Consumers Union

Publisher of Consumer Reports

CFA Consumer Federation of America

Testimony of Gene Kimmelman,
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On Behalf of Consumers Union and the Consumer Federation of America

Before the

Senate Committee on Commerce, Science, & Transportation

On

Media Ownership

May 13, 2003

"Independent, aggressive journalism strengthens American democracy, improves the lives of its citizens, checks the abuses of powerful people, supports the weakest members of society, connects us all to one another, educates and entertains us. News matters."[1]

"Broadly speaking, three factors distinguish newspapers from one another: ambitions, resources and values. Ownership is probably the greatest influence on all three."[2]

Revolutionary changes in technology and an explosion in media outlets certainly justify the need for Congress and the Federal Communications Commission (FCC) to launch a review of previous limits placed on how many broadcast television stations, newspapers or other major outlets for media news, information and entertainment one company may own. However, it does not follow that just because the world has changed, ownership limits must be removed or significantly relaxed. Such action is not supported by a careful analysis of exactly how the media landscape has changed:

* Yes, the Internet exploded onto the media scene, but no, it is not a significant source of news and information for most consumers. In fact, for the few who rely upon the Internet as a source of news, the major sites consumers visit are owned by large media companies.[3]

* Yes, cable has steadily grown to challenge the broadcast networks, but no, cable does not provide any meaningful local news and information other than by retransmitting local TV broadcast stations. In the few cases where there is a local cable news channel, it is often owned by a local broadcaster.[4]

* Yes, there are many more local TV stations than 25 years ago, but only about half of local channels provide local news coverage.[5]

* Yes, newspapers are no longer the leading source consumers cite for receiving news and information, but no, this is not a change from 25 years ago – television overtook newspapers as the dominant source of news and information before the ban on owning both a local newspaper and broadcast TV station was instituted by the FCC. However, they remain each other's major competitors and watchdogs of each other's behavior: about 80 percent of consumers rely upon TV and newspapers for their local and national news.[6]

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[1] Leonard Downie Jr. and Robert G. Kaiser, The News About the News. Page 13 (2002),
[2] Id., at 76.
[3] See Appendix A at 1, 2, 4.
[4] See Appendix A at 1-3.
[5] Filing of Bruce Owen on behalf of Fox Television Networks, FCC Docket 02-277.
[6] See Appendix A at 1-2.

* Yes, on the national level there are many more news and entertainment channels than 25 years ago, but no, this does not translate into very much diversity of ownership. National broadcast networks and one cable company (AOL Time Warner) own all of these news channels. These same five companies control most of the leading primetime entertainment programs. And they get much more of their primetime programming from in-house studios than 25 years ago, reducing competitive sources of popular programming.[7]

While it appears that a majority of the FCC's Commissioners continue to believe that media ownership rules must be changed, the facts strongly point in the opposite direction. The FCC, in its rulemaking proceedings, has compiled data demonstrating that massive consolidation of ownership and control of media – during a period of an explosion of outlets – has left virtually all TV broadcasting and newspaper markets so concentrated that further mergers would undermine competition.[8] And the FCC has an enormous factual record, loaded with both quantitative and qualitative evidence, demonstrating very few changes in the sources consumers rely upon for their most important local news and information.

The FCC now has all the evidence necessary to justify preserving almost all of its media ownership rules, which it failed to compile before the federal courts last reviewed and raised concerns about the ongoing need for them. And nothing has changed Supreme Court precedent which interprets freedom of speech to mandate protection of the public's right to speak and be heard through the media, over the more limited rights of corporate media owners to control speech on their own outlets.

If the FCC reviews its media ownership rules based on facts, rather than ideology, Consumers Union[9] (CU) and the Consumer Federation of America[10] (CFA) believe it must retain or strengthen most media ownership limits to promote competition within and between media, diversity of viewpoints from independent owners, and meaningful local content in popular media.

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[7] Tom Wolzien, *"Returning Oligopoly of Media Content Threatens Cable's Power."* The Long View, Bernstein Research (Feb. 7, 2003).

[8] See Appendix A at 8-9.

[9] Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the state of New York to provide consumers with information, education and counsel about good, services, health and personal finance, and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of *Consumer Reports*, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, *Consumer Reports* with more than 4 million paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

[10] The Consumer Federation of America is the nation's largest consumer advocacy group, composed of over 280 state and local affiliates representing consumer, senior, citizen, low-income, labor, farm, public power an cooperative organizations, with more than 50 million individual members.

But will the FCC, scheduled to rule on the future of ownership rules on June 2nd, reach a decision based on Supreme Court precedent and these overwhelming facts in the Commission's rulemaking record? We fear it will not, based upon past statements from the Commission's leadership. For example, just two days ago, Chairman Powell and Commissioner Martin were described in the New York Times as planning to relax national and local broadcast TV ownership limits, and the ban on owning a broadcast TV station and dominant newspaper in a community because:

> . . .diversity of voices . . . is far less a concern in a society where cable and satellite subscribers can now receive hundreds of channels in addition to an unlimited amount of material from the Internet.[11]

CU and CFA believe that if the Commission fails to fully evaluate who owns these "diverse" outlets, fails to distinguish local sources from national channels, and fails to rely upon how consumers actually use – as opposed to theoretically use – media to obtain news and information, the Commission will be deceiving the American public.

If the FCC relaxes media ownership rules because it no longer believes it must attempt to follow the Supreme Court's interpretation of our Constitution's First Amendment – promoting "the widest possible dissemination of information from diverse and antagonistic sources," the Commission will be underestimating the importance of diverse local and national media ownership to the detriment of our democracy.

Why does this matter? Because the major media—television and newspaper—play a critical role in gathering and disseminating the information that citizens rely upon to make the judgments and decisions that define our democracy. It matters because the media ownership rules ensure that there are multiple media owners and diverse media viewpoints in every community. They prevent one company from having too much control over media content in any one place at any one time. The rules provide checks and balances that help media companies not only serve as watchdogs for government and business, but also for each other.

Weakening the nation's media ownership rules is likely to spark an avalanche of mergers that would reduce competition and diversity of ownership. Not only would this harm social and political discussion in a community, but it could raise the costs of advertising in local media – costs which are passed on to consumers.

Media ownership rules are essential to a healthy democracy because they prevent any one owner from dominating any particular media market. Americans depend on mass media to learn about current affairs, keep abreast of local issues, and make informed political choices. These rules were adopted to ensure that the public would receive a wide range of contrasting

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[11] Stephen Labaton, *"Give-and-Take FCC Aims to Redraw Media Map."* The New York Times, May 11, 2003.

perspectives from the media, not simply the opinion of a dominant media owner in a particular community.

FCC Chairman Powell and others often cite the age of the media ownership rules as a reason for eliminating them,[12] but Congress explicitly endorsed these rules in the 1996 Telecommunications Act,[13] and even adjusted them to current market conditions in the Act. For instance, the 35% National Television Station Ownership rule was the subject of considerable congressional debate.

The largest media giants are now trying to get rid of media ownership limits, claiming they infringe on corporate "free speech." Even Chairman Powell has asserted that the First Amendment is simply a tool to protect citizens from government intrusion on speech, not from corporate limitations on speech.[14] But Powell's view is totally inconsistent with Supreme Court precedent confirming the government's power and need to limit both corporate and governmental excess in order to preserve the public's marketplace of ideas.

The Supreme Court articulated the fundamental meaning of the First Amendment in Associated Press v. United States:

> The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful reasons to the contrary. That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society. Surely a command that the government itself shall not impede the free flow of ideas does not afford non-governmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom. Freedom to publish means freedom for all and not for some. Freedom to publish is guaranteed by the Constitution, but freedom to combine to keep others from publishing is not. Freedom of the press from governmental interference under the First Amendment does not sanction repression of that freedom by private interests.[15]

Under this dynamic principle, media ownership rules should be a tool for expanding, not providing "just enough" democratic discourse. The Supreme Court has interpreted the Constitution in a manner that protects private and public activities that promote the ***widest possible*** dissemination of information as a fundamental element of freedom of speech.

[12] Michael Powell, *"Should Limits on Broadcast Ownership Change?"* USA Today, Jan. 21, 2003 (stating that "most of [the media ownership rules] are older than Dragnet.")
[13] Public Law 104-104.
[14] Remarks of Chairman Michael Powell at the Media Institute, on March 27, 2003 ("My warning is this, while we are right to concern ourselves with Citizen Kane, we should not use that concern to justify the resurrection of King George. Our founding fathers said little about commercial owners of news and print, but they reserved the top spot on the bill of rights to condemn the government from foisting its values, preferences, viewpoints or tastes on a free people. This is where the gravest constitutional danger lies.")
[15] Associated Press v. United States, 326 U.S. 1, 20 (1945).

As the dominant means of communication have changed over the course of the 20th century — evolving from print to radio, to broadcast television, to multichannel video distribution systems such as cable and satellite television — Congress and the Supreme Court have consistently and unequivocally renewed their commitment to diversity and the richest possible civic discourse.

One thing that has not changed over time is that owners have a bias. For example, of all the newspapers that editorialized on the issue of whether the government should give digital spectrum to the broadcasters during debate on the 1996 Telecommunications Act, every newspaper that did not have an ownership stake in a broadcast property editorialized against giving away the spectrum for free and every newspaper that did have such an ownership stake editorialized in favor of the spectrum giveaway.[16]

This bias is not always limited to the editorial page. Recent analysis of reporting in newspapers that editorialized in favor of particular Senate candidates found that reporters tended to favor the candidate their papers' editorial pages endorsed. Obviously, in terms of framing news events, determining what to say about them, how often to report on them, what opinion pieces to run about them, etc., it matters who owns and controls media outlets. Major sources of news and information need competitive pressure to stay on their toes as much as – if not more than – everyone else in the marketplace.

