allowing increased consolidation, and by industry participants who argued that the relaxation of the ownership rules did not go far enough.[9] After a jurisdictional lottery, the case was tried in the U.S. Court of Appeals for the Third Circuit in Philadelphia.

The Court's Objections

The Third Circuit remanded the bulk of the Commission's ownership decision, ruling that the Commission failed to justify its "Cross-Media Limits" and its modification of numerical limits on broadcast licenses with reasoned analysis.[10] While the court did not "object in principle to the Commission's reliance" on the HHI as a starting point, the court also was critical of the Diversity Index on a number of fronts. Among the court's major criticisms were that the following: first, the Commission erred in including the Internet in its calculus due to the limited extent to which on-line sources provide—and are utilized for obtaining—local news and public affairs information; second, the Commission was inconsistent in its reliance on media usage information in its calculus—utilizing such information at the level of the different media technologies, but not utilizing such information in terms of the usage of different outlets (e.g. broadcast stations) within different technologies; and last, that the Commission failed to adequately justify its decision not to engage in any assessment of the content of individual media outlets, despite the fact that the Commission emphasized the availability of news and public affairs content as central to the "diversity importance" of individual information sources.[11]

The court acknowledged the importance of attempting to measure media diversity as a justification of its media ownership rules. The challenge, then, is to rework a Diversity Index in a way that withstands judicial scrutiny. It is therefore an appropriate time to consider ways that the Commission's index could be improved, or whether alternative analytical approaches to assessing viewpoint diversity in media markets should be employed. The critiques of the Court of Appeals for the Third Circuit provide useful points to consider in moving forward with such an endeavor. The approach outlined below represents an effort to build upon the Commission's work, and to take into account the specific criticisms offered by the court. This approach raises the very important point of discussion regarding whether it is preferable at this point to build upon and modify the Commission's work in this area or to develop an approach (or approaches) with an entirely different starting point.

A New Diversity Metrics

In response to the need for a rigorous measurement of local media diversity, Center for American Progress Senior Fellow Mark Lloyd turned to Philip Napoli, Director of the Donald McGannon Communication Research Center at Fordham University. They two brought together a diverse group of scholars to develop an honest but practicable test of media diversity in local markets. Our initial framework was as follows:

1) Identify the geographic market for analysis.
2) Identify all of the media outlets in the market for inclusion in the calculus.
3) Identify "specialized" markets/outlets within the broader geographic markets.
4) Weight each media outlet included in the calculus in a way that accounts for its reach or strength as a voice in the market.
5) Account for common ownership of individual media outlets within these markets—essentially moving from "outlets" to "voices."

Working Group Rationales and Assumptions

It was agreed that the FCC's stated rationale for ownership regulations ("diversity, competition and localism") were generally sound. However, the Working Group wanted to stress that local media diversity should be promoted because the discussion of important issues by the governed makes democracy possible. This basic truth is the foundation of our republic and is reflected in the importance we place on First Amendment protections of freedom of speech, freedom of the press, and the right to assemble. The 14th Amendment's extension of these protections to all Americans requires public policies that promote equal opportunities to participate in the public discussion. We also wanted to note that an important but secondary consideration is the constitutional requirement of open and competitive markets.

In keeping with this rationale, a Diversity Metric should establish a predictive measurement to determine the impact of media consolidation on the diversity of expression in local communities. In addition, any measurement should be feasible, rational, and open to correction and debate.

The Working Group kept several elements of the Commission's DI but rejected a few key elements. The DMWG rejected the HHI as a useful guide and adopted instead a relatively simple set of measures. While the DMWG adopted the Commission's use of a designated market area, we decided that it was important to measure viewpoint diversity available to distinct communities within the DMA.

Identifying the Relevant Market and the Relevant Media

Step 1: Identify the geographic market for analysis

In identifying local media markets for analysis, the Federal Communications Commission employed geographically defined media markets. Despite acknowledged problems, such as the lack of overlap with political jurisdictions, the Commission decided to rely upon these established market definitions because it wanted to create the most feasible metric using data that could be most easily organized in accordance with the established conventions of media market analysis.

