Consumer Federation of America

Consumers Union
Publisher of Consumer Reports

CDD Center for Digital Democracy

FREE TV SWALLOWED BY MEDIA GIANTS:
THE WAY IT *REALLY* IS SEPTEMBER 15, 2003

As public and congressional opposition to the new media ownership rules has mounted, proponents of the rule changes have begun to shift their arguments. Rather than emphasizing the abundance of the migration to digital television and broadband technologies, the proponents have begun to prophesize the doom of free TV. Federal Communications Commission Chairman Michael Powell recently quoted Walter Cronkite's famous closing line, "That's the way it is" in asserting that relaxed media ownership rules are necessary to prop-up free television.[1] In fact, Mr. Cronkite believes the exact opposite saying, "The gathering of more and more outlets under one owner clearly can be an impediment to a free and independent press."[2]

The argument that free TV will not survive cannot stand close scrutiny and is directly contradicted by a mountain of evidence placed before the FCC. Industry and other proponents ignore the fundamental change in the economic and business model that dominates the video marketplace and completely misrepresent the financial conditions of the networks and their parent corporations.

Over 85% of Americans no longer access their TV over-the-air. They get it from cable and satellite. It is clear from the facts that free TV and pay TV are completely intertwined. A handful of corporations own and control the vast majority of both. Networks are very profitable and their parent corporations own huge pay TV operations that are based on policies for broadcasting-worth many billions. Their fortunes have already been assured by federal policies that provide them with guaranteed cable channel carriage for the stations; additional cable channels for new services, and potential multi-billion payments for carriage of their digital TV services.

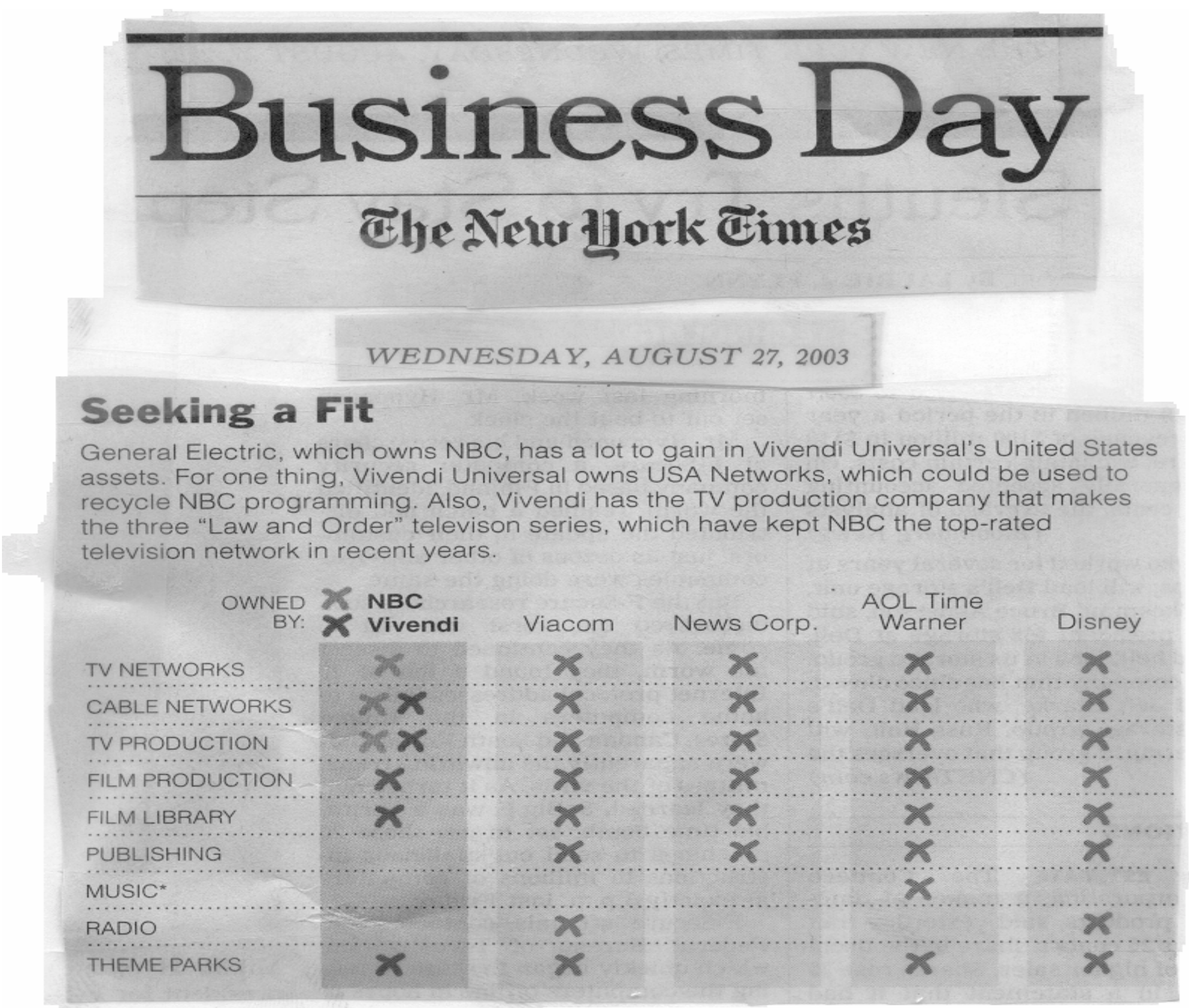
Decisions about the ownership and control of the media deeply affect the quality of our democracy. They must be based on facts and a clear understanding of the television business as it is today. Let's look at the way it *really* is.