With its apparent inclination to relax or eliminate media ownership rules, the FCC seems to be asking: "if other kinds of markets can sometimes be reduced to four or six players before the very worst kinds of consumer harm occur, why should we not allow similar levels of concentration in media markets?" But as Justice Frankfurter warned the nation in comparing media with other markets:

> Truth and understanding are not wares like peanuts and potatoes. And so, the incidence of restraints upon the promotion of truth through denial of access to the basis for understanding calls into play considerations very different from comparable restraints in a cooperative enterprise having merely a commercial aspect. I find myself entirely in agreement with Judge Learned Hand that neither exclusively, serves one of the most vital of all general interests: the dissemination of news from as many different sources, and with as many different facets and colors as is possible. That interest is closely akin to, if indeed it is not the same as, the interest protected by the First Amendment; it presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection.[17]

[16] See James H. Snider and Benjamin Page, *"Does Media Ownership Affect Media Stands? The Case of the Telecommunications Act of 1996."* 1997 Midwest Political Science Association Meeting, Apr. 10, 1997.
[17] Id. at 17.

<u>The Newspaper/Broadcast TV Cross-Ownership Prohibition: Why it is Still Vital</u>

Most communities in the U.S. have one newspaper, and most communities' broadcast television markets are already either moderately or highly concentrated. When the markets for the sources of information that most Americans rely on for their news and information – newspaper and broadcast – are already highly concentrated, taking steps that will further consolidate those markets should give us pause.

If there ever were markets that we should not allow to become even moderately concentrated, it is the markets that provide the key news and information that fuel our democracy. The FCC is sitting on a mountain of data which demonstrate that newspapers and local TV broadcast stations are precisely such markets and virtually all of them are already highly or moderately concentrated.[18] Therefore, if the FCC changes media ownership in a manner that enables national networks to buy more local TV stations and more of those stations to combine with other TV stations in the same market, or combine with dominant newspapers in the same market, the Commission would be undermining competition within and across media and endangering democracy itself.

The majority of U.S. citizens still get their news and information from newspapers and television.[19] On average, each newspaper has 62 reporters, each broadcast television station has 24 reporters, and each radio station has 3.[20] And while the Internet has become a means of accessing news that some Americans use, it is simply another distribution channel, and is not a distinct means of news production. Evidence shows that the news and information available online on the Internet—especially local information—is primarily produced by the very same local newspapers and television stations that citizens turn to offline.[21]

Furthermore, newspapers are a key input to all other media. Much of what is covered on broadcast television has its origins in newspaper stories, and television often reduces complex stories to short visual images with sound bites.

> Television, like radio, is a relatively inefficient conveyor of factual information. The text of Cronkite's evening news, after eliminating the commercials, would fill just over half the front page of a full-sized newspaper. A typical network evening news show now mentions from a dozen to fifteen or so different subjects, some in just a sentence, whereas a good newspaper has scores of different news items every day. A big story on television might get two minutes, or about 400 words. The Los Angeles Times coverage of the same big story could easily total 2,000 words.[22]

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[18] See Appendix A at 8-9.
[19] See Appendix A at 1-2.
[20] See Appendix A at 5.
[21] See Appendix A at1-2, 4.
[22] Downie and Kaiser, at 125.

Cable television is not a substitute for diverse, locally owned media, given that there is virtually no local cable news production. Most of the consumers who cite cable as their source for news and information, identify national, not local cable channels which offer virtually no local content: Fox News, CNN, Headline News, CNBC, and MSNBC.[23] A number of cable systems offer one local news channel, but they are often owned by a local broadcast station, offering no new local viewpoints to the market.

Who is it that commonly uncovers the most egregious behaviors in government and the marketplace? Did corporations blow the whistle on each other to uncover crooked accounting practices last year in the midst of several of the largest bankruptcies in history? Did the regulatory agencies with oversight over these industries first get to the bottom of this corruption? Absolutely not. In many cases, it was journalists—the "fourth estate"—that brought these problems to light. Journalists bring these problems to the government's attention and initiate the process of both public education and prompting the appropriate response to bad behavior. Legislatures, regulatory agencies and many other institutions play a significant role, but it is simply naive, and indeed impossible for them to take over the watchdog function that newspapers and television provide our society.

The media ownership rules are designed to increase the likelihood that there will be a sufficient number of independent media outlets—with strong competitive incentives between them—to provide antagonism necessary for aggressive reporting when a company involved in the media is itself engaged in this kind of practice.

Consider how last year, the Washington Post reported questionable accounting practices by D.C.-based America Online (AOL). The investigation involved reviewing hundreds of pages of confidential AOL documents and conducting interviews with current and former AOL officials and their partners. After months of investigative work, reporter Alec Klein broke the story that AOL had indeed boosted revenues through shady advertising deals. Shortly after the Post published its findings, the federal government launched criminal and civil investigations, leading AOL to restate its earnings.

But what if AOL Time Warner had owned the Post? Investigating this kind of story is a significant investment of resources; to take a reporter off day to day work and engage in months of investigation requires a substantial financial commitment. Had AOL owned the Post, it seems highly unlikely that it would have invested heavily in this story when it meant not only lost staff time but also a negative effect on its bottom line.

Furthermore, this happened in a national news town, with numerous sources of investigative reporting. What would have been the outcome in a community where—like the majority of communities in America—there is only one newspaper, if that newspaper were also owned by a dominant broadcaster?

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[23] See Appendix A at 1-3.

So far this year, local media have been uncovering similar abuses all around the country:

- *The Tennessean* discovered racial discrimination in the mortgage business, where blacks were turned down up to three times more often than whites, even when they had similar incomes (Apr. 28, 2003);
- *WABC-New York* dug up Manhattan restaurants' tax records and discovered hundreds of thousands of dollars missing in back taxes (May 6, 2003);
- *The Kansas City Star*, after spending five years getting access to audits of the Univ. of Missouri system's credit cards, found evidence that raised questions about more than $3 million in charges (Apr. 28, 2003);
- North Carolina's *News & Observer* discovered scores of real estate developers misusing a state program designed to protect family farms to keep their property taxes low (Apr. 14, 2003)
- The Bergen *Record* in New Jersey found Jersey lawmakers doling out pork to their fellow Democrats in a greater proportion than to their Republican colleagues (Apr. 4, 2003)
- *The Orange County Weekly* successfully ferreted out records demonstrating District Attorney Tony Rackauckas used taxpayer money to fund trips to Mexico and Palm Springs, including spa visits, car rentals, and in-room videos, as well as an aide who charged $4,600 in bar tabs to the public treasury.

If these same entities were reporting on companies that owned them, would they have exposed these same abuses? And if they are allowed to combine the leading sources of newspaper and broadcast news gathering, how likely is it that anyone else in the market will have the news gathering resources to blow the whistle on this dominant media company?

Even when a newspaper is trying to do what is "ethically correct" in covering its own affiliate, the result of cross-ownership, or "convergence" appears to be self-censorship: either failing to report at all, or failing to report aggressively, to avoid an appearance of bias. Such companies may try to be ethical, but, if others do not step into the void, cross-owned companies end up shortchanging their communities by underreporting matters that concern the media company itself. Appendix B includes numerous examples of how competition in journalism has been compromised in the few communities where the FCC grandfathered newspaper/broadcast combinations and waived its rules prohibiting newspaper/broadcast cross-ownership.

The largest media conglomerates have been the driving force behind the push to eliminate media ownership rules, citing their desire to achieve "synergies" through cross-ownership and increased horizontal ownership. But these supposed "synergies" may be nothing more than smoke and mirrors.

> Reporters at large newspapers with active Internet sites and radio and television relationships can produce news for four different media in the same day. . . . [But] much

> of this news sharing amounts to little more than cross-promotion among co-owned or cooperating media. . . With a few exceptions, attempts at synergy have produced relatively little additional original or improved journalism or new revenue. They mostly have 'repurposed' (another news term) journalism already being produced by one news medium for use by another. In practice, this usually has meant repackaging newspaper journalism on television and the Internet, because newspapers continue to have by far the largest and most talented news-gathering staffs.[24]

In Tampa, journalists working for the cross-owned Tampa Tribune have described their experience as "occasionally troubling – as when TV writer Walt Belcher was told to stop writing about local TV news immediately after his newspaper moved in with WFLA, to avoid perceived conflicts. Belcher has resumed coverage but acknowledges softening his criticism of other stations lest he seem to be favoring WFLA. 'It's self-censorship,' he said."[25]

This is precisely the danger of cross-ownership—it may leave markets with less competitive pressure to cover stories aggressively, instead relying on softer pressures, such as "journalistic ethics," to ensure good behavior.

> Former Tribune Assistant Managing Editor Patti Breckenridge is a believer in convergence, but she quit two years ago after concluding that the paper was losing its commitment to readers.
>
> "Convergence is like the atom," said Breckenridge, now a recruiter at a supermarket chain. "You can turn it into nuclear power, or you can turn it into a bomb. That's what scares me."[26]

Public policy should not be built on the hope that media companies will be run by benevolent dictators. Congress must assume that media companies will act just as all other companies in the economy act, driven by a duty to maximize profits for shareholders. Owners of media outlets have a First Amendment right to express political views through their media properties. So, there is only one easy way to ensure that self-censorship (and overt censorship) do not result in a skewed presentation of news: we must maintain enough independently owned voices among the most important, more relied upon sources of news and information in the marketplace of ideas.

Concentration in the Television Programming Market: The Return of Network Dominance

Increased concentration in the primetime television programming market illustrates the

[24] Leonard Downie Jr. and Robert G. Kaiser, The News About the News. (2002).
[25] Ed Sanders, *"Journalism's Future May Start in Tampa."* Los Angeles Times, May 7, 2003.
[26] Id.

dangers to programming competition and localism, by allowing national TV networks to grow. Despite the appearance of hundreds of different channels, the bulk of primetime offerings originate with the four national broadcast networks and AOL Time Warner.