Step 2: Identify all of the media outlets in the market for inclusion in the calculus

Using available commercial and governmental data sources, the next step is to identify all the media outlets within geographic markets to be included in the analysis. It was decided that the index would be constructed using a "micro-to-macro" approach, in which the index for the entire market would be constructed via the aggregation not only of outlets serving the entirety of the market, but also outlets serving subsections of the entirety of the market (weighted accordingly, see below).

- Full Power Radio & Television Stations
- Metropolitan Daily & Weekly Newspapers
- Metropolitan Cable Channels
- Town & Community Newspapers (Daily & Weekly)
- Low Power TV/FM, Class A, Class 4 broadcast stations
- PEG Channels
- Local Internet sources (list serves, websites) (when identified as a significant independent voice for local news and public affairs)

Step 3: Identify "specialized" markets/outlets within the broader geographic markets

Specialized markets ("SM") are those markets serving specific ethnic groups or language communities. The existence of such markets can be determined via an examination of both the most recent census data and the audience composition data for media outlets within the geographic market. Specifically, within the geographic market, a specialized media market is composed of any population that constitutes at least 10 percent of the population and/or is served by a media outlet that either:

a) is dedicated to providing foreign language content; or

b) has a majority (51%) of its audience (as determined by relevant audience data sources) composed of a particular minority group.[12]

The identification of these specialized markets is intended to facilitate the analysis of sub-markets within the more broadly defined media market in recognition of the fact that minority communities often rely on a specific, narrower subset of the media sources available in the market. In addition, ethnic and minority sub-markets should also receive attention from the standpoint of assessing the diversity of viewpoints available within them.

Step 4: Audience Weighting

The next step is to weight each media outlet included in the calculus in a way that accounts for its reach or strength as a voice in the market. We elected to test three different approaches to this process.

a) No audience weighting.

b) The second approach involved weighting each outlet according to its *potential* audience reach (i.e., the percentage of people/households in the market that could access the outlet if they wanted to). Thus, for daily newspapers, this measure takes into account circulation zones (presumably most metropolitan papers truly are available to all citizens within a market). For broadcast radio and television stations, this approach takes into account signal contours (mapped against populations), as well as cable carriage and cable penetration for television. For metropolitan cable channels, this approach also takes into account cable carriage and cable penetration, and taps at the *potential* of each outlet to serve as a significant local voice for the citizenry.

c) The third approach involved weighting each outlet according to its actual audience reach (i.e., the percentage of people/households in the market that actually do access the outlet). This approach involves the gathering of actual audience ratings (for television and radio) and circulation figures (for newspapers) for each outlet in the calculus. It also taps at the *actual extent* to which each outlet in the calculus serves as a significant local voice for the citizenry (as measured by the extent to which it is consumed).

Step 5: Content Weighting

This step involved further modifying the weight applied to each media outlet in accordance with the extent to which that outlet serves as a source of local news and public affairs information for the citizens in that market. This approach was derived from the FCC's long-standing articulation that the provision of local news and public affairs is central to their definition of a "local voice" in a media market, and the Commission's expressed belief that local news and public affairs are the content forms that are at the core of their diversity concerns. Here again, a number of different approaches were proposed for testing:

a) No content weighting.

b) A binary content weighting system, wherein an outlet that provides any local news and public affairs is given greater weight than one that provides no local news and public affairs.

c) A percentage-based weighting system that takes into account the percentage of an outlet's content devoted to local news and public affairs. Thus, for television and radio, this approach would account for the percentage of a typical broadcast day devoted to local news and public affairs. One point that was emphasized at this stage was the need to employ a rigorous definition of local news and public affairs in order to account for the new ways in which the concept of "local" is subject to manipulation and misrepresentation. Print outlets would always receive the maximum weight here, given that in terms of raw information quantity, even a paper that devotes relatively little space to local news and public affairs is likely to be providing more information than can be included in a great many radio/television public affairs program.