ECONOMIC STRUCTURE

It should be easy for anyone who has followed NBC's march to acquire Vivendi's U.S. entertainment properties since April to understand what the new television landscape looks like. That NBC's corporate parent came up with $5 billion in cash and debt assumption and $14 billion total to acquire video production studios (Universal) and cable channels (USA and Sci-Fi) says a great deal about the financial health of the industry.[3] But, it says even more about the economic structure of the 21st century television business. Wall Street analysts and the popular press recognize that NBC needed to achieve the vertical integration into programming and cable distribution that every other owner of a broadcast network had earlier achieved.[4] That News Corp is offering to buy 34% of Hughes Electronics (DirecTV) for General motors worth $6.6 billion to acquire satellite distribution of TV programming supports the same observations.[5]

Each of the broadcast networks is now embedded at the core of a television giant that integrates production with both broadcast and cable distribution (See Figure 1).[6] The synergies and economic power that result from internalizing production, initial distribution, syndication and repurposing are the hallmark of the television industry in a multichannel environment.[7] This integration of production and distribution has been reinforced by legal rights. The parent corporations of the broadcasters have used their congressionally mandated right to must-carry and retransmission to gain carriage for their cable programming to ensure that their cable channels have a large audience.

FIGURE 1: BROADCAST NETWORKS AT THE CORE OF A HANDFUL OF VERTICALLY INTEGRATED TELEVISION GIANTS



Business Day
The New York Times

WEDNESDAY, AUGUST 27, 2003

Seeking a Fit

General Electric, which owns NBC, has a lot to gain in Vivendi Universal's United States assets. For one thing, Vivendi Universal owns USA Networks, which could be used to recycle NBC programming. Also, Vivendi has the TV production company that makes the three "Law and Order" televison series, which have kept NBC the top-rated television network in recent years.

OWNED BY:	X NBC	X Vivendi	Viacom	News Corp.	AOL Time Warner	Disney
TV NETWORKS	X		X	X	X	X
CABLE NETWORKS	X	X	X	X	X	X
TV PRODUCTION	X	X	X	X	X	X
FILM PRODUCTION		X	X	X	X	X
FILM LIBRARY		X	X	X	X	X
PUBLISHING			X	X	X	X
MUSIC*					X	
RADIO			X			X
THEME PARKS		X	X		X	X

NBC CBS FOX WB ABC TELEMUNDO UPN

In his most recent opinion piece on the FCC's new rules, FCC Chairman Michael Powell identified seventeen cable and satellite networks that he believes compete with the broadcast networks.[8] As the following table demonstrates, thirteen of these are owned by the same corporations that own the networks and two are owned by a firm with a substantial ownership interest in one of the major network owners.

