Ownership Policies, Diversity, and Localism

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The purpose of this Round table is to help the staff of the Commission evaluate ownership limits and cross-ownership restrictions imposed on the broadcast and cable industries. In particular as stated to me: How best can the Commission achieve its goals with regard to diversity, and localism, and how can it be most effective in achieving these goals? That is, (1) knowing that the Commission has long been committed to promoting "diversity," what precisely should be the Commission's goals with regard to diversity? Are the Commission's historic distinctions useful in helping it to achieve appropriate goals? How should these goals be promoted? And (2) the Commission also long been committed to promoting "localism," and so what are rationale ways to make sense of "localism" as a goal?

MARKET FAILURES

What are the best ways to analyze mass media industries, and then how -- if necessary -- should one go about trying to make policies to correct market failure? A particularly important issue in this regard is how to fashion the most diverse ownership of the mass media. How should we make sure that the stated policy of public interest -- interpreted in this one case as localism -- be ensured?

I argue that we need to question a pure free market approach which assumes that efficient operation represents the paramount -- and often sole goal -- for any media enterprise, even ones so vital to democracy and quality of life as mass communication and mass entertainment. Studying the economics of mass communication as a homogeneous good or service assumes away the important roles played by the media in society and public life. We need abandon this far too narrow perspective which sees no reasons for any government intervention.

Citizens recognize negative externalities. Minorities all ask for more diverse ownership. Critics from all sides have long sought a forum for local expression. These two examples offer telling criticism, but so do many others. I suggest an institutional economic model as a better approach. If we are to move past efficiency as the sole criterion of proper policy (which uses pure micro economics as the lone tool for analysis of media companies), we must begin by recognizing that broadcasters, for example, are not simple firms reducible to equations but large complex social, cultural, and political institutions. When the Communications Act grants owners an exclusive broadcasting monopoly, it generates ramifications both in economic terms, but also in social, cultural, and political manifestations.

The importance of externalities is carefully laid out in James Hamilton's Channeling Violence (Princeton University Press, 1998). Looking solely at the market for television violence, he judges this an example of market failure whereby costs spill over to members of society and are not born by the industry. He compares this with environmental pollution, in which a firm that generates hazardous waste may not incorporate the full costs to society of its corporate decisions when its spillover effects are not calculated as part of what it costs to produce, distribute, and present the product to the public. A means needs to be created so the polluting corporation internalizes all costs (corporate and societal). If broadcasters, cable casters, and DBS deliverers do not fully incorporate all the costs to society (such as increased levels of aggression and crime), then we need a means to make them do so by restricting such programming to certain parts of the day, by labeling programming, or taxing them.

The optimal amount of television violence, as but one example of a negative externality, is not zero. Externalities need be considered in any policy analysis. Hamilton notes that one way to reduce damages from violence on television would be to use the licensing system. Programmers use violence as part of their profit seeking activity and Hamilton argues we need to seek means to make them internalize their negative externalities.

Over the years, the Congress has passed tax breaks to encourage minority ownership of television and radio stations. But the deregulatory movement of the 1980s and 1990s has generally discouraged use of all three of these methods, and instead looked to the Department of Justice and the Federal Trade Commission to enforce existing anti-trust laws. But anti-trust laws do not deal with diversity or localism.

There simply are too many complexities in the real world to rely on an idealized economic model. We cannot assume away complexities. That is, from the beginning, we need to acknowledge that the history of institutions plays a vital role, and that institutional ownership matters. Institutions seek to protect their monopoly power. We need to acknowledge that, and seek policies to encourage diversity and localism.

Central to institutionalists is the consideration of where social, economic and political factors intertwine. Tastes are not given, but learned from all three of these factors. In addition, institutionalists look to history, and see trends. Sadly, one major trend is to offer national network programming rather than local programming. Diversity of programming surely is greater than in the past with cable and satellite TV added to the mix, but sadly the owners of the cable systems and DBS companies have over the past 20 years have declined to a handful as Benjamin Compaine and I found in our study Who Owns the Media? (Erlbaum, 2000)

PERFORMANCE

The free market does not always lead to optimal differentiated products because of measurement difficulty and the variety of possible externalities. Constraints by the government do not always lead to sub-optimal product or service variety. These are conclusions based upon assumptions made in a neo-classical model which works poorly for judging mass media performance.

Examining performance of media industries ought to be the ultimate step in media economics analysis. It is at the level of performance analysis that communication scholars and citizens should -- and can -- take interest in media economics. We need to foster a connection between media economics and the longtime problems of how to best promote diversity, how best to promote localism, or how best to promote some other value we might hold dear. We need to select performance criteria that are as precise as possible: How well has a media industry functioned when compared to some ideal standard? If there is market failure, then is there a regulatory remedy to correct that failure?

Let me suggest six media performance norms that encompass most judgements and take them up in order of ease of use. These are all value judgements and their order does not reflect my priorities, but are derived from Dennis McQuail's Media Performance (Sage, 1992).