Calculating Independence and Summing Up

Step 6: Accounting for Common Ownership

The next key step is to account for common ownership of individual media outlets within these markets—essentially moving from "outlets" to "voices." We ended our discussions with a couple of ideas on the table for this step. The initial idea was to sum the weighted diversity scores (above) for each media outlet owned by a particular owner and then divide by the total number of outlets owned by that owner. Thus, three outlet-specific scores would be transformed into a single "voice" score in a scenario in which one owner owned three of the media outlets in a market. These scores would then be summed to create a diversity index for that market.

The second approach discussed was to calculate a score analogous to a four-firm or eight-firm concentration ratio, in which each owner's share of the total diversity in the market was calculated by summing the diversity scores for each outlet owned by that owner and then dividing that sum by the summed diversity scores of all the owners in the market. This would create a "diversity share" for each owner in the market. These shares could then be summed to create four-firm or x-firm concentration ratios.

It should be noted in that assigning ownership, the approach relied upon by the FCC for assigning ownership credit (in dealing with contexts such as shared ownership, LMAs, JOAs, etc.) would be employed in order to maintain consistency with established practices.

Testing a Simple Formula

Below is an outline of the elements of the multiple equation options we discussed to develop measures of local viewpoint diversity in a media market. Each equation would be applied to both the DMA and the SM and could, theoretically, be employed to analyze any geographical submarket within a larger market.

(A) x (B1-3) x (C1-3) / N = D

Σ of D'S = M

A = outlet (value = 1)
B = reach
B1 = NA
B2 = Market Potential/ reach
B3 = Market Actual use/circulation
C = content
C1 = NA
C2 = Binary
C3 = % of content devoted to news
N = # outlets owned by owner
D = diversity contribution of owner
M = diversity metric for market

We decided that a test of the approaches outlined above should be conducted on six sample markets (two small, two medium, two large, three of these in relatively simple/isolated markets, three others in "imbedded" complex markets). This test would provide a useful indicator of the extent to which gathering the necessary data is feasible/practical; the nature of the data available to conduct such analyses (and the time and costs associated with gathering these data); how the different measurement approaches outlined above compare to one another; and whether the metrics that are ultimately computed appear useful from a practical standpoint.

In June, using a BIA dataset already purchased an with additional support from CAP, Phil Napoli and graduate students at Fordham began to apply the initial stages of this analysis to six markets: 1) Green Bay, WI; 2) Marquette, MI; 3) Miami, FL; 4) New Orleans, LA; 5) San Francisco, CA and 6) Santa Barbara, CA. Midway through data gathering, Hurricane Katrina struck New Orleans, forcing the dropping of New Orleans from the data set, due to difficulties contacting New Orleans media outlets directly and the erratic, non-representative nature of the programming provided by television stations in the New Orleans market during the data-gathering time period.

Reviewing the Test

The Working Group met for a second time to review the work in progress, Based on an initial test of the DM, the Working Group agreed to limit the Reach measurement to focus exclusively on the Potential Audience Reach weighting system for each identified media outlet. Effectively weighting each outlet by its potential audience reach seems the most important factor in constructing a more rigorous index of diversity at the local level. Moreover, the potential volatility of an actual audience-reach weighting system raises methodological questions (particularly in terms of the incentives it might create for an outlet owner to potentially under-perform in order to facilitate the outlet being obtainable by a purchaser that might otherwise exceed the index's threshold of the outlet's actual audience reach were greater), and has been shown to suffer from a missing data problem, particularly in light of the broad scope we have adopted in terms of the range of outlets we have chosen to include in the overall diversity calculus. Moreover, actual audience-reach weighting might create incentives for an outlet owner to under-perform in order to facilitate the purchase of the outlet. In addition, we determined that more work was needed to identify ethnic or "specialized" markets. Specifically, we found that the BIA database did not adequately identify the ethnic media in the analyzed markets. Aside from these limitations, the Working Group was generally satisfied that the Diversity Metric was a potentially valuable tool. We recommend that the FCC conduct a study and create a database to better identify ethnic media.