TABLE 1: POWELL'S BROADCAST COMPETITORS ARE OWNED BY BROADCAST OWNERS

Parent Corp.	**Disney**	**Viacom**	**GE/ Vivendi**	**Newscorp/ Liberty***	**AOL-Time Warner**
Broadcast Networks	ABC	CBS UPN	NBC Telemundo	Fox	WB
Cable Competitors Identified By Powell	ESPN History**	Showtime Nickelodeon BET	MSNBC USA SciFi History**	Fox Sports Discovery* Hallmark*	HBO CNN Cartoon

* Liberty has a substantial investment Liberty; ** Joint Venture

Univision and IFC are independent of the five dominant integrated TV firms.

The domination of the television marketplace by these five corporations does not stop with just these broadcast and cable networks. The suggestion that "by setting a slightly revised national television ownership limit, the FCC will help the networks attract and maintain quality programming"[9] does not jibe with the viewing statistics. Using their rights to carriage, the parent corporations of the broadcasters have been able to capture approximately two-thirds of the cable prime time audience.[10] **They are not losing viewers to cable, they are shifting their delivery of programming from over-the-air to through-the-wire**. As Bernstein Research recently put it "a study of the December ratings from Neilsen Media suggests that we are beginning to see a rebuilding of the old programming oligopoly when cable and broadcast network station viewing are combined…. Together, the five companies controlled about a 75% share of prime time viewing, not including their nonconsolidated partnerships like A&E, Court TV and Comedy Central."[11]

The corporations that would be strengthened by the new rules already account for three quarters of America's viewing (see Table 2). The FCC's own statistics show that they own all of prime time's 20 most popular cable programming services[12] and 19 of the top 20 most widely available cable networks.[13] We arrive at a similar conclusion when we examine writing budgets and program expenditures. These are already thoroughly dominated by the network owners. The five network owners already account for about three-quarters of the television market by any measure.

TABLE 2: Dominant Video Program Producers/Distributors

	Subscribers		Writing Budget		Programming Expenditures		Production Share of Prime Time Hours in %
	# Million	%	$ Million	%	$ Million	%	
FOX/LIBERTY	1250	21	236	19	3803	9	3
AOL – TW	925	15	206	17	7627	18	10
CBS/VIACOM	910	15	145	12	9555	22	28
ABC/DISNEY	705	12	132	11	6704	16	21
NBC/Vivendi	720	12	159	13	3879	9	21
Subtotal	4315	75	772	72	31568	74	83
TOTAL	6000	100	1225	100	43212	100	100

SOURCES: Federal Communications Commission, *In the Matter of Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming*, CC Docket No. 00-132, Seventh Report, Tables D-1, D-2, D-3, D-6, D-7; *Television Market Report*: *2001* (Washington, D.C.: BIA Financial Network, 2001); Comments of the Writers Guild of America Regarding Harmful Vertical and Horizontal Integration in the Television Industry, Appendix A. Federal Communications Commission, *In the Matter of Implementation of Section 11 of the Cable Television Consumer Protection and Competition Act of 1992 Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996 The Commission's Cable Horizontal and Vertical Ownership Limits and Attribution Rules Review of the Commission's Regulations Governing Attribution Of Broadcast and Cable/MDS Interests Review of the Commission's Regulations and Policies Affecting Investment In the Broadcast Industry Reexamination of the Commission's Cross-Interest Policy*, CS Docket No. 98-82, CS Docket No. 96-85, MM Docket No. 92-264, MM Docket No. 94-150, MM Docket No. 92-51, MM Docket No. 87-154, January 4, 2002; Bruce M. Owen and Michael G. Baumann, "Economic Study E; Concentration Among National Purchasers of Video Entertainment Programming," *Comments of Fox Entertainment Group and Fox Television Stations, Inc., National Broadcasting Company, Inc. and Telemundo Group, Inc., and Viacom*, 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 and Newspapers, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, Definition of Radio Markets, MB Docket No. 02-277, MM Dockets 02-235, 01=317, 00-244, January 2, 2003; Federal Communications Commission, *Program Diversity and the Program Selection Process on Broadcast Network Television*, Mara Epstein, Media Ownership Working Group Study 5, September

2002, pp. 26.