In the 1980s, as channel capacity grew, there was enormous expansion and development of new content from numerous studios. Many policymakers attributed the lack of concentration in the production industry to market forces and pushed for the elimination of the Financial Interest in Syndication rules (Fin-Syn) that limited network ownership and syndication rights over programming. They were wrong.

Following the elimination of the Fin-Syn rules in the early 1990s, the major networks consolidated their hold over popular programming. The market no longer looks as promisingly competitive or diverse as it once did. Tom Wolzien, Senior Media Analyst for Bernstein Research, paints the picture vividly—he details the return of the "old programming oligopoly":

> Last season ABC, CBS and NBC split about 23% [of television ratings]. . . But if the viewing of all properties owned by the parent companies – Disney, NBC, and Viacom – is totaled, those companies now directly control television sets in over a third of the TV households. Add AOL, Fox and networks likely to see consolidation over the next few years (Discovery, A&E, EW Scripps, etc.), and five companies or fewer would control roughly the same percentage of TV households in prime time as the three net[work]s did 40 years ago. The programming oligopoly appears to be in a process of rebirth.[27]

In addition, the number of independent studios in existence has dwindled dramatically since the mid-1980s. In 1985, there were 25 independent television production studios; there was little drop-off in that number between 1985 and 1992. In 2002, however, only 5 independent television studios remained. In addition, in the ten-year period between 1992 and 2002, the number of prime time television hours per week produced by network studios increased over 200%, whereas the number of prime time television hours per week produced by independent studios decreased 63%.[28]

Diversity of production sources has "eroded to the point of near extinction. In 1992, only 15 percent of new series were produced for a network by a company it controlled. Last year, the percentage of shows produced by controlled companies more than quintupled to 77 percent. In 1992, 16 new series were produced independently of conglomerate control, last year there was one."[29]

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[27] Tom Wolzien, "*Returning Oligopoly of Media Content Threatens Cable's Power.*" The Long View, Bernstein Research (Feb. 7, 2003). Emphasis added.
[28] Coalition for Program Diversity, Jan. 28, 2003.
[29] Victoria Riskin, President of Writers Guild of America, West. *Remarks at FCC EnBanc Hearing, Richmond, VA* (Feb. 27, 2003).

> The ease with which broadcasters blew away the independent programmers should sound a strong cautionary alarm for Congress. The alarm can only become louder when we look at the development of programming in the cable market. One simple message comes through: those with rights to distribution systems win.

Of the 26 top cable channels in subscribers' and prime time ratings, all but one of them (the Weather Channel) has ownership interest of either a cable company or a broadcast network. In other words, it appears that you must either own a wire or have transmission rights to be in the top tier of cable networks. Four entities – News Corp./Fox (including cross ownership interests in and from Liberty) AOL Time Warner, ABC/Disney and CBS/Viacom – account for 20 of these channels.

Of the 39 new cable networks created since 1992, only 6 do not involve ownership by a cable operator or a national TV broadcaster. Sixteen of these networks are partially owned by the top four programmers. Eight involve other cable companies and 10 involve other TV broadcasters. Similarly, a recent cable analysis identified eleven networks that have achieved substantial success since the passage of the 1992 Cable Act. Every one of these is affiliated with an entity that has guaranteed carriage on cable systems.[30]

Moreover, each of the dominant programmers has guaranteed access to carriage on cable systems – either by ownership of the wires (cable operators) or by carriage rights conferred by Congress (broadcasters).

- AOL/Time Warner owns cable systems reaching approximately 11 million basic cable subscribers, and its cable "footprint" passes 21 million homes. It also owns 7 local broadcast television stations, 5 television production studios, and 14 cable networks, including CNN, CNN/fn, CNN/SI, and CNN Headline News.

- NewsCorp./Fox, which is 20% owned by John Malone's Liberty Media, owns 9 cable networks (including Fox News Channel and the Fox Broadcasting Company) and 34 local television stations. Worldwide, NewsCorp.'s cable and satellite programming has approximately 300 million subscribers.

- Disney owns 8 television networks, including ABC. These 8 networks include Disney's shared ownership of ESPN and other cable networks with Hearst, GE, Comcast, MediaOne, and Liberty Media. Disney also owns 10 local television stations and 3 large television production studios.

- Viacom owns 19 networks, including CBS and UPN, 35 local broadcast television stations,

[30] Federal Communications Commission, *Ninth Annual Report, In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB docket No. 02-145 (Dec. 31, 2002).

and 5 large television production studios.

These five entities have ownership rights in 21 of the top 25 cable networks based on subscribers and prime time ratings. They account for over 60 percent of subscribers to cable networks, rendering this market a tight oligopoly. Other entities with ownership or carriage rights account for four of the five remaining most popular cable networks. The only network in the top 25 without such a connection is the Weather Channel. It certainly provides a great public service, but is hardly a hotbed for development of original programming or civic discourse. Entities with guaranteed access to distribution over cable account for 80 percent of the top networks and about 80 percent of all subscribers' viewing choices on cable systems.

In the world of broadcast and cable networks, almost three-quarters of them are owned by five corporate entities.[31] The four major TV networks, NBC, CBS, ABC, Fox, and the dominant cable content owner, AOL Time Warner completely dominate the tuner. Moreover, these entities are thoroughly interconnected through joint ventures.

All of these companies maximize their profits by getting their nationally-oriented programming (often produced in-house, with lucrative syndication rights) in front of the largest national audience possible, which maximizes advertising revenue. These companies therefore have no incentive to support or promote locally oriented programming that may be more interesting and even draw more market share in a particular community at a particular point in time. It is critical that these national companies not be allowed to be so large through ownership of too many local channels that they be allowed to dictate programming that does not comport with the needs and tastes of the local community. Clearly local broadcasters with no national profit-maximizing motive are better positioned to be responsive to their local communities.

Conclusion

Even in the face of changed and changing media, the ownership rules are still extremely relevant. They achieve congressional goals of localism and diversity by keeping ownership decentralized, and by keeping local media entities distinct from the most dominant national players. Importantly, they underscore the Supreme Court's interpretation on our Constitution's

[31] One of the more ironic arguments offered by the cable operators feeds off of the observation that broadcast networks have carriage rights. They argue that even if cable operators foreclosed their channels to independent programmers, these programmers could sell to the broadcast networks. This ignores the fact that cable operators control the vast majority of video distribution capacity. There are approximately 60 channels per cable operator on a national average basis (Federal Communications Commission, 2002b, p. 10). There are approximately 8 broadcast stations per DMA on a national average basis (BIA Financial, 2002). Each broadcast station has must carry rights for one station. They can bargain for more, particularly in the digital space, but the cable operators control more stations there as well. In other words, if we foreclose 85 percent of the channels, the programmers will be able to compete to sell to the remaining 15 percent of the channels. Needless to say, this prospect does not excite independent programmers.

First Amendment – promoting the widest possible dissemination of information from diverse and antagonistic sources.

Market realities must be the touchstone of FCC rules, and well-founded antitrust principles should inform the Commission's decision making. While technology has generated new means of information distribution, media companies have consolidated dramatically, and people's usage patterns still make ownership rules necessary to have ownership rules. No one is asking the FCC to blindly preserve anything that is not supported by current market conditions. Past Commissions may have done an inadequate job of justifying their decision to maintain media rules, but this Commission has a substantial record before it that provides rationale for preserving these critical limitations. The Commission simply has to <u>want</u> to look in that direction.

The cost of relaxing media ownership is very high. The cost of market failure in media markets is the price we pay when stories are *not* told, when sleazy business deals and bad accounting practices do *not* surface, when the watchdog decides that it would rather gnaw on the bone of softer news than chase down the more complicated realities that must be uncovered to make democracy function.

