



FEDERAL COMMUNICATIONS COMMISSION

*Media Ownership Working Group*

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# Program Diversity and the Program Selection Process on Broadcast Network Television

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Executive Summary: This paper examines the extent to which program diversity has changed over time on prime time, broadcast network television. This issue is assessed using several different measurement techniques and concludes that while program diversity on prime time broadcast network television has fluctuated over time, it is not significantly different today than it was in 1966. The paper also explores the factors used by broadcast networks in recent years in program selection. It finds that networks' program selection incentives have changed in recent years as networks were permitted to take ownership interests in programming.

A HISTORICAL PERSPECTIVE ON PROGRAM DIVERSITY

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The views expressed in this paper are those of the author alone and do not necessarily reflect the views of the Federal Communications Commission, any Commissioners, or other staff.

## **Introduction**

This paper analyzes the correlation between the FCC's imposition of financial interest and syndication rules and program diversity on prime time broadcast network television. To demonstrate this, diversity will be examined in terms of 1) content diversity (types of programming) and 2) marketplace diversity (suppliers of programming). This analysis suggests that the structural regulation represented by the FCC's financial interest and syndication rules have not been an effective means of achieving content diversity.

## **Study Methodology**

By evaluating the content of programming over the periods surrounding the introduction and elimination of the financial interest and syndication rules, we will measure the trend in program diversity during the time when the financial interest and syndication ("fin-syn") rules were in effect. In particular, this analysis focuses on how programming was affected by the presence or lack of the financial interest and syndication rules, which perforce requires examining the networks as economic entities.

In evaluating the content of programming, determining an appropriate taxonomy that remains valid from decade to decade is the first step. For this study, two types of categorizations were used. The first set of categorizations are from a study by Sterling and Kittross, which quantified different types of programming from 1947 through 1974 (Sterling, 1984, p. 195-198). This taxonomy was selected because it provided the most

thorough analysis of programming during the initial evaluation period (1969-1973).<sup>1</sup>

This taxonomy was applied across the entire time period studied.

The second set of categorizations which are used to analyze the period after fin-syn was developed from three different sources. One source was a study conducted in the 1960s called *The People Look at Television*. In this study commissioned by CBS, Steiner (1963) created program categories based on how viewers actually watch television versus how networks or producers would categorize programming. The second source was the Dominick and Pearce (1976) study. The third source was our own analysis of prime time network programming between 1989 and 2002. The second taxonomy, which was specifically designed to take 1990s genres into account, is applied only to the 1989-2002 time period.

Previous researchers used between five and fifteen program categories to analyze program diversity (Dominick and Pearce, 1976; Steiner, 1963; Wildman and Robinson 1995). This research uses 22 categories for both the 1966-1974 and 1989-2002 time periods. This was done in large part to improve categorization of the various subtypes of programming within the drama category. While drama is one of the predominant program genres, there are certain subcategories within this segment that attract more attention than others, and these categories change over time.

Fall program schedules were taken from McNeil (1996) for the 1960s and 1970s as well as up until 1995. Subsequent years were from *Broadcasting and Cable* and *Variety*, major industry trade publications. Midseason replacements were only considered if they were part of the schedule the following year. Only regularly scheduled

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<sup>1</sup> See appendix for full listing of categories.

programming was considered eliminating specials from this analysis. Movies were grouped together, since any more fine-grained distinctions would require a special study. Shows were categorized based on descriptions in McNeil and in later years from *zap2it.com* (and its predecessor *ultimatetv.com*), a website that includes show descriptions and press releases containing descriptions of television programs, as well as network and program distributor websites.

The time periods evaluated were determined with specific reference to the creation and elimination of the fin-syn rules. The initial period of study is 1966 to 1974.<sup>2</sup> This time period allows for four years of data prior to the start of the rules, the actual year the rules went into effect, and four years of data following their implementation. The time period evaluated allows for any changes in program selection to appear on the schedule and any fluctuation that may be due to programming trends unrelated to the fin-syn rules. The second time period covers 1989 to 2002. This period was selected because changes were made to the rules in 1991 and 1993. The rules were finally repealed in 1995. Therefore, this time period covers two years prior to any rule changes through the years of the rule changes up until the present time. We evaluate prime time programming because fin-syn affected only programming during this time period.

Time, rather than shows, was used as the basic unit for analysis. This was to account for the variety in show lengths in the earlier evaluation period. Some shows were 45 minutes, some 90 minutes, in addition to the 30 or 60 minute shows we are used to today. Therefore, quarter hours were used as the time period of analysis. More programming was evaluated in the seasons prior to 1971. After 1971, program hours in

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<sup>2</sup> Throughout this research individual years represent the beginning year of the broadcast season, therefore 1966 represents the 1966-67 season, 1974 represents the 1974-75 season and so on.

prime time were reduced significantly due to the introduction of the Prime Time Access Rules.

Using the two taxonomies described above, we analyzed three types of data.. First, we examined program content in the two time periods. Changes over time were evaluated using simple percentages of the various program genres and the percentage of time these genres appeared on the program schedule during each season.

Next, we looked at diversity in the program schedule in several ways. First, we used Dominick and Pearce's diversity indicator. "This is an index of the extent to which a few categories dominate prime time. It is derived by summing the percentages in the top three categories per season and subtracting from 100. It can range from zero (all content is accounted for by only three or fewer categories) to 79 (content is divided equally into 14 categories). A low score would indicate a restricted range of choices for the audience" (p. 73). With 22 categories, the numbers could range from zero to 86. This index is helpful in evaluating changes in the types of programming that may dominate the prime time schedule. Next, we evaluated the diversity of programming on the schedule overall, e.g., how programs were concentrated into a limited number of genres or how they were distributed over many genres. This is known as vertical diversity and is measured using the Herfindahl-Hirschman Index index, which is used by economists to measure concentration in a particular industry. It has been adapted by social scientists to measure diversity in program content. This analysis builds on the Dominick and Pearce index by taking all of the schedule into account and not just the top

three categories.<sup>3</sup>

Vertical diversity, however, does not provide a complete picture of what is available to the viewer at any particular point in time. Therefore, we examined horizontal diversity as well. The horizontal diversity index evaluates the number of different types of programs available to the viewer during a particular half-hour period.

The final area of analysis focused on the suppliers of prime time programming. This was done to determine if there is a correlation between the types and diversity of programming and the producers of that programming – an area that is overlooked in most diversity research. Here, too, changes over time were evaluated using simple percentages. For example, how much prime time programming is produced by Warner Brothers and how has that changed over time? Has this number been affected by the change in the fin-syn rules? Does the company produce more programming now that they own a television network? Percentages were also used to determine the amount of concentration in production of prime time programs over time.

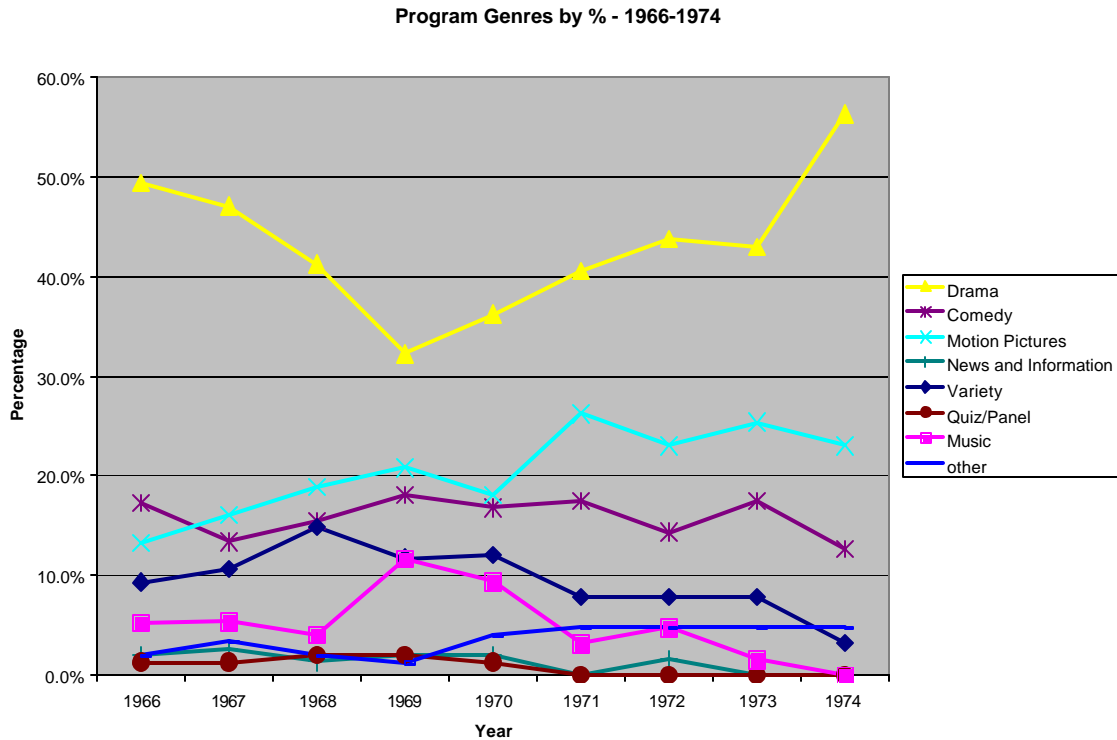
### Measuring Program Diversity

Figure 1 shows the percentage of time the three broadcast networks devoted per week to each of the program genres from 1966 to 1974. Figure 2 presents the same information from 1989 to 2002. (The categories have been collapsed for easier presentation. For a full listing of the categories and percentages by type, see the appendices.)

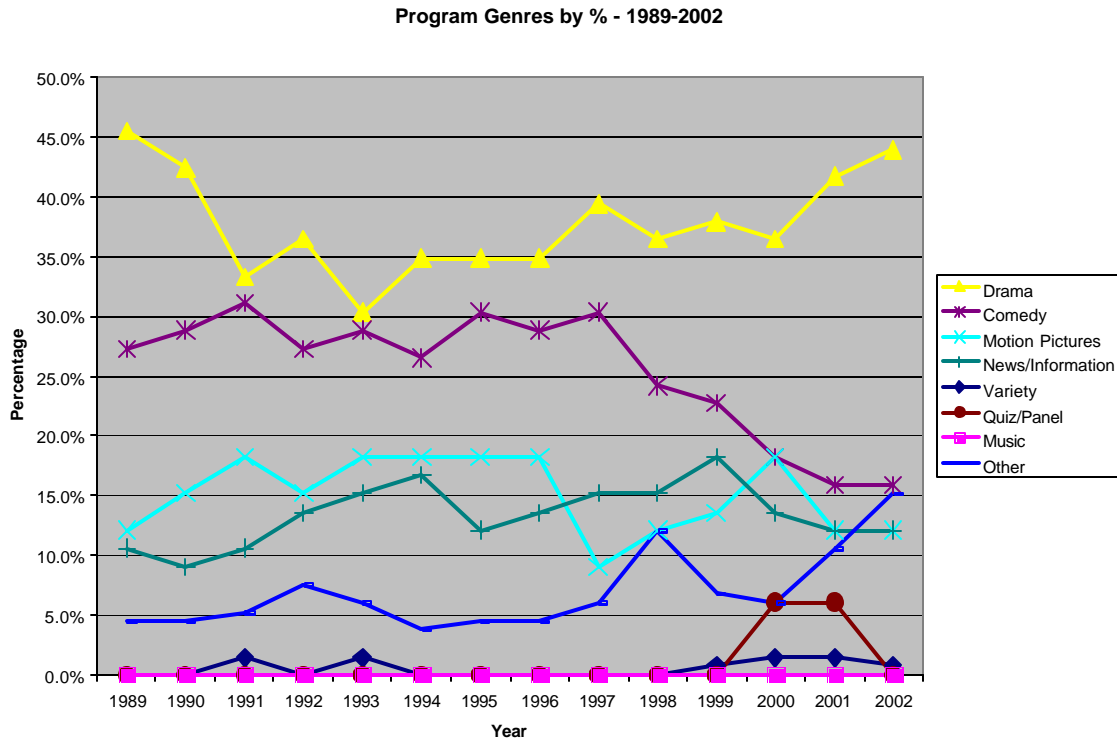
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<sup>3</sup> For other studies that have relied on the Herfindahl-Hirschman Index, see Litman (1979), Park (1999).





It is clear that the quantity of certain types of programming fluctuate during this time period. In the 1970s, the largest growth was in dramas and motion pictures, accounting for 56% and 23% of prime time programming hours, respectively, by the 1974-75 season. Quiz and panel shows had disappeared by the early 1970s, as did music and variety series. Documentary series, part of news/information, had disappeared from regular prime time programming by 1973. The increase in “other” programming is attributable solely to the introduction of *Monday Night Football* in the 1970-71 season. Situation comedies remained a steady percentage of the prime time schedule throughout the time period.



Looking at the 1989-2002 period, there are two interesting trends. First, there was a significant increase in situation comedies over the previous time period. Whereas comedies accounted for between 13-20% of the schedule during the 1960s and 1970s, for much of this later time period that number hovered around 30%. In 1998, the percentage of situation comedies began to decline and are now back in the 15-20% range. News and information programming has increased significantly versus the previous period. Quiz and panel shows briefly reappeared in 2000 and 2001 but were not present in 2002. Motion pictures were on a steady growth path in the early 1970s, but declined through much of the 1990s and are flat entering the new century. Dramas also appeared to be declining early in this time period, but there has been a steady growth trend since the beginning of the 1990s. Dramas have particularly taken off within the last two years. Variety programming has disappeared from the prime time schedule, at least from the networks' perspective. The recent spurt in "other" programming can be attributed to an

increased hour of *Monday Night Football*, an extended hour of the *Wonderful World of Disney*, and an increase in “reality” programming.

### Programming and Regulation

Analyzing these data in connection with the rise and fall of the fin-syn rules, there appears to be a strong correlation between the cost structure of various program types and the content of prime time network programming. The only program genres to increase in quantity during the 1970s were dramas and motion pictures, which are among the more expensive types of programming. Driving the growth in dramas was the increase in crime/detective shows. There does not appear to be any economic or regulatory cause associated with that trend. The increase in motion pictures, however, belongs to an area where the networks continued to produce their own programming. At that time, ABC and CBS had been producing made-for-television movies in house.

Even without the financial interest and syndication rules, the prime time landscape had begun to change in the late 1960s and early 1970s.

1. There has been a shift away from the half-hour situation comedy series, and half-hour series generally.
2. Dramatic programs have become increasingly one-hour, 90 minutes, or even two hours. This is known as the ‘long form.’
3. Fewer original programs are being ordered by the networks. Ten years ago, a typical season was 39 originals and 13 repeats. Today it is likely to be 23 originals and 23 repeats, or, at best, 26 originals and 26 repeats. When 23 originals and 23 repeats are ordered, making a total of 46 weeks of programming, the remaining weeks are often used for news or entertainment specials, including pilots.
4. A new program form, the mini-series, has evolved. These mini-series usually have fewer than 20 original programs in any one season, for example, NBC’s popular Columbo series has only eight original episodes in any one season, and this mini-series rotates with other mini-series on the network. (Pearce, 1973, p. 34)

Several factors contributed to these programming changes, the most important being the escalating cost of programming. Program costs increased approximately 60% from 1965 to 1972 during a period of time when the cost of living rose by 33%. Increased program production costs can be attributed to the introduction of color television, the production of which is more expensive than black and white. The cost of a half-hour pilot increased from \$72,000 to \$250,000 between 1960 and 1973, while program costs for a half-hour ongoing television series increased from \$50,000 to between \$115,000 to \$135,000 (Pearce, 1973, p. 34-35).

The quantity of public affairs and children's programming began to decline in the early 1970s. This may be attributed in part to the Prime Time Access Rules. With fewer hours available in the prime time period, the networks reduced less profitable public affairs programming in favor of established, scripted genres. In fact, public affairs and documentary programming virtually disappeared from the prime time schedule in the early 1970s, when regularly scheduled prime time public affairs programming dropped by 30 percent. This type of programming did increase during the 1973-74 season, but it was likely attributable to the significant amount of prime time coverage given to the Watergate hearings and the Presidential election during that season. Only NBC maintained a weekly series of this type, *America* and *NBC Reports* during the 1972-73 season. By the following season, no network had a weekly public affairs program in prime time (p. 43). Children's programming was virtually eliminated due to the Prime Time Access Rules. As the start of prime time moved from 7:30 to 8:00 p.m., networks no longer had the time period in which they used to schedule this genre of show.

The early 1990s show an increase in programming that is either less expensive to produce and/or more easily sold into syndication. Reality programming and newsmagazines are the least expensive types of programming that the network can produce. Even a program such as *Survivor* has minimal upfront expenditures on the part of the network, because there are no writing or talent costs.<sup>4</sup> Newsmagazines are also relatively inexpensive to produce. The industry figure is approximately \$400,000 per one-hour show (versus \$2 to \$3 million for a one-hour drama) (Schlosser, J., 2002, p. 21). Also, newsmagazines are produced by the networks themselves. They do not have to pay an outside production company. Talent costs are amortized over many programs. This programming is also repackaged on other network-owned news entities, providing added opportunities to amortize the cost over several airings.

One other type of inexpensive programming made a comeback on network prime time – game shows. ABC had such a successful run during the summer of 2000 with a game show called *Who Wants to be a Millionaire?* that the network aired the show four times a week during the 2000-01 season. This show was responsible for pulling ABC from last place to first in the Nielsen ratings race. The other networks, hoping to replicate ABC's success came out with new game shows, some of which were more successful than others. Only NBC was able to replicate "Millionaire"'s success with its game show, *The Weakest Link*. These shows are very attractive from an economic perspective. First, production costs consist primarily of editing, talent costs and prize money – miniscule in comparison to costs associated with a scripted program. Second, a

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<sup>4</sup> A downside to reality programming is the uncertain market for syndicating these types of shows.

successful prime time game show can be repackaged as a syndicated “strip” show, which *Millionaire* and *Link* have both done.

Comedies are more expensive to produce than reality series or game shows, but they have proven to be the best genre for sale into the syndication market. First, affiliates and independents like to program this type of show during the prime access and late-night time periods. Second, comedies have the added advantage of being less expensive to produce initially than drama series. While comedies were 13 percent of the schedule in 1974, by 1989 comedies accounted for over 27 percent of the schedule. This genre represented almost a third of the schedule through the 1990s, when it began to decline in 1998. Thus it would appear that the elimination of the fin-syn in the early 1990s may have combined with the attractive economics of comedies to produce peak quantities of comedies by 1997. Since that time, the networks have pulled back because it does not make economic sense for them to over-produce one type of programming.

