

Statement of Jonathan D. Levy¹
Deputy Chief Economist
Federal Communications Commission
Washington, DC 20554
Jonathan.levy@fcc.gov

To the Conference on

Media Diversity and Localism: Meaning Metrics, and the Public Interest

Fordham University
New York, NY

December 15-16, 2003

¹ The opinions and positions expressed herein are those of the author and do not necessarily represent those of the Federal Communications Commission or any other member of its staff.

Introduction

Panel 6 poses the question of the extent to which diversity and localism-oriented research is integrated into the policymaking process. The short answer is “to a great extent, but the FCC is always on the lookout for ways of increasing its knowledge of relevant academic research.” And of course this is true across the full range of issues that the agency faces. This statement begins by reviewing the FCC’s decision making process and then discusses other entrees by which academics might influence policy decisions. The statement then offers an illustrative list of media research questions and a brief conclusion.

Before launching into the substantive discussion, it is worth considering five preliminary points. First, although the agency seeks and is interested in relevant policy research, interested parties (including academics) have some obligation to take the initiative in identifying an appropriate venue for their research to be considered and conveying their work to that venue. As made clear below, the “venue” could be a Commission proceeding, a seminar, or an informal meeting with staff. Second, researchers should be aware that the timing of their presentations can be crucial (more on this below). Third, researchers should understand that the Commission, in making use of their work, may interpret it differently than the author(s) might.

Fourth, the Commission has very limited funding for outside research. This means that academics wishing to influence the policy process may need to be “entrepreneurial” in seeking support for their policy research endeavors. And it is possible that in some cases the type of work most relevant for media policy analysis may not be the type of work most privileged within the academy. The fifth point is, perhaps, related to this. Researchers need to have some understanding of the organizational and even political process by which regulatory agency decisions are made. To be useful in this context, research has to have reasonably clear policy implications and those implications need to be presented and supported with the same level of care devoted to theory, conceptual frameworks, or data collection. Moreover, analyses that evaluate and rank alternative policy suggestions are particularly useful in the setting of a regulatory agency decision, where commissioners with sometimes differing perspectives normally consider and debate various options. It is worth remembering that the perfect may sometimes be the enemy of the good. Hence, research that helps the agency evaluate alternative options can be more helpful than research focused on justifying a single preferred option.

FCC Decision Making Procedures

A quick look at the agency’s decision making procedure makes clear its openness to research and suggests some of the ways that research can be brought to bear on policy issues of importance to the Commission. The Commission, like all independent federal regulatory agencies, operates under the Administrative Procedure Act (APA). The APA requires a “notice and comment” procedure for decision making. Thus, if the agency wishes to add, change, or eliminate a regulation, it must first issue a “Notice of Proposed Rulemaking” (NPRM) specifying the options under consideration. NPRMs are by nature filled with questions. Some are strictly factual, e.g., how many US households subscribe to cable television service? Some are predictive, e.g., what will happen to the amount of local news and current affairs programming if the national television ownership cap is relaxed? Some are normative, e.g., what is the appropriate relative weighting of the efficiencies of media consolidation versus the reduction in the number of independent owners of media in a relevant market?

The FCC is eager for relevant research, particularly research that can shed light on, for example, how the behavior of media outlets might change as ownership limits are changed. The agency’s

primary goal is, of course, to make a decision that best serves the public interest, and it is important that the decision be well-reasoned and supported in order to withstand court review. After all, many if not most major FCC decisions end up being challenged in the federal appellate courts. The Commission formally makes its decisions by adopting a “Report and Order” (R&O). The R&O contains not only the decision but the reasoning and analysis supporting it, including discussion of arguments made by commenters and why the agency chose one approach over another.

It is frequently the case that the time period for participating in an FCC decision is limited. The NPRM process includes an interval (the comment period) within which any interested member of the public may comment and an interval for critiquing the first round of comments (the reply comment period). These intervals are set on a case-by-case basis, but comment periods are frequently in the 60-90 day range and reply comment periods are frequently in the 15-45 day range. It is certainly possible to conduct research during this period of time. Indeed, interested parties often hire consultants, sometimes even prominent academics, to do policy-oriented research for inclusion in a submission to the FCC.

But even if one considers this time interval too short, it is important to remember that Congress has directed the Commission to undertake a number of periodic reviews, including several relating to media policy. For example, the 1996 Telecom Act directed the FCC to conduct a biennial review of broadcast ownership rules (recently changed to quadrennial in the omnibus legislation that gave the FCC its FY04 budget). The agency also puts out an annual report on video competition and an annual report on competition in the commercial mobile radio service (mobile telephony) market. In addition, court remands or FCC review on its own motion of various rules frequently afford researchers a longer time horizon to complete work that is relevant to one or more Commission proceedings. Moreover, the Commission sometimes issues a more open-ended document called a Notice of Inquiry (NOI). An NOI is a request for information on an issue of importance to the agency, but it is more preliminary in nature. It does not include specific proposals. If the agency decides, after reviewing comments on an NOI, to change or adopt a rule, it would then issue an NPRM. Additionally, it is important to recall that the FCC (in particular through its Office of Strategic Planning and Policy Analysis), as well as the researcher, has some obligation to anticipate upcoming policy issues and begin to study them. Thus, the research process can and in some cases should begin before the FCC “blows the whistle” with an NPRM or NOI.