APPENDICES

Consumers Union
Nonprofit Publisher of Consumer Reports

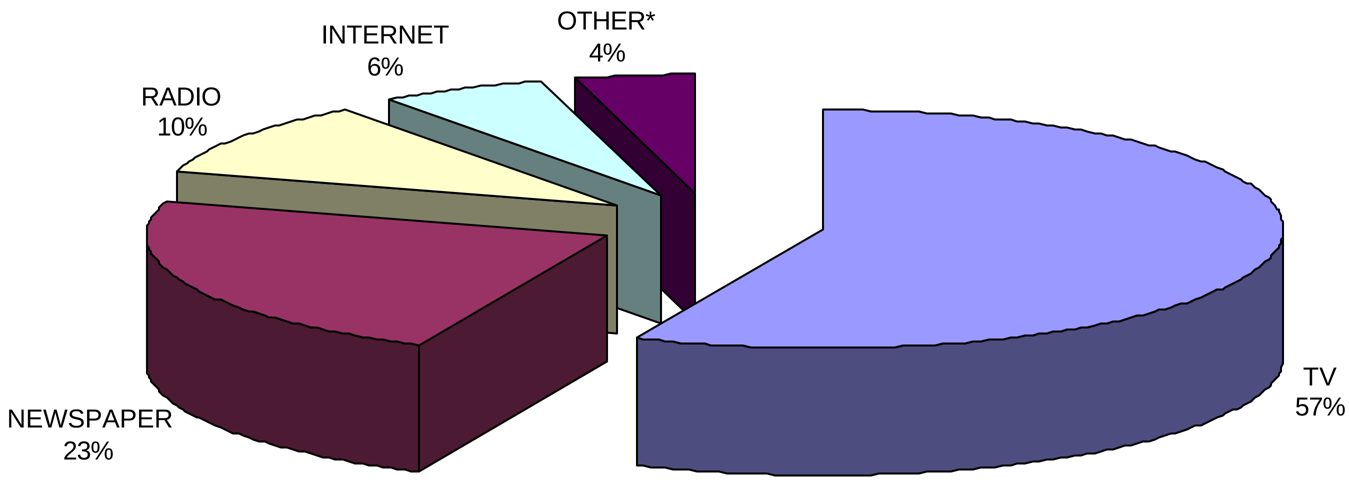
CFA Consumer Federation of America

APPENDIX A

KEY FACTS ABOUT MEDIA MARKETS IN AMERICA

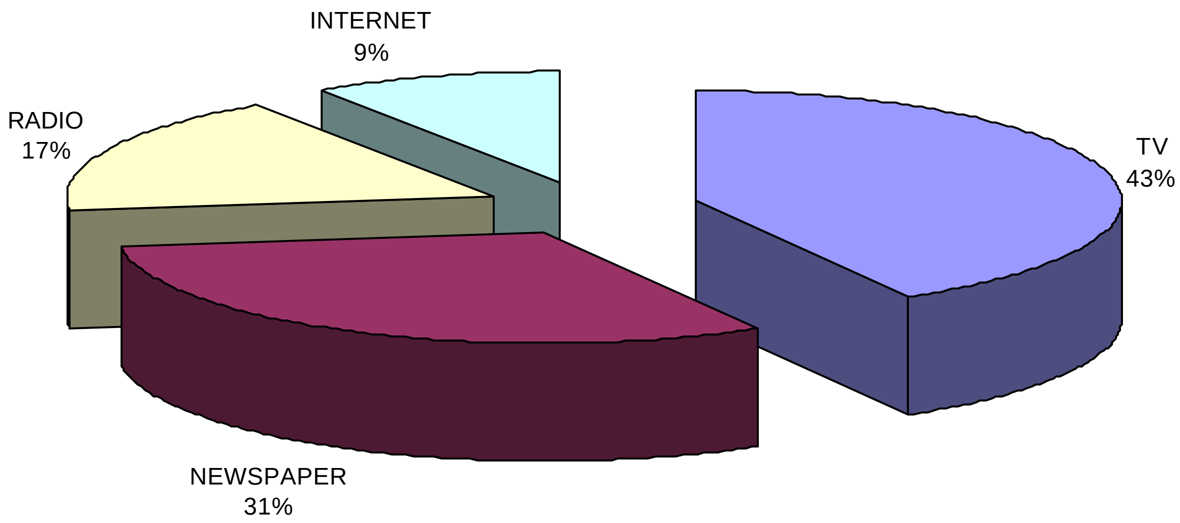
May 2003

TV AND NEWSPAPERS ARE THE PUBLIC'S MOST IMPORTANT SOURCE OF ALL NEWS



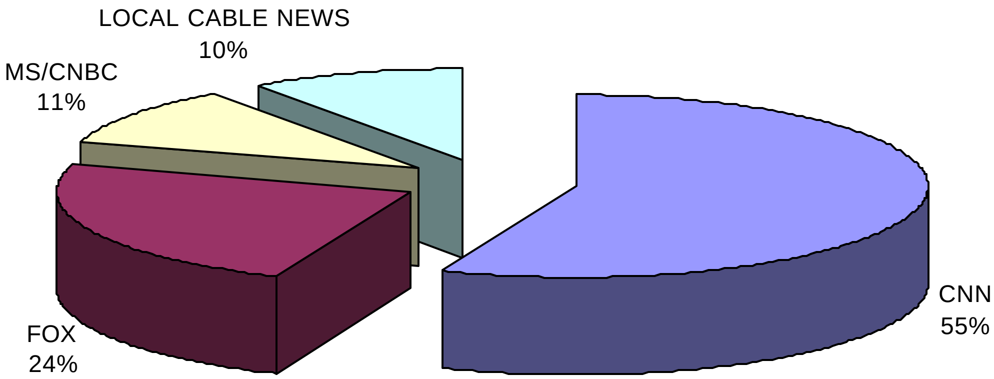
SOURCE: Federal Communications Commission, Study 8, *Consumer Survey on Media Usage*, prepared by Nielsen Media Research, September 2002, Question 10.

TV AND NEWSPAPERS DOMINATE AS LOCAL NEWS SOURCES



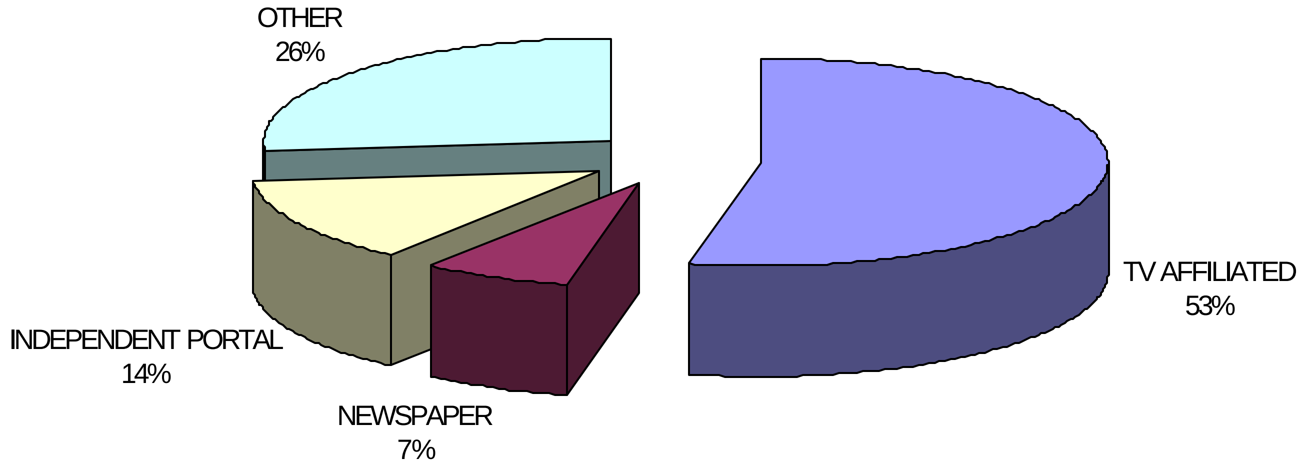
SOURCE: Federal Communications Commission, Study 8, *Consumer Survey on Media Usage*, prepared by Nielsen Media Research, September 2002, Question 1. Multiple responses allowed, percentage of total responses.

FEW CABLE VIEWERS GET THEIR LOCAL NEWS FROM LOCAL CABLE CHANNELS



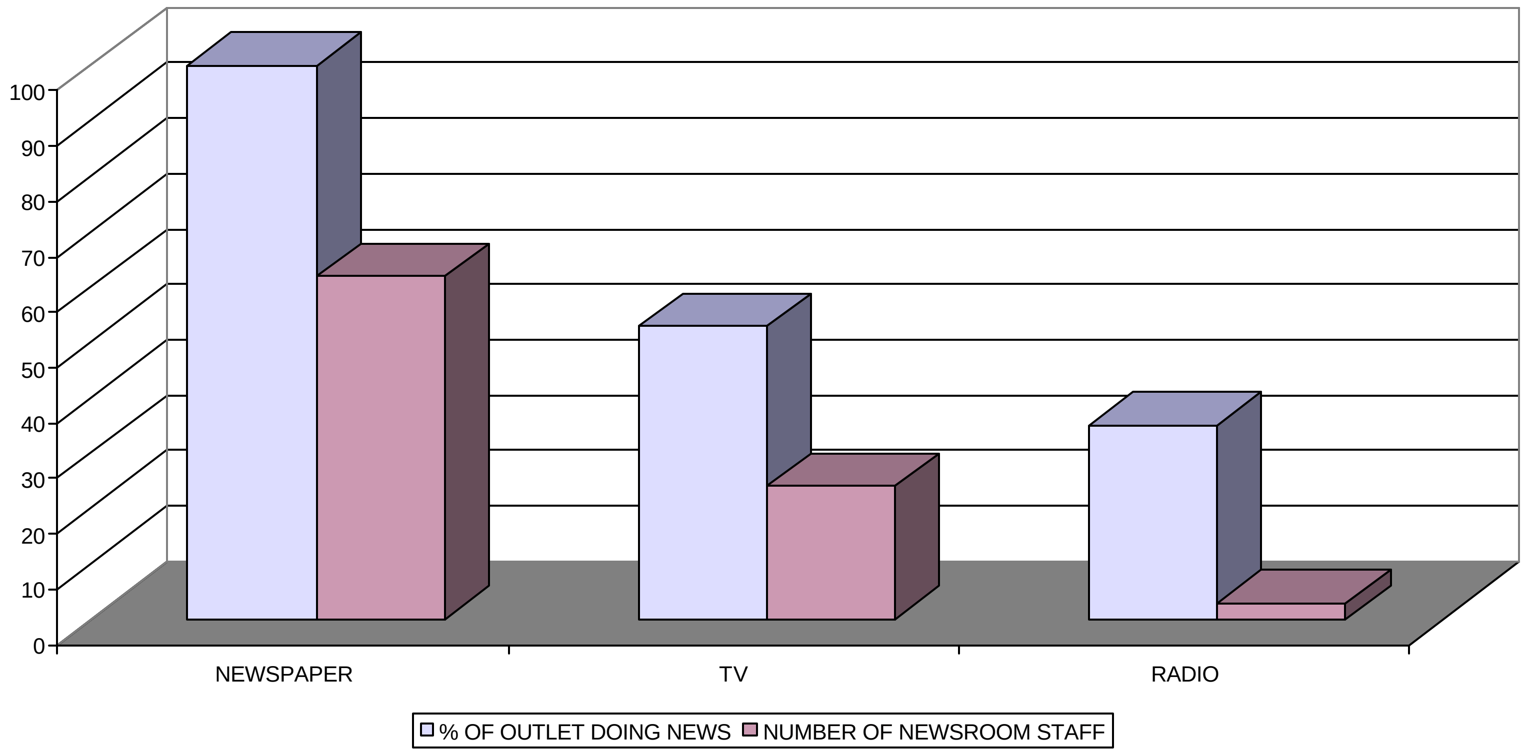
SOURCE: Federal Communications Commission, Study 8, *Consumer Survey on Media Usage*, prepared by Nielsen Media Research, September 2002, Question 7. Multiple responses allowed, percentage of total responses.