The recent growth in drama programming should be noted. This has occurred in spite of dramas being more expensive to produce than comedies and being less lucrative in the syndication market. One reason for this increase is the elimination of Sunday night movies. The networks used to program this night with blockbuster movies, made-for-TV movies, or miniseries. It is possible that the networks’ exit from the movie business may have freed up revenue to produce more original (and/or more expensive) programming. Another possible reason for the move toward dramatic programming is the increase in repurposing. Repurposing refers to the appearance of a show on a cable network within one or two weeks of the show’s debut on a broadcast network. Repurposing began in the late 1990s as a way for producers to more quickly recoup their investment. It has since

become a way for networks to do the same thing. Repurposing started with *Law & Order: Special Victims Unit* in 1999. The show would air first on NBC and then on USA Cable Network nine days later. USA Network, owned by the same company as Studios USA (now Universal), is the producer of *Law & Order*. In this way, repurposing is doubly attractive for Studios USA. They make money from selling the show to NBC, and then they sell advertising within the show when it is repurposed on USA Networks. Other companies have begun repurposing as well. *Once and Again* aired first on ABC and then on Lifetime – from production to double distribution, all owned by Disney. *Alias*, which is produced by Touchstone, airs first on ABC and then on ABC Family. Thus far, repurposing has not been applied to genres other than drama.<sup>5</sup>

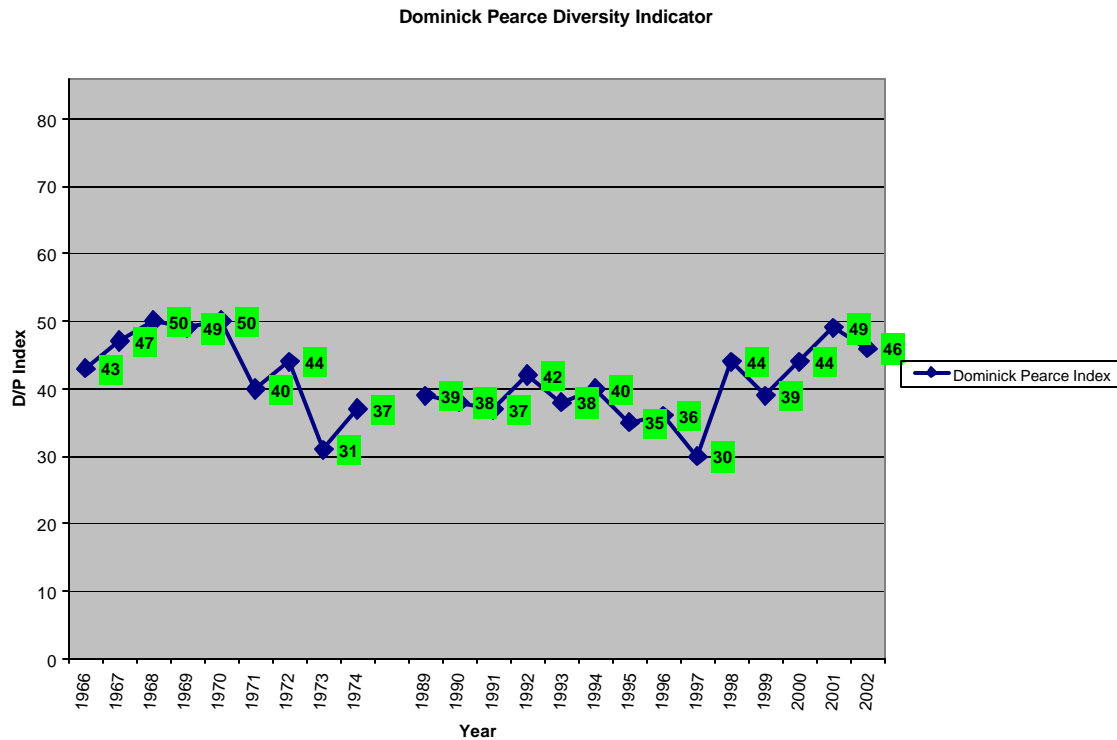
### Program Diversity Analysis

#### A. Dominick & Pearce Methodology

The following chart is based on Dominick and Pearce’s diversity indicator. This index demonstrates the extent to which a limited number of categories dominate prime time. “It is derived by summing the percentages in the top three categories per season and subtracting from 100” (p. 73). With 22 categories, the numbers could range from zero to 86. The lower the number, the less diversity.

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<sup>5</sup> Because this phenomenon is so new, the long-term syndication implications have not yet been tested in the market.



Diversity in this sense was at its peak in between 1968 and 1970. However, diversity began a downward trend beginning in 1971, the first full year of the fin-syn rules. Remember, the lower the number, the less diversity in programming. Thus more time was being devoted to fewer types of programming. The ten-point decline in diversity from 1970 to 1971 can be attributed to an increase in motion pictures on the prime time schedule. Twenty-five percent of program hours made up of movies became the norm for several years. Crime/detective programming also became a major staple of prime time. In 1973 when diversity was at its lowest during that period, three categories – motion pictures, crime/detective dramas and situation comedies – accounted for 69 percent of network prime time programming. It is likely that the increase in motion pictures can be attributed to the introduction of fin-syn. Since the networks couldn't participate in programming, they put on programming that wouldn't benefit other television producers.



However, cable television was not yet widely available and Hollywood was just starting to release films to the networks, so this too may have contributed to the increase in this type of programming. Certainly the increase in crime/detective programming is difficult to attribute this to economics or regulation. It may have been that the networks wanted to create a situation whereby they could say to regulators that diversity decreased when they were no longer allowed a stake in the programming. However, there is no evidence to support this theory other than speculation.

By the 1990s, diversity had recovered from its 1970s low of 30 to rebound to almost peak levels by the 2001-02 season. Early in the decade, diversity hovered in the 30s. Some of this may be attributable to the repeal of fin-syn. Throughout this time period, the networks would begin to produce their own programming and to look for long-term syndication opportunities. This need to exploit economic opportunities led to the increase in situation comedies and an abundance of newsmagazines throughout the decade. Motion pictures, sitcoms and crime/detective shows accounted for the three top programming slots through most of the decade.

1997 is a pivotal year during this time period. After diversity has remained constant for eight years, it dives sharply in 1997 and then rises even more sharply thereafter. The flood of situation comedies on the networks saw its peak in 1997 with 40 comedies on the air representing 30 percent of prime time programming. The same year, crime/detective dramas represented 25 percent of programming. That is 55 – more than half of all programming – represented in only two genre categories.

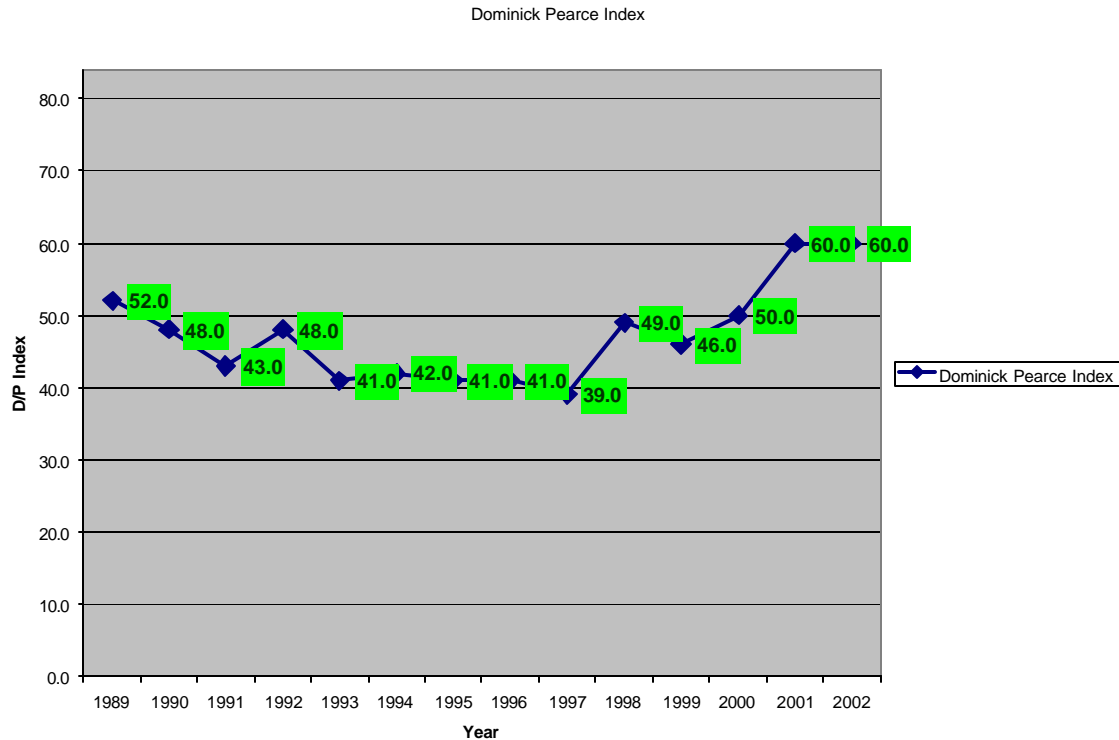
The current diversity trend may be attributable to the changing economic structure of the industry. The networks have a handful of expensive programming they have had

to balance with less expensive programming. This has led to the “new” genres, like game shows, reality programming and even comedy variety programming coming back to prime time. While game shows appear to have been a short-term fad as evidenced by their disappearance from the schedule and an accompanying decrease in diversity, other shows, particularly reality programming, seem to have staying power. It is important to note that diversity *increased* after the repeal of fin-syn. While diversity initially dropped, particularly in the years immediately following the rules’ repeal, diversity has most recently increased to pre-fin-syn levels. This is not to say that there is a breadth of diversity – the scale reaches to 86 and the diversity score never exceeded 50 in either decade.

The bottom line is this: diversity *increased* after the repeal of fin-syn. While diversity initially dropped in the years immediately following the rules’ repeal, diversity has most recently increased to pre-fin-syn levels.

To ensure the coding was not skewing results based on categories not existing in the 1970s, the programs were also coded using an index geared toward 1990s programming. The prime time schedule in the 1960s and 1970s was filled with westerns and variety series – programming that has disappeared from prime time in the 1990s. Similarly reality programming and newsmagazines are genres that did not exist, or only existed on a limited basis, in the earlier time period. By creating a code for the later time period wherein the categories aligned with the currently schedule, a more fine-tuned

analysis of the latter time period could be done.



The pattern follows a trend similar to that using the codes from the 1970s.

Diversity is at its highest during the 2001-2002 season and continues into the 2002-03 season. The lowest point is during 1997 when the schedule was dominated by situation comedies. This coding does suggest that the programming is more diverse than using the coding from the earlier periods. Whether we believe that or not, the similarity in trends further supports how ineffective the fin-syn rules were in achieving their diversity goal.

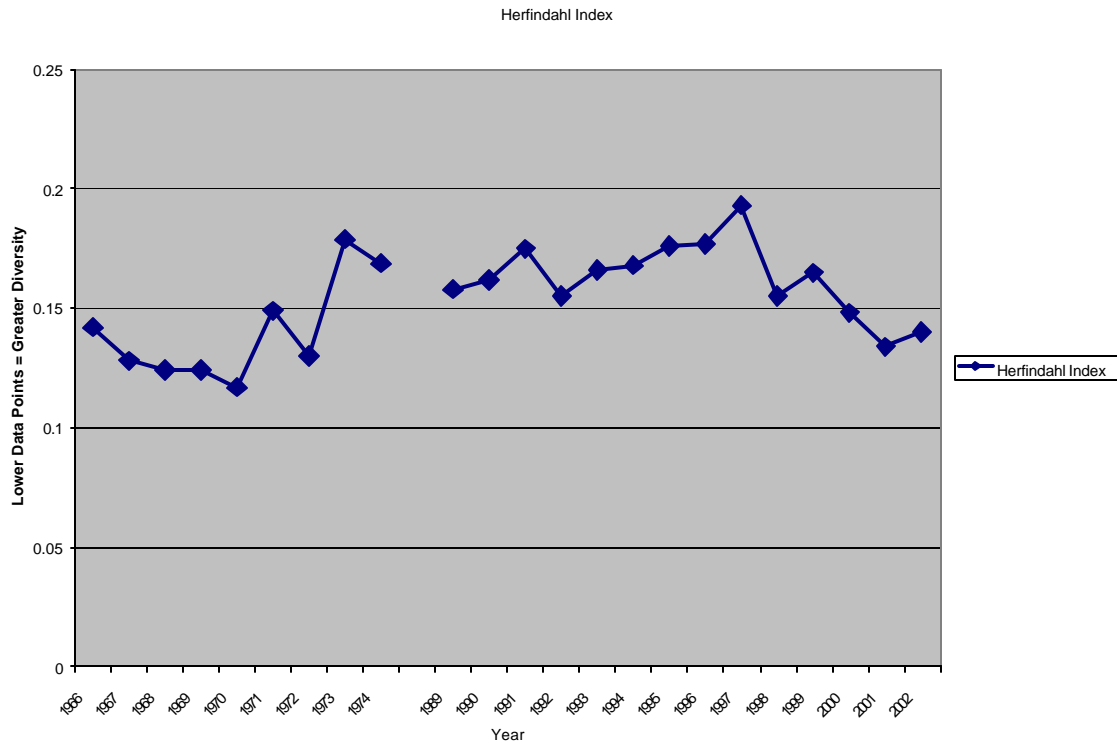
#### B. HHI Methodology.

An alternative means for looking at diversity is the Herfindahl-Hirschman index (HHI). The HHI is calculated by summing the squares of the percentage, or share, of each program type. This index measures the size distribution of programming...The

higher the HHI, the greater the concentration of programming into a few program types, and hence the less the diversity (Litman, 1979, p. 403). Thus if we can equate high concentration with a limited number of program genres, then we can use this index as a determinant of lack of diversity. While Dominick and Pearce allowed us to evaluate concentration within the top three categories of programming, HHI goes one step further by taking into account all program types on the schedule.

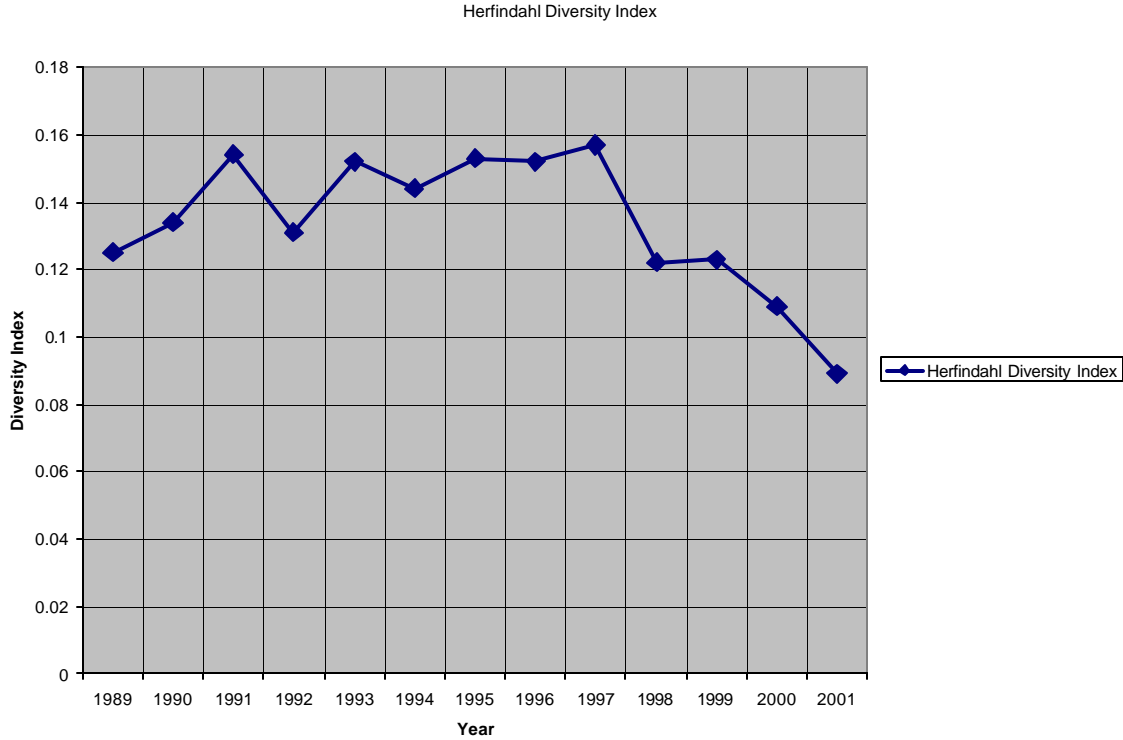
The following chart provides the Herfindahl indices for the years being studied.

Figure 3



As with the Dominick index, the 1970s showed a marked decline in program diversity on the networks suggesting a strong concentration of programming into a few program types. The HHI follows the same pattern as the Dominick Pearce index. The pattern is consistent – after the rules were enacted, diversity decreased; when the rules were

repealed, diversity increased. It would seem possible, therefore, to correlate the regulation to diversity in programming.



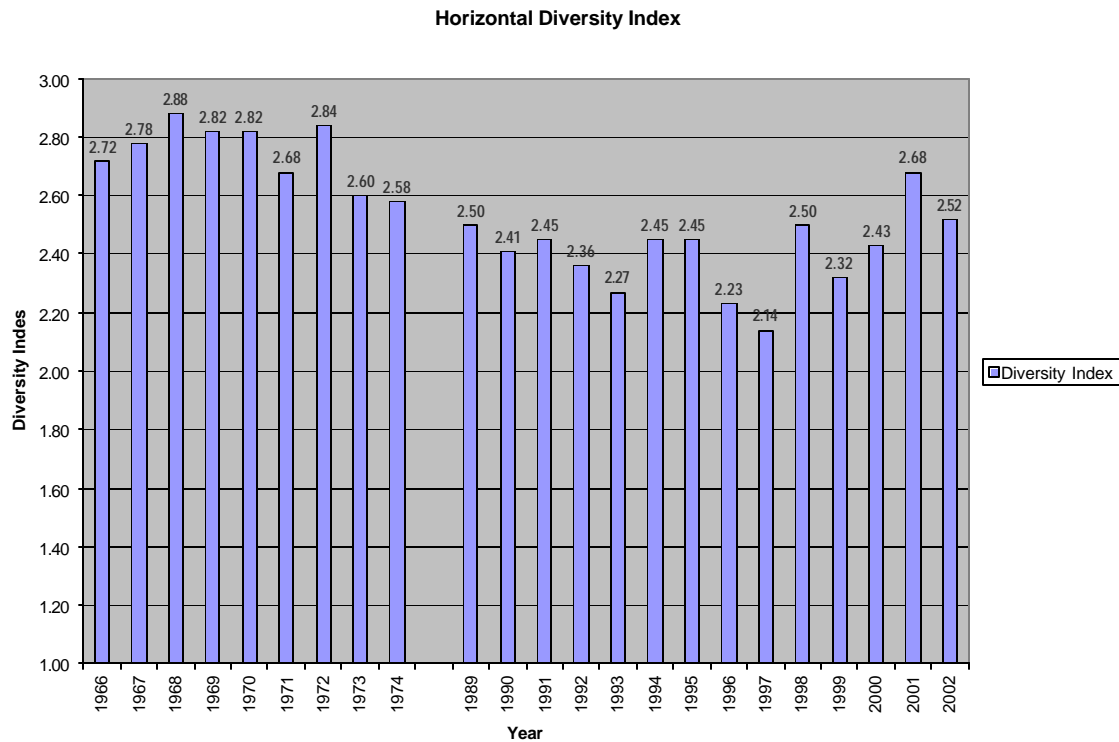
Using 1990s coding, again we see a now familiar pattern – programming at its most concentrated during the 1997-98 season. With this coding, the increasing diversity trend continues into the 2002-03 season. Remember with the Dominick Pearce index, diversity remained flat. Since the HHI shows increasing diversity, it demonstrates that past the top three categories of programming there is more variety for the television viewer.

