

From: [Brendan Holland](#)
To: [Benjamin Arden](#); [Hillary DeNigro](#); [Martha Heller](#); [Jamila-Bess Johnson](#); [Julie Salovaara](#)
Subject: Clyburn defends CIN
Date: Wednesday, February 26, 2014 4:15:55 PM

(b) (5)



Clyburn Defends FCC's Critical Needs Study

Calls it effort to better understand industries and environments; says she would never chill speech

2/26/2014 03:18:00 PM Eastern

By: [John Eggerton](#)

FCC commissioner and former acting chairwoman Mignon Clyburn defended the FCC's Critical Information Needs study Feb. 26 in a speech at the Media Institute in Washington, saying she would never try to chill speech or influence journalists and that the study was an effort to gauge the market, not shape it.

According to a text of the speech obtained by *B&C/Multichannel News*, Clyburn told the group that the intent of the study, which was put out for public notice last May when Clyburn was heading the agency, was to "gather data and other information about whether there are any market entry barriers, preventing local communities from receiving important information."

Clyburn noted that the FCC had been the center of attention over that study in the past couple of weeks. That included the suggestion in some quarters that Clyburn was an administration agent of newsroom intrusion or influence in a backdoor attempt to insure news balance akin to the FCC's discredited fairness doctrine.

"As a person who spent 14 years running a small weekly, I would never be a part of any effort to chill speech, shape the news or influence news gatherers," she told her audience of media execs, lawyers and others. "I am about facilitating ownership and opportunities and making sound decisions about our most critical industries based on solid research and not rhetoric."

After Republican FCC commissioner Ajit Pai wrote [an op ed in the Wall Street Journal critical of the methodology of the pilot study](#) in Columbia, S.C, which was to include asking journalists what they covered and why, the study issue became a topic of conversation on Fox and CNN—where Pai appeared—at the White House, where press secretary Jay Carney was asked about it, then back at the FCC, where Carney had referred reporters.

Chairman Tom Wheeler first said the study methodology would be changed, then [later added that the study would not proceed until changes were made](#), including that no journalists or media owners would be polled. He also said the study [was not an attempt to regulate journalists' speech](#).

House Republicans, who also queried Wheeler about the study last December, are not yet pacified. House Communications Subcommittee chairman Greg Walden (R-Ore.) this week signaled he [planned hearings and even legislation to try and block the study](#).

But Clyburn said that undertaking such a study was what Congress directed the FCC to do,

and that "understanding the markets that we regulate is necessary, critical and urgent. And in a world where technological change happens at breakneck speed, we have three fundamental choices."

"The Commission can regulate in the dark, without research and critical data; it can do nothing, not act and risk not protecting the public or appropriately balancing the needs of industry, or it can seek a better understanding of the industries it regulates and the environment in which they operate," she said.

Clyburn said she was keeping an open mind about how joint sales and shared services agreements should be treated under FCC rules, but said that arrangements that have been "designed to patently circumvent the ownership rules" are not good for anyone.

The Department of Justice last week weighed in on the topic, saying sharing arrangements may be illegal if they are done simply to get around ownership rules. The FCC is expected to vote on a media ownership item dealing with JSAs, and perhaps SSAs as well, at the March meeting, though that has now been pushed from March 19 to March 31, which could push off circulation of that item.

Clyburn gave a shout out to the Media Institute and its president, Patrick Maines, calling the former "one of Washington's—and indeed the nation's—preeminent forums for the full expression of thought, deliberation, debate and dialogue on pressing issues in the media," and the latter as having "elegantly knitted what may appear to most as disparate themes, into one unified message—Freedom of Speech and the First Amendment, are alive and supreme in our nation."

The Media Institute is a First Amendment think tank backed by major media outlets.