FOR THE SMALL PERCENTAGE OF THE PUBLIC USING THE INTERNET FOR LOCAL NEWS, TV WEBSITES DOMINATE



SOURCE: Federal Communications Commission, Study 8, *Consumer Survey on Media Usage*, prepared by Nielsen Media Research, September 2002, Question 9. Multiple responses allowed, percentage of total responses.

COMPARING NEWS CAPABILITIES: NEWSPAPERS PRODUCE THE BULK OF NEWS AND EMPLOY MOST NEWSROOM STAFF



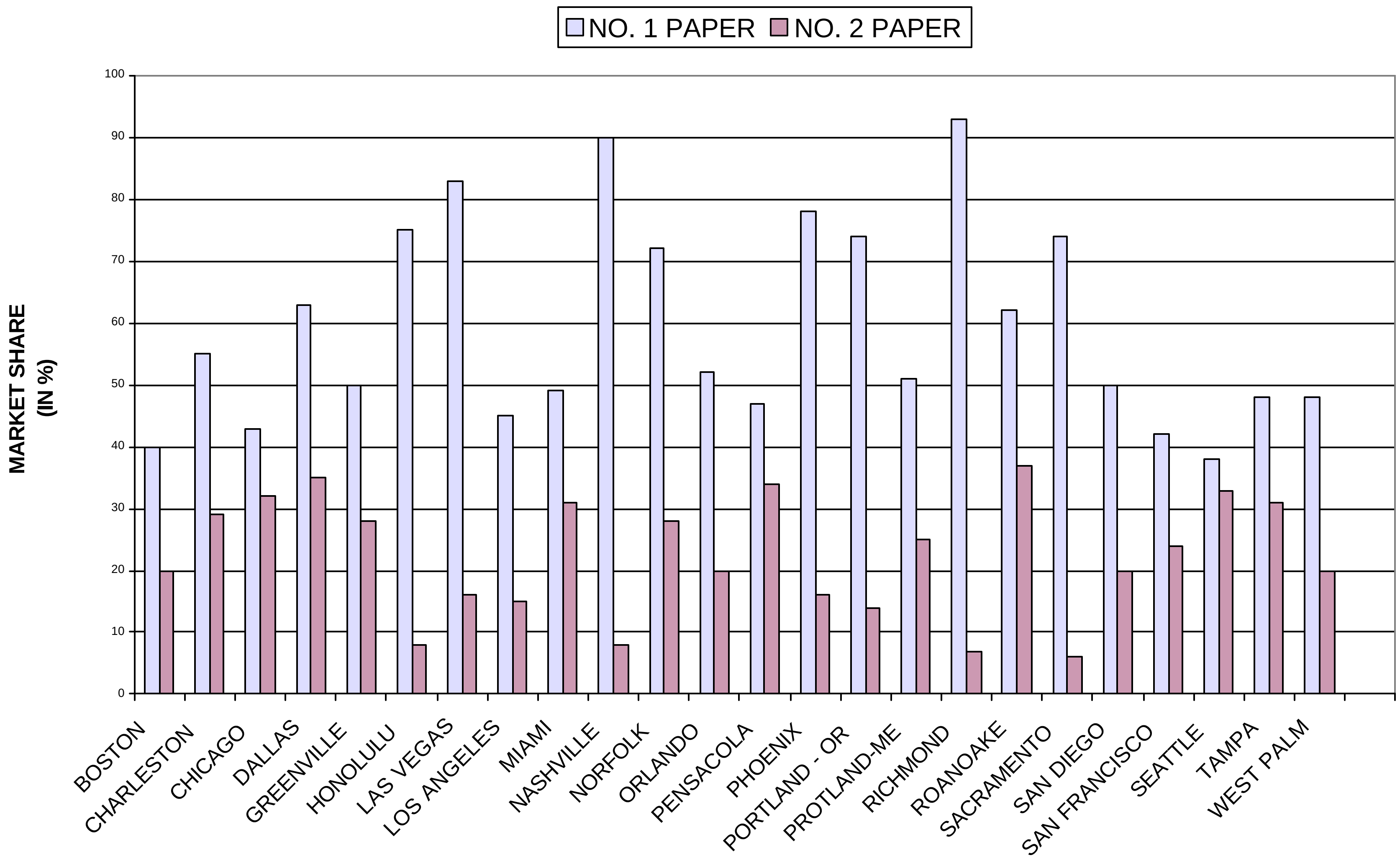
SOURCES: Vernon Stone, News Operations at U.S. Radio Stations, News Operations at TV Stations; U.S. Bureau of the Census, Statistical Abstract of the United States: 2000 Tables 2, 37, 932; George, Lisa, *What's Fit to Print: The Effect of Ownership Concentration on Product Variety in Daily Newspaper Markets* (2001); *Editor and Publisher, International Yearbook,* various issues.

ONE-THIRD OF ALL CITIES IN THE HOME STATES OF COMMERCE COMMITTEE MEMBERS ARE ONE-NEWSPAPER TOWNS

Houston, TX	**San Antonio, TX**	**New Orleans, LA**
Jacksonville, FL	**Fresno-Visalia, CA**	**Austin, TX**
Richmond, VA	**Jackson, MS**	**Harlingen TX**
Charleston, SC	**Amarillo, TX**	**Corpus Christi, TX**
Bakersfield CA	**Lubbock, TX**	**Bluefield WV**
Bangor, ME	**Palm Springs, CA**	**Gainesville, FL**
Billings, MT	**Harrisonburg, VA**	**Meridian, MS**
Parkersburg, WV	**Laredo, TX**	**Charlottesville, VA**
San Angelo, TX	**Bend, OR**	**Victoria, TX**
Presque Isle, ME	**Juneau, AK**	**Helena, MT**
Glendive, MT		

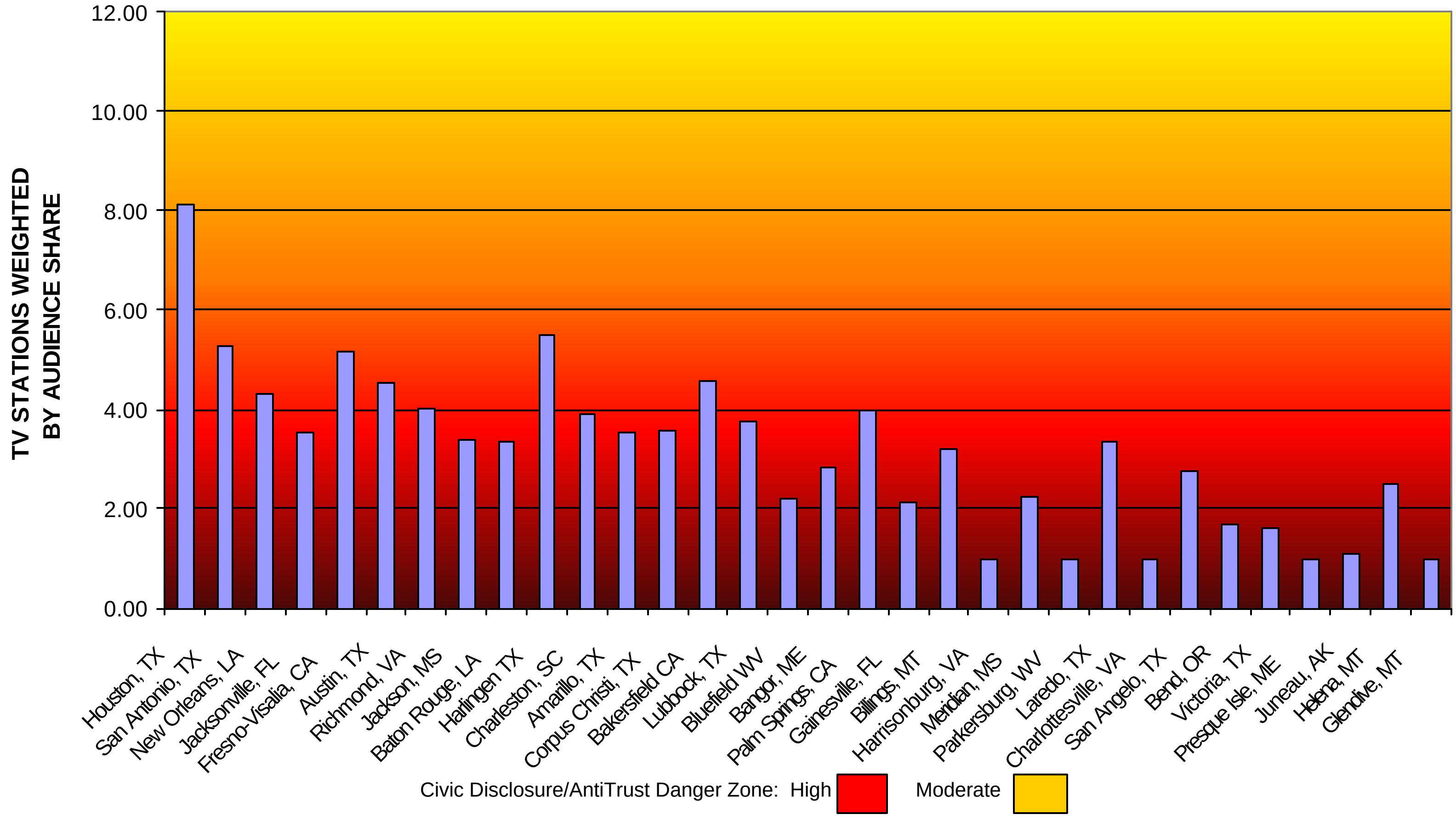
SOURCE:"Initial Comment of the Hearst Argyle, Exhibit 1" MM Docket No. 01-235, 96-197. One-paper towns have only one paper with more than 5% of the market. Cities are defined as Designated Market Areas (DMAs).