### C. Horizontal Methodology

While the two previous methods evaluate programming vertically, that is across the entire programming schedule, another means of looking at diversity is to measure it horizontally. A horizontal index evaluates what is on the three networks at any given point in time, so it more truly evaluates the diversity of programming a viewer has available to him or her at any particular half-hour period. This is an important distinction from a horizontal index. Litman (1979) provides the following example:

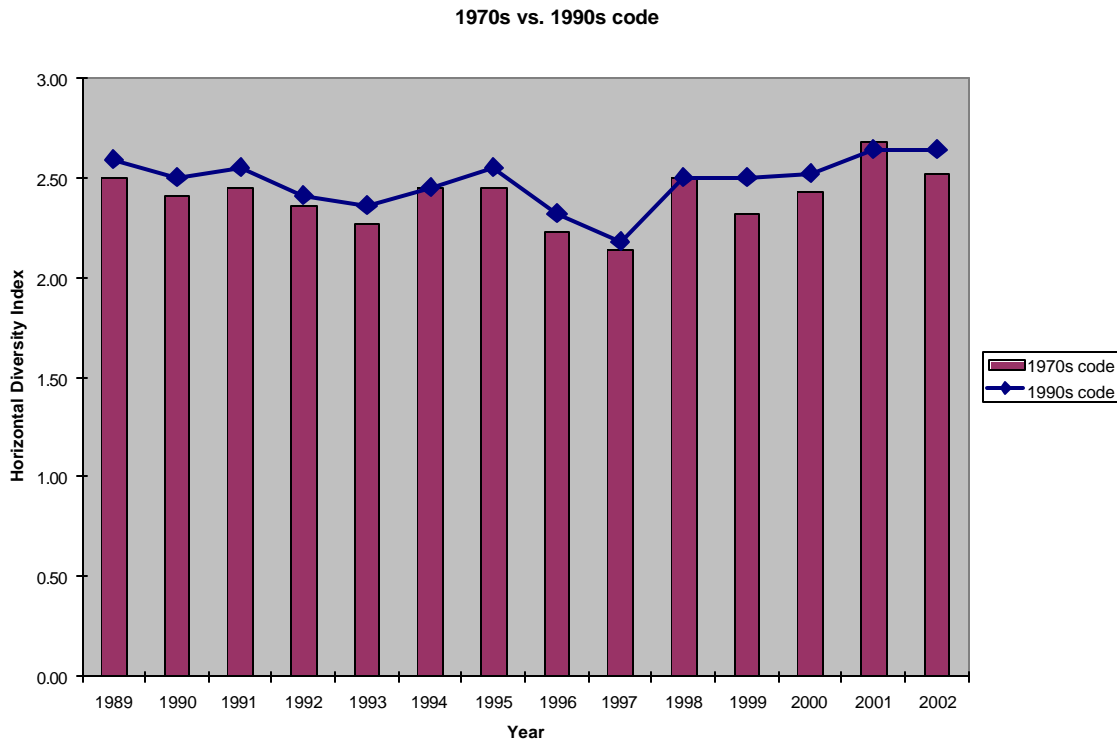
...assume each of the networks decides to offer a new documentary program in its schedule. This would increase the “vertical” diversity in each network’s schedule; however, if these new documentaries are broadcast opposite each other, then the viewer has no choice at that point in time. Hence, changes in vertical network diversity may not fully translate into increased viewer options. (p. 403)

A horizontal index is calculated by counting the number of program genres available during each half-hour period of the prime time schedule. This number is divided by the total number of hours of prime time programming. This determines the average number of program types during prime time. Perfect imitation would equal one while perfect diversity would equal three (p. 404).



This index tells a slightly different story than the other two. In the early time period, the fluctuations in horizontal diversity reflect the fluctuations in diversity overall. That is, as fewer types of programming were available overall, the networks had more similar programming on at the same time. However, this is only on a very limited basis. Perfect diversity is a three. Until 1974, the diversity index does not go below 2.6 suggesting that the networks are counter-programming in order to pull viewers from their competitors. In the 1990s, there is a significant reduction in horizontal diversity on the networks. This would make sense in light of the new program options available to most viewers. The networks may feel less of a need to diverge from one another, but rather, want to diverge from cable. For example, one reason variety/music programming disappeared from the schedule in the 1990s is because these programs were available on a 24-hour basis on individual cable networks like Comedy Central and MTV. These

program types are no longer viable options for the networks, so instead they produce more comedies and dramas which are their forte and which cost less to produce than movies. Economics comes into play here as well as the networks' production of programming that is less expensive and/or more easily syndicated. Not surprisingly, horizontal diversity has its lowest point in 1997, just as programming reached its lowest level of diversity. It is also not surprising to see this index rebound during the 2001-02 season when there were many more new genres available for viewers.



As we have seen with the previous charts, recoding the information has little impact on the diversity index.

### The Connection Between Producers and Diversity



The FCC's contention has been that there is a correlation between who the suppliers of programming are and the diversity of programming that they produce. This is based on the Commission's past minority ownership and EEO policies as well as the fin-syn rules which suggested that more producers, and specifically not the networks as producers, would create more diversity for prime time network viewers. To test this theory, we assessed the identity of the program suppliers during the the two time periods surrounding the introduction and repeal of fin-syn. Changes over time were evaluated using simple percentages. This information is then compared with the program diversity information. By looking at who the producers are and comparing that with the level of diversity, we can see whether or not the FCC's hypothesis is correct.

The FCC has also been concerned about the level of concentration within the television industry. One of the major effects of the repeal of the fin-syn rules was the change in the structure of the television industry. This change led to significant concentration in the supply side of the television industry as well as increased vertical integration of the broadcast networks. Examination of program suppliers would not be complete without examining the impact of this significant change. As mentioned previously, many media scholars have decried the effects of media consolidation as anathema to diversity. This research will suggest otherwise.

Unfortunately, information for the earlier period was intermittent, so the analysis there is limited. There is enough, however, to evaluate who the major suppliers were and how many there were. Information on the 1990s and beyond was plentiful and provides a thorough picture of the interaction between supplier and content.

Table 1

Twenty Leading Network Suppliers: Prime Time, 1970, 1977  
Share of Programming Hours (%)

	<u>Supplier</u>	<u>1970</u>	<u>Supplier</u>	<u>1977</u>
1	Universal	12.8	Universal	18.4
2	Twentieth-Century Fox	7.3	Warner	6.7
3	Paramount	6.4	Spelling/Goldberg	6.1
4	Columbia	6.1	Lorimar	5.4
5	MGM	4.5	MTM	5.3
6	Filmways	3.6	Columbia	3.6
7	ITC	3.0	MGM	3.5
8	Harbour	2.6	Paramount	3.5
9	Spelling/Thomas	2.3	Aaron Spelling	3.2
10	Talent	2.2	Twentieth-Century Fox	3.2
11	Teleklew	2.0	Walt Disney	2.9
12	CBS	19.	Tandem	2.9
13	Walt Disney	1.9	Quinn-Martin	2.7
14	Leonard Freeman	1.8	Tat	2.4
15	NBC	1.8	Toy	2.2
16	Sullivan	1.8	CBS	2.0
17	Peekskill	1.7	Four D	2.0
18	Xandu	1.7	Whacko	1.7
19	Van Bernard	1.5	Schick-Sunn Classics	1.6
20	Glenco	1.5*	David Gerber	1.6
		66.9		80.9

\* Others with 1.5 market share: Barnaby

Note. Adapted from NISS Report.

The above chart shows the share of programming by the leading prime time program suppliers during the 1970 and 1977 television seasons. This provides data for a year before the fin-syn rules and for a year after the rules had been in effect for a number of years. While in both years the top ten included many of the major studios, such as Universal and Warner Brothers, there were still several independent companies accounting for significant percentages of the prime time schedule. In 1970, while the top five slots were held by major studios, the next five were held by independent studios. Eleven of the top 20 suppliers were independent production companies. Also of note is that the top 20 suppliers accounted for almost 67% of prime time programming. In 1977, independent producers were still well represented in the top 20. Spelling/Goldberg,

Lorimar, MTM and Aaron Spelling were all independent producers in the top ten in 1977. Eight out of the bottom ten suppliers were also independent companies. Overall, then, 12 out of the top 20 suppliers during 1977 were independent companies. However, the program supply market was beginning to consolidate, which is evidenced by the fact that the top 20 suppliers in 1977 accounting for almost 81% of the prime time hours versus 67% only seven years before.

By the 1990s, I could not even evaluate based on the top 20 because there were not enough suppliers to fill that many spaces, so the top 15 were analyzed for 1995, 10 for 2002. (Totals do not equal 100 percent because of movies on the schedule, i.e., movies represent 12.2% of the 2002 prime time schedule).

Table 2

Network Suppliers: Prime Time 1989, 1995, 2002  
Share of Programming Hours (%)

<b>Supplier</b>	<b>1989</b>	<b>Supplier</b>	<b>1995</b>	<b>Supplier</b>	<b>2002</b>
1 Lorimar	12.9	Warner Brothers	18.9	CBS	28.0
2 CBS	7.6	CBS	12.1	ABC	21.2
3 Columbia	7.6	NBC	8.3	NBC	14.4
4 Universal	6.8	ABC	7.6	Warner Bros.	9.9
5 Warner Brothers	6.8	Paramount	6.8	Universal	6.8
6 ABC	6.1	Universal	5.3	20th Century Fox	1.5
7 MGM	4.5	Columbia	4.5	Bochco Prod.	1.5
8 Paramount	4.5	Disney/Touchstone	4.5	Endemol Ent.	1.5
9 Stephen J. Cannell Prod.	4.3	20th Century Fox	3.0	Hallmark Ent.	1.5
10 Disney/Touchstone	3.8	Steven Bochco Prod.	3.0	Next Ent.	1.5
11 20th Century Fox	3.8	Carsey-Werner Co.	2.3		<b>87.8</b>
12 NBC	3.0	Brillstein-Grey	1.5		
13 Viacom	3.0	Cosgrove/Muerer	1.5		
14 Carsey-Werner	3.0	Gothic Renaissance	1.5		
15 New World	2.3	Castle Rock Ent.	0.8		
16 Castle Rock Productions	1.5		81.6		
17 Cosgrove/Muerer Prods.	1.5				
18 GTG Productions	1.5				
19 Alien Productions	0.8				
20 Steven Bochco Prods.	0.8				
21 Carson Productions	0.8				
22 MTM Productions	0.8				

**87.7**

\* 1989 = 1989/90 season

\*\*Lorimar attributed as part of Warner Brothers as of 1990

\*\*\*Spelling and Viacom counted as part of Paramount as of 1994

\*\*\*\*Witt Thomas attributed to Warner Brothers as of 1995

\*\*\*\*\* 1996 - Disney/Touchstone attributed to ABC and Castle Rock to Warner Brothers  
If a broadcast network owned any part of a show, the show was created to the network.

In 1989, there were still a number of independent companies – Lorimar, which was the leading supplier that year, Cannell Productions, Carsey-Werner, New World and a handful of smaller companies like Alien Productions and GTG Productions. ABC and CBS had already cracked the top ten while NBC was at Number 12.<sup>6</sup> This was likely in anticipation of changes to the fin-syn rules. Consolidation of top suppliers continued with fifteen suppliers accounting for 80% of prime time programming. By 1995, the three broadcast networks were the second, third and fourth leading program suppliers for prime time, together accounting for 28% of prime time. Only Warner Brothers produced more programming than the networks. While there were six independent companies within the group of the top fifteen suppliers, they accounted for just over ten percent of programming. By this time, the top 15 accounted for more 80% of programming. By 2002, the three original broadcast networks are the top three program suppliers accounting for almost 64%, or two-thirds of all of prime time. In fact, the top six (which by this point consisted of the six broadcast networks and Universal) accounted for 82% of

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<sup>6</sup> The fin-syn rules did not forbid the networks to produce their own programming. It was the consent decrees that limited this production. By 1989, the networks could produce 4 hours of programming per night and by 1990, that would restriction would be eliminated.

programming. The leading six suppliers accounted for less than 50% only eleven years earlier.<sup>7</sup>

Table 3

Six Leading Network Suppliers: Prime Time, 1989,1995, 2002  
Share of Programming Hours (%)

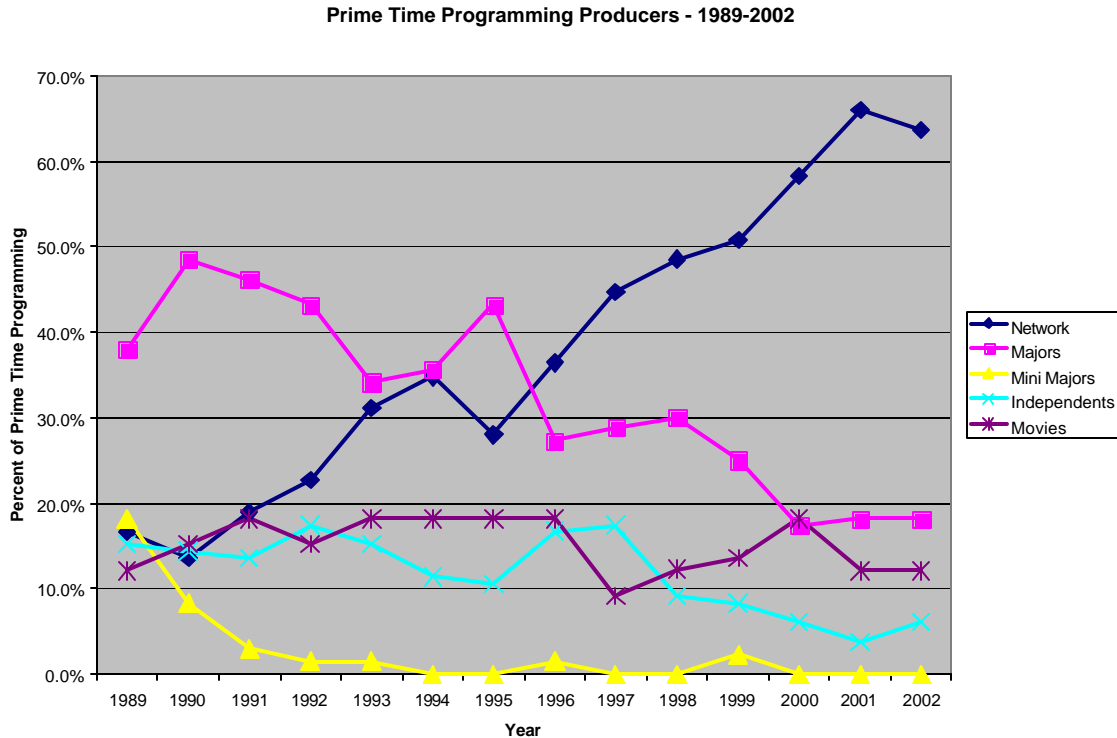
<b>Supplier</b>	<b>1989</b>	<b>Supplier</b>	<b>1995</b>	<b>Supplier</b>	<b>2002</b>
1 Lorimar	12.9	Warner Bros	18.9	CBS	28.0
2 CBS	7.6	CBS	12.1	ABC	21.2
3 Columbia	7.6	NBC	8.3	NBC	14.4
4 Universal	6.8	ABC	7.6	Warner Bros.	9.9
5 Warner Bros	6.8	Paramount	6.8	Universal	6.8
6 ABC	6.1	Universal	5.3	20th Century Fox	1.5
<b>Total top 6</b>	<b>47.8</b>		<b>59</b>		<b>81.8</b>

Breaking this down a bit further, since the financial interest and syndication rules were concerned with maintaining the vitality of the independent production community, an analysis was done of the percentage of programming by type of producer.

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<sup>7</sup> Twentieth-Century Fox appears to be under-represented in this chart. That is because most of its programming appears either on the Fox network or the mini-nets, or shows are produced in conjunction with a networks as is the case with several Fox shows that appear on CBS.

Figure 14



Producers were categorized as network (this includes only the 3 major networks for this analysis), Hollywood major, what we term a mini-major (which are companies such as Lorimar, Orion and Viacom), independents, and movies. Movies were evaluated as a separate category, because their suppliers are varied, but their presence on the prime time schedule is significant.

As the chart clearly demonstrates, the mini-majors have all disappeared by the end of the decade, having all been acquired by a larger corporation (the exception being Viacom which acquired CBS and thus no longer qualifies as a mini-major). Independents have fallen from supplying 15% to 6% of the prime time schedule from 1989 to 2002. It appears the major studios have lost the largest share, going from a high of 48.5% in 1990 to 18.2% in 2001. This is deceiving, however. Instead of three networks and eight major

studio producers, we now have six combined network/producers. These studios have not disappeared, but rather have merged with networks to become vertically integrated corporations. Because of this, the big winners have been the three major broadcast networks. These three companies went from a low of 13.6% in 1990, just prior to the changing of the fin-syn rules, to a high of 65.9% in 2001 with a slight drop in the 2002 season. However, that is an increase of over 450%.

Based on the diversity analysis earlier in the chapter, diversity was at its peak between 1968 and 1970. Based on the current analysis, we saw that the industry was the least consolidated in 1970. Although that would suggest that a larger number of suppliers tend to produce greater program diversity, that trend does not continue into the 1990s. While programming during the 1990s was in the mid-level of diversity, between 35 and 42 on an 86-point scale up until 1997, by 2001 diversity is at its highest (49) even while the industry was its most consolidated.

In looking at the consolidation of the supply market for prime time programming, the changed structure of the industry has to be taken into account.<sup>8</sup> Up until this point, only the three original networks have been considered as networks. However, this is not the reality anymore. Fox is considered by all in the business as well as outside of the industry to be a full-fledged network. The newest networks -- UPN and WB -- have also established themselves as full broadcasters. WB more so than UPN, but this too may change with Viacom's purchase of UPN and Fox's purchase of a number of UPN affiliate

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<sup>8</sup> Many programs are produced as collaborations between networks and studios, networks and producers or producers and studios. In this analysis the network was considered the producer if they had any financial stake in a show. The network was given primacy to show the impact of fin-syn.

stations. When we take this into account, the distribution of program supply changes a bit, as is evidenced in the chart below.

Table 4

Suppliers of Prime Time Programming – 2002

As 3 Networks, 4 Networks and 6 Networks

% by Supplier in Hours

	<b>3 Networks</b>		<b>4 Networks</b>		<b>6 Networks</b>	
	# of Hours	% by Supplier	# of Hours	% by Supplier	# of Hours	% by Supplier
<b><u>Networks</u></b>	<b>42</b>	<b>63.6%</b>	<b>52</b>	<b>64.2%</b>	<b>77.5</b>	<b>74.5%</b>
ABC	14	21.2	14	17.3	14	13.5
CBS/UPN	18.5	28.0	18.5	22.8	25.5	24.5
NBC	9.5	14.4	9.5	11.7	9.5	9.1
FOX			10	12.3	12.5	12
WB					16	15.4
<b><u>Majors</u></b>	<b>12</b>	<b>18.2%</b>	<b>12</b>	<b>14.8%</b>	<b>5.5</b>	<b>5.3%</b>
Columbia		0		0	1	1.0
20 <sup>th</sup> Century Fox	1	1.5		0		0
Universal	4.5	6.8	4.5	5.6	4.5	4.3
Warner Brothers	6.5	9.8	7.5	9.3		9
<b><u>Independents</u></b>	<b>4</b>	<b>6.1%</b>	<b>7</b>	<b>8.6%</b>	<b>9</b>	<b>8.7%</b>
Bochco Prod.	1	1.5	1	1.2	1	1.0
Barbour/Langley			1	1.2	1	1.0
Carsey-Werner			1	1.2	1	1.0
Endemol Ent.	1	1.5	1	1.2	1	1.0
Hallmark Ent.	1	1.5	1	1.2	1	1.0
Next Ent./Telepictures	1	1.5	1	1.2	1	1.0
STF Productions			1	1.2	1	1.0
Titan Sports					2	1.9
<b><u>Movies</u></b>	<b>8</b>	<b>12.1%</b>	<b>10</b>	<b>12.3%</b>	<b>12</b>	<b>11.5%</b>

This chart analyzes the percentage of prime time programming supplied to the networks by source. This is done in three different ways. First, suppliers are calculated simply based on the three original broadcast networks. Then, Fox is added to the original broadcast networks, making it a four-network analysis. Finally, all six networks are considered as part of the network group.



