

UNITED STATES GOVERNMENT

memorandum

DATE: August 24, 2007

TO: Professor Robert Kieschnick

FROM: Jonathan Levy, Deputy Chief Economist, Federal Communications Commission

SUBJECT: Peer Review of Influential Scientific Information in the Media Ownership Proceeding

The Commission is currently undertaking a comprehensive review of its broadcast ownership rules and policies in its rulemaking proceeding in MB Docket No. 06-121. In connection with the proceeding, the Commission has received a number of studies submitted by commenters which examine a range of issues that impact diversity, competition, and localism, three important policy goals of those rules.

OMB requires that influential scientific information on which a Federal Agency relies in a rule-making proceeding be subject to peer review to enhance the quality and credibility of the government's scientific information. These studies constitute influential scientific information under OMB's definition,¹ and thus these studies must be subject to peer review. OMB further requires Federal Agencies to provide peer reviewers with "instructions regarding the objective of the peer review and the specific advice sought."²

On behalf of the Commission, I request that you perform a peer review of "The Declining Financial Position of Television Stations in Medium and Small Markets, 2006," by Theresa J. Ottina (Attachment J) and "The Declining Financial Position of Television Stations in Medium and Small Markets, December 2006," by Theresa J. Ottina, submitted by the National Association of Broadcasters.

In performing this peer review, we ask that you evaluate and comment on the theoretical and empirical merit of the information. You should consider, among other things, whether: (1) the methodology and assumptions employed are reasonable and technically correct; (2) whether the methodology and assumptions are consistent with accepted economic theory and econometric practices; (3) whether the data used are reasonable and of sufficient quality for purposes of the analysis; and (4) whether the conclusions, if any, follow from the analysis. Please note that the standards for evaluation are not necessarily the same as those one might apply in evaluating studies for publication in a professional journal. For example, it is not necessary that the study present new or novel theoretical results or empirical techniques. Consistent with the requirements of the OMB Bulletin, we are not asking you to "provide advice on policy" or to evaluate the policy implications of the study.³

Finally, you should be aware of two other aspects of the peer review process. First, the peer review will not be anonymous. Rather, you will be identified and your review will be placed in the public record.

¹ See *OMB Peer Review Bulletin*, 70 Fed. Reg. 2664.

² *Id.*, at 2668.

³ The OMB Bulletin states in relevant part: "Peer reviewers can make an important contribution by distinguishing scientific facts from professional judgments. Furthermore, where appropriate, reviewers should be asked to provide advice on the reasonableness of judgments made from the scientific evidence. However, the charge should make clear that the reviewers are not to provide advice on the policy..." OMB Bulletin, 70 Fed. Reg. at 2669.

Second, the OMB Bulletin requires us to assess whether potential peer reviewers have any potential conflicts of interest.⁴ To assist you in determining whether there are any potential conflicts, I can send you a list of parties who have participated in the proceeding.

I ask that you provide a written report of your review, findings, and recommendations with regard to this influential scientific information by October 1, 2007.

Thank for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan Levy".

Jonathan Levy

⁴ The OMB Bulletin considers a conflict of interest to be "any financial or other interest" which could include investments, consulting arrangements, grants or contracts that "could impair the individual's objectivity or could create an unfair competitive advantage for a person or organization." OMB Bulletin, 70 Fed. Reg at 2670.