In light of these facts, the claim that "producers and creators of television shows are often lured to the greater creative freedom of pay TV" misrepresents the programming decision process. The decision to create and place programs on free or pay TV is a business decision controlled by a handful of large corporations that dominate both pay and free TV. The choice is made by the network owners to generate the maximum revenues.

In fact, one of the most striking pieces of evidence offered by the Commission as to the dramatic increase in consolidation in the television industry was its staff study of the source of prime time programming. In 1989, the top five producers of prime time programming account for 42% of the total. Three of the top five were not owned by the major networks of the time, or even the entities that would become major networks. In 2002, the top five producers of prime time programming were the major networks and they accounted for over 80% of the programming.[14]

Since these companies own the shows they air, they also reap the syndication back end--the pot of gold at the end of the rainbow. Almost immediately, they earn back the cost of these shows by repurposing them on their cable networks, from which they get advertising revenue. Further, they are selling DVDs and tapes of these same shows. In short, the idea that the broadcast networks rely solely on "one source, advertising,"[15] is simply wrong. Making the networks richer and stronger will not save free TV, it will only strengthen the networks to control the flow of programming into the video marketplace. It will certainly not strengthen independent production.

FINANCIAL STATUS

Statements about the financial condition of the industry are also directly contradicted by the analysis prepared by his own agency. The FCC statistics show that the number of televisions stations and their advertising revenues continued to grow substantially in the last two decades of the twentieth century in both nominal and real dollars. As the FCC put it "In 2000, both profits and cash flow of commercial televisions are positive in every category and quite robust particularly for the larger markets."[16] Not only that, but the trend was positive over the 1990s. As the report concluded, "It appears that cash flow margins for the average station have increased over the past decade."[17] It goes on to point out that "even among the less profitable stations, the situation probably did not deteriorate since 1990."[18]

Compared to other businesses in America, TV broadcasting is quite profitable. As the FCC report put it, "the data show that margins for big three network affiliates have risen slightly over the past 25 years and compare very favorably to margins for the largest corporations."[19] The healthy picture applies to the independents too, for "historically independent station margins have been lower than those for network affiliates, but still above the largest corporation level."[20]

Conjured up as his rules encountered opposition, these gloom and doom predictions are not only flatly contradicted by the findings of his own agency; they are contradicted by industry sources.

As one can see from a recent "100 Leading Media Companies" report by *Advertising Age*,[21] the four major networks rank in the top ten in terms of revenue. Viacom (CBS) was in second place this year, up from third with over $16 billion in revenues. Walt Disney (ABC) remained in fourth place with $9.7 billion; News Corp. (Fox) remained in seventh place earning $6.6 billion. AOL, which owns the other national network was the largest media company with $28.6 billion, more than half of it from its television operations.

Industry analysts also contradict the claim that they networks are in a weakened position vis-à-vis the cable operators. On the contrary, they conclude that the vertical integration and concentration have strengthened the hand of the broadcasters. As FCC Chairman Powell is fond of pointing out that "It used to be that the 'big three' networks, ABC, CBS, and NBC were just about the only game in town."[22] Now it's the big five, a far cry from the hundreds he talks about.[23]

Here **in their own words** from recent SEC filings and finance briefings are the statements from the broadcast networks that illustrate how profitable they are. The networks don't have to be "bailed" out.

NBC (General Electric): Source SEC 10 K, March 7, 2003 (Is this correct?)

"These quotes **are** from: **NBC (General Electric): Source SEC 10 K, March 7, 2003**

"NBC reported record revenues of $7.1 billion in 2002, a 24% increase compared with 2001, and operating profit of $1.7 billion, up 18%. Primary factors contributing to this performance included our improved performance in the advertising market, our broadcast of the 2002 Winter Olympics and contributions from the Telemundo acquisition.

"NBC's operations include investment and programming activities in cable television, principally through CNBC, MSNBC, CNBC Europe, and CNBC Asia; equity investments in Arts and Entertainment, The History Channel, ValueVision, Inc., and a non-voting interest in Paxson Communications Corporation. In 2002 NBC acquired the cable network Bravo. NBC's strategic alliance with Dow Jones merged the European and Asian business news services of Dow Jones with those of CNBC to form CNBC Europe and CNBC Asia, and in addition permits NBC to use Dow Jones editorial resources in the United States. In 2002, NBC acquired Spanish language broadcaster, Telemundo."

