S. HRG. 108–934

MEDIA OWNERSHIP

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

MAY 13, 2003

Printed for the use of the Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

67–526 PDF WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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MEDIA OWNERSHIP

TUESDAY, MAY 13, 2003

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:33 a.m. in room SR–253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. I have been on this committee for 17 years. This is the first time that the sound system has been disabled before we have a hearing on the media. I am sure there is some plot there.

Today, the Committee continues its series of hearings examining media ownership. This hearing will focus on the rules currently being reviewed by the Federal Communications Commission, particularly those affecting television broadcasters and newspaper publishers.

In the early 1940s and 1950s, the FCC adopted rules placing limits on the number of broadcast stations one company could own or control in each market, as well as the number of stations one company could own throughout the country. In 1975, the Commission adopted a rule prohibiting one company from owning a broadcast station and a newspaper in the same market. Several of these rules were relaxed by the 1996 Telecommunications Act, where Congress set in motion a process intended to deregulate the structure of the broadcast television industry. To further this deregulatory trend, Congress mandated the Commission review its media ownership rules every 2 years to determine whether they remain necessary in the public interest. Several recent court cases have chastised the FCC for failing to justify retention of its ownership restrictions. I have spoken frequently in the past about the merits of deregulation in media markets.

Today's media landscape is wholly different from the 1940s or, for that matter, the 1970s. The average American consumer can get news and entertainment from one of the 200 cable television networks or innumerable Internet sites in addition to a broadcast television station or daily newspaper. So it is important for the FCC to review its rules to ensure that they reflect competitive and technological changes, and repeal or modify them as appropriate.

I recognize, however, that media can have a tremendous impact in the day-to-day lives of Americans. As a result, we must approach these issues thoughtfully. Earlier this year, this committee held a hearing on media ownership in the radio industry, where serious concerns were raised about vertical integration. Likewise, the Committee heard testimony last week about the negative attacks of vertical integration in the cable industry.

In light of these experiences, the FCC must not approach these important issues lightly. More than half the members of this committee have written FCC Chairman Michael Powell to weigh in on the proceeding. Many have expressed the belief that the Commission should allow more time for public comment. Yet some of these issues have been tied up at the FCC for years, and the Commission has received thousands of comments in this review.

I have confidence that Chairman Powell will ensure that the permission fulfills the court's dictates and statutory mandate in a manner that is thoughtful and consistent with all applicable laws and the best interest of the American public.

Given the amount of attention these issues have received, I believe it is important for the Committee to hear from leaders in the media industry most directly affected by potential changes to these rules. I look forward to hearing the panelists explain their views on why the rules should be retained, relaxed, or eliminated.

I thank the witnesses for being here today. I would also like to tell members of the Committee that following the ruling of the FCC, we will have all five members of the FCC before the Committee so that we can review the process they went through in that decision.

Senator Stevens?

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Senator STEVENS. Mr. Chairman, thank you. I will be very short, because I have to leave.

I strongly believe that broadcast/newspaper cross-ownership bans should be eased. If the FCC arrives upon a compromise when reviewing the cross-ownership ban, I urge the Commission to make sure that any compromise will reach down to the smaller communities, such as Anchorage and Fairbanks in my State, communities that now need the economies of scale that the ban now prohibits. However, I really do not think the 35 percent cap should be lifted at this time.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Dorgan?

STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

Senator DORGAN. Mr. Chairman, thank you for holding——

The CHAIRMAN. We are losing the sound again.

Senator DORGAN. Mr. Chairman, I think mine is on, so perhaps I can continue.

Mr. Chairman, I think it is unbelievable we are here at this moment with the FCC poised to move once again to relax ownership limits, deal with cross-ownership. I have a chart I want to put up that shows some concentration. As you know, since we passed the 1996 Act, there has been galloping concentration in virtually every area of the media in this country. I spoke recently about some of the consequences of that, but it seems to me that it is really hard to make the case that what we need is more concentration, more opportunity for concentration, given what has happened in recent years. And yet here we are, with an FCC poised to march to the rear on this issue, and I just do not understand it.

