

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
2010 Quadrennial Regulatory Review – Review of) MB Docket No. 09-182
the Commission’s Broadcast Ownership Rules and)
Other Rules Adopted Pursuant to Section 202 of)
the Telecommunications Act of 1996)

PROTECTIVE ORDER

Adopted: June 15, 2011

Released: June 15, 2011

By the Chief, Media Bureau:

1. On May 25, 2010, the Commission released a Notice of Inquiry initiating the 2010 quadrennial review of its media ownership rules,¹ as required by Section 202 of the Telecommunications Act of 1996, as amended.² To inform that review, the Commission commissioned nine economic studies and conducted two in-house studies to evaluate the current marketplace and the state of the media industry. On June 15, 2011, the Commission released five research studies on media ownership, which will become part of the record of the media ownership proceeding.³ The Commission intends to release the six remaining studies by subsequent public notice.

2. This Order establishes procedures for review by interested parties of the proprietary data sets created by the authors of the studies, as well as data sets provided to the study authors as “Government Furnished Information.” This Order will govern the proprietary portions of the data sets for all eleven studies, including those six that will be released subsequent to the date of this Protective Order. The data sets governed by this Order are associated with the following studies:

Media Ownership Study 1, Local Media Ownership and Media Quality, by Adam D. Rennhoff and Kenneth C. Wilbur

Media Ownership Study 2, Consumer Valuation of Media as a Function of Local Market Structure, by Scott J. Savage and Donald M. Waldman

¹ *2010 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. 09-182, Notice of Inquiry, 25 FCC Rcd 6086 (2010).

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, § 202 (1996); Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3 (2004) (amending Sections 202(c) and 202(h) of the 1996 Act).

³ *FCC Releases Five Research Studies on Media Ownership and Adopts Procedures for Public Access to Underlying Data Sets*, MB Docket No. 09-182, Public Notice, DA 11-1055 (MB, rel. June 15, 2011).

Media Ownership Study 3, How the Ownership Structure of Media Markets affects Civic Engagement and Political Knowledge, 2006-2008, by Lynn Vavreck, Simon Jackman, and Jeffrey B. Lewis

Media Ownership Study 4, Local Information Programming and the Structure of Television Markets, by Jack Erb

Media Ownership Study 5, Station Ownership and the Provision and Consumption of Radio News, by Joel Waldfoegel

Media Ownership Study 6, Less of the Same: The Lack of Local News on the Internet, by Matthew Hindman

Media Ownership Study 7, Radio Station Ownership Structure and the Provision of Programming to Minority Audiences: Evidence from 2005-2009, by Joel Waldfoegel

Media Ownership Study 8A, Local Media Ownership and Viewpoint Diversity in Local Television News, by Adam D. Rennhoff and Kenneth C. Wilbur

Media Ownership Study 8B, Diversity in Local Television News, by Lisa M. George and Felix Oberholzer-Gee

Media Ownership Study 9, A Theoretical Analysis of the Impact of Local Market Structure on the Range of Viewpoints Supplied, by Isabelle Brocas, Juan D. Carrillo, and Simon Wilkie

Media Ownership Study 10, Broadcast Ownership Rules and Innovation, by Andrew S. Wise

3. Definitions.

- a. Authorized Representative. An “Authorized Representative” is limited to:
- (1) Counsel for the Reviewing Parties (as that term is defined below), including in-house counsel and their associated attorneys, paralegals, clerical staff, and other employees, to the extent reasonably necessary to render professional services by counsel for the Reviewing Parties.
 - (2) Specified persons, including employees of the Reviewing Parties, requested by counsel to furnish technical or other expert advice or service or otherwise engaged to prepare material for the express purpose of formulating filings in this docket, except that disclosure to persons in a position to use this information for competitive commercial or business purposes shall be prohibited.
 - (3) Any person designated by the Commission in the public interest, upon such terms as the Commission may deem proper.
- b. Commission. “Commission” means the Federal Communications Commission or any employee, consultant, or agent of the Commission acting pursuant to, and within the scope of, their official responsibilities to the Commission.

- c. Data Sets. “Data Sets” means (1) data compilations that formed the basis for the analysis and conclusions for the eleven above-referenced studies; and (2) command files and logs that allow replication of the study results.
- d. Declaration. “Declaration” means Attachment A to this Protective Order.
- e. Reviewing Party. “Reviewing Party” means a person or entity reviewing or seeking in good faith to review the Data Sets only for the purpose of reviewing the underlying information and participating in the Quadrennial Review proceeding on media ownership.