IN MULTI-PAPER MARKETS, ONE PAPER GENERALLY DOMINATES



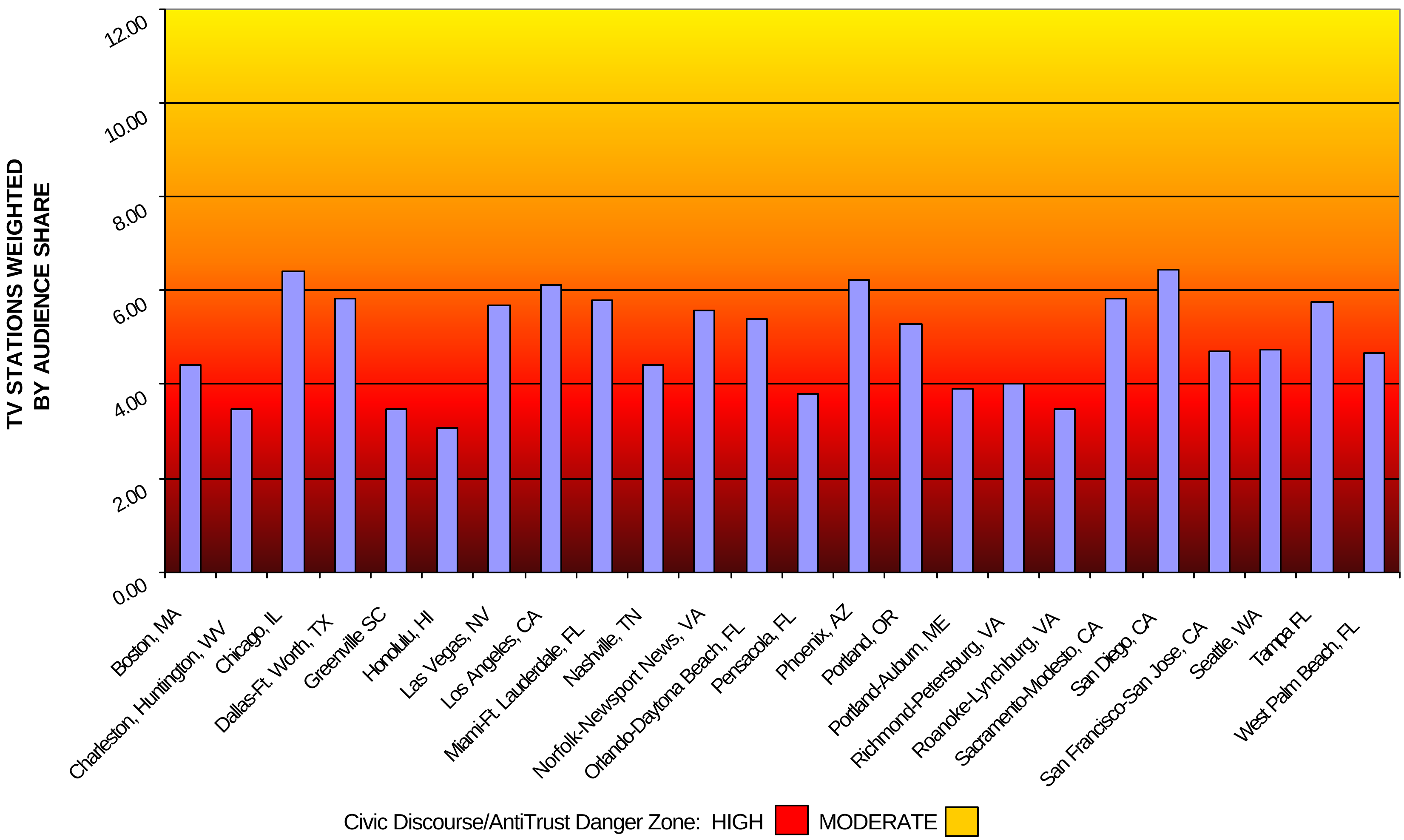
SOURCES: *Editor and Publisher* and *Media Week* , various issues; "Initial Comments of the NAA," and Initial Comments of Hearst Argyle, Exhibit 1, "Selected Media "Voices" by Designated Market Areas," In the Matter of Cross-Ownership of Broadcast Stations and Newspapers; Newspaper-Radio Cross-Ownership Waiver Policy: Order and Notice of Proposed Rulemaking, MM Docket No. 01-235, 96-197. Cities are defined as Designated Market Areas (DMAs).

TV MARKETS IN ONE-PAPER CITIES ARE CONCENTRATED, ALMOST ALL ARE HIGHLY CONCENTRATED



SOURCE: BIA Financial, *Television Market Report: 2000.* Year 2000 broadcast TV viewing data for all 211 Designated Market Areas (DMA). *Editor and Publisher* and *Media Week*, various issues; "Initial Comments of the NAA, "In the Matter of Cross-Ownership of Broadcast Stations and Newspapers; Newspaper-Radio Cross-Ownership Waiver Policy: Order and Notice of Proposed Rulemaking, MM Docket No. 01-235, 96-197. Cities are defined as Designated Market Areas (DMAs).

TV MARKETS IN MULTI-PAPER CITIES ARE CONCENTRATED, MOST ARE HIGHLY CONCENTRATED



SOURCE: BIA Financial, *Television Market Report: 2000.* Year 2000 broadcast TV viewing data for all 211 Designated Market Areas (DMA). *Editor and Publisher* and *Media Week*, various issues; "Initial Comments of the NAA," In the Matter of Cross-Ownership of Broadcast Stations and Newspapers; Newspaper-Radio Cross-Ownership Waiver Policy: Order and Notice of Proposed Rulemaking, MM Docket No. 01-235, 96-197. Cities are defined as Designated Market Areas (DMAs).

APPENDIX B

EVIDENCE OF COMPETITIVE JOURNALISM COMPROMISED

IN TELEVISION-NEWSPAPER WAIVER CITIES

Excerpted from "Comments Of Consumer Federation Of America, Consumers Union, Center For Digital Democracy, Media Access Project," *In The Matter Of 2002 Biennial Regulatory Review – Review of The Commission's Broadcast Ownership Rules And Other Rules Adopted Pursuant To Section 202 Of The Telecommunications Act Of 1996, Cross-Ownership Of Broadcast Stations, Newspapers, Rules And Policies Concerning Multiple, Ownership Of Radio Broadcast Stations, In Local Markets, Definition Of Radio Markets*, Federal Communications Commission, MB Docket No. 02-277, MM Docket No. 01-235, MM Docket No.1-317, MM Docket No. 00-244, January 04, 2003.

XI. PROBLEMS OF VERTICAL INTEGRATION AND CONGLOMERATION IN PRINT JOURNALISM

A. PRESSURE FROM Vertical INTEGRATION AND CONGLOMERATION ON JOURNALISTIC VALUES

The prospect of mergers between TV stations and newspapers raises concerns about both vertical integration and conglomeration.[351] Such a merger is vertical in the sense that the news production output of the newspaper operation would become an input for the TV distribution activity. It is a conglomerate merger in the sense that the new entity would span two separate markets, the print news and the video news market. Both of these changes would have negative effects on the journalistic endeavor of the newspaper.

- The dictates of video delivery would alter the nature of the reporting and commitments to investigative journalism.
- The conglomeration in larger enterprises would reduce the journalistic activity to a profit center that is driven by the larger economic goals of the parent.
- Combining the two activities within one entity diminishes the antagonism between print and video media.

Consider the contrast between journalistic values and the image presented by Tribune Company executives, describing how the Chicago Tribune and Chicago television station WGN, among other media properties, view their business:

> Tribune had a story to tell – and it was just the story Wall Street wanted to hear.
>
> In charts and appendices, they showed a company that owns four newspapers—and 16 TV stations (with shared ownership of two others); four radio stations; three local cable news channels; a lucrative educational book division; a producer and syndicator of TV programming, including Geraldo

[351] Dean Alger contributed substantial analysis to this chapter, see "Reply Comments of Consumers Union, Consumer Federation of America, Media Access Project and Center For Digital Democracy" *In the Matter of Cross-Ownership of Broadcast Stations and Newspaper Newspaper/Radio Cross-Ownership Waiver Policy*, Federal Communications Commission, MM Dockets No. 01-235, 96-197, February 15, 2002.

> Rivera's daytime talk show; a partnership in the new WB television network; the Chicago Cubs; and new-media investments worth more than $600 million, including a $10 million investment in Baring Communications Equity Fund, with dozens of Asian offices hunting out media investments.
>
> …There was an internal logic and consistent language to their talk: Tribune, said the four men, was a "content company" with a powerful "brand." Among and between its divisions, there was a "synergy."
>
> …It was a well-scripted, well-rehearsed performance, thorough and thoroughly upbeat. And the word "journalism" was never uttered, once.
>
> …Even apart from TV and new media—at the Tribune papers themselves—the editor in chief rarely presides at the daily page one meeting. The editor's gaze is fixed on the future, on new zoned sections, multimedia desks, meetings with the business side, focus group research on extending the brand, or opening new beachheads in affluent suburbs. "I am not the editor of a newspaper," says Howard Tyner, 54, whose official resume identifies him as vice president and editor of the Chicago Tribune. "I am the manager of a content company. That's what I do. I don't do newspapers alone. We gather content."[352]

In highlighting the Tribune Company, we do not mean to suggest that there is anything wrong with the company's behavior. On the contrary, economic "synergies" may certainly help Tribune improve the quality of its media products. And we do not mean to suggest that other factors, like newspaper consolidation and newspaper ties with other corporate entities, do not also challenge print journalist's ability to follow their creed. However, when the two largest sources of news and information – television and newspaper[353] – come under the same ownership roof, there is special cause for concern about business pressures that could undermine the free marketplace of ideas.