There is little difference in the percent of production by the networks when analyzing a three versus four network universe. If we look just at the three broadcast networks, they account for 63.6% of prime time broadcast network programming. When we add Fox that number increases slightly to 64.2%. However, add UPN and WB and the number increases to nearly 75% of the prime time schedule being supplied by these six companies. This increase occurs principally because not only are UPN and WB added to the network total, but Warner Brothers (WB's parent company) is eliminated from the major studio figures. The only majors not associated with a network, Columbia and Universal, account for 5.3% of programming.

Independents account for only four hours or 6.1% of programming on the three original broadcast networks. When all six networks are analyzed, independents account for 9 hours or 8.7% of programming. While not significant in comparison to what the major studios are producing, it is significant in relation to what they produce for the Big Three. When viewed from the six-network perspective, independents had slightly more success with the three newest networks than with the three oldest networks. For purposes of program supply analysis, perhaps the most salient fact is that the six vertically integrated network/producers create and distribute three-fourths of all prime time programming. This means that only 25% of prime time programming is being supplied by companies other than the six networks themselves and almost half of that percentage is movies, not regular prime time series.

Having said all of this, it is important to bear in mind the previous diversity analysis. While many media critics have decried the consolidation of the media industry

due to its negative effects on diversity, this research does not support that theory. As the industry has become more consolidated, program diversity has increased.

### Summary/Conclusion

Diversity was at its peak in the late 1960s before the advent of the financial interest and syndication rules and declined two years after those rules were implemented. Throughout the 1990s, diversity has remained fairly constant, approximately in the middle of the historical range, but has increased sharply in the years following fin-syn's repeal. The recent increase in program diversity has coincided with increased verticalization within the broadcast television business. That is, as networks began owning and producing more of the program they distributed, our taxonomy finds that program diversity increased.

Changes in program diversity correlated in similar fashion under all of fin-syn rules on all of the measurements tested. Based on Dominick and Pearce's diversity index, which is a measure of the concentration of programming in the top three genres, diversity decreased from an index of 50 in 1969 to a low of 31 in 1973 and rebounding to 37 in 1974. This number increased to 39 in 1989, dove to 30 in 1997, but has since jumped to 49 – virtually matching the pre-fin-syn high. The Herfindahl-Hirschman Index index, also a measure of concentration, demonstrated the same pattern of diversity. Based on these figures, it may be possible to say that fin-syn contributed to a decline in diversity, since the drop occurred at the same time as the rules. Similarly, the repeal of the rules, led to an increase in the diversity of genres within two seasons after its repeal.

These indexes analyzed vertical diversity, that is diversity within a single network or throughout the entire broadcast schedule. A horizontal index was used to measure diversity across networks at any given time period. The horizontal index also showed that diversity was flat in the early 1970s and throughout the 1990s and beyond. What this index also demonstrates is that the networks do not schedule the same type of programming at the same time as their competitors. The networks counterprogram against one another. The networks did this in the 1970s, and they continue to do so in the 2000s. Even with three to four dominating program types it is possible for the networks to put on programs that are different from the other networks in any given time period. And they do.

Looking at program genres, three types of programming dominated the prime time viewing hours throughout the time period studied. These were dramas, situation comedies and movies. In both the 1970s and 1990s, drama was the leading program genre. In the 1960s, these dramas were primarily action/adventure shows or westerns whereas by the 1970s the dramas were in the crime/detective category and this trend continued into the later period. In the early period studies, dramas were followed by motion pictures and then sitcoms. The order was reversed in the 1990s. The reason for the increase in sitcoms over movies in the 1990s is twofold. First, with the advent of cable, movies became more readily available to viewers. Cable also provided these films uncut, uncensored and without commercials, something broadcasters could not do. Second, situation comedies are relatively inexpensive to produce with the added bonus of syndication after their network run. Purchasing movies are a sunk cost for the networks while creating sitcoms is a long-term investment.

Recent developments in program diversity may be due in part to the economics of program production. As broadcast networks aggressively sought to limit program production costs, they began relying more heavily on non-scripted, less expensive programming. The primary example is newsmagazines. In fact, for the first time in 1998 this genre overtook movies as the third most prominent genre in prime time. This was likely due to economics. The economic efficiency of newsmagazines may derive not only from their lower production costs than scripted programming, but also from the networks' ability to use existing news production assets to generate newsmagazines. However, even with the addition of this new genre, there was no perceptible increase in diversity, because rather than being an incremental genre, it replaced other more expensive programming genres.

It should be noted here that the increase in newsmagazines may be attributed to the repeal of fin-syn. Before fin-syn, the networks had the most experience in producing news and public affairs programming. While news departments were cut in the 1980s, the networks always maintained these divisions. Thus, the networks were in a position to produce their own programming, *e.g.*, newsmagazines, without buying or creating a studio as soon as the consent decrees let them so do. While these were not the only shows in which the networks had a vested interest, they were the only shows in which the networks were the sole producer.

In addition, the networks introduced other low-cost programming beginning in 2000. Game shows provide inexpensive programming that can be flexibly slotted into the network schedule. Reality programming, depending on the format, can also be slotted as needed. These shows, particularly game shows, can be quickly produced and are

family friendly. A show like *Survivor* or *Big Brother* has the added benefit of being produced by CBS News (though they call it something else). Allowing what has become a cost center to become a potential profit center.

The conclusion is worth restating. There has been a discernable change in diversity. Yes, there has been consolidation in the production side of the business. Yes, the networks – whether we are talking about three, four or six – now account for an overwhelming majority of the programming that appears in prime time. However, while that change in program supply might be expected to have a negative effect on program diversity, this paper finds such consolidation has not had a meaningful effect on the diversity of content.

After the fin-syn rules were repealed, the broadcast networks have reverted to their pre-fin-syn behavior in airing a significant portion of programming that they own or produce. The majority of programming not produced in-house is programming in which the networks have a financial interest. In addition, network production of entertainment – separate from network ownership of programming -- now exceeds the levels produced by the networks in past years. In the 1970s, the networks produced news and public affairs programming and left the entertainment programming to outside suppliers. This in-house production of entertainment has led to a corresponding reduction in the number of studio-produced programs and, in fact, fewer Hollywood production companies altogether.

This analysis suggests that it does not matter who or how many people produce programming for network prime time schedules. Rather, it is economic factors that contribute to the variety of programming that will be available to audiences. As networks needed to be more creative in their financing, they found both new types of program

genres and new ways of paying for it. This further supports our conclusion that program diversity on prime time broadcast television is unrelated to the number of firms producing the programming or whether the network has an ownership stake in the programming. Instead, one possible explanation of changes in program diversity is the economics of program production and cost recovery. The extent to which purely economic considerations affect program diversity on broadcast television cannot be determined with any precision. What can be said based on the analysis contained in this paper is that program diversity declined in the years immediately following implementation of fin-syn, and in the years immediately following fin-syn's repeal. This correlation, at a minimum, casts some doubt on the effectiveness of the FCC's fin-syn rules in achieving program diversity on prime-time network television.

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**Appendix 1**  
**Content of Prime-Time Network Television Programming**  
**1966-1975 and 1989-2003**  
**Coded Based on Sterling and Kittross**  
**Program Hours by Quarter Hours per Week**

	<u>1966-67</u>	<u>1967-68</u>	<u>1968-69</u>	<u>1969-70</u>	<u>1970-71</u>	<u>1971-72</u>	<u>1972-73</u>	<u>1973-74</u>	<u>1974-75</u>	<u>1989-90</u>	<u>1990-91</u>	<u>1991-92</u>											
Special/Varied	20	6.7%	20	6.7%	20	6.8%	12	4.0%	8	2.7%	0.0%	4	1.6%	8	3.2%	4	1.6%	0.0%	0.0%				
Comedy	8	2.7%	12	4.0%	24	8.1%	19	6.4%	24	8.1%	20	7.9%	16	6.3%	12	4.8%	4	1.6%	0.0%	0.0%	4		
Country and Western		0.0%		0.0%		0.0%		4	1.3%		0.0%		0.0%		0.0%		0.0%	0.0%	0.0%				
General/Talk		0.0%		0.0%		0.0%	4	1.3%		0.0%	0.0%		0.0%		0.0%		0.0%	0.0%	0.0%				
<b>Variety</b>		<b>9.3%</b>		<b>10.7%</b>		<b>14.9%</b>		<b>11.7%</b>		<b>12.1%</b>		<b>7.9%</b>		<b>7.9%</b>		<b>7.9%</b>		<b>3.2%</b>		<b>0.0%</b>	<b>0.0%</b>		
Musical Variety	16	5.3%	16	5.4%	12	4.1%	35	11.7%	28	9.4%	8	3.2%	12	4.8%	4	1.6%		0.0%	0.0%				
Light Music		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%	0.0%				
<b>Music</b>		<b>5.3%</b>		<b>5.4%</b>		<b>4.1%</b>		<b>11.7%</b>		<b>9.4%</b>		<b>3.2%</b>		<b>4.8%</b>		<b>1.6%</b>		<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>		
General	12	4.0%	4	1.3%	8	2.7%	22	7.4%	28	9.4%	20	7.9%	26	10.3%	20	7.9%	36	14.3%	40	15.2%	48	18.2%	32
Women's Serials	8	2.7%	4	1.3%	4	1.4%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%	12	4.5%	8	3.0%	4
Action/Adventure	74	24.7%	56	18.8%	24	8.1%	16	5.4%	12	4.0%	16	6.3%	12	4.8%		0.0%	20	7.9%	12	4.5%	16	6.1%	16
Crime/Detective	10	3.3%	22	7.4%	46	15.5%	32	10.7%	46	15.4%	40	15.9%	42	16.7%	66	26.2%	66	26.2%	48	18.2%	28	10.6%	36
Suspense		0.0%		0.0%		0.0%		0.0%	4	1.3%	10	4.0%	18	7.1%	14	5.6%	12	4.8%			8	3.0%	
Westerns	44	14.7%	54	18.1%	40	13.5%	26	8.7%	18	6.0%	16	6.3%	12	4.8%	8	3.2%	8	3.2%	8	3.0%	4	1.5%	
Animated Cartoons		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%	
<b>Drama</b>		<b>49.3%</b>		<b>47.0%</b>		<b>41.2%</b>		<b>32.2%</b>		<b>36.2%</b>		<b>40.5%</b>		<b>43.7%</b>		<b>42.9%</b>		<b>56.3%</b>		<b>45.5%</b>	<b>42.4%</b>		
<b>Motion Pictures</b>	<b>40</b>	<b>13.3%</b>	<b>48</b>	<b>16.1%</b>	<b>56</b>	<b>18.9%</b>	<b>62</b>	<b>20.8%</b>	<b>54</b>	<b>18.1%</b>	<b>66</b>	<b>26.2%</b>	<b>58</b>	<b>23.0%</b>	<b>64</b>	<b>25.4%</b>	<b>58</b>	<b>23.0%</b>	<b>32</b>	<b>12.1%</b>	<b>40</b>	<b>15.2%</b>	<b>48</b>
<b>Comedy/Situation</b>	<b>52</b>	<b>17.3%</b>	<b>40</b>	<b>13.4%</b>	<b>46</b>	<b>15.5%</b>	<b>54</b>	<b>18.1%</b>	<b>50</b>	<b>16.8%</b>	<b>44</b>	<b>17.5%</b>	<b>36</b>	<b>14.3%</b>	<b>44</b>	<b>17.5%</b>	<b>32</b>	<b>12.7%</b>	<b>72</b>	<b>27.3%</b>	<b>76</b>	<b>28.8%</b>	<b>82</b>
Audience Participation	4	1.3%	4	1.3%	6	2.0%	6	2.0%	4	1.3%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%	
<b>Quiz and Panel</b>		<b>1.3%</b>		<b>1.3%</b>		<b>2.0%</b>		<b>2.0%</b>		<b>1.3%</b>		<b>0.0%</b>		<b>0.0%</b>		<b>0.0%</b>		<b>0.0%</b>		<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>	
Newscasts	2	0.7%	2	0.7%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%	
Forum/Interviews		0.0%	2	0.7%	4	1.4%	4	1.3%	4	1.3%		0.0%		0.0%		0.0%		0.0%	20	7.6%	16	6.1%	20
Documentary/Information	4	1.3%	4	1.3%		0.0%	2	0.7%	2	0.7%		0.0%	4	1.6%		0.0%		0.0%	8	3.0%	8	3.0%	8
<b>News Information</b>		<b>2.0%</b>		<b>2.7%</b>		<b>1.4%</b>		<b>2.0%</b>		<b>2.0%</b>		<b>0.0%</b>		<b>1.6%</b>		<b>0.0%</b>		<b>0.0%</b>		<b>10.6%</b>	<b>9.1%</b>		
Children's Shows	4	1.3%	8	2.7%	6	2.0%	4	1.3%	4	1.3%	4	1.6%	4	1.6%	4	1.6%	4	1.6%	4	1.5%		0.0%	
Sports		0.0%	2	0.7%		0.0%		0.0%	8	2.7%	8	3.2%	8	3.2%	8	3.2%	8	3.2%	8	3.0%	8	3.0%	8
Miscellaneous	2	0.7%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%	4	1.5%	6
<b>Other Types</b>		<b>2.0%</b>		<b>3.4%</b>		<b>2.0%</b>		<b>1.3%</b>		<b>4.0%</b>		<b>4.8%</b>		<b>4.8%</b>		<b>4.8%</b>		<b>4.8%</b>		<b>4.5%</b>	<b>4.5%</b>		
Total Quarter Hours	300	100%	298	100%	296	100%	298	100%	298	100%	252	100%	252	100%	252	100%	252	100%	264	100%	264	100%	264

Source: Sterling, 195-6





**Appendix 2**  
**Content of Prime-Time Network Television Programming**  
**1989-2003, Coded with 1990s program code**  
**Program Hours by Quarter Hours per Week**

**Genres**

<b>Comedy</b>	<b>1989-90</b>	<b>1990-91</b>	<b>1991-92</b>	<b>1992-93</b>	<b>1993-94</b>	<b>1994-95</b>	<b>1995-96</b>	<b>1996-97</b>	<b>1997-98</b>	<b>1998-99</b>	<b>1999-2000</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>
Situation comedy -- family	38 14.4%	38 14.4%	40 15.2%	32 12.1%	38 14.4%	34 12.9%	28 10.6%	20 7.6%	32 12.1%	26 9.8%	22 8.3%	16 6.1%	10 3.8%	16 6.1%
Situation comedy -- office	18 6.8%	20 7.6%	22 8.3%	22 8.3%	14 5.3%	12 4.5%	22 8.3%	14 5.3%	20 7.6%	16 6.1%	16 6.1%	10 3.8%	10 3.8%	12 4.5%
Standup or star comedian	2 0.8%	4 1.5%	6 2.3%	8 3.0%	20 7.6%	20 7.6%	22 8.3%	32 12.1%	18 6.8%	12 4.5%	12 4.5%	16 6.1%	14 5.3%	10 3.8%
situation comedy	14 5.3%	14 5.3%	14 5.3%	10 3.8%	4 1.5%	4 1.5%	8 3.0%	10 3.8%	10 3.8%	10 3.8%	10 3.8%	6 2.3%	8 3.0%	4 1.5%
<b>TOTAL COMEDY</b>	<b>72 27.3%</b>	<b>76 28.8%</b>	<b>82 31.1%</b>	<b>72 27.3%</b>	<b>76 28.8%</b>	<b>70 26.5%</b>	<b>80 30.3%</b>	<b>76 28.8%</b>	<b>80 30.3%</b>	<b>64 24.2%</b>	<b>60 22.7%</b>	<b>48 18.2%</b>	<b>15.9%</b>	<b>15.9%</b>
Animation	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Comedy - Variety	0.0%	0.0%	4 1.5%	0.0%	4 1.5%	0.0%	0.0%	0.0%	0.0%	0.0%	2 0.8%	4 1.5%	4 1.5%	2 0.8%
<b>TOTAL VARIETY</b>	<b>0 0.0%</b>	<b>0 0.0%</b>	<b>4 1.5%</b>	<b>0 0.0%</b>	<b>4 1.5%</b>	<b>0 0.0%</b>	<b>0 0.0%</b>	<b>0 0.0%</b>	<b>0 0.0%</b>	<b>0 0.0%</b>	<b>2 0.8%</b>	<b>4 1.5%</b>	<b>4 1.5%</b>	<b>2 0.8%</b>
<b>Drama</b>														
Light and medium drama	8 3.0%	4 1.5%	4 1.5%	0.0%	4 1.5%	4 1.5%	4 1.5%	8 3.0%	8 3.0%	16 6.1%	8 3.0%	12 4.5%	8 3.0%	8 3.0%
Heavy drama	20 7.6%	12 4.5%	8 3.0%	12 4.5%	0.0%	0.0%	8 3.0%	4 1.5%	4 1.5%	4 1.5%	0.0%	4 1.5%	0.0%	0.0%
Personal, "real life" or family dram	8 3.0%	12 4.5%	16 6.1%	20 7.6%	16 6.1%	20 7.6%	12 4.5%	12 4.5%	4 1.5%	4 1.5%	12 4.5%	12 4.5%	20 7.6%	8 3.0%
Legal drama	12 4.5%	12 4.5%	8 3.0%	12 4.5%	8 3.0%	4 1.5%	16 6.1%	4 1.5%	12 4.5%	8 3.0%	16 6.1%	16 6.1%	24 9.1%	16 6.1%
Medical drama	4 1.5%	4 1.5%	0.0%	4 1.5%	0.0%	8 3.0%	8 3.0%	8 3.0%	8 3.0%	12 4.5%	12 4.5%	16 6.1%	12 4.5%	20 7.6%
Action/adventure	20 7.6%	16 6.1%	12 4.5%	8 3.0%	4 1.5%	4 1.5%	4 1.5%	8 3.0%	4 1.5%	8 3.0%	8 3.0%	4 1.5%	12 4.5%	8 3.0%
Sci-Fi	4 1.5%	4 1.5%	4 1.5%	4 1.5%	4 1.5%	8 3.0%	8 3.0%	8 3.0%	12 4.5%	4 1.5%	8 3.0%	0.0%	4 1.5%	8 3.0%
Drama, stories -- other or general	4 1.5%	16 6.1%	4 1.5%	8 3.0%	8 3.0%	4 1.5%	4 1.5%	0.0%	0.0%	0.0%	8 3.0%	4 1.5%	4 1.5%	4 1.5%
Crime drama	16 6.1%	20 7.6%	12 4.5%	12 4.5%	8 3.0%	16 6.1%	8 3.0%	12 4.5%	12 4.5%	12 4.5%	8 3.0%	8 3.0%	4 1.5%	12 4.5%
Police, detective, private eye	24 9.1%	12 4.5%	12 4.5%	12 4.5%	28 10.6%	24 9.1%	20 7.6%	28 10.6%	40 15.2%	24 9.1%	20 7.6%	20 7.6%	22 8.3%	32 12.1%
<b>TOTAL DRAMA</b>	<b>120 45.5%</b>	<b>112 42.5%</b>	<b>80 30.4%</b>	<b>92 34.5%</b>	<b>80 30.0%</b>	<b>92 34.5%</b>	<b>92 34.5%</b>	<b>92 34.5%</b>	<b>104 38.5%</b>	<b>92 34.0%</b>	<b>100 37.0%</b>	<b>96 35.6%</b>	<b>102 37.5%</b>	<b>102 37.5%</b>
Movies	32 12.1%	40 15.2%	48 18.2%	40 15.2%	48 18.2%	48 18.2%	48 18.2%	48 18.2%	24 9.1%	32 12.1%	36 13.6%	48 18.2%	32 12.1%	32 12.1%
<b>TOTAL MOVIES</b>	<b>32 12.1%</b>	<b>40 15.2%</b>	<b>48 18.2%</b>	<b>40 15.2%</b>	<b>48 18.2%</b>	<b>48 18.2%</b>	<b>48 18.2%</b>	<b>48 18.2%</b>	<b>24 9.1%</b>	<b>32 12.1%</b>	<b>36 13.6%</b>	<b>48 18.2%</b>	<b>32 12.1%</b>	<b>32 12.1%</b>
<b>Other</b>														
Sports	8 3.0%	8 3.0%	8 3.0%	8 3.0%	8 3.0%	8 3.0%	8 3.0%	8 3.0%	8 3.0%	16 6.1%	8 3.0%	8 3.0%	8 3.0%	8 3.0%
Reality series	8 3.0%	8 3.0%	18 6.8%	24 9.1%	12 4.5%	8 3.0%	4 1.5%	4 1.5%	0.0%	12 4.5%	0.0%	0.0%	12 4.5%	20 7.6%
News/magazines	20 7.6%	16 6.1%	20 7.6%	24 9.1%	32 12.1%	36 13.6%	28 10.6%	32 12.1%	40 15.2%	40 15.2%	48 18.2%	36 13.6%	32 12.1%	32 12.1%
Children's Show	4 1.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	8 3.0%	8 3.0%	8 3.0%	8 3.0%	8 3.0%	8 3.0%
Miscellaneous	0.0%	4 1.5%	4 1.5%	4 1.5%	4 1.5%	2 0.8%	4 1.5%	4 1.5%	0.0%	0.0%	2 0.8%	16 6.1%	16 6.1%	4 1.5%
<b>Total 1/4 hours</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 #####</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 100.0%</b>	<b>264 100.0%</b>

## THE PROGRAM SELECTION PROCESS

### **Introduction**

Ultimately what appears on prime time broadcast network television is the responsibility of a handful of network programming executives. The process for selecting programming has been in existence almost since the medium's inception. At its simplest, producers come up with a show idea, they pitch the idea to the network and the network says yes or no to the show. A number of factors determine which shows the network will accept or reject. Those factors have changed over time even while the process itself has not. One factor that has been cited as affecting the program selection process is the imposition and subsequent repeal of the FCC's financial interest and syndication rules. This paper describes the steps involved in broadcast networks' selection of programming and evaluates the effect of the fin-syn rules on that process.