We asked several media scholars to review our initial formula, who responded that it was essential that we include some measurement of the independent viewpoints in each medium in the market. Honig proposed and the Working Group developed an alternative way to account for news and public affairs programming by creating an index of news and public affairs employment in local media. Our focus is less on liberal/conservative or partisan bias but more on independence and journalistic capability. Lloyd suggests another factor, gender and ethnic diversity. The Working Group appreciated the Commission's reasons for avoiding an assessment of the content of individual media, not only because of the potential First Amendment objections that might be raised, but again because we thought it would not be feasible to adequately monitor each news report or public affairs program in each medium in the market for bias.

The news worker proxy for news content measurement works as follows: First, markets are split into the three tiers—small, medium, and large—traditionally used at the FCC and by policy analysts. Second, we measure average news and public affairs employment by medium in each of these tiers. In other words, compile the total number of reporters, producers, news directors, managers and editors needs to be gathered for all media contributing for each of the three tiers. Much of this information is obtainable via the Bacon's Directories for television, radio and print media, which contains detailed personnel information (including job titles) for individuals employed by media outlets around the country. News worker counts were created by summing up the number of individuals occupying editorial or reporting positions for each outlet. This approach seems reasonable, and a relatively content neutral mechanism for determining the extent of a media outlet's contribution to the news and public affairs environment for an individual media market.[13]

Employees in each medium for each tier will be summed and then a mean will be generated for each tier. This mean will provide the internal measure against which an index of journalistic capability for each outlet will be developed. Media which contribute news and/or public affairs programs to the market, but those with no reporters will be assigned a score of zero; those below the mean but with one or more will be assigned 1; and those above the mean, 2.

The third step is to weight each media outlet based on gender, ethnic, and racial employment of news workers. We begin by measuring the gender, racial, and ethnic percentages for each market. That percentage will serve as a measure against which an index of journalistic diversity for each outlet will be developed. Media which fall below 50 percent of the gender or ethnic makeup of the market will be assigned a score of 1: those that fall under 10 percent of the gender or ethnic makeup of the market will be assigned a score of 2; the remaining media operations will be assigned a score of 3. Although the American Society of Newspaper Editors surveyed the gender and racial makeup of newspapers, and the Radio and Television News Directors Association surveyed broadcast media, these sources are insufficient to document all media in any given community. We recommend that the FCC conduct a study and create a database to better determine gender and racial media diversity.

The proposed Diversity Metrics meets the goals of clarity and feasibility. In addition, it addresses the courts' reasonable objections to the FCC's DI by including all media in a community contributing local original news and public affairs programs to the local discussion. Many of our group members subscribe to the view that reliance on polls purporting to gauge media usage and then weighting according to popularity failed to take into consideration the different impact of different media on citizens or the relationship of one form of media to another. While such a taxonomy might be possible to construct, it is not necessary to measure the availability of diverse media.

Establishing an Index

To establish an index of the measurement (what number is optimal), Lloyd and Friedland proposed applying the DM to two cities where robust data on civic life and local media already exists, Los Angeles, California and Madison, Wisconsin. Here, we will cross-validate the DM with additional measures of civic life and engagement, degree of public knowledge of local issues and political figures, media use, and media content analysis. These two cases, of a large, extremely diverse city and a mid-sized but complex city, will then serve as 1) a validation of the larger metric and 2) as a source for examples to be used at the FCC.

Los Angeles has been chosen because the USC Annenberg School for Communication has already conducted significant work on the local media ecology. The Metamorphosis Project has been gathering data on media use in nine multi-lingual, multi-ethnic neighborhoods for more than five years. Building on this prior base of research, we will be able to validate the model in the nation's second largest market. The Los Angeles group will apply the final metric to compute a diversity index for the city, and then supplement that index with analysis at the neighborhood level.

Research on civic life and media use in Madison has an almost 40-year history. We can model the complete media ecology of the market because of this base and the manageable size of the city. This model will ground the diversity metric in a complex case study, and allow for future testing of questions of media and democracy in local communities. The research of the Madison team will consist of two parts. First, the Madison group will compute the employment data for the three industries necessary to complete the diversity equation. Second, we will model the entire environment in Madison to test the relationship between the diversity index and the actual media ecology, in order to test whether and how diversity concretely affects the production and diffusion of news and public affairs information, and how it further influences civic life in multiple dimensions.