On another front, speaking at a Banc of America Securities conference, Wright predicted NBC would see 18% profit growth for the full year 2003 to $1.9 billion, with cash flows up by a hefty 30% and revenues topping $6.7 billion. Similarly heady gains have helped GE's lackluster stock in recent quarters.[24]

CBS (Viacom): SEC 10K, March 27, 2003

"For the year ended December 31, 2002, revenues of $24.6 billion increased 6% from 2001 primarily driven by increases in advertising revenues, with additional contributions from increases in rental/retail sales, television license fees and affiliate fees. For the year ended December 31, 2001, revenues increased 16% to $23.2 billion from 2000. Revenue increases resulted from higher advertising sales, rental/retail sales, feature film revenues and affiliate fees partially offset by a decrease in television license fees. 2000 results reflect only eight months of CBS operations effective from May 4, 2000 when CBS Corporation merged with and into the Company, (the "Viacom/CBS Merger")."

And more recently, SEC 10Q, August 14, 2003

"For the three months ended June 30, 2003, Television revenues increased 10% principally driven by advertising revenue growth at the broadcast networks and the Stations group, and higher syndication revenues. CBS and UPN Networks combined advertising revenues increased 8%, with a 33% increase in sports due to the timing of the National Semifinals of the NCAA Men's Basketball Championship Tournament as well as average rate increases across all dayparts. For the quarter, the Stations group delivered 8% year-over-year advertising revenue growth due to growth in the automotive and retail industries and the addition of KCAL-TV Los Angeles which was acquired in May 2002. KCAL-TV contributed 4% of Stations advertising revenue growth for the quarter. For the six months ended June 30, 2003, Television revenues increased 7% with CBS and UPN Networks combined delivering 6% advertising growth led by 10% in primetime with an 8% average rate increase. For the six months, the Stations group advertising revenue increased 11%, with KCAL contributing 7% growth.

Fox (News Corp): SEC 425, September 11, 2003

"Financially and operationally, the past fiscal year was the single most successful in News Corporation's history. Our full-year revenues rose 15% to US$17.5 billion and our operating income increased 36% to a record US$2.5 billion. We posted record profits at our film, cable television and book publishing businesses as well as at our Australian newspapers, our pan-Asian operations and our U.S. television stations group. We grew audiences and market share and improved operating margins Company-wide. Our increased cash flow enabled us to lower debt and substantially strengthen our balance sheet. And with two major agreements forged during the year, the Company is in excellent position - strategically as well as operationally - to build on our success going forward.

"Perhaps most significantly, in fiscal 2003, these many gains were broadly distributed across all our segments. At our television segment, operating income rose US$393 million to US$851 million, spurred by dramatic improvements at the FOX Broadcasting Company as well as the mounting success of the Fox Television Stations and STAR. At the network, hit shows like American Idol and Joe Millionaire helped FOX to lift full-year primetime ratings by 16% while winning both the February and May sweeps among Adults 18-49 for the first time ever. Just as important, FOX achieved ratings gains across its schedule as shows from The Simpsons to 24 and from That `70s Show to Bernie Mac all increased their viewership.

As a result, the network finished the 2002-2003 broadcast season number one among Teens, number one among Adults 18-34 and a very close number two among Adults 18-49.

"Meanwhile, strong advertising revenues and climbing market share across our Fox Television Stations helped the group to post considerable gains in revenue and operating income. By following our duopoly strategy, we have substantially lowered operating costs and increased efficiency across our stations group. As with any industry innovation, our duopoly efforts are a work-in-progress; but we are greatly encouraged by the results thus far."

ABC (Disney): SEC 10Q, August 14, 2003

"Media Networks revenues increased 18%, or $381 million, to $2.5 billion, primarily driven by increases of $28 million at Broadcasting and $353 million at the Cable Networks. Increased Broadcasting revenue was driven primarily by an increase of $19 million at the ABC television network and $13 million at the Company's owned and operated stations. The increases at the television network and stations were primarily driven by higher advertising revenues, reflecting higher rates due to an active scatter markets Segment operating income increased 33%, or $96 million, to $384 million, driven by increases of $107 million at Broadcasting, partially offset by a decrease of $11 million at the Cable Networks. Growth at Broadcasting reflected lower cost programming and higher advertising revenue."