TAGS:

[Mignon Clyburn fcc Critical Information Needs study](#)

From: [Hillary DeNigro](#)
To: [Brendan Holland](#); [Julie Salovaara](#); [Jamila-Bess Johnson](#); [Benjamin Arden](#); [Judith Herman](#); [Martha Heller](#)
Subject: Fw: Civil rights filing on 257 research protocol, MMTC study
Date: Wednesday, July 24, 2013 8:46:42 AM
Attachments: [Leadership Conference CIN Comment final 7-23-13.pdf](#)

From: William Lake
Sent: Wednesday, July 24, 2013 08:36 AM Eastern Standard Time
To: Hillary DeNigro; Sarah Whitesell
Subject: FW: Civil rights filing on 257 research protocol, MMTC study

From: cleanza@alhmail.com [mailto:cleanza@alhmail.com]
Sent: Tuesday, July 23, 2013 7:37 PM
To: William Lake
Cc: Corrine Yu
Subject: Civil rights filing on 257 research protocol, MMTC study

Filed this evening.

Thanks,

Cheryl

July 23, 2013

Chairwoman Mignon Clyburn
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: In the Matter of Technology Policy Task Force Regarding Critical Information Needs Studies, BO Docket No. 12-30; 2010 Quadrennial Review, MB Docket No. 09-182; Diversification of Ownership in the Broadcasting Services, MB Docket No. 07-294

Dear Chairwoman Clyburn:

On behalf of the undersigned members of The Leadership Conference on Civil and Human Rights (The Leadership Conference), we write to offer our views with respect to the Critical Information Needs (CIN) studies research proposal and its relationship to the Quadrennial Review process.^[1] The Leadership Conference is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States. Constituencies represented by The Leadership Conference have historically been underserved by information resources and those needs have not been studied despite repeated promises by the

Commission in the past. Thus, we have a particularly strong interest in the completion of this research and we are gratified that the Commission has finally released this proposal.

At the outset, we note that it is important to evaluate the proposed research protocol in the context of the history of media ownership regulation. The Commission has thus far failed to collect sufficient data about broadcast ownership by women and people of color.^[2] Consequently, the present quadrennial review is flawed for its lack of adequate data analyzing media concentration's impact on people of color and women. A recent study filed by the Minority Media and Telecommunications Council (MMTC)^[3] does not correct any deficiency in the record. We appreciate the MMTC's goal, which was to add to the Commission's body of knowledge with respect to the impact of media concentration, and recognize the challenges associated with the study that was undertaken. However, given the study's limitations, we cannot support any Commission action based on its findings.^[4] The Commission does not yet have the evidence it needs to evaluate the impact of the proposed media ownership rules on women and people of color in the Quadrennial Review docket.^[5]

Below we recommend refinements to the research proposal that are designed to ensure that the resulting data are as strong as possible. We urge the Commission to:

- **Consult with other agencies with expertise in robust data collection that can withstand constitutional scrutiny.** If the data demonstrate that certain constitutionally-protected segments of the population are underserved, it may also need to be robust enough to withstand constitutional scrutiny of the highest order.^[6] For this reason, the Commission should consult with federal agencies such as the Department of Justice and the Department of Transportation, which have significant expertise in robust, constitutionally-sensitive data collection. Beyond these consultations, this research framework could be useful not only to the FCC, but also to other agencies and researchers who recognize the importance of understanding critical information needs.^[7] Therefore it would be useful to **identify areas where more expansive collection would augment findings**, should other agencies or private parties find resources for such work.
- **Take into account the particular circumstances of traditionally underserved communities, including people of color, women, and linguistic minorities.** The Commission should account for disparate access to broadband Internet when evaluating information sources by coding for market penetration by particular groups. Many communities that traditionally lack adequate critical information also traditionally have less Internet connectivity.^[8] Conversely, some communities over-index on social media and this should also be considered.^[9] The Commission should also modify the sampling methodology to better capture minority, and specifically Asian language media outlets,^[10] including sampling of non-English newspapers from small markets.
- **Ensure that information sources are not undercounted or duplicated.** The Commission should consider sampling from national television news sources as well as local sources. The proposal justifies exclusion of national news sources by assuming local market forces largely dictate what content is provided. Instead of excluding these sources, the study should test this assumption through collection of data.

^[11]

Expand sampling beyond news radio outlets. The civil rights community believes that ownership and content on broadcast radio has an important role to play in meeting the critical information needs of all Americans.^[12] The proposal appears to assume that non-news radio does not contribute to information sources or information flow in the U.S. and may rely on inaccurate claims in the Quadrennial Review docket to this effect. This point is especially critical given the format of most urban radio stations, the preferences of urban minority listeners, and the lack of diversity in news radio.