Let me also say that I think it will be too late to call the Federal Communication commissioners to this committee after they have made their judgment. I would much prefer we do so beforehand.

And I do want to raise an issue that was raised in an article this weekend, "Give and Take, FCC Aims to Redraw Media Map," by Stephen Labaton in the *New York Times.* And I do not know what the facts are, but I think the portion of this article begs for us to ask the question about the facts. And let me quote from it. "In one disputed episode," I am quoting, "on April 7, a group of broadcast executives met with Mr. Powell at a Las Vegas hotel near the NAB convention. The executives have tried successfully for more than a year to meet with him to discuss a petition they had filed against the networks. According to participants in that meeting, Mr. Powell listened to the group's opposition to changing national ownership cap and then posed what he called a hypothetical question, Would the group support an increase in the ownership cap to 45 percent if the FCC ruled favorably on some aspects of their petition?"

Now, there follows from that disputes of who was in the meeting and what was said in the meeting. One of the witnesses today is quoted—Mr. James Goodmon, who is before us today, is quoted as saying or deriding what he calls a climate of, "Let's Make a Deal." The story says there is evidence of Mr. Powell's hypothetical and other comments from his aides to executives were read differently by at least one company that had an impact on the debate.

My point is this. First of all, we should not be—in my judgment, the FCC should not be relaxing ownership rules at this point, or ownership caps. And, second, I do not know what the facts are with respect to this kind of an issue, but I really think it will be too late to call the Commissioners down after they have made a decision. I would hope that we might, based on this, call them down beforehand.

But you, Mr. Chairman, have had a previous hearing and a hearing today for which I am very appreciative. I think you are focusing this committee on a significant issue. I mentioned, the last time we had this discussion, the issue of Minot, North Dakota, a town of about 50,000 people, has six commercial radio stations in the City of Minot. They are all owned by the same owner, all purchased by the same owner. Every commercial radio station in that town is owned by the same owner. Does anybody here think that that represents competition, progress, forward movement in the sake of open markets? I do not think so. Well, that is just one example, and there are many more.

But, Mr. Chairman, I really hope that we can find a way to derail what is clearly an effort by the FCC to relax ownership limits. They talk about there is more variety and more voices. I made the point a while back that those voices all come from the same ventriloquist in most cases, and I really hope that we can convince the FCC to back away, and I hope that we can have the Commissioners down to talk about it.

The CHAIRMAN. Thank you.
Senator Burns?

STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Senator BURNS. Thank you, Mr. Chairman.

And I just want to say that the last two hearings on media and what is going on in the media is most enlightening. I congratulate the Chairman, because we are doing more oversight now than I can remember this committee doing for a long, long time, Mr. Chairman, and I think that is a step in the right direction.

This hearing will be particularly interesting, I think, in its impact on the media. I am deeply concerned about the impending relaxation of the 35 percent national cap on ownership. I have been a strong supporter of the broadcast industry, but I am also a supporter of the current restrictions that were developed in the 1996 Telecommunications Act. And I do not think, at this time, it serves the best of public interest to raise those caps. I think the Chairman had it right; the majority of this committee has written to the FCC saying to be very cautious as they approach this, and I am also a cosponsor of Senator Stevens' bill that would reinforce that feeling.

We tend to look at the big media markets, but then, you know, we find that we have still got problems in rural areas with a host of local broadcasters that has really put a lot of pressure on the local industry. So we witnessed a remarkable evolution in the media landscape. We know that, and are also going to consider cross-ownership one of these days and the creation of some duopolies and this type of thing, and I think it gives all of us in Congress a little pause now to think and rethink of some of the things that are happening in the industry.

So, Mr. Chairman, I would just put my statement in the record, and I look forward to hearing from the witnesses and also their answers to some of the questions that will be posed to them by this committee. But, again, thank you for having these oversight hearings. I think they have been very timely, and this is what this committee should be doing, is bringing to light some areas in our industry for public awareness.

So thank you very much.

[The prepared statement of Senator Burns follows:]

PREPARED STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

I thank the Chairman for convening this important hearing. The changing landscape in the media industry requires that we re-examine the regulatory framework from time to time, and the subject of media ownership, particularly with respect to the broadcast television industry, deserves our full and complete attention.