So procedurally, FCC documents are replete with questions, many of which are amenable to academic research, and there are a variety of opportunities for academics to submit their research. However, in order for the research to have an impact, it needs to be relevant to the decision process. For example, media ownership rules are structural rules that are thought to have an indirect impact on the behavior of media outlets. In a sense, they are an instrument for affecting licensee behavior and content without regulating it directly. If one accepts this basic paradigm (and no researcher is obligated to do so), then relevant research might consist of studying how changes in media market structure, either across geographic markets or over time, influence some measure(s) of licensee performance. In the process of doing this, the researcher would, of necessity, need to make some assumptions about how to measure and quantify performance. In the media regulation area, this could mean suggesting how to measure diversity and/or localism.

The preceding discussion makes clear that it is crucially important for research to be timely and relevant if it is to have an impact on the policy process. To be frank, it also helps for the researcher to invest some effort in reminding FCC staff of their work, beyond merely filing a submission with the Office of the Secretary. As mentioned above, interested parties, sometimes

referred to as “stakeholders,”² devote significant resources to advocacy, including commissioning research from academics and consultants and also bringing the researchers to Washington to explain their work in person to FCC staff. This is an area where the independent academic is likely to be at some disadvantage. Moreover, the incentives for academics to target their research to FCC policy decisions may be limited. The interested parties pay their researchers well. For the independent academic, although grant support is sometimes available and participation in an FCC proceeding may lead to a publishable paper, it is also possible that virtue will have to be its own reward.

Other Entrees to the Policy Making Process

Participating in a formal FCC proceeding is not the only way for academics to bring research to the attention of FCC staff. Of course, FCC staff read academic journals, trade press, and think tank position papers, but there are a few other more targeted mechanisms available.

Recently (December 2003), Commission staff participated in a discussion with a group of academics (mostly economists) entitled “Formulating a Research Agenda for Communications Policy.” The discussion was cosponsored by the Quello Center at Michigan State University, the Public Utilities Research Center at the University of Florida, and the Silicon Flatirons Telecommunications Program at the University of Colorado. The goal is to encourage academic research on topics of interest to the FCC. The idea is to improve communication between FCC staff and the academic community in order to ensure that the academics are aware of specific research questions embodied in FCC Notices and also to foster better access of academics to data collected by the FCC. It is possible that this effort will lead to creation of a public “web portal” on which research questions will be listed and made available to any interested party.

An effort is tentatively underway to expand this interchange by reaching out to scholars in other disciplines, such as communications studies, sociology, journalism, and political science. A panel (in which FCC staff would participate) has been tentatively scheduled at the 2004 International Communications Association meetings on the topic “What Does the FCC Need to Know?” Moreover, Chairman Powell has instituted a program of continuing staff education and career development under the banner of “FCC University.” A recent survey of staff indicated strong interest in an interdisciplinary course on telecommunications policy. While no final decisions have been made, this could be an important opportunity for (some) communications scholars to make FCC staff more aware of current relevant research in their fields. Also, the FCC has various seminar programs that include presentations by outside academic speakers as well as some by Commission staff and staff from other government agencies. Last but not least, there are numerous opportunities for informal contacts between FCC staff and academics (e.g., conversations at meetings of professional associations or casual lunchtime meetings when academics are visiting Washington) during which new ideas can be presented and discussed.

Selected Research Questions

The following list is by no means exhaustive.

How can we refine empirical performance indicators for media outlets with respect to our goals of competition, diversity, and localism and relate the indicators to variations in market structure?

² “Stakeholder” is not a particularly apt term. For an agency whose charge is to advance the public interest, we are all “stakeholders.”

We need to study usage of new media. To date, new media such as the internet have had a small impact on regulation of traditional media. This could change over time if the new media develop into comprehensive substitutes for traditional media. So, longitudinal studies of availability and usage of new media are useful.

Study how people use media in general, including traditional media. The Commission will explore this question further in its next broadcast ownership rules review (which will take place in 2006), so research in this area has plenty of time for gestation. It would be of interest to know if people use different media for different purposes.

A related question is what people value as a local component of media and how they acquire it. What sources do people rely on for local news and information?

What is the role of the public broadcasting service in promoting viewpoint and program diversity? In particular, how effective has it been in compensating for the market's inability to send clear signals on the value viewers place on programming?

Is there a method by which we can obtain estimates of the value viewers place on programs delivered without a fee by television broadcast stations?

Conclusions

The FCC has enormous responsibilities for making and evaluating public policy in the media and telecommunications sectors. We want to do it right and we are eager for help from the public, including academic researchers, in making sure that we are asking the right questions and getting the right answers. There is always room for strengthening our ties to the academic community. There is no such thing as a "too-well-informed" policy analyst or policy maker. So the agency is committed to continuing and improving its efforts to keep abreast of relevant academic research and keep the lines of communication with academia open.