In the 1970s, what led the FCC to institute the financial interest and syndication rules was a concern that the networks were becoming both too powerful and too demanding when it came to this selection process. Too powerful, in that they were the gatekeepers of news, information and entertainment for the American public. This was so because of the limits of the radio spectrum, which made the broadcast networks the only providers of television programming in most U.S. markets. Too demanding, because networks were requiring an equity stake in a program before it would be accepted as a part of the prime time schedule. The networks had ownership in more than 70 percent of their prime time schedule by the mid-1960s, up from only 45 percent the

previous decade. This strong arming of producers was a fundamental reason for the creation of fin-syn. Not only was the Commission concerned about network participation in the selection of programming. They were concerned about network input into programming once it appeared on the air.

Since the rules were repealed in 1995, the economic structure of the industry has changed drastically. The television networks have become vertically integrated institutions with the ability to produce programming through internal business units. A number of developments in the video market may have encouraged this trend. First, production costs and licensing and talent fees have continued to outpace the rate of inflation. Corporate parents pressure the networks to purchase programming internally in order to achieve synergies and increase profits. But perhaps the most observable basis for increased financial pressure on the broadcast networks is the increased competition they face from newer broadcast networks and from programming networks on cable television and Direct Broadcast Satellite (DBS) systems (McClellan, 2002, p. 6).

These developments have caused networks to aggressively seek out new ways to increase revenue and decrease costs. Networks are increasing revenue through new methods of syndication, “repurposing” of recently-aired shows, and taking a financial interest in programming that appears on air. Decreased costs are achieved through purchasing more in-house productions, producing more lost-cost programming like game shows and reality series, and by cutting layers of middle management. These pressures from corporate parents come in the face of increasing competitive pressures from new broadcast networks, cable, and DBS.

Based on a series of interviews with network executives and prime time program producers, it appears the incentives introduced into the program selection process by the repeal of the fin-syn rules have clearly affected the program selection process within broadcast networks. This paper describes the program selection process at broadcast networks and how it has been affected by the elimination of the fin-syn rules. The interviews and other information presented in this paper suggest that the networks have a greater incentive to select programs produced in-house. That incentive, however, continues to be tempered by networks' competing incentive to attract audiences by selecting the "best" program irrespective of its source. Although it appears that networks continue to prefer, all else constant, the acquisition of programming from in-house sources, the acquisition of programming from independent (i.e. non-network) producers is made more attractive by the ability of networks to obtain, in many cases, partial ownership of the show in exchange for the show being picked up by the network. While networks' increased ownership has increased post fin-syn, as we discuss in a separate paper, the post-fin-syn program selection process has not resulted in a meaningful change in program diversity.

There are two fundamental ways networks can procure programming to distribute over their owned and affiliated stations – acquire a show from an independent producer or produce the show in-house. In either case, the network will pay an annual license fee to the producer, which allows the network to air the episode twice. That fee is negotiated once the show has been selected for the prime time schedule. Historically, the fee was set, with minor annual increments, for the first four years of the show's life. In the fifth year, the network and the producer negotiate the license fee for one or more subsequent

years. More recently, that five year period has been extended to seven years or more. The terms of renewal are greatly affected by whether the network has an ownership interest in the program. If the show is truly independent, the network is going to pay a higher license fee than if a show is produced in-house or if the show is partially owned by the network. This is so, because if the network has a financial interest in a show, it has far greater control over renewal terms than if it lacks an ownership interest.<sup>1</sup> Another way to think about this is to imagine that you are buying a house. If you are buying the house from someone you don't know you are likely to pay one price. If you are buying the house from your mother, the price is going to be very different. (The same is true when it comes to syndicated programming. Often, the vertically integrated companies will buy their own programming. For instance, *The X-Files* is produced by 20<sup>th</sup> Century Fox, originally aired on the Fox network and then was syndicated on FX, the Fox cable network. Fox has been accused of not selling the show at market rates because all of the selling was done internally.)

What is true now and has always been true is that selecting programs for the prime time schedule is the most important aspect of a network programming executive's job. Prime time programming is the lifeblood of the television network because it fills the most visible and most profitable of time period.<sup>2</sup> It is the product that is sold to all constituencies – viewers, affiliates and advertisers. And while advertisers may be most concerned about the audience a program attracts, affiliates will focus on how a show will

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<sup>1</sup> Under the financial interest and syndication rules, the networks could have an equity stake in only a limited number of prime time programs.

<sup>2</sup> Success in prime time ratings have traditionally spilled into other dayparts. For example, if people are watching CBS in prime time, they are more likely to watch CBS late night (*David Letterman*). Also, wherever a television set is turned off is where the set turns on again, so if someone is watching NBC in prime time, they will automatically turn on the "Today Show" the next morning.

play in their community, and viewers are interested in entertainment and information, the network executive is concerned about all of those things when selecting shows for the prime time schedule.

Content, audience, and programming mix are just some of the factors that are considered. In addition, network executives must juggle business relationships between networks and studios and between networks and producers. They must also take into consideration test results from audience research on pilots. These things are not new. What is new since 1995 is their incentive to select in-house productions and to obtain an equity stake in a programming that is not produced by the network. A second change is the evolution of the syndication market, which affects programming decisions by altering the timing and perhaps the level of the financial return for the network.

The bottom line for media critics, however, is two-fold. First, with increased vertical integration, independent producers have less access to audiences or they must align themselves with studios or networks in order to get their show on the air. It has become standard that producers will align themselves with a studio. The ones that we spoke with did not necessarily feel that this was a bad thing. Second, more attention to the bottom has led to lesser quality programming. No one that we spoke with claimed that television is of low quality overall. Yes there are some shows that are very low brow, but taken as a whole the prime time schedule could be compared to the Golden Age of Television.

### **Network Prime Time Program Selection Timeline**

Programs may be developed throughout the year, but the majority of programs are developed using a timeline that has been around since the beginning of television. (This timeline provides a context for understanding the program selection process.) It is a schedule based on the broadcast year of September to May. This schedule is one that most suits advertisers. For reasons discussed below, its compressed and somewhat inefficient design may contribute to what some critics contend is a lack of quality programming.

Throughout the fall and after the launch of the new season, programming executives will meet with producers and writers to hear new programming ideas. If the network likes a particular idea, they will ask that a pilot script be developed. This is known as a script commitment. This script is a sample script, an idea of what the first show will be like. The network will finance this script, which currently costs around \$75,000 to \$100,000. In return for financing the script, the network retains the right to order the pilot (a fully created episode of the show) and if they like the pilot, the show itself. The network may have 100 to 150 scripts written during a typical pilot season. From these scripts, the network will select approximately 20 to 30 shows to be produced as pilots. The number of shows to reach the pilot stage may be less than this depending on the number of shows the network needs to replace in its current schedule.

Once a pilot is approved for production, the producer of the show will be given “development money” by the network. The amount is approximately one million dollars



per pilot<sup>3</sup> and usually covers most of the producer's costs. Often the producer will supplement the money provided by the network in order to produce a better pilot.

Once the network selects a pilot for its schedule, a licensing agreement is signed between the network and the producer. The network retains the exclusive right to air the series, usually for five years, with a network option to cancel prior to that time.

The networks start to make decisions about what will appear on the fall schedule in March, when the networks hold what are known as "development meetings." These meetings are small-scale presentations for the top 100 to 200 advertising clients. There, the top network programming executives tout the network's recent performance and, more important, tell the advertisers what they think will be on the fall schedule. No final decisions have been made by this point, but, it is an opportunity to begin building interest among advertisers' for the network's new programming. There is some interaction between the network executives and the advertisers in the form of a question and answer period. However, since most of the programming decisions are so preliminary, it is not possible for the advertisers to have input into the programming. While these meetings are private, soon after, the trade press begins to speculate about what will appear on the fall schedules. Although these meetings occur two months before programming decisions are finalized, these meetings continue to serve the advertisers' apparent interest for these events.<sup>4</sup>

Throughout the remainder of March, April and May, pilots are created and refined with input from the network programming executives. During the first two weeks of

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<sup>3</sup> This is an average number. Depending on the track record of the producer, whether it is a half-hour comedy or an hour drama, it can be more, though usually not less.

<sup>4</sup> In 2002 for the first time, as a cost-cutting measure the networks did not hold these meetings.

May, pilot screenings are held where all the top network executives, not just programming executives, evaluate the potential shows. Again, no final decisions are made at these meetings, but everyone's input is taken into consideration. Final pilot decisions are made during the second and third week of May.

Programmers use a number of criteria to determine what shows appear on the new schedule. For returning shows, programmers look at factors like past performance, age of the show, and how many other shows are not returning to the schedule. For new shows the programmers will think about the track record of the producers of this program, the fit of the program with the rest of the schedule, and, if necessary, the fit of the show for a particular day and time. For all shows, programmers consider the demographics of the audience the show is likely to attract, whether the show can be used effectively to counter-program against the competition, and whether the costs are reasonable and the talent recognizable or if not, at least likeable (Head, 1989, p. 28).

The final prime time program schedule is presented to all advertisers during the third week of May in New York City. These presentations are large-scale productions that can cost the network up to a million dollars or more. From the network perspective, these presentations are valuable opportunities to make a favorable impression on advertising executives responsible for placing several billion dollars worth of advertising time. After the advertiser meetings are held, the networks present the new fall schedule to their affiliates. Next, the networks present the shows to the press at the annual July press tour, where the nation's television press screen the pilots and can interview the cast and producers of the programs selected. The viewers finally get to see the shows

sometime around the third week of September when the new fall season launches. After the new season starts, the process begins all over again.

This method for choosing programming may contribute to what some critics believe is a lack of quality programming on broadcast networks. Since all pilots are being produced at the same time, talent resources are being stretched thin. This is particularly true in the last few years with the introduction of two new broadcast networks and the continued forays by cable networks into original production. In addition, the shows are being produced under severe time constraints in order to meet the May deadline. It is possible that this schedule affects the quality of programming ultimately aired on broadcast networks.

In the remainder of this research, network programming executives and prime time program producers provide additional insight into this process. They discuss the elements that are part of the consideration set when deciding on what programs will appear on the prime time schedule. These executives had opinions on all of these processes, from how a show is selected to the number of people involved in the process. They are concerned about the networks' increased participation in programming, though more so from a financial standpoint than a creative one. They also had suggestions for changing the process, but they were not overly optimistic that it ever would.

### **Prime Time Program Development Process**

As discussed above, while there are several steps in the selection of programming for the prime time schedule, the two primary areas are development, which is the nurturing of a show through the pilot stage, and selection. We have separated these into two areas for more clarity of the process. As well, while it is the selection process that is

of particular interest, it is important to understand how network executives assemble the pool of programs to select from.

The development of prime time programming is done primarily by the programming division of the television network. The process is fairly standardized, and the participants were consistent in presenting the process. From the network point of view, the first step in the process is the needs assessment. Warren Littlefield, a television producer, working with Paramount Television, whose show *Do-Over* appears on the WB, explained this process. Prior to his current position, Littlefield had been at NBC for over 20 years, through the time of *Cosby* and *Family Ties* to *Friends*, *ER* and *Will & Grace*. He oversaw the development process for nine years as the Entertainment President at NBC, a position he left at the end of 1998. “The first thing you do is you look at your schedule. You assess your needs. An example would be if you were at ABC in 1999, all you knew all year long was *Home Improvement* was leaving. *Home Improvement* was leaving! What are you going to do to lead off Tuesday night at 8 o’clock? Well, you have to deal with that. And you formulate based upon the needs of your schedule and the strength of your competition, a strategy. So you look at your assets, you look at your liabilities, you do a needs assessment.”<sup>5</sup> Flody Suarez, currently an independent producer and former programming executive at NBC, expanded on this process. “At the beginning of a development season, development people at a network will sit and look at their schedule and say, ‘Okay best case scenario we’re going to need this many shows. Worst case scenario we’re going to need this many and this is probably where we’re

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<sup>5</sup> Interview with Warren Littlefield, producer and former Entertainment President, NBC (July 28, 1999). All subsequent quotations from Littlefield are derived from this interview.

going to need them. What are the kinds of shows that we think can succeed in those time periods? And let's focus on those. What's not on television right now?"<sup>6</sup>

Once the network has determined the types of shows it needs and the time periods that need to be filled, they must go about getting the programming to fill those slots. This is where the network turns to the Hollywood creative community, which includes independent producers, the major studios and their own in-house production units. As Warren Littlefield explains, this next step in the process is to open your doors to producers. "‘Come bring us your shows.’ And in that process you listen to all the studios, as well as your own studio and you constantly are telling the studio community, the agent community, the writer/producer community every forum you can possibly speak to ‘here’s what we think we need and what do you have?’" Suarez agreed saying, "‘You put out the word to the town. That’s kind of what you’re looking for, and you take pitches.<sup>7</sup> Sometimes somebody pitches you something that doesn’t fit your model at all, but it’s a good pitch, and they’re good writers so you buy it."

As this comment suggests, just because the network has done a needs assessment and publicized its needs, the creative community may bring different programming to the network and the network will consider such programming. Suarez explained that networks will look at programming that may not be part of the initial plan, but that has an interesting creative element attached to it. "[T]hey bring you stuff you weren't looking for. They pitch you writers and you say, ‘Okay I like the writer. Let’s hear the idea’ and

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<sup>6</sup> Interview with Flody Suarez, producer and former programming vice president, NBC (August 25, 1999). All subsequent quotations from Suarez are derived from this interview.

<sup>7</sup> Pitches are meetings where a writer or producer or a studio "pitch" their idea to a network. This may be a phone call or a more formal meeting.

then the department ends up buying, a slate of projects. A lot of them will be right in that target of what you were looking for and then a lot of them will be these wild cards.

These flyer-type projects, which end up in many cases seeming special and different because you don't have five of them sitting there.”

The selection process described by these networks is not a science. The networks start with a framework – the needs assessment. They know they need to replace certain shows that are going off the air because they are too old or the ratings have not been high enough to warrant that the show's return for another season. They understand that there are certain time slots that need to be filled. This could be an 8 o'clock comedy or a 10 o'clock drama. This too will affect what the network asks for from the creative community. However, the needs assessment is not a hard and fast rule. It is a game plan from which to work. The executives want to leave themselves open for unplanned for opportunities. Most of those so called “flyer projects” that Suarez spoke of come from producers or writers who have a strong point of view about a project. “[A] lot of things also just come in where simply someone says ‘here's my idea. You know, this is my idea. A funny thing happened to me. I want to write about my life experience.’ *Family Ties* came out of the life experience of Gary Goldberg being an aging hippy and having kids who were more conservative than he was. *The Cosby Show* came out of Bill Cosby's experiences of being a parent. *Home Improvement* from Tim Allen. So a lot of it in the development process, particularly in a half hour comedy, is creators or talent coming up with a point of view,” according to Littlefield.

A strong point of view is fundamental to the pitch and ultimately the long-term viability of a show. Matt Williams, one of the producers of *Home Improvement*,

described his development of the show much in the same way as Littlefield talked about it from the network perspective. “I wanted, and my partners wanted, to write a show about an American family and especially a show built around a father. And then we end up, thank God, bumping into Tim Allen through Jeffrey Katzenberg at Disney, and this was a perfect match. So we really took our time and really honed the concept of the show and what that show was about, what we wanted to say and it was driven purely by Tim’s personality, Tim’s standup and what we wanted to do about family life.”<sup>8</sup>

The pitches described thus far are the simplest – a writer creates a concept for a show and tries to sell it to a network or studio. There is a range of additional sub-issues in this basic sequence, particularly with respect to the financial arrangements. . Stephen McPherson is the President of Touchstone Television, the production division of ABC Entertainment. McPherson was formerly at NBC as a programming executive. He provided the following analysis of the development process. “The simplest [way for a show to get picked up is a writer walks in the door and pitches a show to a studio and they go, ‘great we’d like to do it.’ They then pitch it to the network, they say, ‘great we’d like to do it.’ He writes a script; it’s picked up to pilot; it’s picked up to series, and it goes on the air. The most complicated ones are...a British television series exists and you’re going to do a remake of it and you make a deal with the exec producers of the British show to supervise American writers who do it through a studio here and potentially it’s a co-production because there’s not domestic financing. Big stars always

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<sup>8</sup> Interview with Matt Williams, producer (January 11, 2002). All subsequent quotations from Williams are derived from this interview.

make a difference and big properties make a difference and pre-existing network commitments and penalties make a difference.”<sup>9</sup>

But whether simple or complex, after a show has been pitched and the network has determined that it is interested in a show idea, the negotiation of the contract begins. The contract can be for a script, a demo, a pilot or a series commitment. The following describes what might be a “typical” production deal for better-than-average independent producers. NBC’s experience with *Friends* is typical of this. “[W]hen we bought *Friends* from Warner Brothers, Bright, Kauffman, Crane...were not super hot, but they were fairly hot,” says Littlefield. “And so we had to say based upon their heat, we had to guarantee a “pilot commitment.” Now, what does that mean? That probably when the deal was all said and done in a negotiation it probably meant if we didn’t make the pilot off of what they were writing, we probably would have owed them a couple of hundred thousand dollars. To make the pilot was a million dollars. And so many deals are simply a script, 75,000 plus fringes. Okay, so under 100. Then you get the little more heat, a pilot commitment, so now your exposure is several hundred thousand. And if it’s a firm, you gotta roll film, a demo, is 500 thousand, and a firm pilot, you’re going to make it, is at least a million and can be for a half hour up to 2 million.”