Dangers ranging from favorable newspaper reviews of a broadcaster's programming, to positive editorials/opinion articles about business interests of a broadcaster or politicians

[352] Ken Auletta, "The State of the American Newspaper," *American Journalism Review*, June 1998.
[353] Media Studies Center Survey, University of Connecticut, Jan. 18, 1999.

who favor such business interests would be difficult to prevent if cross-ownership is broadly permitted:

> Down in Tampa, Media General has gone so far as to put its newspaper, the Tribune, in the same building with its local television station and online operation, the better to exchange stories and, ostensibly, resources. (It's still unclear what the newspapers get out of the bargain other than garish weather maps sponsored by the local TV meteorologist.) Tampa's has become the most sophisticated model of this kind of thing, and as such is drawing enormous interest from other newspaper companies.
>
> Under the Tampa model, and presumably in most major city rooms of the future, news decisions for all these outlets are made in a coordinated way, sometimes in the same meeting. In effect the same group of minds decides what "news" is, in every conceivable way that people can get their local news. This isn't sinister; it's just not competition.[354]

Except where there is meaningful competition between local newspapers, we believe that lifting the newspaper/broadcast cross-ownership ban would significantly undercut the watchdog role that newspapers play over broadcasters and thereby undermine – particularly in the realm of political speech – Congress' goal of ensuring an open marketplace of ideas.

Industry commenters in FCC proceedings have made an important aspect of the case for us. Their repeated statements that joint ventures are not an effective means for capturing economic efficiencies underscores the important role of antagonism. In other words, they claim that independent entities in joint ventures are too difficult to keep in line.

> Tash sees advantages to partnering, including the ability for both companies to maintain separate and independent voices.
>
> "Anything you do ends up being in partners' interest rather than being forced through common ownership," Tash says. "If it's common ownership, you might add up the pluses and minuses and decide it's a net-plus, even if it's a net-minus for one partner. In this relationship, it has to be a net plus for both.

[354] Thomas Kunkel and Gene Roberts, *"The Age of Corporate Newspapering; Leaving Readers Behind," American Journalism Review,* May 2001.

> Tash admits that partnerships with other media companies can be tricky. "You can't rely on orders from a common owner to work through issues that arise."[355]

This issue plays out in an interesting way in the comments of the advocates of combinations. Industry commenters who favor elimination of the rule cite the proliferation of media variety as the changed market conditions that justify a rule change.[356] Having already demonstrated that media such as the Internet are not effective substitutes for newspapers and broadcast television, in this chapter we show that diverse ownership—not media variety—is the essential proxy for antagonism.

Industry commenters contend that "commonly owned media outlets cannot realistically be considered a single 'voice' in evaluating diversity."[357] They urge the Commission to rely on their corporate policies of editorial separation between media entities as the policing mechanism that will ensure diverse information presentation. For example, Gannett tells us that it has a "firm corporate policy of assuring the editorial and journalistic autonomy of the individual newspapers and television stations it holds across the country [that] has been maintained in the context of its common ownership of a newspaper and a television station."[358] However, not only can corporate policies change rapidly, but also many joint owners clearly do not behave this admirably.

B. BIASES IN THE COVERAGE OF THE TELECOMMUNICATIONS ACT OF 1996, ANOTHER LOOK AT SELF-INTERESTED COVERAGE

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[355] Lisa Rabasca, "Benefits, Costs and Convergence," *Presstime*, p. 3.

[356] See, e.g., Hearst-Argyle, p. 4-5; Gannett, p. 21; NAA, p. v.

[357] Gannett, p. 15. See also Comments of Newspaper Association of America, p. vii (stating that "the Commission has no factual basis for assuming that common ownership necessarily reduces the print and broadcast media to a single, monolithic viewpoint").

[358] Gannett, p. 12.

Before we look at specific examples, we remind the reader that systematic evidence on the influence of ownership interests on policy and reporting. Policies that affect ownership, such as the 1996 Telecommunications Act are particularly interesting.

The National Association of Broadcasters, in conjunction with local TV stations, produced and abundantly aired what they called "public service ads" (sometimes aired as editorials) arguing for the give-away of the additional spectrum to the TV station owners. The main theme of the ads/editorials was that there was a threat to "free over-the-air broadcasting as we know it" and that there would be a big "tax on free TV" – which referred to the proposal to auction off the extra spectrum, rather than give it away. The *Charleston Daily Mail* newspaper reported: "In an unprecedented move, four local [TV] stations combined to air messages alerting viewers to HDTV proposals now pending in Congress.... At 6:27 pm and 11:32 pm each station aired" the message simultaneously.[359] With consummate chutzpah, NAB later included the total airtime cost of these ads in their assessment of the local public service TV stations were providing!

From research on newspaper coverage of those ads, political scientists Snider and Page could find "no cases in which *opposing views* on the spectrum give-away" were presented by the TV stations.[360] That there was a newspaper that was owned independently of the TV stations was obviously crucial to having independent reporting on these biased TV presentations – by *all* the stations in the area.

Other indications, including the observations of members of Congress like Sen. McCain and Sen. Dole, suggest the pattern is a general one. For example, on December 23,

[359] Snider, and Page, pp.7-8.
[360] Snider and Page, p. 8.

1995, The *San Francisco Chronicle,* owned by the same company which owned KRON-TV in San Francisco at the time, prominently editorialized that with the telecom bill, "American consumers will benefit from an astonishing bonanza of dazzling new communications services and, eventually, lower prices..." and admonished Congress to "get it wrapped up." There was no mention in the editorial of the easing of ownership limits or other benefits the TV station owned by the Chronicle Company would receive, and though we did find one earlier *Chronicle* news article that noted some of the doubts raised about the bill, two larger, page one news articles in that period dealt with the bill in approving fashion.

Further loosening of ownership limits through the proposal to end the local cross-ownership rule has been editorialized favorably by papers in companies with TV interests. For example, on July 31, 2001 the *Chicago Tribune*, owned with TV and radio stations WGN, castigated Sen. Hollings for "putting the future on hold" when he asked for more detailed review of the move to end the local newspaper-broadcast cross-ownership rule.

Political scientist Martin Gilens and his colleagues took the list of the 100 largest media corporations and looked at those with newspapers but no TV holdings, those with five or fewer TV stations, and those with nine or more TV stations, to see how they covered the easing of ownership limits in the Telecom Act. They looked at news coverage, rather than editorials. The findings are not as stark, but: "Twenty-two percent of stories in the 'no TV ownership' newspapers mentioned that the loosening of the [ownership] caps would result in fewer media companies owning the nation's TV stations. In contrast, only 2% and 11% of stories from the 'limited TV ownership' and 'substantial TV ownership' papers brought this to their readers' attention."[361]

It is telling that the industry trade magazine *Electronic Media* commented in early 1996 that "media barons have been lucky to keep the Telecommunications Act far from the consciousness of most Americans."[362] In broadcast media, it wasn't merely "luck," it was a refusal to cover this crucial issue, and American democracy was the "unlucky" one.

C. REPEATED FAILURES OF CROSS-OWNED MEDIA TO EXERCISE THEIR WATCHDOG FUNCTION

1. Tampa Florida

For our first example of the fundamental problem that cross ownership poses to the role of the press in providing antagonistic sources of information, we can turn to Tampa, which is frequently offered as the poster-child for media convergence. In Tampa, Florida, Media General, Inc. (Media General) owns both the *Tampa Tribune* newspaper and WFLA-TV. Recently it has taken both operations and housed them under one roof, yet the decision to co-locate led to a loss of editorial and journalistic integrity even before the actual move:

> Others wonder how the cozy, inbred relationship between the newsrooms might affect their coverage of each other. *Tribune* TV writer Walter Belcher offered a chilling example, saying editors forced him to lay off criticism of WFLA for nearly a year prior to the opening of the News Center [which housed the *Tribune* and WFLA news operations in the same space to facilitate their integration], supposedly to avoid ill will between the staffs. "I told them that maybe I should just stop writing about TV altogether," Belcher says with a laugh. "I eventually went back to [covering WFLA] in February, but I still felt like I had to be careful and explain some things more clearly."[363]

[361] Martin Gilens, and Craig Hertzman, "Corporate Ownership and News Bias: Newspaper Coverage of the 1996 Telecommunications Act," Paper delivered at the Annual Meeting of the American Political Science Association, August, 1997, p. 8.

[362] Snider and Page, 1997, p.14.

[363] Joe Strupp, "Three Point Play," *Editor and Publisher*, August 21, 2000, p. 23.

Unfortunately, such chilling of free speech in a newsroom is no laughing matter – and not the only example in which Belcher's coverage of WFLA came under scrutiny from joint management. Belcher's coverage of WFLA was compromised further when managers at WFLA requested that he not write about speculation that a reporter would be leaving the station to follow her husband, a former WFLA reporter who moved to another station in Alabama. How many other stories were not pursued because of the new camaraderie between the now joined-at-the-hip *Tribune* and WFLA staffs?

The ultimate concern about the loss of antagonism is to undermine the quality of journalism on both the broadcast TV and newspaper sides.

> Eric Deggans, TV critic at the competing St. Petersburg Times, said convergence can be a good thing but cautions that monopolizing a market with leaders in both print and television could affect a company's news product.
>
> "I think news organizations have to be very strong journalistically to avoid conflicts of interest and to avoid the abuse of power that can come by owning so much of the media landscape," Mr. Deggans said. "The concern is that there will be a party line regarding stories. We need to see how they tackle issues like that. I think people in this market have serious concerns about it.