WB (AOL-TIME WARNER): 10K ANNUAL SEC REPORT, MARCH 28, 2003

Although AOL-Time Warner is centered more on its cable properties – both systems and programming, its broadcast business is quite healthy.

"Networks. Revenues increased 9% to $7.655 billion in 2002, compared to $7.050 billion in 2001. EBITDA increased 13% to $2.032 billion in 2002 from $1.797 billion in 2001. Operating income increased to $1.839 billion in 2002 from an operating loss of $328 million in 2001.

"Revenues grew primarily due to an 8% increase in Subscription revenues (from $3.988 billion to $4.310 billion) with growth at both the cable networks of Turner Broadcasting System, Inc. (the "Turner cable networks") and HBO, a 6% increase in Advertising and Commerce revenues (from $2.465 billion to $2.601 billion) with growth at both the Turner cable networks and The WB Network and a 25% increase in Content and Other revenues (from $597 million to $744 million) with growth at HBO, offset in part by a slight decrease at the Turner cable networks. EBITDA and operating income increased due to improved results at the Turner cable networks, HBO and The WB Network.

".... For The WB Network, the increase in Advertising and Commerce revenues was driven by higher advertising rates.

"... While advertising revenues declined overall, certain segments and businesses of AOL Time Warner experienced an increase in advertising revenues. Specifically, and as discussed in more detail below under Business Segment Results, advertising revenues increased at the

AOL and Cable segments, and at The WB.

"... For The WB Network, the increase in advertising and commerce revenues was driven by increased advertising rates and ratings in key demographic groups and the intercompany sale of advertising to other business segments of AOL Time Warner ($37 million in 2001 versus $6 million on a pro forma basis in 2000)."

A MASSIVE, DANGEROUS RELAXATION OF OWNERSHIP LIMITS

Depicting the new rules as a moderate change with claims such as a "slightly revised national cap" and "allowing cross-ownership or the ownership of more than one local television broadcast outlet in some markets" – vastly understates the changes made by the Commission. The national cap will be increased by almost 30%. The total increase over the last seven years would stand at 80%.

- The number of markets in which cross-ownership of newspapers and television stations would be allowed will increase from zero to about 180. Approximately 98% of the American people live in markets where these mergers would be allowed.
- The number of markets in which broadcasters would be allowed to own 3 TV stations (triopolies) would increase from zero to about 18. Approximately one-quarter of the American people live in markets where triopolies are allowed.
- The number of markets where duopolies would be allowed (excluding the triopoly markets) would increase from about 40 to about 125. Approximately 40% of the American people live in markets where duopolies would first be allowed.

The FCC recognized that over 85% of Americans no longer receive their TV over-the-air.[25] They get it from cable or satellite. The networks cannot turn in their broadcast licenses and stop broadcasting, because they would lose their must carry and retransmission rights. Threats by a broadcast CEO that "he might shut down… and simply move it to cable"[26] are downright silly. The stockholders would lynch the CEO, since as the Commission's own analysis shows, the spectrum licensed to one TV station owner, with considerably less reach than most network affiliates, is incredibly valuable. As the FCC put it "the owner of some of those stations has estimated that the channel 60-69 spectrum band in which many of them are located will bring as much as $30-$36 billion at auction."[27]

If there is a public policy concern about the lights going out in some small cities because the local market is not large enough to support multiple over-the-air stations, the FCC could have instated or expanded a failing station waiver, which has been part of the FCC's policy portfolio for quite some time. If increasing the outlets for news were the concern, the FCC could have allowed newspaper-TV combinations, only where the TV station did not provide news prior to the merger. These would have been moderate steps to preserve and improve free TV. As written, the rule encourage the big to bigger, the powerful to become more powerful.

Simply put, free TV and pay TV are completely intertwined. A handful of corporations own and control the vast majority of both. Networks are very profitable and their parent corporations own huge pay TV operations that are based on policies for broadcasting-worth many billions. Their fortunes have already been assured by federal policies that provide them with guaranteed cable channel carriage for the stations; additional cable channels for new services, and potential multi-billion payments for carriage of their digital TV services.