Programming executives at each network go through this process with twenty to thirty producers. That number will vary depending on how many shows the network needs to replace. It is not this particular step of the process that critics of the post-fin-syn

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<sup>9</sup> Interview with Stephen McPherson, President of Touchstone Television and former programming vice president, NBC (January 11, 2002). All subsequent quotations from McPherson are derived from this interview.



environment take issue with. Rather it is the actual selection and what goes into deciding what finally ends up on the screen.

### **Prime Time Program Selection Process – Factors in the Final Decision**

Several factors go into making the final decision on what programs will appear on the prime time schedule. These include relationships between networks and producers, what is most profitable for the network, whether the show is produced internally, how well the show has tested with audiences, the show's prospects for attracting advertisers, and the show's prospects for success in the syndication market.

#### **Relationships**

A major factor in the final selection process is the relationship between a network and a studio. If the studio already has a show on the network, or has a particularly hot property, it can use it as leverage to sell more programming to a network. This is not an unusual business practice. In fact, networks do it themselves when selling advertising time. If an advertiser wants to be on *ER*, for instance, the network will package commercials in that show with commercials in other less popular programs. The implications may be smaller, but the business practice is the same.

Of course, a very important relationship now is the one that exists between the network and its own in-house studio. All of the networks have their own in-house studios either through merger, acquisition or creation. A few years ago, Disney restructured its organization in order to increase the sale of programs internally. Stephen McPherson, President of Disney's Touchstone Television, explained his relationship with the ABC

network this way, “We’re incredibly close [with the network]...we try to work as closely as we possibly can and frankly the closer, the better...We’re not obligated to sell everything to ABC. Certainly we try to mine that relationship and it’s an important one for us and for them...we have a vertically integrated relationship with a network but we produce successful material for other broadcast networks as well.”

While the implications of the internal relationships will be discussed more fully below in the section about vertical integration, it is important to note here that internally produced programming has an advantage in the network’s program selection process. Ted Harbert, former chairman and president of ABC Entertainment, explained why this is so. Mr. Harbert worked at ABC for 20 years, the last four (1993-1997) of which he was responsible for all prime time and late night programming. He left ABC and signed a multi-year deal to develop programming with Dreamworks, where he worked on *Arsenio*, a vehicle for Arsenio Hall, and *It’s Like You Know...*, another short-lived sitcom. In 1999, Harbert was named president of NBC Studios, the in-house production unit for NBC which produces for multiple dayparts including prime time. Harbert explained:

Michael Eisner is saying okay ABC [and Disney] everybody just get together in the same room and do it together. I think their [Disney’s] shows will get on the air. That isn’t going to mean that they’re better. If you put the network person in charge of both sides of the fence, saying, ‘Okay, you’re in charge of the studio side, of developing shows from the studio side and you also have to...choose the shows as the network person that go on the air.’ It’s impossible to ask the network person to have that much objectivity. To be able to look at the show they’ve been developing from the very, very beginning and say, ‘Oh, no what I’ve just been working on personally, that I’m personally invested in from the very first moment with the writer, gee that’s much lousier than the Warner Brothers show. I’m gonna go with the Warner Brothers show.’ I just think it’s a virtually impossible thing to ask the people.<sup>10</sup>

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<sup>10</sup> Interview with Ted Harbert, President NBC Studios, formerly producer and chairman and president ABC (August, 1999). All subsequent quotations from Harbert are derived from this interview.

Another very important factor is the relationship between a network and an individual producer. These usually exist in the form of a series commitment. This is a contract between the producer and the network, whereby the network agrees to pick up the next project by the producer virtually sight unseen. “Contracts certainly play a big part in [the decision making process]...Marta Kaufman, David Crane have two shows on the air that were 22-episode commitments because we had commitments to them,” says Suarez, about his experience at NBC. “John Wells has commitments, you know, based on *ER*. And those are good shots to take...Sometimes it works and sometimes it backfires. Certainly *Frasier* worked. *Wings* was a success...[*Pursuit of Happiness*]...was a disaster. But it’s not a science. It is an art and you have to treat it as that. When you start treating it like a business, it tends to fall apart.”

Series commitments have been a means by which the networks reward producers for having a successful show. The networks are willing to risk acquiring an unsuccessful show, because once a producer has a hit, the other networks want to work with that producer. This is important because historically the success of a producer is a key determinant for the success of a show overall (Biebly and Biebly, 1994). By providing the producer with a series commitment, the network guarantees that the next creation by the producer will appear on that network. NBC did this with Steve Levitan, producer of such hits as *Frasier* and *Just Shoot Me*. Littlefield explains, “Everybody wanted to be in business with him. So it was going to cost thirteen on the air no matter what, so NBC stepped up, made a commitment to thirteen on the air. He did a pilot...Now, if you hate the pilot, you can buy out of it, but it’s really expensive, millions and millions. More likely you say, ‘Hey, you know what, this is who we said we’d be in business with, let’s

see what they do.” A commitment usually consists of thirteen episodes, but can be as many as 22 or even higher in very special cases. As Littlefield described was the case with *Cosby* on CBS. “*Cosby* I think was a 44. CBS *Cosby*...But they have the ability to I think probably, they’ll end it up with 44 guaranteed fees, but they could have cut back to 22 episodes or something, but anyway, it’s quite unique and that was a time when CBS was desperate for an announcement, so that’s the deal they made.”

Paul Haggis is an example of a producer who has a series commitment. His commitment is with CBS which means he must first present his work to the network before he can sell it elsewhere. Mr. Haggis is a writer/producer, whose most recent show is *Family Law* which aired on CBS. He has worked in Hollywood for more than 20 years as a writer and/or producer on such shows as *thirtysomething*, *Due South* and *EZ Streets*. While he has a commitment with CBS, he is not tied to a particular production studio, which is the case with many other producers. He spoke about the different ways his shows have gotten onto the network:

I’ve had a long relationship with CBS. Oh, I guess I’ve been...creating series for ten to twelve years for them. And I think I’ve done four or five. I can’t remember. I don’t like to count the failures. (laughs)... [With *Due South*], Jeff Sagansky approached me and said would you create a show about a Canadian Mountie or trapper who comes to Big City USA...and that show was owned entirely by Alliance Entertainment. [With] *EZ Streets* which was my next show...I sold the project myself as a writer/producer to CBS and then I sent it out for bids around to the various studios, met with them and finally decided and it got down to either Universal or Paramount, and Universal was willing to put the most money into the budget and so we went with Universal.<sup>11</sup>

For Haggis, the series commitment could mean ownership by the network or by an outside production company.

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<sup>11</sup> Interview with Paul Haggis, producer (February 22, 2002). All subsequent quotations from Haggis are derived from this interview.

Most often with a series commitment the network does not get a financial interest in the show,<sup>12</sup> which is why series commitments are expected to become a thing of the past. According to Littlefield, “A lot of shows have gotten on the air because there were series commitments and I would say that that trend will probably fade away. The networks always want to make fewer of those so they’re not shackled by them.” This is true. Networks want to have as much control over what appears on the schedule as possible. What is also true is that by eliminating commitments, the networks eliminate a lot of overhead.<sup>13</sup>

McPherson agrees with this assessment, but explains that the economics of the business has changed networks’ reliance on producer commitments:

Giant overall deals [were based on] the model used [by] the movie studios [whereby] your one hit pays for all your failures, and I think there’s really a sense that that can’t be the way that we operate. We have to do shows for less money. We have to cut down the deficits. As foreign money becomes harder to get, as domestic syndication becomes more cluttered, as there become more channels and choices for everybody, there’s less off-network money, so you’re really just talking about people looking at the business and saying, ‘Ok this didn’t make sense. This didn’t make sense. How can we save money here, save money there.’ Because in the end it all comes down to money.

### Financial Considerations

Perhaps most importantly, and the factor underlying the other aspects of the decision making process is the cost of production, which of course ties into the company’s bottom line. The first place where cost cutting occurs is in the pilot stage.

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<sup>12</sup> Networks do not receive a financial interest in shows with a series commitment because the producer/studio has the upper hand in negotiating the terms. As Suarez explained it, “NBC...had a lot of deals that made it impossible to own, you know the John Wells, the Marta Kaufmans, the Steve Levitans, they couldn’t force ownership in those...”

<sup>13</sup> The networks are not the only ones doing this. Studios have reduced the number of writer/producers on their payrolls as well as a cost-cutting measure.

“[T]here’s not a dramatic reduction, but there are fewer [pilots],” according to Littlefield, “because the development process is so costly that people have gotten a little more conservative about that.” Ted Harbert agreed. “The process hasn’t really changed. Yes, there are less pilots made than there were before, because networks are losing money and so they’re cutting their budgets so they’re making less pilots.” So far, the only major studio to reduce production dramatically is Twentieth Century Fox, which reduced its pilot output by one third in 2002 (Adalian, 2002, p. 8). Recently, there have been rumblings in trade publications about producers creating presentations rather than full-blown pilots. However, McPherson attributes this to posturing by the networks rather than a change in the process. “[P]resentation just means the networks are going to pay less money...But you have to realize with that, it was studios competing to get on the air and being deficit entities we’re going to do everything we can, and everything we can includes spending more money to make the best show we can because it’s a sales tool. So by people saying we’re just going to do presentations that’s just a way of saying we’re going to pay less for pilots...When they [the networks] look at their budget rightfully they say – let’s [use] fake numbers – they say, ‘Ok, we have 10 million dollars. We’re going to do 10 drama pilots. But you know what, we’re going to actually do 12 drama pilots but for each of them we’re not going to pay a million dollars, we’re going to pay 800,000.’”

Rather than spend less on pilots, it seems the networks have become more selective in who they give money to. Certainly the cost of production has increased. In 1988, a half-hour pilot cost between \$650,000 and \$750,000. A one-hour pilot was more than double that amount (Lewine, Eastman and Adams, 1989, p. 148). Now, the cost of a

half-hour sitcom pilot can approach two million dollars. When the relationship is important enough, that number can go higher. Warren Littlefield gave me an example of an outrageously expensive drama pilot. “Well, if you want to be as recent as John Wells’ 8 o’clock Sunday night, *Third Watch*, I was told that was a little under 6 million.” Pilots have reportedly been created, however, for as much as \$10 million (Wild, 1999, p. 76).<sup>14</sup> This suggests that while the networks continue to express concern about rising program production costs, they are willing to pay for shows that they believe will ultimately make them money in the backend. Fewer pilots being produced would mean less access for producers, however, there is no clear evidence to date that the number of pilots being produced has been significantly reduced.

One way that program cost issues have clearly affected program selection is the acquisition by networks of a financial interest in programming. As mentioned above, when networks take a financial interest in a show, they are more able to control the terms of renewal. This is true because they are in essence negotiating with themselves and therefore will create the most favorable terms possible. A turning point for the way networks view the value of ownership and control of programming was the infamous *ER* license renewal in 1997. NBC was so desperate to retain this show for the network that they ended up paying \$13 million per episode. That license fee appears to have galvanized the networks in their aversion to shows in which they have no financial control. Littlefield explained the networks’ perspective on the importance of ownership in the following terms:

Well, the fact of the matter is if you look at the traditional model, the network basically rents for a four, five, six, whatever year period, rents a show in the form of a license fee. It’s an unacceptable model. Because in the first four years, the

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<sup>14</sup> UPN reportedly paid this figure for a series called *Seven Days*.

network has all the leverage, you build a monster hit or even a modest hit and the lion's share of the profits come to you at the network. However, you have built from nothing this phenomenal asset and then they can turn around and "ER" you. And then the shift changes dramatically and you can eliminate all profitability for a time period. You can destroy your financial equation and you have no participation whatsoever in the lifelong value of the asset when you have done a tremendous amount to help create the asset, so it's just not a model that's acceptable. So what you're going to see is, not 100% ownership of a schedule at a network, but you're going to see more and more ownership or joint ownership...So what you'll see I think is a lot more joint venture deals. You'll see more long-term protection for networks, so that an *ER* can't be repeated.

There is widespread agreement that the *ER* deal was a bad one, particularly from other producers. According to Dick Wolf, producer of the *Law & Order* franchise of shows, "The *ER* deal is the worst deal in the history of show business. And if they had made it a year earlier, it would have been about 3 million an episode. NBC lost football, they lost *Seinfeld*, and this was a perceived emergency. There's nothing on television worth 13 million an hour" (Longworth, 2000, p.17).

The *ER* deal had ramifications beyond just paying such a high fee for one show. It affected almost every other show on the network schedule. Tom Fontana, producer of *Homicide*, was forced to reduce the budget on his show to accommodate the *ER* fee. "NBC's capacity for profit has been basically eliminated. That's not to say they're losing money, but they're not making money. I'm told GE has a policy that, if one of the companies which it owns doesn't earn 10 percent profit a year of its budget, then they sell that company. Right now, NBC is not going to do that...so they are in the process of downsizing...NBC the network airs *Homicide*, and NBC the studio produces *Homicide*, so I have been asked to try to reduce the budget in the eighth year..." (Longworth, 2000, p. 44). Both existing and new shows are affected.



Taking a financial interest in programs has become a way for networks to protect themselves against this type of financial hit. Suarez predicted in 1999 that "...it [will] be [no] more than a year or two away when the networks own a piece of every show on their air. Otherwise people can hold them up for ransom the way *ER* did. NBC turned that show into a hit with the producers and with everyone else, but ended up being the only one who had to pay through the nose for it." He was right. With only limited exceptions, all of the networks have some financial stake in the new shows that appear on their air.

### The Impact of Network Ownership on the Decisionmaking Process

The significant factor affecting program selection was not necessarily whether the network produces a show themselves, but whether or not they have a financial interest in it. The television executives interviewed for this report agreed that networks would continue to increase their level of program ownership in the coming years. Some producers and executives were surer than others that the networks would require at least a piece of *every* show that appeared on their air. Some thought it was a bad thing and others were neutral about it.

As noted earlier, network executives sometimes have conflicting incentives between selecting the "best" show versus selecting the one that will make the network the most money. The continued concern about being forced into an *ER*-type renewal situation (i.e. being forced to pay higher license fees on successful shows in the fifth year when owned entirely by outside suppliers) plays heavily into the executives' decision making process. Explained Littlefield:

[Y]ou really do have to focus on one level what's the best show. On another level, you have to say, however, it may be the best show, but it could bring about

my extinction or it could be part of my extinction. So you're constantly fighting [selecting the] best product, or how do I get a piece of it or how do I protect myself? And that's the age that we're in right now...you can create a great, great value through network television for the life of the product and enough people still want to do that and you can only do that with a network...that's what the networks are good for...to create asset value. So that's why people are willing to say, 'Hey, we'll be in business with networks.' And virtually all the studios are open to some form of a sharing of risk and sharing of equity.

So even while the networks sometimes must decide between best show versus best buy, they remain acutely aware of their ability to provide something that no other media vehicle can, and that is the ability to create a valuable asset because no medium can provide the kind of exposure and promotion that network television does. This is why producers are willing to accept the new economic realities.

As expected, ownership in programming contributes to one program being selected over another. It is generally believed that some shows are also being maintained on the schedule for longer than they might be if the network did not have an interest in the show. Even shows in which the networks did not originally have an interest have had their financing restructured to allow the network to become a financial partner in order for a show to stay on the air, particularly in that ever-important fifth year.

*NewsRadio* is an example of this type of negotiating. Half a season short of syndication, the show was going to be cancelled. The producers gave up ten to fifteen percent of their syndication profits in order to remain on the air (Stroud, 1998, p. 26). This type of "negotiation" concerns production executives like Tony Jonas, president of Warner Bros. Television, " 'Shakedown' is probably too strong a word, but they should not have the right to insist on ownership just to provide real estate on the airwaves" (Wild, 1999, p.11)

Giving a piece of the show to the network has become a normal way of doing business since the repeal of the fin-syn rules, because access to the airwaves depends on

giving the network a financial interest in the program. Sometimes these requirements are subtle, like requesting that a producer create their show with their studio's production facilities, and sometimes they are quite blatant – your money or your show. While some producers are not happy with this situation, others see partial network ownership as an opportunity to improve the show's chances of getting, or staying, on the air.

Suarez says it can actually work in the producer's favor. "We have no problem with splitting ownership of a show with a network. It's the same deal to a producer. I don't care who's paying us to produce the show. And the backend is the backend to us. So actually, I like it because then a network is invested in the show and they have more at stake and more reason to put it on...And more reason to keep it on in kind of middling success, because it's harder and harder to launch a show." Rob Burnett, president of Worldwide Pants, an independent production company which produces *Ed* and *Everybody Loves Raymond*, suggested that network ownership may even help small independent producers by sharing start-up production costs. "For us since we are not big enough, we are not desirous of deficiating shows ourselves necessarily. If we are not set up to deficit and distribute shows we ultimately need a financial partner. So it makes more sense for us to get a financier earlier in the process...If we are ultimately going to have to invite someone to the party, you might as well invite them to help set up the party."<sup>15</sup>

The networks have sought and received ownership of programs to varying degrees.

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<sup>15</sup> Interview with Rob Burnett, producer and President of Worldwide Pants (March 22, 2002). All subsequent quotations from Burnett are derived from this interview.

CBS will have a 91 percent stake in its total network schedule next season, representing 23 shows and 20 hours of programming; Fox will have a 72 percent stake in its total network schedule, or 18 shows representing 13 hours; ABC will have a 62 percent stake in its total network schedule or 21 shows representing 19 hours; and NBC will have a 52 percent stake in its schedule or 23 shows representing 19 hours next season...UPN has a 67 percent economic stake in its fall schedule, and AOL Time Warner's WB Network has a 47 percent stake in its schedule. (Mermigas, 2002, p. 30)

CBS has been very aggressive in requiring that the company have a financial interest in all new shows that appear on their air. In the 1999-2000 season every new show on the network was partially owned by CBS ("TV Season Preview," 1999, p. A6). That trend has continued. While a few new shows have gotten on the air without the network having an equity stake, these shows are the exception. This trend exists at the other broadcast networks, but to a lesser extent. ABC, as discussed, combined its Disney production division with its ABC programming area in 1999. This was done specifically to increase the amount of Disney-owned programming on the ABC schedule, and thus far ABC has in fact taken ownership stakes in a larger percentage of shows since that time. In 1999, ABC produced only four scripted entertainment programs on its prime time schedule. Three years later, it has eleven such shows. NBC is the only network not affiliated with a major television production studio. Unlike the other networks, NBC had to create its own studio whereas its competitors became integrated through studio acquisitions. Because of this, NBC has not been as synergistic as the other networks.

According to Suarez:

There is no set rule, but I think that CBS was certainly incredibly aggressive. They own a part of every show that they put on. NBC was incredibly aggressive, but had a lot of deals that made it impossible to own, you know the John Wells, the Marta Kaufmanns, the Steve Leviathans, they couldn't force ownership in those, but I think they own a good deal of everything else they put on. Which

may work or may not. You know it's great to own it because the upside is so huge and you are spending a lot of time and money to create a hit that you want a piece of that backend. I think ultimately at the end of the day in the next few years, every network will own a piece of every show that goes on their air and it will just become standard. To be on the air at any network, you're going to give up X% of your show...Then people won't play this game any more. It's just, 'Okay, you're on with us. We own 50%, you own 50%. Let's call it a day and make a hit.' And there's enough profit there for everyone.