4. Access to Data Sets. The Data Sets shall only be made available to the Commission and to Authorized Representatives of the Reviewing Parties. Before any Authorized Representative of a Reviewing Party may obtain access to the Data Sets, such Authorized Representative must execute the attached Declaration. Such executed Declarations must be furnished to the Media Bureau prior to on-site review of one or more Data Sets. The Reviewing Party shall not be deemed, by reason of this Protective Order, to have waived the opportunity to argue before the Commission or any other appropriate body that any Data Set is not confidential or privileged in nature. Consultants under contract to the Commission may obtain access to Data Sets only if they have signed a non-disclosure agreement or if they execute the attached Declaration.

5. Permissible Disclosure. An Authorized Representative of a Reviewing Party may disclose information contained in the Data Sets to other Authorized Representatives, as defined in paragraph 3 of this Protective Order, only after advising such Authorized Representatives of the terms and obligations of the Protective Order. In addition, before Authorized Representatives may obtain access to the Data Sets, each Authorized Representative must execute the attached Declaration.

6. Inspection of Data Sets. The Data Sets shall be maintained by the Commission for inspection at its headquarters consistent with the terms of this Protective Order. An Authorized Representative shall give Media Bureau staff reasonable advance notice of its intent to review one or more of the Data Sets.

7. Copies of Data Sets. Authorized representatives may not remove Data Sets, or copies thereof, from the agency headquarters.

8. Use of Data Sets. Reviewing Parties shall use the Data Sets, and any information derived therefrom, only for the purpose of participating in the Media Ownership Quadrennial Review proceeding, Docket Number 09-182. Information derived from the Data Sets shall not be used by any person granted access under this Protective Order for any other purpose and shall not be used or disclosed except in accordance with this Protective Order. This shall not preclude the use of any material or information that is in the public domain or has been lawfully acquired by any other person who has not had access to the Data Sets.

9. No patent, copyright, trademark or other intellectual property rights are licensed, granted, or otherwise transferred by this Protective Order or any disclosure hereunder, except for the right to use information in accordance with this Protective Order. Reviewing Parties may use information derived from the Data Sets to conduct their own analyses. Moreover, any such calculations or other analyses performed by the Reviewing Party using information derived from the Data Sets that do not reveal protected information shall not be considered part of the Data Set. However, a Reviewing Party’s calculations, analyses or other derivative materials, the contents or outcomes of which do reveal protected

information, shall be used and treated by the Reviewing Party in the same fashion as the underlying Data Sets used in such calculations, analyses and derivative materials under the terms of this Order.

10. Violations of Protective Order. Should a Reviewing Party that has properly obtained access to the Data Sets under this Protective Order violate any of its terms, it shall immediately convey that fact to the Media Bureau. Further, should such violation consist of improper disclosure of information derived from the Data Sets, the violating party shall take all necessary steps to remedy the improper disclosure or use. The Commission retains authority to fashion appropriate sanctions for violations of this Protective Order, including but not limited to suspension or disbarment of attorneys from practice before the Commission, forfeitures, cease and desist orders, and denial of further access to the Data Sets.

11. Return of Information. To the extent that the information derived from the Data Sets is no longer useful for the purposes set forth in this Order, such information shall be destroyed by the Authorized Representative.

12. No Waiver of Confidentiality. Disclosure of information derived from the Data Sets shall not be deemed a waiver of any privilege or entitlement to confidential treatment of such Data Sets by the owner of such data. Reviewing Parties, by viewing these materials: (a) agree not to assert any such waiver; (b) agree not to use information derived from any confidential materials to seek disclosure in any separate proceedings; and (c) agree that accidental disclosure of information derived from the Data Sets shall not be deemed a waiver of the privilege.

13. Authority. This Protective Order is issued pursuant to sections 4(i) and 4(j) of the Communications Act as amended, 47 U.S.C. §§ 154(i), (j), and 47 C.F.R. §§ 0.91, 0.291, and 0.457(d).

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

ATTACHMENT A

DECLARATION

In the Matter of 2010 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. 09-182)

I, _____, hereby declare under penalty of perjury that I have read the Protective Order that has been entered by the Media Bureau in Docket No. 09-182, and that I agree to be bound by its terms pertaining to the treatment of the Data Sets and the information derived therefrom. I understand that this information shall not be disclosed to anyone except in accordance with the terms of the Protective Order and shall be used only for purposes specified in the Protective Order. I further affirm that any written, electronic, or printed analyses or material that I create (or cause to be created) in the course of my review shall not reveal the information contained in the Data Sets. I acknowledge that a violation of the Protective Order is a violation of an order of the Media Bureau.

(signed) _____

(printed name) _____

(representing) _____

(title) _____

(employer) _____

(address) _____

(phone) _____

(date) _____