A vote to overturn these rules will express Congressional endorsement of very specific policies.

- It would restore the 35% cap, which was enacted by Congress.
- It would endorse the policy that newspapers and TV stations in the same mark should not be owned by a single entity.
- It would ban triopolies and tell the Commission to do a better job on evaluating duopolies.

The courts have never told the Commission to abandon or even change the rules. It only told it to do a better job justifying them. We believe the evidentiary record is more than adequate to do so. That's the way it really is.

ENDNOTES

[1] Michael Powell, "And that's the way it is," *Wall Street Journal*, September 11, 2003.
[2] Walter Cronkite, Former CBS anchorman March 24, 2003)
[3] John Tagliabue and Andrew Ross Sorkin, "Vivendi Agrees to Talks to Combine U.S. Assets With NBC," *New York Times*, September 2, 2003.
[4] Martin Peers, John Carreyrou and Kathryn Kranhold. "Vivendi, General Electric Intensify Talks on Deal," Dow Jones Newswire, August 19, 2003.
[5] Bloomberg News. "General Motors expects Hughes sale to be approved," *New York Times*, August 23, 2003.
[6] Richard Linnett, "Advertisers sense opportunity in NBC pact," *Advertising Age*, September 8, 2003.
[7] Ronald Grover, "Bob Wright's Post-Vivendi Schmoozathon; For the NBC chairman, the megadeal was just the start," *Business Week*, September 8, 2003.
[8] Powell, September 11, 2003.
[9] Id.
[10] Based on *Comments of Sinclair*, 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 and Newspapers, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, Definition of Radio Markets, MB Docket No. 02-277, MM Dockets 02-235, 01=317, 00-244, January 2, 2003, pp. 31-33.
[11] Tom Wolzien and Mark McKenzie, *"Returning Oligopoly of Media Threatens Cable's Power,"* Bernstein Research, Sanford C. Bernstein & Co., February 7, 2003, pp. 3.
[12] 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 (December 31, 2002), Table C-7; Comments of the Writers Guild of America Regarding Harmful Vertical and Horizontal Integration in the Television Industry, Appendix A. Federal Communications Commission, *In the Matter of Implementation of Section 11 of the Cable Television Consumer Protection and Competition Act of 1992*

Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996 The Commission's Cable Horizontal and Vertical Ownership Limits and Attribution Rules Review of the Commission's Regulations Governing Attribution Of Broadcast and Cable/MDS Interests Review of the Commission's Regulations and Policies Affecting Investment In the Broadcast Industry Reexamination of the Commission's Cross-Interest Policy, CS Docket No. 98-82, CS Docket No. 96-85, MM Docket No. 92-264, MM Docket No. 94-150, MM Docket No. 92-51, MM Docket No. 87-154, January 4, 2002 (hereafter, Writers Guild).

[13] Id., Table C-8; Writers Guild.

[14] Jonathan Levy, Marcelino Ford-Livene and Anne Levine, *Broadcast Television: Survivor in a Sea of Competition, Federal Communications Commission*, Federal Communications Commission, Office of Plans and Policy (OPP) Working Paper 37, September, 2002, pp. 26-27.

[15] Powell, September 11, 2003.

[16] Id. pp. 30

[17] Id., pp. 31.

[18] Id.

[19] OPP, pp. 32.

[20] Id.

[21] Scott MacDonald, "Special Report: 100 Leading Media Companies," *Advertising Age*, August 19, 2003.

[22] Powell, September 11, 2003.

[23] Tom Shales, "Michael Powell and the FCC: Giving Away the Marketplace of Ideas," *Washington Post*, June 2, 2003

[24] Janet Whitman and Beth Demain Reigber, "GE's NBC Expects 18% Increase in Profit Growth This Year," Dow Jones Newswires, August 1, 2003.

[25] FCC, Ninth Annual Report, Table B-#, assume 89.9 million subscribers to MVPD operators on a base of 105.4million TV households (Table B-1).

[26] Powell, September 11, 2003.

[27] OPP, pp. 33.