1. EFFICIENCY: Media industries ought not waste resources; that is they should be as efficient as possible. This is the sole criterion of the free market approach. Monopolists waste resources in order to maintain their position of power. However, what about control by a few firms? Many argue that this is just as bad, acknowledging that these industries regularly cooperate through powerful trade associations and thus hardly represent "lean and mean" business operations. However, while free market economists focus on only this performance criterion, media economics ought to weigh others.

2. MULTIPLE VOICES: Media industries ought to facilitate free speech and political discussion. A democracy needs freedom of expression to make it work and the mass media ought to be open enough to promote debate of all points of view. The marketplace of ideas calls for criteria of accuracy, and completeness. This surely much count in any definition of diversity.

3. PUBLIC ORDER: Media industries ought to facilitate public order. In times of war, violence, and crime, how should we regulate the media (if at all) to ensure differences? This is a growing area of concern as the media easily jump across national (and local) boundaries.

4. CULTURAL QUALITY: Media industries ought to protect and maintain cultural quality, and offer some product diversity. Can advertising-generated-revenue companies develop quality programming, and not simply dish up more sensationalism? Here the issue of use of television in elections becomes paramount. This surely must count in any analysis of diversity and localism.

5. TECHNICAL CHANGE: Media industries ought to bring to the marketplace new technologies as quickly as possible. It has long been known that monopolies and collusive

oligopolies resist the innovation of new technologies in order to protect their highly profitable status quo positions.

6. EQUITY: Media industries ought to equitable. Should members of groups in society be shut out of the mass media industries either as employees and managers, or as consumers? Executives and managers are nearly always white males. For consumers, access is becoming more and more restrictive as a larger share of the mass media go to direct payment. If television is an important link in our democracy, how will our process of government change when a sizable segment of the population lack access to cable or DBS television? This strikes at the heart of the diversity question.

IMPROVING PERFORMANCE

But applying these six criteria, consistently and fairly across all the mass media is difficult to do. Profit maximizers are more explicit. Business Week in its annual March report of publicly traded companies uses eight criteria: total return for the year, total return for past three years, sales growth for the year, sales growth for 3 years, profit growth for the year, profit growth for past three years, net margin, and return on equity. This is what industry seeks (and the market rewards them). Most of the six criteria noted are not raised.

We ought to worry about maintaining universal service, the creation of propaganda, and about the maintenance of a single mass taste culture. We need to worry about bridging information and media gaps, about securing political involvement, about maintaining creativity, independence, and diversity, and about minority rights and cultural identity.

At the heart of all radio and TV lies the “public interest” obligation. But what defines the “public interest” has always been controversial, with at least three considerations at work: ownership restrictions, content restrictions, and protections of certain spaces for political debate. The 1996 Telecommunications Act did not revoke broadcaster’s public trusteeship, but continued a trend begun with the 1992 Cable Television Consumer Protection Act which contained a clause intended to impose traditional public interest obligations in the new world of

DBS. This debate over obligations of “public interest” should define the role for proper radio and TV policy as the 21st century begins. While the public interest has been interpreted as including an open marketplace of ideas, and universal service, it also includes localism. This ought to mean the community to which the station is licensed reflects the multiplicity of values and issues in that community.

For me, diversity is key. We ought to applaud the innovation of new cable networks, from BET for African Americans to Lifetime for females, from Univision for Hispanics to Discovery for documentary fans. Great, yet we ought to recognize that this plethora of choices is controlled in most cases by a single company. Most U.S. households can choose among their local cable company, DirecTV, and EchoStar. This is a diversity of three -- a cable company, DirecTV or EchoStar. And the latter two have been constrained until recently to offer little in the way of local service.

For workers, affirmative action rules, set up in 1969, which measured a company’s balance of minority employees against the percentage of minorities living in the broadcast TV market, led to more female, African American, and Hispanic faces and voices on television, and radio. These rules led to some success such that by the end of the 20th century minorities made up a fifth of broadcast industry employees, and more than a quarter of those in the cable business as reported by the Commission. By this same Commission survey women in 1998 made up two-fifths of broadcast TV workers, and about the same percentage in cable TV business, while they made up a shade over half the population of the U.S. But since then the pressure has been to soften these rules.

MEETING THE PUBLIC INTEREST

We can do better. Communication systems break down space and positively tie us together; but they also cause disconnections, paranoia, and social volatility. For instance, Robert Kuttner in his Everything for Sale (Knopf, 1996) persuasively links the erosion of civic life through the 20th century with the agenda setting power of the mass media in general, broadcast television in particular. The broadcasters have argued for the positive externalities -- assuming that they alone by continuing a free, advertising-based system television to link our nation in vital ways. But the diversity of programming comes only with cable and DBS, and the praises for that access have climbed far faster than inflation.

RADIO

Reform was attempted with the 1996 Telecommunications Act. Particia Aufderheide's Communications Policy and the Public Interest (Guilford, 1999) offers a fine survey of the failure of the Act as the 20th century closed. Most telling has been the example of radio. The 1996 act lifted the ownership limits, and localism and diversity disappeared. Economies of scale pushed radio consolidations, and the Department of Justice stepped in, and began to negotiate a case by case set of consent decrees as to proper shares of advertising dollars per market, ignoring other criteria for proper performance.