- **Take particular care with coding “seed” websites.**^[13] Care should be taken to discern between posts covering new content versus re-posted content (such as, for example, a tweet reposting a broadcaster’s own news story). If much of the content sampled is not original, it may result in an overrepresentation of critical information.
- **Ensure that the in-depth neighborhood interviews adequately represent people of color and women.** While the proposal does contain measures to ensure representation of racially and ethnically diverse populations,^[14] it is essential that female populations also be represented. For consistency, the Commission should specify how the interviews will be conducted, whether in person or over the phone. Research shows that interviewer identity can have a significant impact on interviewee responses;^[15] care should be taken to minimize the impact of the interviewer’s identity on participant responses. For example, the racial/ethnic identity of the pool of interviewers should be reflective of the populations being interviewed, and the Commission should work with local community based organizations to ensure culturally appropriate outreach.
- **Ensure that the survey tool does not overlook responses that offer evidence of discrimination in information provision.** It may be the case that some participants will report discriminatory practices in response to open-ended questions that they or their community members have experienced when dealing with different media outlets. The research protocol should provide a numeric code to capture this data.
- **Take care to ensure all tracked websites, and particularly including hyper-local news websites, are not duplicating content.**^[16]
- **Specify the validated instrument that will be used to measure both objective and perceived information needs.**

Finally, there is no question that refining the research protocol will contribute to the overall validity and reliability of the CIN studies. It is essential that the studies receive adequate funding and are concluded in time for the 2014 quadrennial review. In addition to fulfilling the Commission’s statutory obligation,^[17] these studies are necessary to inform the Commission on disparities and market entry barriers facing women and people of color. Without this essential information, the Commission cannot move ahead with the proposed media ownership changes currently pending in the 2010 Quadrennial Review.

We welcome the opportunity to assist the Commission in carrying out these recommendations. Please contact Leadership Conference Media/Telecommunications Task Force Co-Chairs Cheryl Leanza, United Church of Christ, Office of Communication, Inc., at 202-841-6033, or Gabriel Rottman, American Civil Liberties Union, at 202-675-2325, or Corrine Yu, Leadership Conference Managing Policy Director at 202-466-5670, if you would like to discuss the above issues or any

other issues of importance to The Leadership Conference.

Sincerely,

American Civil Liberties Union
Asian Americans Advancing Justice | AAJC
Common Cause
Communications Workers of America
The Leadership Conference on Civil and Human Rights
National Council of La Raza
National Consumer Law Center, on behalf of its low-income clients
National Hispanic Media Coalition
National Organization for Women Foundation
National Urban League
NAACP
United Church of Christ, Office of Communication, Inc.

[1] Public Notice, Federal Communications Commission, Office of Communications Business Opportunities, BO Docket No. 12-30, DA 13-1214 (rel. May 24, 2013), and Media Bureau, DA 13-1317, MB Docket Nos. 09-182, 07-294 (rel. June 7, 2013).

[1] Comment of The Leadership Conference, *et al.*, MB Docket No. 09-182 (filed Dec. 26, 2012).

[1] Minority Media and Telecommunications Council, *The Impact of Cross Media Ownership on Minority/Women Owned Broadcast Stations*, MB Dockets 09-182, 07-294 (filed May 30, 2013) at i.

[1] The MMTC study claimed to provide evidence demonstrating that “cross-media interests’ impact on minority and women broadcast ownership” does not justify “tightening or retaining the rules.” The study suffers from several flaws, including a tiny sample of only 14 interviewees and a lack of transparency with respect to the markets studied. Further, the MMTC study conflates a lack of evidence with proof that no harm exists. See UCC OC Inc. *et al.* comments (filed July 22, 2013) (“it is misleading and inaccurate to characterize [a small-sample] study as proof that such a result has been ruled out. This is well-established in responsible research.”)