This hearing is particularly timely given the impact that potential action at the Commission could have on the future of local broadcasting. I am deeply concerned about reports of an impending relaxation of the 35 percent national cap on television broadcast ownership. As a strong supporter of current restrictions that were developed in the 1996 Telecommunications Act, I do not believe that a relaxation of the cap is in the public interest. Many of my colleagues on the Committee share my concern. For this reason, I am cosponsoring Sen. Stevens' bill which would maintain the national caps at the current, reasonable 35 percent standard. I believe that any further movement from this level of ownership would tip the balance and risk giving excessive leverage to the networks, turning local broadcast affiliates into mere passive distribution outlets for national programming.

In recent years we have witnessed a remarkable evolution in the media landscape—technological advances have changed the way in which we access information and services. This transformation has also brought about an undeniable increase in video programming choices available to the consumer—direct satellite, cable services, on-demand video programs over the cable or Internet, are all options that have contributed to this tremendous growth.

It is important to remember, however, that the vast majority of these services are produced and marketed at a national level. There is little room, if any, to cater to programming of local interest. Local broadcast television has filled this important niche, and we must ensure that any change in policy not jeopardize this valuable programming content for our citizens. The situation is even more critical in rural communities, where the absence of local broadcast television would mean only a choice between different national distribution networks.

Those in favor of relaxing the national broadcast ownership caps yet again argue that nearly all consumers have access to local programming over cable or DBS. The situation in rural America could not be more different, however. While consumers in Manhattan have a wide variety of local programming alternatives, my state of Montana has a cable penetration rate of barely over 50 percent, which is among the lowest in the Nation. Furthermore, unfortunately the average income in Montana is among the lowest in the Nation and a lot of Montanans simply can't afford cable even if they have access to it. As for other alternatives, the majority of Americans in rural areas still don't have access to their local stations over direct broadcast satellite services. Large numbers of citizens across rural America rely on free, overthe-air broadcast television to receive important local, weather, and community information.

Networks strive to increase their share of the national viewing audience. They must recognize, however, both the need for local programming as well as the sensitivities of viewing audiences in different parts of the country. Some degree of local ownership is the key that strikes the balance between such competing demands.

Whatever changes are contemplated, we must ensure that affiliates continue to have flexibility in providing local programming without fear of retribution from the networks. Some have argued in favor of fewer regulations on ownership coupled to a greater oversight of network behavior. However, the task of developing benchmarks that measure network behavior is not easy and would prove even more difficult to regulate.

Thank you, Mr. Chairman. I look forward to the testimony of today's witnesses.

The CHAIRMAN. I thank you, Senator Burns.

Senator Wyden?

STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN.Thank you, Mr. Chairman. And I want to commend you for holding these hearings and also commend Senator Stevens for really leading this committee on these concentration questions with respect to the 35 percent ownership rule.

I believe, Mr. Chairman and colleagues, that if what has been reported today is correct and it goes forward unchanged, I believe that this policy is going to serve as a glide path for the big media conglomerates to gobble up scores of small, independent stations, and our country is going to be the worse for it. And I think I want to talk just for a moment about some of the implications of this.

The cover story of this week's *Time* magazine is about the new *Matrix* movie that is coming out. Now, some may just say this is a coincidence that the movie and the magazine are owned by the same company. And suffice it to say we are talking here just about a movie review and, I would be willing to acknowledge, not the most serious question. But supposing we are talking about breaking a story about accounting irregularities, which obviously is a big deal for our country and our economy, but somebody in the news side is reluctant to blow the whistle with respect to accounting irregularities because they know it may have some implications for the big media conglomerate they are a part of. So I am very troubled about the idea that a local newspaper and a local TV station are going to speak with one voice, sort of two branches of the same company and speaking together.