One of the areas most affected by in-house production is the genre of made-for-TV movies. It is an area that the networks have been readily able to enter at the expense of the independent production companies. Movies that are being produced by outside production companies are primarily big-budget miniseries that the networks could never afford to produce on their own. In fact, movies have virtually disappeared from the network schedule with each network having only one night devoted to this type of long-form programming.

### Vertical Integration

Relationships with the production community, audience testing, profit motive have long been part of the consideration process for network programming executives. Vertical integration, however, is a new element in this decision-making process. Vertical integration exists when a producer of any product owns multiple aspects along the line of production. In the case of television networks, they now can own production (creating the show), distribution (presenting the show to audiences) and ancillary markets (selling the show into syndication). This is only a recent turn of events. With the repeal of the fin-syn rules, networks were allowed to produce and own the programming that they distributed via their owned and affiliated stations. The market was opened for networks to be unlimited in producing their own programming. This led to considerable

consolidation within the industry among producers, networks and syndicators, thus vertical integration. Now network executives need to keep these multiple aspects of the business in mind when making their program selection.

The network executives interviewed for this paper were asked if they felt there was a difference in the process of developing programming internally versus externally. They saw little difference between acquiring programming from an in-house studio versus an external source, at least in terms of the actual process. “The selling may be a little different, but essentially what you’re always trying to do is package elements,” says Littlefield. “We have an idea or they have an idea. Find the writer and then you commit to a script. They come in, they lay out the characters, they lay out the story. You approve the story. They write a draft. You react to that, you give notes and then you say ‘let’s try it’.”

Having multiple perspectives on this process, Harbert agrees with the assessment of internal programming selection. “Traditionally, even an in-house operation will come in and pitch a show and it’s bought the same way and is selected as a pilot the same way and is turned into a series the same way.”

Currently, ABC, Warner Brothers and News Corp., owner of Fox Broadcasting, have a vertically integrated organization whereby a studio and a network report up through the same management structure, but operate as separate divisions of the respective companies. Stephen McPherson at Touchstone explained it this way, “I think vertical integration is both a management thing and a relationship thing, because you can vertically integrate an organization and if the people managing those various divisions and parts are not working together then it really doesn’t matter. I think you need to make

sure that each of the divisions maintains its autonomy, because I think that's what makes them productive and profitable, so it's a constant balancing act, [but in terms of the selection process] certainly vertical integration makes a difference."

Vertical integration is seen as eliminating a valuable step in the development process. First, developing programming is a creative process. When one entity created the programming and another would select it, the two companies would argue and disagree and out of those discussions, the show would often be improved. What has happened instead, according to Suarez is "...you ended up *not* pitching internally. You'd just develop the shows yourselves." So, unlike other executives interviewed, Suarez stated that the process did favor internal shows and eliminated the much of the development process altogether. Producers also stated that this process was detrimental to the overall quality of network programming. "I believe the best creative work always happens when there is a creative tension," says Matt Williams. "It used to be, studio executives would go into the network and they would fight like hell because they had ownership of this show, literal ownership, but also they felt proud about a show and they would beat the shit out of the network to get their show. How do you do that when it's the same company? And so what usually happened is out of that tension there was always a better show evolving where you challenged each other."

Another issue with vertical integration is that objectivity is lost in the selection process. While network executives are given incentives to programming the best shows, there is the possibility that that incentive is not enough when someone has worked on a show himself. "If you put the network person in charge of both sides of the fence...developing shows from the studio side and you also have to then choose the

shows as the network person that go on the air, it's impossible to ask the network person to have that much objectivity," according to Ted Harbert. "To be able to look at the show they've been developing from the very, very beginning and say 'Oh, no what I've just been working on personally, that I'm personally invested in from the very first moment with the writer, gee that's much lousier than the WB's show. I'm gonna go with the WB's show.' I just thing it's a virtually impossible thing to ask the people."

Some of these issues may be self-correcting by the market. While Disney restructured to be more synergistic that strategy has not proved to be successful for ABC. ABC has been unable to retain a network president and they have been going out-of-house for their programming. So much so that ABC has entered into a first-look agreement with HBO and has begun repurposing *Monk*, a show that airs first on the USA cable network.

Given vertical integration and the combined network/programming departments, all things being equal, an internally produced show is going to get an airing over one in which the network does not have an interest. It is also more likely to get a better time slot and be kept on the air longer. While it is possible that some shows of lesser quality shows are given preference over those produced by outsiders, this is a situation that may be self-correcting by the market. Ultimately, the network's job is to make money and the best way to do that is to put on the best shows. Much in the same way that the networks overproduced comedies in 1997, they realized that was not in their best interest and pulled back production of these shows in subsequent years. Similarly, if producing shows internally is not going to make a network profitable, as was the case with ABC, producing shows with external entities will be reinstated.



### Pilot Testing

Once the network has selected the scripts to make into pilots and the pilots have been produced, the networks must decide which ones will actually be scheduled for prime time. Part of that process is program testing, which has been accused of leading to risk-averse program selecting. “You have to have this star...,” says Paul Haggis. “You have to frontload the project, so if it fails someone can point a finger and go well, it had all the right earmarkings, it had this actor and this actress and this showrunner and it had a good script and so they can report to their bosses that they did everything they could and it still failed. Rather than taking a flyer on something with some strange idea with a bunch of nobodies in it and if it fails they say oh how could you be so stupid. Oh, I don’t know I guess we’re just stupid.” All of this leads to a reliance on research and testing – a quantifiable way to justify decisions.

Testing has long been part of the television industry. In *Inside Prime Time*, Gitlin (1983) quotes networks executive in the 1980s who explain that testing is “a tool...which should take a back seat to instincts” (Tom Werner, head of prime time programming at ABC) and “as one of ten things that feed into a [programming] decision” (Barbara Corday, head of comedy development at ABC) (p. 44-45). Producers have complained about testing for thirty years (Cantor, 1988, p. 165), and they continue to do so today. There are inherent problems with testing methodologies and in this sense, testing for television is no different than testing for any other product – people are concerned about the impression that their response will have with the person performing the test. Dick Wolf provides the following example, “...It’s just like when *I’ll Fly Away* was the second

highest testing pilot in five years because, if you call up a bunch of people on a cable test and ask, 'Would you watch a show every week about the civil rights movement in the sixties?' what do you think people are going to say? 'No, I'm a racist, I have no interest in watching that'? Of course they're going to say 'yes' but nobody watched."

(Longworth, 2000, p.16).

The difference now versus ten or twenty years ago is that testing methods have become more sophisticated. In years past, the network would rent an auditorium and invite people off the street to view and evaluate a particular pilot. This type of audience testing has largely been replaced by cable testing in which programs are sent to test subjects' homes through their cable box. Cable testing is considered superior to "auditorium" testing because the programming is viewed in its "natural" setting and because larger numbers of people are included in the testing sample, which make the numbers more statistically significant. It does still have its flaws. First, viewers are seeing the show without any pre-publicity. Second, viewers are only seeing the show once. If a concept is new or different, this type of testing, as with previous methods, will tend to have that show test badly. Harbert explains the process, "Cable testing...we put out a show to 15 markets and call up and recruit 30 families a market and get 450 families to watch a show and then they're called immediately afterwards...but the big fallacy in that is that not a show goes on the air now without at least a half-million dollars of marketing put into it where the audience is prepared for what they are going to see. The shows shown on cable testing they're seeing them cold and again if the show has any, a lot of edges anything too different or unusual the audience will be sort of caught

off guard and say, 'I don't like that,' but when they get used to what they're seeing after, then they can grow to love it and again those become the biggest hits."

Networks also use focus groups to supplement cable testing when assessing programming. These are groups of 10 to 12 people selected specifically because they fit a demographic profile of the program's target audience and who are asked questions about the show and asked to evaluate it after having viewed a pilot. Rob Burnett explained the problem with this research methodology.

It does is have a terrible averaging effect on what they put on television and what is misleading about it, I believe, is if you have a group of people and you go around the room and rate the show 1-10, and if everyone rates the show a 6, there's your rating. And then you have another show, where 3 people rate it a 10 and 7 people rate it a 0, that rating is a 3 basically for those 10 people in the room and that 3 won't get on the air. But the truth is, a show that can get 3 people to give it a 10 can be very powerful, because that is a 30 share and you have 3 people that are very passionate about the show and the other people hate the show, it doesn't matter. There's the other show where everyone is getting 5's and 6's, no one is going to watch the show, because no one cares about the show...you know its kind of like if you think of everyone in your house, all twenty people in your house and you have to decide what to get for food, and everyone is going to vote and you have to pick something that everyone likes, you know that you are never going to get the crazy Vietnamese-Thai food, that's never going to happen. You are always going to get pizza, every time, and I think that's what happens here.

The testing story of *Seinfeld* is well known in the industry. *Seinfeld* was one of the worst testing shows ever. Due to the willingness of network executives to consider factors other than audience testing results, *Seinfeld* was picked up by NBC and went on to be one of the most successful shows in the history of television. Nonetheless, examples like this generally have not tempered network executives' dependence on testing in program selection decisions.

Research has been called the lamppost to the drunk. It is something that network executives can lean on to justify their decisions. When large sums of money are at stake executives tend to rely on research to validate their decisions. This over-reliance on testing has been criticized as one of the culprits to making network executives more risk averse and relying on old, accepted program formulas.

### Changes in the Syndication Marketplace

Increasing numbers of channels competing with broadcast networks has only increased the financial pressure on networks. One consequence of this financial pressure has been to move programs into syndication more quickly than ever before. Syndication has traditionally been a major source of profits for owners of hit television shows. Syndication of a program was generally delayed until the show had run for approximately five years or when there were 200 episodes. This was done in part to avoid siphoning viewers from the network airing and in part to have enough shows in the can to be able to strip it during the week. Since syndication is where money is made, the networks are becoming less concerned with this potential conflict and opting to monetize their investment in programming more quickly than in years past. As a result, networks have begun selling shows into broadcast and cable outlets at the same time even at the risk of reducing viewership of newly-produced episodes of that show.<sup>45</sup> Ted Harbert explains what happened with *Home Improvement*. “Now networks...can’t wait to get a show that they have into syndication to a fault. They want them out there so quickly to try and reap some revenue, but possibly to the detriment of the show that’s still on their prime time

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<sup>45</sup> One exception to this has been *Law & Order*, which saw increased ratings on the network after it began airing in syndication on the cable channel, A&E.

schedule. I mean the studies prove that once a show that's on the air goes into syndication the network ratings come down. The best example, I think, is *Home Improvement*, which is a show that a lot of kids and teens watch. And when it was on the air in syndication at 7 o'clock, there was no reason for parents to let their kids watch it again at 8 o'clock or even when it was at 9 o'clock, actually it was at 9 o'clock then. Kids used to beg to stay up and to watch *Home Improvement* when it was on at 9. When it went into syndication, parents could say, 'Okay you saw it already tonight. Go to bed.' And that hurt the show."

Shows are no longer on a timetable when it comes to syndication. As McPherson explained it to me, a show goes into syndication "whenever that distribution entity feels that it can take advantage of the asset in the most productive way." That "most productive way" is changing due to the proliferation of television outlets. "There's 200 channels, 800 channels, if you get DirecTV, there's many more choices and there's less of a value to a lot of the programming that used to make up a lot of that air time. There's just much more stuff being done. Disney channel produces for itself. They're not going to take reruns of a family sitcom. As you have this proliferation of choices, there's still going to be a great syndication market for *Friends* or *Seinfeld*, but there's going to be less of a market for a lower level hit, mid-range show that people feel like, 'Well, rather than pay syndication money for that, I'll produce my own.'" This means that syndication may not be the pot of gold at the end of the rainbow that it used to be. Paul Simms, producer of NewsRadio, "[T]here are so many more channels, but there are also so many more sitcoms now. You make your money back, and you make a good amount of money, but it's not the huge jackpot payoff it used to be. That's going to affect the business. It used

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to be production companies could say that ten flops are worth it to get one hit; it's getting to be more like it's worth four or five flops to get one hit" (Wild, 1999, p.29).

In addition to accelerating the traditional point for selling programming into syndication, networks are attempting to reap more immediate financial benefits on shows they own by repurposing them on cable networks. Repurposing refers to airing episodes of network programming on another channel within a few days after its initial broadcast network airing. An example of this is *Alias*. This program is produced by Touchstone, airs on ABC on Sunday night and repeats later in the week on ABC Family. Fox also did this with *24* when it aired its original show on a Tuesday night and then repeated that same episode twice on the FX channel within one week of its initial broadcast airing.

What has made the selection process different now versus during the time of fin-syn is plain and simple economics. The marketplace is more complex. Production is more expensive. Syndication is more uncertain. Audiences are more fragmented. The networks are doing what they can to make money within a very volatile business environment. It appears that their programming decisions reflect the constant tension between selecting and airing the best programming and selecting the programming that will make the most money for the network.

### How Producers Stay in the Game

In the changing marketplace of program selection, producers have had to become more creative in the way they do business. In many cases this has meant being aligned with a major studio or with a broadcast network, particularly since they are becoming – if have not already become – one and the same thing. This aids in getting a show produced

and ultimately on the air. As explained by Warren Littlefield, these deals can be structured in a variety of ways.

There's all kinds of deals. Let's go to some examples...20<sup>th</sup> Century Fox Studios pays [David Kelley] a lot of money to have the distribution worldwide and the joint ownership with David Kelley of all of his television. David Kelley has series on ABC, CBS, and Fox. So their strategy has not been exclusivity. Their strategy has been...they would go out and sell a couple of series deals here and a series deal there and they spread it around...Bochco had the opposite concept. He had a deal at 20<sup>th</sup> Century Fox for many years just like David Kelley, only he would go in and tie up exclusively with a network. Originally with NBC, then with ABC and then with CBS...He's very frustrated by the stuff he put on CBS, that it didn't get treated differently and Bochco decided to go to a studio and he's not, it would seem now, making an overall network deal, so he's going to spread it around. He's going to do it more like Kelley at a new studio, Paramount... it's safe to say with someone like Bochco, of his caliber, that it's a joint venture. They're probably 50/50 partners. And that gives him a very healthy initial deal to come to the studio and it gives him heavy ownership in what he creates.

Paul Haggis, again, is affiliated with CBS and not with an independent studio. He explained his experience with CBS on a show he produced called *Family Law*. "I sold the concept to CBS, I said, 'Here is what I want to do,' the head of drama development and I talked it back and forth. He said, 'That's a great idea. Where do you want to do it?' I said, 'Let's do it at Columbia. They're good people.'" And so I took it to Columbia and they said, "Great. Let's do it." And then Columbia and CBS got together and said this should be a Columbia and CBSP, or CBS Productions, co-production, and that was without my input. I didn't disagree, but that's a studio and network decision. I'm a profit participant, I'm an owner of the show, but I'm not, I don't know the copyright. Producers sign it over to the studios and the studios, in this case, co-sign it over to the network."

Most producers are now aligned with a major studio or a network. As discussed here and in other sections, this does not appear to be problematic from the perspective of producers interviewed for this paper. It has meant an added level of security in having a vested financial partner early in the process. While there is no guarantee that these relationships will lead to a show being put on the air, being with a studio/network provides some added security that a show will be picked up particularly if the network has a financial stake in the show.

### **Once the Show is on the Air**

In addition to the selection process, the FCC was concerned about the level of network involvement in a show once it was on the air. Executives and producers uniformly agreed that established producers were left alone by the networks. They also agreed that young talent (when they could get in the door) was heavily managed by the networks. Littlefield gave an example of what happens before a show gets on the air. “When *Will & Grace* was pitched, we had made a deal. I made a deal at NBC Studios for Mutchnick and Cohen [*Will & Grace*’s producers]... And so they came in and pitched this huge ensemble of characters and kind of over in the far right-hand corner were the Will and Grace characters. And so what I said to them is ‘Well, take those characters, forget all these other people, take these two characters over here in the corner and put them in the center and you’ve got a show’... over several meetings and discussions where they came back and refocused the idea, pitched it out again, then wrote a draft, did a couple of re-writes, finally there was a piece of material that I felt was strong enough to



go forward. So then I sent it around to everybody else at the network, let them freak out because we're putting gay characters on the air and then eventually we made it."

Little has changed in terms of the network involvement in the creative process once a show gets on the air. Cantor (1988) described how the network involvement worked in the 1960s and early 70s. For new shows, a network executive would sit in on story conferences, scripts would be reviewed by the network censor and the show was viewed for final approval (Cantor, p. 122). On the other hand, highly rated shows or shows with competent producers were exempt from network supervision (Cantor, p. 127). Now, the story is very much the same. Once a show is on the air, the network executives were in agreement that many shows needed network oversight.

The amount of network supervision was dependent upon the experience of the producer. Again, Littlefield explains:

It varies tremendously based upon who you're in business with...[T]hink of it as a ...chart that went from 1 foot tall to 6 feet tall and you have all types of sizes in between, 1 being they're very young, they're very inexperienced, they need a lot of help and a lot of supervision, then they get a lot of that. That can also be termed interference. But the fact of the matter is there's a lot of people out there, because there are so many networks, because there's such a drain on talent who don't fully know what they're doing and they haven't had the training. And you're paying them enormous amounts of money every week and so they get a lot of involvement where stories have to be approved, directors have to be approved, guest casting has to be approved, every draft is gone through, runthroughs, there's a lot of network and/or studio intervention. Or, there're people like Kaufman Bright Crane [producers of *Friends* and *Veronica's Closet*] who are extremely... competent showrunners. They know what they want to do and probably the greatest thing, with a Larry David and Jerry Seinfeld, the greatest thing you can do is get out of their way. You know, I mean I think our greatest input ever on the *Seinfeld* show was: you need a girl. Okay? We looked at the pilot, it's funny. Get a girl. Okay? That was our contribution. That and we didn't fuck it up. We kept it going.

Ted Harbert's experiences at ABC reflect those of Littlefield at NBC. "There are a lot of producers who have shows on the air that aren't very good, both the shows aren't

very good and the producers aren't very good. It requires a lot of network involvement to try to help that producer find out what their shows about, find out how to tell a story that makes sense, and really help in just about every area of the show. There are other shows, like *NYPD Blue* or *The Practice* from David Kelley and Steven Bochco, where there's no network involvement needed at all, because those people are incredibly competent and not only are not looking for network involvement, but also don't need it because they're that good. It goes from 0 to 100...[U]nfortunately we live in this business where we eat up so much volume, we invite a lot of hacks into the room to put on shows that need a lot of editorial restraint and oversight."

McPherson offers a similar view on the extent of creative input by network executives:

I think it depends on the relationship with the exec producer, frankly," says McPherson. "I think in some shows they're [the network is] incredibly involved and in other shows they're not...There's only so much a network or a studio executive can impact on a show if you haven't hired someone who has a vision that they can execute on a week in week out basis. There are very few shows you could point to – I couldn't point to one – where it isn't driven by a singular creative personality who has a vision for the show or a team in Larry David and Jerry Seinfeld, that is executing it day in and day out. Can you help it with promo and make sure they're getting seen? Yes. Can you help with casting? Sure. Can you make sure that the story lines are going in the right direction or what you perceive is the right direction? Yes. But in the end it's about those people doing the shows and that's why they are such valuable assets. And they are few and far between, unfortunately.

From the producer's perspective the networks are involved in programming on two levels: oversight by a programming executive and review by the network's "standards and practices" group.<sup>16</sup> The producers expect the networks to be involved by providing notes at table readings. "You always have your point person," says Matt

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<sup>16</sup> The Standards and Practices area of the network reviews scripts and final shows to make sure that they adhere to the network's requirements in terms of language, sexual content, etc.