[1] Despite its formal conclusion, the MMTC study did find evidence that concentration harms broadcasters who are women or people of color. MMTC stated:

[A]n especially extensive cross-media combination, although lawful under the rules, could materially inhibit “singleton station” operations in the advertising marketplace. Inasmuch as minority owned stations are more likely than others to be singleton stations, we recommend that the Commission be alert to the possibility that *a cross-media combination . . . can have sufficient market power to operate as a material detriment to minority and women ownership.*

Letter from David Honig to Chairwoman Clyburn *et al.*, MB Dockets 09-182, 07-294 (filed May 30, 2013) (emphasis added).

[1] *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235 (1995).

[1] U.S. Dept. of Health and Human Services Office of the Assistant Secretary for Preparedness and Responses, Funding Opportunity Announcement and Grant Application Instructions, Funding Opportunity Title: Assistant Secretary for Preparedness and Response Grants to Support scientific Research Related to Recovery from Hurricane Sandy, EP-HIT-13-001, 93.095, 3 (2013).

[1] National Telecommunication and Information Administration, U.S. Broadband Availability: June 2010–June

2012 A Broadband Brief at 10 (2013).

[1] Bloomberg BusinessWeek Companies & Industry, *For Many, Twitter Replaced Traditional News Sources During Storm*, BUSINESSWEEK.COM, <http://www.businessweek.com/articles/2012-10-30/for-many-twitter-replaced-traditional-news-sources-during-storm> (Oct. 30, 2012).

[1] For example, ranking the first ranked foreign language station ahead of the fourth ranked English language station will almost always sample a Spanish language station over an Asian language station. See Study Design at 6. The Commission should choose at least one market where an Asian language station would be ranked fourth.

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[1] Cf. Comments of Office of Communications, Inc. Of the United Church of Christ, MM Docket No. 00-244, at i (filed Mar. 26, 2002) (illustrating that the decrease in independent broadcast radio ownership has detracted from the availability of independent news, sports, and entertainment programming).

[1] Seed websites are websites that will be sampled and analyzed for each category of CIN, to include TV station websites, university websites, local school system websites, blogs, local radio station websites, and state/local government websites.

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[1] We note that duplicate posts might be relevant only if the studies can capture the degree to which the duplicate posts can extend their reach into communities who are not able to find the original source.

[1] 47 U.S.C. § 257(c) (requiring review and reports on “(1) Regulations prescribed to eliminate market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications and information services or in the provision of parts or services to providers of those services and ... (2) proposals to eliminate statutory barriers to market entry by those entities....”).

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Cheryl A. Leanza
Policy Advisor
United Church of Christ, OC Inc.
www.uccmediajustice.org
[@UCCMediaJustice](https://twitter.com/UCCMediaJustice) on Twitter
www.facebook.com/uccmediajustice
202-904-2168 (o)

A Learned Hand, LLC
Media Policy Consulting for the Non-Profit Sector
www.alearnedhand.com
cleanza@ALHmail.com

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Officers
Chair
Judith L. Lichtman
National Partnership for
Women & Families
Vice Chairs
Jacqueline Pata
National Congress of American Indians
Thomas A. Saenz
Mexican American Legal
Defense and Educational Fund
Hilary Shelton
NAACP
Secretary
Barry Rand
AARP
Treasurer
Lee A. Saunders
American Federation of State,
County & Municipal Employees

Executive Committee
Barbara Amwine
Lawyers' Committee for
Civil Rights Under Law
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Warren David
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National Women's Law Center
Chad Griffin
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Linda D. Hallman
American Association of
University Women
Mary Kay Henry
Service Employees International Union
Sherrilyn Ifill
NAACP Legal Defense and
Educational Fund, Inc.
Benjamin Jealous
NAACP
Michael B. Keegan
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Bob King
International Union, UAW
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Marc Morial
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Mee Moua
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People with Disabilities
Anthony Romero
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of Reform Judaism
Shanna Smith
National Fair Housing Alliance
Dennis Van Roekel
National Education Association
Randi Weingarten
American Federation of Teachers

Compliance/Enforcement
Committee Chair
Michael Lieberman
Anti-Defamation League
President & CEO
Wade J. Henderson
Executive Vice President & COO
Karen McGill Lawson