And I want to associate myself with the last comment made by Senator Dorgan. I think it is critical that we have Michael Powell up here before this decision is made, because I want to hear somebody make the case, Mr. Chairman, that the Federal Communications Commission has been holding the reins too tightly. Concentration is already on the rise in TV and radio, cable, and newspapers. And, sure, some of the big interests in this country are going to chafe from time to time, but it seems to me that we ought to be having Government, from time to time, tighten these reins, and we ought to make sure that there is more to this than just the efficiency argument that is made by these media conglomerates, and I hope we will have Michael Powell up here before the decision is made.

The CHAIRMAN. Could I say to my friend from Oregon, I understand his desires and his frustration, along with that of the Senator from North Dakota, and the importance of this issue, and that is why we continue to have these hearings.

I would remind my friend from Oregon that the FCC is an independent agency. They are an independent agency and were set up to be so, and I always want to be very careful in our relations with the Federal Communications Commission as to how we treat them, under what circumstances, and the appearance of trying to interfere unwarrantedly and our oversight responsibilities is a very careful balance. And I hope that the Senator from Oregon understands that, because I think that there are quasi-judicial agents, and my friend points out——

Senator WYDEN. Would the Chairman just yield very briefly on that point?

The CHAIRMAN. Yes, I appreciate the patience of the witnesses. I do not want to get too much——

Senator WYDEN. I will be very brief.

The CHAIRMAN. Go ahead.

Senator WYDEN. I share the Chairman's concerns. But suffice it to say when the Chairman of the Commission is talking at length today in the newspaper about the policy issues, I think we ought to try to find a way, in a generalized kind of fashion so as to be sensitive to the point that you are making, and correctly so, that we do have a discussion about these issues. And I would just like to work with the Chairman so as to be sensitive to the point the Chairman is making, but at the same time continue the dialogue that the Chairman of the Commission is plenty willing to do on the front pages of our papers.

The CHAIRMAN. I think your point is well made, Senator Wyden.

We have Senator Allen, Senator Lautenberg, and Senator Snowe.

Senator Allen?

STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR FROM VIRGINIA

Senator ALLEN. Thank you, Mr. Chairman. I also want to thank all our witnesses for appearing today and offering testimony on the important media-ownership issues. The current analysis of media-ownership regulations, I think, is one of the more important proceedings in recent memory for the FCC.

The key goals of all of this is public interest, but the specific proposals or guiding principles are localism, competition, and diversity. Those have been the core principles since the 1930s, and today, with cable and satellite and Internet, there are more consumer-driven options, there is more diversity, and there is more competition, in my view, than ever before.

I would just incorporate, by reference, Chairman McCain's facts, insofar as the number of stations and opportunities currently available. This committee has, I would say to my friends, Senator Wyden and Senator Dorgan, certainly communicated with the FCC and Chairman Powell on their need to follow the law in their 2-year review, and they are going forward with that 2-year review.

The witnesses here, some are going to focus on the 35 percent limit, two others are going to be talking about the cross-ownership issue, and I think that is an important matter for consideration for deregulation. The markets that are smaller or mid-sized markets, their costs are increasing, but their resources are scarce, and they have less than the—for mid-sized markets or the larger markets.

Now, these rules, as far as cross-ownership, were put in 1970s, and I think they are largely unnecessary and they are outdated, given the increasing number of media outlets, as we talked about, in satellite, TV, newspapers, cable, the Internet, and so forth. In my opinion, newspaper cross-ownership can actually benefit consumers in certain markets where broadcasters and newspaper owners face financially challenging conditions. In Virginia, there are some examples of where this has occurred, where some stations have received waivers or were grandfathered under the previous rules. And in those areas, the Roanoke, Lynchburg area, the Tri-Cities, which is Southwest Virginia and Upper East Tennessee and the Danville area, have expanded local news coverage and increased program offerings and better ratings due to this capability. Now, I think that these are successful examples, and I would like to see that available not only in all communities in Virginia, but I think it would help the principles of localism, diversity, and competition across the country.