Prior to the 1996 Act, radio broadcasting had been more decentralized and thus considered a monopolistically competitive industry. That is, there were many stations offering closely competitive "products," that is formats, particularly in major markets. Research showed that the average person tuned into a score of stations -- through button selections on the automobile radio -- and several country stations, for example. Further, each substitutable station in the market sought to differentiate their on-air product in the mind in the listener by way of different combinations of music, different disc jockeys and personalities, and by different marketing tactics. There was diversity, albeit not perfect.

But in 1996 ownership rules were relaxed, and chains developed collections of radio stations numbering from the hundreds into the thousands. With this concentration of ownership, decisions of formats were made within the same group, and so the economics of monopolistic competition disappeared, and radio broadcasting began verging toward a classic oligopoly -- particularly within bigger markets.

The Telecommunications Act of 1996 set off the greatest merger wave in history. CBS took over Infinity Broadcasting; Clear Channel took over every one else in major markets, it seemed. In a telling metaphor Infinity's founder, Mel Karmazin, noted: "it's like combining two ocean front properties." He meant that the new empire would not be some “mom and pop” collection of rural stations in small towns, but would own a half dozen to a dozen outlets in the biggest media markets in the USA. By the 20th century, formerly local and diverse radio had come to often to mean an outlet of Clear Channel, CBS, or ABC.

NEWSPAPER RULES

On 13 September 2001 the FCC called for comments on relaxing its newspaper-TV station cross ownership rule. Yet the fundamental problem is that for most communities there is but a single dominant newspaper. Here is a local product, that over the past decades, has seen one newspaper take over cities and small towns alike. From the perspective of a local retailer or real estate broker, whether the local paper is one of dozens owned by a group or the only daily newspaper property of a local family, the issue is almost universally the same: if the local daily newspaper is the most efficient medium for them to reach the their market, they have but one choice. Similarly, for the local resident, who feels it useful to read about the local sports teams, the issues in town government, the developments on the school board or the sale items at the supermarket that week, there have been few alternatives to buying the daily newspaper, regardless of the form of ownership. And with advertising concentrated in one newspaper, it is expensive and highly unprofitable in the short run to start a second, competitive newspaper.

Surely large monopoly newspapers can hire the top talent and report stories with more resources that small independent newspapers facing competition. But that they can do this does not guarantee that they do, or that this addresses other issues.. Newspaper owners profit maximize as do other corporations, and thus it is up to the owners and managers to determine how much to invest in longer stories, costly to produce. This is a difficult balancing act, and with no competition from other local news organizations for longer stories -- as TV has never done this -- the performance of newspapers is best seen as preservation of its monopoly through some prestige in prizes but not so much as to draw away from maximizing profits. While more than 500 cities and towns had two or more competing newspapers in the 1920s, including 100 cities with three or more papers, by 1998 that figure -- even at its most expanded definition -- had decreased to 34 cities, including those with federally mandated (permitting lower costs through economies of scale of operation) joint operating agreements.

Thus, the rule which bars common ownership of a broadcast station and a daily newspaper in the same market ought to remain -- as it at least offers more diversity in voices, and more localism.

CABLE RULES

On 13 September 2001 the FCC called for comments on relaxing its cable ownership rule. The cable television franchise provides a classic example of a media monopoly. The core of the cable television operation -- where programming meets its customers -- is the basic local franchise. And cable television franchises are monopolies (except in rare cases of so-called over-building where two cable systems are built covering the same area) for their legally defined area. That monopoly forms the economic power of the cable television business, through government protection. Once one owner obtained a legal franchise, for a defined period of time no competitor can arise to challenge the franchise holder. To take advantage of significant economies of operation, corporations collect franchises under one corporate umbrella, creating a multiple system operator, where a number of cable franchises are collected together under a common owner and reap significant economies of scale.

Indeed, as the 21st century starts, cable companies are working on new methods to capture more power, led by clustering, a process by which MSOs consolidated system ownership within separate geographical regions. While clustering provided a means of reducing costs, and attracting more advertising, clustering also significantly raised barriers to entry to potential over builders.

The 1996 Telecommunications Act anticipated that for the most pervasive of the mass media, television, new technological delivery systems would challenge the oligopoly power of the broadcast networks and monopoly power of the cable TV industry. DBS provides two options, improving choice for the customer only modestly. DBS has yet to offer any form of localism, and its array of alternatives usually mean more from the same genres cable offers. The power of this entrenched industry can be seen in its continual ability too raise prices to customers. Double digit price increases have become the norm, signaling the truest measure of the little impact of the promised competition, diversity, and localism.

Thus I recommend that the ownership provisions of the 1992 Cable Act remain and even be made more restrictive. Cable monopolies offer no help in making the world of television more diverse, and create little in the way of new local programs. More cable companies might.

CONCLUSION

Externalities need to be explicitly considered by the Commission in terms of diversity and localism. Specifically I suggest (1) rethinking radio ownership policy, (2) keeping current newspaper rule, and (3) keeping the cable rule.