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- **Expand sampling beyond news radio outlets.**¹¹ The civil rights community believes that ownership and content on broadcast radio has an important role to play in meeting the critical information needs of all Americans.¹² The proposal appears to assume that non-news radio does not contribute to information sources or information flow in the U.S. and may rely on inaccurate claims in the Quadrennial Review docket to this effect. This point is especially critical given the format of most urban radio stations, the preferences of urban minority listeners, and the lack of diversity in news radio.
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⁷ U.S. Dept. of Health and Human Services Office of the Assistant Secretary for Preparedness and Responses, Funding Opportunity Announcement and Grant Application Instructions, Funding Opportunity Title: Assistant Secretary for Preparedness and Response Grants to Support scientific Research Related to Recovery from Hurricane Sandy, EP-HIT-13-001, 93.095, 3 (2013).

⁸ National Telecommunication and Information Administration, U.S. Broadband Availability: June 2010–June 2012 A Broadband Brief at 10 (2013).

⁹ Bloomberg Businessweek Companies & Industry, *For Many, Twitter Replaced Traditional News Sources During Storm*, BUSINESSWEEK.COM, <http://www.businessweek.com/articles/2012-10-30/for-many-twitter-replaced-traditional-news-sources-during-storm> (Oct. 30, 2012).

¹⁰ For example, ranking the first ranked foreign language station ahead of the fourth ranked English language station will almost always sample a Spanish language station over an Asian language station. See Study Design at 6. The Commission should choose at least one market where an Asian language station would be ranked fourth.

¹¹ Social Solutions International, Inc., Research Design for the Multi-Market Study of Critical Information Needs: Final Research Design at 8 (2013) (“Given that the vast majority of radio content is music, we plan to only sample from radio stations that potentially provide for CIN’s (i.e. news content)”).

¹² *Cf.* Comments of Office of Communications, Inc. Of the United Church of Christ, MM Docket No. 00-244, at i (filed Mar. 26, 2002) (illustrating that the decrease in independent broadcast radio ownership has detracted from the availability of independent news, sports, and entertainment programming).

¹³ Seed websites are websites that will be sampled and analyzed for each category of CIN, to include TV station websites, university websites, local school system websites, blogs, local radio station websites, and state/local government websites.

¹⁴ Social Solutions International, Inc., Research Design for the Multi-Market Study of Critical Information Needs: Final Research Design at 15 (2013).

¹⁵ See Patrick R. Cotter, Jeffrey Cohen *et al.*, Race-of-interviewer Effect in Telephone Interviews, 46 *Public Opinion Quarterly* 278, 278-284, (1982) (demonstrating that a race-of-interviewer effect does occur in telephone interviews).

¹⁶ We note that duplicate posts might be relevant only if the studies can capture the degree to which the duplicate posts can extend their reach into communities who are not able to find the original source.

¹⁷ 47 U.S.C. § 257(c) (requiring review and reports on “(1) Regulations prescribed to eliminate market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications and information services or in the provision of parts or services to providers of those services and ... (2) proposals to eliminate statutory barriers to market entry by those entities....”).

From: [Brendan Holland](#)
To: [Benjamin Arden](#)
Subject: FW: POLITICO Breaking News
Date: Friday, February 28, 2014 5:12:43 PM

(b) (5)

From: Brendan Holland
Sent: Friday, February 28, 2014 5:12 PM
To: Sarah Whitesell; William Lake; Hillary DeNigro; Martha Heller
Subject: RE: POLITICO Breaking News

And the entirety of the statement released by OCH today is below followed by Pai's simultaneous press release:

STATEMENT ON CRITICAL INFORMATION NEEDS STUDY

Please attribute to an FCC spokesperson:

“The FCC will not move forward with the Critical Information Needs study. The Commission will reassess the best way to fulfill its obligation to Congress to identify barriers to entry into the communications marketplace faced by entrepreneurs and other small businesses.”

STATEMENT OF FCC COMMISSIONER AJIT PAI ON THE CANCELLATION OF THE CRITICAL INFORMATION NEEDS STUDY

I am pleased that the FCC has canceled its Critical Information Needs study. In our country, the government does not tell the people what information they need. Instead, news outlets and the American public decide that for themselves. I look forward to working with my colleagues to identify and remove actual barriers to entry into the communications industry. This newsroom study was a distraction from that important goal.