Williams. “You always have your executive that comes to the readings. It’s not your president of the network or anything, and they make suggestions and they give script notes and I’m, at least we have always made it a policy, we are political and rightfully so. You listen to all notes and then you go off and if you hear a good idea fine and good. But there was no one who ever came in and said you must do this, you MUST change this.”

Says Haggis,

Well, you know you have a different set of people developing the pilot and then the people who are going to supervise the series on the network level. So your current department takes over after about the sixth episode or so...And it all depends [on] the personality of the man or woman at the top as to how they supervise those shows and how much they trust the writer/producer...We had fairly light input as far as criticism, as far as ‘Don’t do that story,’ and when we did hear ‘Don’t do that story,’ it was usually because another series was doing a similar story that week and so they didn’t want two stories about abortion. One on our show on Monday and one on *Judging Amy* on Tuesday, or any of the other of their shows. And then we would argue and if we got into a really touchy area and we did three or four times on *Family Law*, we’d argue it out. It would be either myself and the head of current programming, or myself and the president of the network, would sit down and they would say, ‘No, we don’t think this is appropriate.’ And usually that was an intelligent sort of passionate meeting in which we were discussing is this responsible television or is this not.

Rob Burnett explained it this way:

The network has the control, they in the most classic sense are the client, and we are the producers, the sellers. The client has to be satisfied...The brightest and best network executives are ones that understand at its core, the writers and producers of a show will have to guide the show and they stay back and can make helpful suggestions... if you think of a doctor and a patient, I think the writers are the doctors and the networks are the patients. And the patients can say, I feel this way, I feel that way, but they don’t really know how to be doctors. So, they can be very useful in sort of suggesting things to the doctor but they haven’t been to medical school...What makes it very complicated and where I am very sympathetic to the network is most of the doctors out there are pretty bad, and they are key in this analogy, so I think that they are well within their rights to be very hands on and panicky sometimes, because I have seen first hand a lot of the people that are in charge of these massive productions and they are not very qualified to do it, so it’s a very difficult dance honestly, but the most successful shows on television, I believe, are ones where you get the right writer, the right casting, and it happens.

It is rare, however, that a network will ask someone to pull a show or drastically change a script concept, although it does happen. Tom Fontana had the following experience while working on *Homicide*:

The only time I can think of where I pulled a script that we were going to shoot was we had done a story about a SIDS death: it was based on a true story about a woman who had had a number of her children die, and they were supposedly SIDS deaths, but the truth was she had murdered them. Roz Weinman, who is the head of broadcast standards, called me and she said, "Listen, I'm asking you not to do this story, not because I think you've done it badly, but because, for parents whose children have actually died of SIDS, it's such a painful thing to have gone through, that to then have a show with the kind of clout that *Homicide* has, implying that they might have killed their child." She said, "I don't think you really want to do that to these parents." And when she said that, I said, "You're absolutely right." And I pulled the story. But that was the only reason I did it. What was great about it was that Roz and I fight all the time about everything, and I mean everything! And it was the only time she called me not out of a concern for the advertisers or the lobbyists or anything like that. She was coming at it from the same place that I like to think that I come at my writing from, which is the human heart. And I couldn't *not* do it. (Longworth, 2000, p. 48)

Paul Haggis had a similar story from an episode of *Family Law*:

There was, I remember we wanted to do an episode about a woman who was alleging discrimination because she'd had a double mastectomy and was suing her employers because of that. And this woman had been sort of pushed to the edge and there was a scene in which she stands and she rips her blouse open, because they're accusing her of doing this for cosmetic reasons. She rips her blouse open and she says, 'Do you think I would do this for cosmetic reasons?' Now, so we went back and forth on that. It was a very powerful scene and we'd had this prosthetic chest made for the actress which was exactly accurate as to what this would be. Do we show it? Do we not show it? So we ended up not showing it. I felt very passionately that we should. The president of the network felt very passionately that we shouldn't. Not because of the reasons that you think. But because she didn't think it was responsible. She thought it might scare other women off from getting life saving operation...It wasn't 'Oh don't do that' because of some salacious reason or ...'Do something because it's going to get us ratings.' They weren't coming to me for those reasons. They were coming for good solid reasons and you have to respect that input.

Even *ER* gets notes from the network:

Sure, [the network may ask us to change] language,” says John Wells, the show’s producer. “Not so much with story line, occasionally, but that usually has to do with health care issues. On *ER* it’s because they’re concerned that we in some odd way provide a lot of health care information to the viewing audience more than anybody else does. So they’ll get concerned if they think we’re not being balanced in a portrayal of a health care situation. But, sure, on language...The network, they’re genuinely concerned about how far can they push it and not lose advertising. And, at the same time, knowing that you could get beat to death on the other side by cable and by what other people are putting on the air. So they’re very conscious of it. It’s not just ‘Oh, we won’t let you do this because we’re prudish’; it’s ‘How far can we push it to compete with cable, and at the same time not alienate advertisers and some audiences?’ (Longworth, 2000, p. 134-5)

In all of these cases, the network input was from a point of sensitivity to the audience rather than advertiser or ratings concerns.

From the producer’s perspective, similar to that of the network executives, network participation is different depending on how well established the producer is in the business and how well the show is doing. “It depends on how successful the show is,” according to Matt Williams. “I’ll give you an example. When I was a writer/producer on the *Cosby* show, no one said a word. In fact, I think we saw the network show up once, maybe, and that was usually for a party, so there was no involvement. With *Roseanne*, the same thing. There was some minor involvement early on, saying shouldn’t the stories be a little stronger...so at the beginning and this was not imposed, it was suggested, a little bit more traditional story plotting and ok, we listened, but little involvement... If a show’s working, they’re all smart enough to keep their mouths shut and just stand back and let it go...Ironically, on our series that failed, there was much more involvement. ‘Can’t you emphasize this more? Can you bend the story lines more in this direction?’ And I think that usually happens, and this is where I’ll take some of the blame, it usually happens if you don’t have a really clear, specific premise

for your series. If you don't know exactly what the show is about and what it's going to do for 200 episodes, that's when the network will come in..."

As Littlefield explained earlier, the networks do have final say on a lot of areas including selection of directors, script review and casting. However, the network input is dependent on the relationship with the producer and most things are negotiable. Suarez says, "The answer is...it's a marriage. You don't always do everything they want. They don't always do everything we want. Good network executives don't try and dictate. They understand it's a process, an evolution...it's not cut and dry...do you get a note from a network saying kill off this character? No, no network is going to be that invasive..."

Many producers I spoke with and several that have been quoted in other sources have touted the advantages of producing for cable or one of the newer networks because of the "freedom" that these entities afford a producer. However, Steven Bochco, producer of *NYPD Blue* and *Hill Street Blues* among others, explains how this is not a panacea either, "Anytime you're in business with an entity that has 'above the line' creative controls, it means, in theory at least, you cannot hire an actor without their approval. You cannot hire a director without their approval. You cannot hire a writer without their approval. They have control over final cuts of all your product. So, on the one hand you're gaining tremendous latitude on the page, but you're giving up a tremendous amount of creative control on the other side of it. So, you know, I'm not sure that's such a great bargain, quite honestly" (Longworth, 2000, p. 201).

It is inevitable that the networks will be involved in the creative process at some level. They are paying for the show. They are promoting the show. However, as many

of the producers said, they are also working to put on the best show they can – their jobs depend on it. They hire the best people to do the job that they can and let them do it. There are, however, different levels of competence among producers. Both the network executives and independent producers concur that the level of network involvement seems to correlate with the level of experience that the producer has. The more experience, the less network involvement.

### **Blanding the landscape**

The real issue is what appears on our television screens. Many have accused the networks of putting on bland, uninteresting and uninspired programming. While some suggest that the new verticalization of networks and program production is at fault, there are other aspects of the network television business that contribute to what some see as suboptimal quality programming. These factors include: (1) a class of middle managers at television networks whose incentives steer them toward less risky, more formulaic programming; (2) a greater reliance on decisionmaking-by-committee; and (3) the introduction of marketing and advertising concepts, specifically the need to create new shows for an advertiser-friendly demographic, into the program selection process. Persons interviewed for this report indicate that these factors also play a meaningful role in the programming that networks decide to air.

With respect to the role of middle managers at television networks, some critics say that the changing structure of the television industry has led to network downsizing and therefore fewer middle-level executives with more at stake. The remaining middle managers are more afraid of losing their jobs and also continue to face the increased

financial pressure discussed earlier.<sup>17</sup> Neither network executives nor producers had anything particularly positive to say about this group of middle managers, though this is nothing new. In the eighties when the network hierarchy was more bureaucratic, these executives had the same sort of mentality.

More layers in the hierarchy means more executives with the power to say no, and the proliferation of that power means more executive involvement at every stage of decision-making and program production. ‘There is a curious corporate principle,’ according to Len Hill, ‘that says a person with a vice-president’s title will find enough work to fill the day. There’s a producer’s axiom: Beware of networks that have too many vice-presidents.’ Many producers share this lament (Gitlin, 1983, p. 129).

Most participants felt that programming executives, while not necessarily uncreative, were too afraid of losing their jobs to make any type of risky decision. As in the past, they considered this a contributing factor to the blanding of the TV landscape. Harbert talks about it this way, “[T]here are also a lot of shows that have too much oversight that don’t need it, so that the idea of the network and studio bureaucracies growing to the point where there are just so many people involved in the process that’s just counterproductive.... it’s very difficult when there’s a lot of pressure on their jobs to turn the profitability around, so unfortunately a lot of people interpret that as meaning they have to go increase their involvement. They have to stay on top of it more and give more notes. Well, that will just have an inverse relationship to what they’re trying to achieve [good programming].”

Paul Haggis explained the mentality of network programming executives this way:

I think as long as you have smart people running the networks you’re always, they’re always going to try and do great programming. Nobody sits down to do bad programming, or create a bad show and you always try to get the best writers, the best actors. It’s just the decisions. You know when you actually decide, sit

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<sup>17</sup> Of the four major broadcast networks, only NBC and CBS turned a profit last year.



down behind closed doors and say this one goes, this one doesn't...The business is shrinking, and people are working more out of fear. There are fewer daring network executives. That's not true. There are, Moonves [Leslie Moonves, chairman of CBS], there's no man I admire more than Moonves. Great guy. He's a straight talker and he really loves taking chances. Whether he can or not, something like *EZ Street* he says he loves the show, I'll program nothing but this. They're not watching what do I do? The answer would be keep it on anyway and they'll come to you. You hope that they'll still do that. They certainly did it with *Homicide* and a few other shows. That's becoming, that's a story you don't hear as often.

It is not just middle managers that are the issue. More and more programming selection is done by committee. "A television program is selected to go on a network schedule through a committee process," says Ted Harbert, "A low level executive buys the idea and tells them to go write a script. A script is written. The president of the entertainment division and their staff read all the scripts and decide which pilots to make. The pilots are produced, the pilots are screened for all levels of management at the network including Los Angeles management and New York management. This includes the sales department, the research department, affiliate relations department and overall network and corporate management. Then, depending on the network, a committee gets together and decides which pilots are chosen to become series and announced for a fall schedule." It is no longer creative people that have input into the decision, but also sales, marketing and other network departments.

Marketing came up as an issue with a number of people that I spoke with. While producers used the word marketing, what they meant was advertising – that is creating a show with a particular, advertiser-friendly audience in mind. Some producers said they would not produce a show for a demographic or a time slot and that the networks did not ask them to. "Your agents or your people or your people or your advisors are always saying they're looking for an 8 o'clock show or they're looking for a 10 o'clock show or

whatever I've never, they never come to me and say that, but that's what I hear from other writers," says Haggis. "No, it's hard enough finding a good idea. And, if you happen to find one that fits a teen audience or you happen to find one that fits geriatrics if it works, you pitch what's in your soul...and then you hope it's going to fit."

Others, however, admitted to trying to create shows for a particular time slot or a particular audience and most of them failed miserably. Matt Williams commented on his attempts to do this, "*Thunder Alley*. *Buddies*. And these were short-lived series. Not that we didn't make some creative mistakes. I'm not passing any blame here. But it truly was, 'OK, this is the approximate time slot, this is the kind of demographics they're looking for. Let's create a show for that.' And I learned pretty quickly – at least from my perspective, I'm not talking as a marketing expert or advertising or any of that part of the industry, I'm talking purely as a creative individual, it never worked." The advertising structure does affect the content in so far as it promotes lesser quality programs to fit a preconceived idea.

Overall, however, there does not appear to be any consensus about the state of the television landscape – some of it is very good and some of it is not. Rob Burnett described it best when he called it polarized. "I think some of the shows, particularly the one-hour shows are frightfully good. You look at shows like *The West Wing*, *Law & Order*. I think those shows in quality you can put up against a lot of feature films...I think on the comedy side some of them, like *Raymond* and some others, are also very, very impressive. And then there is a lot of stuff that is horrible, just really, really horrible." Stephen McPherson had a similar sentiment, though he was more positive about the landscape overall:

I think it's really underrated. If you look at the quality of both comedy and drama work that is done week in week out on television...between *West Wing* and *Law & Order* and *The Practice* and *ER* and *Alias*...There's really good drama work...Comedy wise, *Will & Grace* is as funny as any movie that I've seen lately and great romantic comedy. I think in the family genre, *My Wife and Kids* and *Raymond* are doing as good funny work as is out there. The thing is, television constantly gets berated for its quality, and it's such a vast market that by the nature of that there's just going to be crap out there. What happens is that things succeed and then people try to imitate them and those usually fail. But the new stuff, the stuff that sets new kind of boundaries, those things succeed. People are bitching now about reality. Do we have too much? Well, yeah, we do have too much because we have reincarnations or copycats of two things in *Millionaire* and *Survivor* that were fresh and new and interesting and incredibly entertaining and then everyone tried to do their version of it. And that doesn't work.

It is this repackaging of successes that some say leads to the blanding of the landscape. It is a risk averse strategy the film industry uses as well, for example, *Rocky 4* and *5*. That, however, does not mean there is not good television out there. It's just not all great. "I think it's not as good as it was a few years ago, but not as bad as it was many years ago," says Paul Haggis. "I think we really had some wonderful shows appear over the last 20-30 years and this was the second Golden Age of television for a while. It was some really great, great shows and I couldn't wait to watch. I don't see as many of them as I used to...There's still some great shows on, but they tend to be shows that have been on -- *NYPD Blue*, *Law & Order*, shows that have been on for some time...I couldn't give you 1 to 10 [rating], because I don't know what 1 is or 10 is, but I think it could be better. It doesn't stink."

## Conclusion

While the program development process – creating a needs assessment, communicating to the Hollywood community what the network’s needs are, committing to scripts and pilots – has not changed, the program selection process has. This process has been most affected by the change in the structure of the television industry, which has changed the economics of the industry. With increased consolidation has come increased alignment of producers with large studios or with the networks themselves. With changes in regulation, there has been the corresponding increase in network participation in the programming on their air, either through in-house production or their profit participation with outside suppliers.

No one seems particularly pleased with the current system and several participants expressed concern about the effect of the current system on program content. Producers are concerned about their ability to produce the kind of shows they would like to produce. Some, like Matt Williams, are leaving television and are working in film instead. Others, such as Paul Haggis, are frustrated with the system and are working in both television and film. Haggis explains why he is working in multiple arenas:

The landscape has changed a lot and I’m still pitching television shows. I still have multiple 13 commitments. I still love television. I still want to do it, but the landscape has radically changed...[with] the market share dropping the networks seem to be more conservative in what kind of programming they want to choose...You want to sell to the widest possible audience and my stuff tends to be, when I’m doing my best, work that can upset some people, or at least challenge some people...A long, long time ago, television was where you could do the brave work, the cutting edge stuff and films were where you did megahits...Things have sort of shifted in Hollywood where things are happening in films, the independent films have really come into their own in the last 15 years and they’re doing more and more interesting films out there and less and less interesting television. Not that great television isn’t still being done. There’s terrific television being done, but it’s much harder to get it on the air. Where it used to be I’d pitch one idea over the phone and sell it, now I’m pitching four or

five ideas before they find something that I'm happy with that they're happy with, so we can go ahead on a series.

Independent producers' desire to produce programming that is different or risky or in any way out of the ordinary is not new. One producer in the 1960s said, "...they wanted the series to go a certain way and I another, so they let me out of my contract because I like to do things my way" (Cantor, 1988, p. 128). Established producers were often shut out in the 1980s as well. Herb Brodtkin, a producer of both series and miniseries, claimed that only about ten percent of his ideas ever got on air (Gitlin, 1983, p. 122).

Network executives are concerned, however, about the product becoming homogenized because of program selection by committee. Ted Harbert offers a simple formula for networks to improve their programming:

I would just throw everybody else out of the room. I think it should be the head of the company, the head of the entertainment division and one or two of his or her trusted executives and not a gang...I would let the research department do their research, but I wouldn't let them participate in the process, because they all too often say a show will never work...That also goes for the sales department, the affiliate relations department, all these departments and that say oh, no my constituency won't like that or will like that. What that ends up doing is bringing in so many voices into the system that it takes all the, it rounds out the selection process so that you have homogenization. Anything with extremes ends up being eliminated and mostly safe shows...what I call nice shows, nothing wrong with them, but also nothing right with them and to me that's the other, besides technology the other contributing factor to the erosion...[O]nly when a programming chief stands up and says this is what we're doing do shows that end up really mattering, doing well get on the air. And often when the head of programming will take the chance and say thank you all very much for your input, forget it this is what I want to do, those are the decisions that have led to the most successful programs.

Suarez agreed, "[T]he problem becomes when they're letting the marketing department or the sales department have an equal say in the decision when they're not, when they're not the ones who were involved in the process. Anyone who worked on

*Mr. Rhodes* [a show NBC owned] could tell you O.K, that show's never going to make it. We don't have the writing staff, we don't have a lead actor, I don't care how it tests, there's no show there. It's all smoke and mirrors... we tricked you, but we knew we tricked you and we can't do that 22 weeks and that's where the system fails...We fixed the pilot. You can't do that every week.... And so it went on, and it stayed on for I think 18 episodes and was a failure. And cost the company a lot of money.”

Harbert continued by summing up the state of the business as he saw it , “The history of broadcasting, and film for that matter, has always rested on the idea that you need a diverse source of ideas to come up with a good schedule. And only being rather focused on picking the best and not letting anything else get in the way is what's led to successful, profitable schedules. Because of the change in the share levels, because of all the erosion and therefore the loss of profitability...and costs continuing to rise they're searching around for ways to get back profitability....I'm not a big fan of vertical integration, but frankly no one cares what I think anymore about that and they're going to do it anyway, so I might as well go join them. There's not a lot of choices.”

From the perspective of the FCC and the repeal of fin-syn, the issue is what are the networks doing in terms of their relationships with producers vis-à-vis their powerful position as gatekeeper to the American viewing audience. Are they demanding financial interest in the programs that appear on their air? The answer is yes. Are they giving preference to shows that are produced in house? Again, the answer is yes. Are the networks involved in the creation of the shows once they are accepted for air? Here the answer is a qualified yes. They are involved, but not to the point of telling producers what to write and not write. As shown in our companion paper analyzing historical

changes in diversity over time, there is no evidence that changes in the fin-syn rules have affected program diversity on broadcast network television. Whether increased network involvement in the production and ownership of television programming has affected the “quality” or other attributes of network programming is less clear. This paper is intended to advance the debate on program diversity, and perhaps even program quality, by explaining the network program selection process by relying on the insights of experienced network executives and independent producers.

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