Oddly enough, Media General, in its comments to the Commission, opines that "it is Tampa that to date best illustrates the company's approach to convergence."[364] Given the demonstrable "loss of editorial or journalistic integrity" in Tampa, Media General's showcase example of "the company's approach to convergence" makes a solid case for retaining the newspaper/broadcast cross-ownership rule to prevent the kind of abuses seen in Tampa.

2. Quincy Illinois

Quincy, the smallest media market in the country which has grandfathered newspaper/broadcast cross ownership (held by Quincy Newspapers, Inc., hereafter, "QNI") is cited by industry commenters[365] as another example where convergence has been a shining success; yet, the allegations raised in a lawsuit pending against QNI show the extreme dangers present in a market where a company can gain control over both print and broadcast outlets. QNI is a media holding company that owns at least fifteen media properties, including the Quincy Herald-Whig, a newspaper, two television stations (WGEM-TV and CGEM-TV), and two radio stations (WGEM-AM and WGEM-FM). It is privately held by the Oakley and Lindsay families. The Tri-State Shopper (TSS) is a small advertising publication that was attempting to compete with QNI for advertising sales.

QNI allegedly threatened its customers that if they did any business with TSS, QNY would raise their prices; if customers chose to do business with QNI at the exclusion of the Tri-State Shopper, they would be given free or below cost advertising in QNI publications. Given QNI's control of such a large number of media properties, for a company that had advertising needs beyond the scope of a small weekly shopper, the choice was clear: do business with QNI or don't advertise.

Furthermore, the Quincy Area Convention and Visitors Bureau is housed in the Oakley-Lindsay Civic Center. The Visitors Bureau publishes an annual "Quincy Illinois Visitors Guide," which is a guide to businesses, media, etc., in the Quincy area. This visitors guide is produced with state funding, and about 75,000 copies are distributed every year to tourists that visit Quincy. Curiously, this visitors guide makes no mention of any media properties other than those held by QNI.[366] Apparently, the Quincy Herald-Whig handles the advertising for the visitors guide – the lawsuit alleges that only QNI aligned properties were

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[364] Media General, p. 6.
[365] See NAA, p. 28.

contacted for advertising in the guide. A new business moving into Quincy would be likely to use this visitor's guide to find places where he or she could advertise, but with no mention of non-QNI aligned properties, it would be difficult to find competitors.

Granted, this information surfaced in the context of an antitrust lawsuit—some might argue that this very fact shows that a prophylactic rule is unnecessary to prevent these harms, i.e., it can be addressed properly through antitrust. However, it is only because in this instance that there were clear examples of economic harm that it is addressable through antitrust. Had the predatory behavior been a more subtle leveraging of broadcast and print properties to prevent certain information from becoming public, or an attempt to color coverage to benefit the owner, there would not be such clear economic harm. It is perhaps likely that the information would never have surfaced in the first place. When the stakes are higher than just the market for advertising – when they are raised to the level of important civic debate – we cannot wait for remedies after-the-fact. This is precisely why a prophylactic rule is critical.

3. Dallas Texas

A. H. Belo Corporation (Belo), owner of the *Dallas Morning News* and WFAA-TV argues in its comments that its joint ownership of the *Morning News* and WFAA-TV "has had no noticeable impact on the intense level of diversity and competition in the Dallas/Fort Worth marketplace."[367] That is likely because of Belo's decision that the *Morning News* should stop all TV criticism in order to stay away from any critical reporting about its sister station.

[366] See Quincy Illinois Visitors Guide, 2001edition.
[367] Belo, pp. 8-9.

> Then there is a question of how the *Morning News* would cover the station. Because the two share Belo as a parent, the newspaper has often been criticized as being too soft on its sibling. But now that the two were officially partners, the News decided it could no longer cover WFAA objectively. Rather than exclude the one station from its coverage, the *News* halted all TV criticism.[368]

Not only was the *Morning News*'s coverage of WFAA-TV stifled because of the co-ownership, but also an important media critic for the entire market was lost. If joint corporate ownership of a newspaper and television station can lead to coverage being dropped to maintain positive internal relations, what other types of coverage could be jettisoned to protect corporate interests?

4. Milwaukee Wisconsin

Milwaukee has also been described as an example of cross-ownership leading to model behavior. A closer examination reveals anything but model behavior, this time involving a publicly financed sports stadium project. Journal Broadcast Corporation (Journal) operates the Milwaukee *Journal* as well as WTMJ-TV, WTMJ-AM and WKTI-FM in Milwaukee. All are leaders in their service area. In its comments to the Commission the Journal notes that "the radio and television stations have been totally independent from the newspaper in both program and editorial content," and that the outlets have been critical of each other.[369] At a key moment, on an issue of great public import that directly involved the private interests of the company, that appears not to have been the case.

There was a move for public financing of a new stadium for the area's major league baseball team, the Brewers. The Journal Group's AM radio station has the contract for broadcasting the Brewers' games. In late 1994, the CEO of the Journal Group, Robert Kahlor,

[368] Lucia Moses, "TV or not TV? Few Newspapers are Camera Shy, But Sometimes Two Into One Just Doesn't Go," *Editor and Cable*, August 21, 2000, p. 22.

became head of the Milwaukee committee championing public financing for the stadium, and even registered as chief lobbyist. This was a much-debated issue. Indeed, when it came to a vote in the state Senate (in fall 1995) it was decided by one vote. How did the *Journal Sentinel* media cover this big, contentious issue?

"The Journal Company's newspaper, TV-news shows and news-talk radio station all marched in lock-step supporting the public financing position" (Beckman). In the case of the newspaper, that avid support appeared in the paper from the news pages to sports page columnists to the editorials. The other two TV stations, while not such avid boosters, generally reported on the public financing position in positive fashion. Thus, the citizens of Milwaukee, despite the contentious nature of the issue, did not have antagonistic voices in the main media to rely on. The dominant news outlet, the metro paper, had a financial interest in getting the stadium built, which directed its coverage. A veteran local media analyst, who had also been a journalism professor for years (David Beckman), noted, "this case is a classic example of how a media monolith defeats the purposes of free and open debate" in the main media that people rely on and which dominate the public arena and overwhelmingly define the public discourse.

> There's no doubt that conflicts of interest have created some serious lapses in editorial judgment. Milwaukee's Journal Communications, owner of the city's Journal-Sentinel newspaper and WTMJ TV and radio stations faced intense criticism when publisher Robert Kahlor allowed the paper to shed its watchdog role become a cheerleader for a new baseball stadium funded primarily with public money. Not only did Kahlor chair the governor's stadium commission, but also he spent more than $25,000 of Journal company cash lobbying state lawmakers to support public funding.
>
> No coincidence, say local critics, that WTMJ stations also carry Brewers games. "All four Journal media lost almost all objectivity," says Dave

[369] Journal, p. 2.

Beckman, retired professor of mass communications and media columnist for the city's alternative weekly, Shepherd-Express.[370]

5. Columbus Ohio

A similar case involved the Dispatch Company in Columbus, Ohio, which is controlled by the Wolff family, who own the *Columbus Dispatch,* the main metro newspaper, WBNS-TV, and WBNS-AM and FM radio stations. A little over ten years ago it also started a chain of suburban weekly newspapers in the region. With all of those papers, they have 78 percent of all print advertising revenue in the metro region, according to CM Media executives. CM Media, which owns the alternative *Columbus* weekly and a series of suburban weeklies, sued the Dispatch company in the early 1990s on antitrust grounds, saying that the Dispatch was establishing the weeklies and holding down ad costs – predatory pricing – in order to keep down CM Media as a significant challenge to their dominance in Columbus media. The Wolff family's other holdings include a bank, an investment company, and a printing company.

Another case of a sports team and cross-ownership is telling, with different details. The Dispatch's Wolff family is part owners of the Columbus pro hockey team. Besides the usual boosterish coverage of the team connected by ownership to the media outlet that is now too common, there were proposals to build a new hockey stadium. The overt outcome of this was different from in Milwaukee, however. Public financing proposals lost twice in ballot measures. The Wolff family and an insurance company financed the building of the stadium itself. But, since then the city has given land, easements, clean-up, infrastructure and other assistance, subsidized to the tune of "at least $80 million," which the alternative weekly (*The*

[370] Bill McConnel, "The National Acquirers: Whether Better for News or Fatter Profits, Media Companies

Other Paper) has documented, in what coverage they could muster. Had a family that owned the TV station gotten such subsidies in a city with an independently-owned newspaper, the investigative juices of the paper's reporters and editors would have been flowing and front page coverage would have been produced from the one local mass medium that has the resources for in-depth investigation. *The Dispatch* has not, however, covered this huge subsidy. Instead, it has been all boosterism of the team and the stadium. Once again, a case of cross-owned newspaper and TV station failed the local democratic process.

Note also that the Dispatch editorialized in favor of the Telecom Act, saying (7/18/95), "The telecommunications bill passed by the senate ... is a worthwhile effort at getting government out of the way and letting the affected companies freely reshape their industries." The benefit to the Dispatch/Wolff family's TV station was not mentioned.

6. Atlanta Georgia

Atlanta, a city kept in check for decades by a tradition of two competing newspapers, the *Journal* and the *Constitution*, suffered from the merger of the two. With Cox owning a TV station, it is now a large market with a very high level of concentration and cross-ownership. The editorial staffs no longer presented two viewpoints, and the number of state government reporters plummeted from twelve to three. It soon became clear that there were not enough government reporters as the news was very one-sided. Bad press led to the paper increasing statehouse-reporting time by six percent, but the consensus is that the coverage has not recovered to its pre-merger quality.[371]

want in on TV/Newspaper Cross-ownership," *Broadcasting and Cable*, December 10, 2001.

[371] Roberts, Gene, *Leaving Readers Behind*, 10.