From: Brendan Holland
Sent: Friday, February 28, 2014 5:09 PM
To: Sarah Whitesell; William Lake; Hillary DeNigro; Martha Heller
Subject: RE: POLITICO Breaking News

FCC dumps controversial media study

By: [Brooks Boliek](#)
February 28, 2014 04:45 PM EST

The Federal Communications Commission is pulling the plug on a controversial survey of TV newsroom activities that sparked a firestorm of criticism from Republicans.

“The FCC will not move forward with the Critical Information Needs study,” an FCC spokesman said Friday. “The Commission will reassess the best way to fulfill its obligation to Congress to identify barriers to entry into the communications marketplace faced by entrepreneurs and other small businesses.”

The study was to start this spring with a pilot test in Columbia, S.C., and it included questions about how TV stations determine what news stories to cover. It also sought insight into debates between journalists and management over news coverage.

[\(Also on POLITICO: Comcast readies for Washington war\)](#)

Conservatives, including GOP FCC Commissioner Ajit Pai, seized on the issue, elevating it into a larger political controversy. Pai penned an op-ed in The Wall Street Journal blasting the survey and saying the government had no place in newsrooms.

Canceling the study was the right thing to do, Pai said in a statement Friday.

"In our country, the government does not tell the people what information they need. Instead, news outlets and the American public decide that for themselves," he said. "I look forward to working with my colleagues to identify and remove actual barriers to entry into the communications industry. This newsroom study was a distraction from that important goal."

The issue had also drawn the attention of key lawmakers. House telecommunications subcommittee Chairman Greg Walden (R-Ore.) pledged to introduce a bill that would "eradicate" the study.

FCC Chairman Tom Wheeler earlier agreed to take out the newsroom questions and rework the study. But now the agency is scrapping it entirely.

The survey was meant to study how and if the media are meeting the public's "critical information needs" on subjects like public health, politics, transportation and the environment. The FCC says the study is supposed to determine whether there are barriers to entry in media markets — something on which the agency is required to report to Congress.

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From: Sarah Whitesell
Sent: Friday, February 28, 2014 5:04 PM
To: William Lake; Hillary DeNigro; Brendan Holland; Martha Heller
Subject: FW: POLITICO Breaking News

From: POLITICO Breaking News [<mailto:breakingnews@politico.com>]
Sent: Friday, February 28, 2014 04:35 PM
To: Michelle Carey
Subject: POLITICO Breaking News

The FCC is pulling the plug on a controversial survey that would have delved into newsroom activities, according to an FCC spokesman. "The FCC will not move forward with the Critical Information Needs study. The Commission will reassess the best way to fulfill its obligation to Congress to identify barriers to entry into the communications marketplace faced by entrepreneurs and other small businesses."

For more information... <http://www.politico.com>

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From: [Benjamin Arden](#)
To: [Brendan Holland](#)
Subject: RE: Pai Op Ed
Date: Tuesday, February 11, 2014 9:57:18 AM

(b) (5)




Benjamin D. Arden
Attorney Advisor
Media Bureau, Industry Analysis Division
202.418.2605

** Non-Public: For Internal Use Only **

From: Brendan Holland
Sent: Tuesday, February 11, 2014 9:56 AM
To: Benjamin Arden
Subject: RE: Pai Op Ed

(b) (5)



From: Benjamin Arden
Sent: Tuesday, February 11, 2014 9:55 AM
To: Brendan Holland
Subject: RE: Pai Op Ed

(b) (5)



Benjamin D. Arden
Attorney Advisor
Media Bureau, Industry Analysis Division
202.418.2605

** Non-Public: For Internal Use Only **

From: Brendan Holland
Sent: Tuesday, February 11, 2014 9:53 AM
To: Benjamin Arden
Subject: RE: Pai Op Ed

(b) (5)



(b) (4)

Benjamin D. Arden
Attorney Advisor
Media Bureau, Industry Analysis Division
202.418.2605

** Non-Public: For Internal Use Only **

From: Hillary DeNigro
Sent: Tuesday, February 11, 2014 8:25 AM
To: Sarah Whitesell; Martha Heller; Brendan Holland; Jamila-Bess Johnson; Benjamin Arden
Subject: Pai Op Ed

Pai has an op ed in the Wall St. Journal today which appears to state his objections to the OCBO study. It doesn't look like he's put it up on his webpage and since its WSJ I can't read the full story, the snippets are below.