Assumptions

The Working Group does not offer any assumptions about what number or set of numbers will predict the best outcome for a citizenry informed and engaged in local governance. Lloyd offers the following assumptions:

- Media markets with the highest level of diversity will experience the greatest level of political participation and the most informed citizenry.
- Markets below the median level of media diversity will experience the lowest level of political participation and the least informed citizenry.

But these are merely assumptions. These assumptions should be tested in the real world. Moreover, the DM and the proposed Civic Index may need revision as the media landscape and the resources for measuring that landscape change. In addition, there are undoubtedly factors such as a particular community's cultural traditions and habits that may have a greater influence on civic participation than media alone. The work of determining whether our present or future ownership policies promote democratic engagement and civic knowledge should not be left to static assumptions but hard research.

Conclusion

In 1945, Supreme Court Justice Hugo Black provided in clear language the foundational importance of the work described above. "The First Amendment," he wrote "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society."[14] Since that time, media analysis, econometric models, and civic and social research tools have expanded and improved greatly. Representatives of the media industry interested in greater efficiency have been very effective in using some of these tools by introducing elegant economic theories to demonstrate that ownership regulations preventing concentration are wrong. For too long, the public interest community has relied on impassioned pleas and legal analysis focused on precedent to protect the goals of localism and media diversity. We offer here at least the beginnings of a powerful tool to determine the level of media diversity actually available to citizens, and to determine which level best advances political participation and civic knowledge.

Working Group to Develop a Metrics for Local Media Diversity

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Dr. Schement's research interests focus on the social and policy consequences of the production and consumption of information. A Latino from South Texas, he maintains a special interest in policy as it relates to ethnic minorities, and is author of the telecommunications policy agenda for the Congressional Hispanic Caucus. His policy research contributed to the Supreme Court's decision in *Metro Broadcasting, Inc. v. F. C. C. et al.* In 1994, at the invitation of the chairman of the Federal Communications Commission, he served as director of the Information Policy Project and conducted the original research that led to recognition of the Digital Divide. He is chairman of the board of directors of TPRC Inc., and sits on the boards of the Media Access Project, Libraries for the Future, and the Benton Foundation. He is also a member of advisory boards to the Advertising Council, Tomás Rivera Policy Institute, Center for Media Education, Internet Policy Institute, and the Open Society Institute, as well as an advisor to the Congressional Hispanic Caucus, and member of the Minority Media Telecommunications Council. He is currently the Co-Director of the Institute for Information Policy at Penn State University.

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*Joined us for the second session but not the first.

Endnotes

[1] 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, *Report and Order and Notice of Proposed Rulemaking*, 18 FCCR 13, 620 (2003) hereinafter "Order."

[2] Chairman Michael K. Powell Responds to Members Regarding Upcoming Biennial Review of Media Ownership at http://www.fcc.gov/commissioners/letters/media-ownership/.

[3] *Prometheus Radio Project v. Federal Communications Commission*, 373 F.3d 372 (3d Cir. 2004), *cert. denied*, 125 S. Ct. 2904 (2005), hereinafter *"Prometheus"*.

[4] Order, 13790

[5] Nielsen Media Research (2002). Consumer Survey on Media Usage. Available: http://www.fcc.gov/ownership/studies.html (Last accessed June 30, 2006).

[6] Napoli, Philip M. (1999). The unique nature of communications regulation: Evidence and implications for communications policy analysis. Journal of Broadcasting & Electronic Media, 43(4), 565–581.

[7] Scott, Ben (2004). The politics and policy of media ownership. American University Law Review, 53, 645–677.

[8] Ibid.

[9] *Prometheus* at 406–408.

[10] Ibid at 382.

[11] Ibid at 406-408.

[12] Subervi notes that a population's minority status is based on its national population. Thus, in El Paso or Miami, the Latino population would still be considered an "ethnic minority" although they constitute the majority populations of those cities.

[13] It is important to note, however, that not all relevant media outlets are reported in the Bacon's database, which would necessitate some additional data gathering, most likely via contacting the individual media outlets. We recommend that the FCC gather this additional data.

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

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