FCC Commissioner Ajit Pai, in an op-ed for the Journal, expresses disagreement with an agency proposal from last year to study media outlets' personnel about how they select and prioritize news coverage.

<http://online.wsj.com/news/articles/SB10001424052702304680904579366903828260732>

The FCC Wades Into the Newsroom

Why is the agency studying 'perceived station bias' and asking about coverage choices?

By

Ajit Pai

Feb. 10, 2014 7:26 p.m. ET

News organizations often disagree about what Americans need to know. MSNBC, for example, apparently believes that traffic in Fort Lee, N.J., is the crisis of our time. Fox News, on the other hand, chooses to cover the September 2012 attacks on the U.S. diplomatic compound in Benghazi more heavily than other networks. The American people, for their part, disagree about what they want to watch.

But everyone should agree on this: The...

From: [Brendan Holland](#)
To: [Benjamin Arden](#)
Subject: Trade press re: Pai
Date: Monday, March 10, 2014 6:00:22 PM

Saw this headline last week, but wasn't able to get into the content then; found it online today.

(b) (5)

Pai's Bully Pulpit Grab Leads to Pushback
A media flurry after FCC commissioner's op-ed and appearances helps put brakes on agency study

3/03/2014 11:00:00 PM Eastern

By: John Eggerton

FCC chairman Tom Wheeler has used his "bully pulpit" powers to get broadcasters and cable operators to commit to improving their closed captions and wireless companies to agree to cellphone unlocking. But he has the ability to back that "speak softly"—and sometimes loudly, as with cellphones— approach with agenda items and FCC bureau actions.

Meanwhile, FCC commissioner Ajit Pai has managed to parlay his own bully pulpit into one of the highest profiles for a minority commissioner in recent memory, including appearances on cable news networks and headlines generated in major newspapers.

Pai recently has been heralded in some quarters as something of a First Amendment savior. This came in the wake of the FCC modifying a study of the critical information needs of communities that would have asked media outlets how and why they covered news stories. Wheeler initially said he was changing the methodology; then the FCC later put out a statement that the Columbia, S.C., test market for the study would not be up and running until that methodology was changed, and that neither it nor any other market studies would poll journalists or media owners about their news coverage.

The study methodology was put out for comment under the watch of then-acting chairman Mignon Clyburn, who last week defended it, saying she would never try to shape the news or chill speech.

Pai had been skeptical, and critical, of the study from the outset, particularly the questions it was asking about coverage decisions made by journalists. But he did not control the agenda; at the time, Clyburn did. And, being a supporter of the study, she scheduled the pilot.

If Pai's efforts helped bring about the recent pushback, he had help. House Republicans urged Wheeler to respond to questions about the study, which they also feared was an effort to micromanage news coverage under the guise of studying the impact of media ownership on diversity.

But Pai's February op-ed piece in The Wall Street Journal, followed by his appearances on Fox

News and CNN, were followed soon after by an announcement out of the FCC that the study would not poll journalists or station owners.

Pai's op-ed also prompted a Fox News reporter to ask about the study at the daily White House briefing. In response, press secretary Jay Carney suggested the reporter "go ask the FCC."

A USA Today story last week also appeared to confirm the connection: "Who knows what would have happened if an FCC commissioner who opposed the study, Ajit Pai, hadn't gone public with a Wall Street Journal op-ed? That's what galvanized the flurry of attention that doomed the ill-advised initiative."

Pai's immediate predecessor, Robert McDowell, who made getting rid of the Fairness Doctrine and warning about international efforts to manage the Internet key issues, knows a little something about getting attention without having the gavel.

"Minority commissioners have a tremendous platform to highlight issues and shape the agenda through speeches and op-eds," McDowell, now a Hudson Institute visiting scholar, told B&C. "That's because members of Congress and the news media like conflict, and therefore pay attention to some of these actions, which can be quite effective in shaping a policy debate and eventually producing results."