The final issue that none of our witnesses, unfortunately, Mr. Chairman, are going to be really testifying about has to do with duopoly rules. And I think it is alluded to somewhat by Senator Burns and Senator Stevens, and I think that the duopoly rules that we currently have are unfair, that the larger markets can have combined efficiencies of facilities and marketing and so forth, whereas the smaller markets that generally have the same costs, whether it is for the digital broadcasting and all these costs but have a smaller market, they are not allowed to combine in that effort. And I am one who thinks that these duopoly rules should not, should not, discriminate against smaller markets. And for those where they do have small markets, I think they ought to be abolished. And I think it will help keep some of the struggling television stations afloat in small markets and would actually improve the quality and diversity of programming currently available to viewers within those smaller markets.

So I look forward to listening to our witnesses and hearing about their opinions on the duopoly idea, as well as cross-ownership, and I think that this hearing is very appropriate, but it is more appropriate that we update and upgrade our laws to reflect the realities, the costs, and the opportunities there are to improve broadcasting for our consumers in all markets.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Lautenberg?

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. Yes, thanks, Mr. Chairman.

I will be brief. First of all, I want to ask consent that my full statement be a part of the record——

The CHAIRMAN. Without objection.

Senator LAUTENBERG.—accompanied by an article written by Paul Krugman that was in the *New York Times,* March 25, 2003.

[The information referred to follows:]

PREPARED STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Mr. Chairman,

Today's hearing brings to mind Ernie Kovacs' remark that TV is called a "medium" because it is neither *rare* nor *well done*.

All joking aside, this hearing is on one of the most important subjects the Commerce Committee will consider: broadcast media ownership.

Over the years, Congress established media ownership rules to ensure that the public would have access to a wide range of news, information, programming, and political perspectives. The courts have repeatedly recognized the public interest goals of diversity, competition, and localism.

Repeal or significant modification of the rules will lead to mergers that reduce diversity, competition, and local control in the media.

We have seen that happen with the Telecommunications Act of 1996, which relaxed the media ownership rules significantly. With regard to *broadcast television* the number of companies owning stations has dropped 40 percent since 1995. With regard to *radio*, in 1995, the top radio station group owned 39 stations. Today, Clear Channel owns over 1200 stations.

It's important to remember that the airwaves belong to the *public*, and are to be managed in the *public interest*.

We will hear testimony today about the "efficiencies of consolidation" and the like. With all due respect, efficiencies of consolidation may benefit Viacom or News Corp and their shareholders, but they don't necessarily benefit the public interest.

On September 13, 2002, the Federal Communications Commission (FCC) began a review of the current rules that limit television, radio, and newspaper cross-ownership. FCC Chairman Powell has announced that the Commission will conclude its review and vote on proposed changes on June 2, 2003.

Last month, 15 Senators—including 12 members of this Committee—appealed to Chairman Powell to give Congress and the public the opportunity to review the changes beforehand.

Chairman Powell dismissed our appeal, noting that this review is late and that Congress rebuked the FCC for failing to finish its first biennial review on time.

I think this is more of an argument for having Congress revise the biennial review mandated by Section 202(h) of the Telecommunications Act of 1996 than it is an argument for denying our request. As the Chairman himself noted, "getting it right is more important than just getting it done."

I think Congress also needs to revisit Section 202(h) because of the D.C. Circuit Court's ruling that "Section 202(h) carries with it a presumption in favor of *repealing* or modifying the ownership rules."

There has been revolutionary change in the industry as a result of the 1996 Act and I think it is very premature to determine whether that change is in the public interest.

I would submit that the media consolidations and mergers we have already seen are *not* in the public interest in at least one crucial realm, and that's the public's access to fair and balanced news coverage that reflects a variety of viewpoints.

One of our witnesses, Mr. Karmazin, will argue that "Americans are bombarded with media choices via technology never dreamed of even a decade ago, much less 60 years ago."

That's true, but misleading. Who owns these media? Viacom, for instance, owns CBS and UPN; 35 television stations that reach 40 percent of the national viewing audience; Universal Studios; cable channels such as VH1, MTV, Nickelodeon, Comedy Central, Showtime, and BET; and—through Infinity Broadcasting—185 radio stations. Viacom also has substantial ownership interests in several Internet properties, including *CBS.com* and *CBSMarketwatch.com.*

The media empire News Corp. Chairman Rupert Murdoch has put together is already quite extensive. In the New York metropolitan area, for instance, it includes two VHF broadcast stations, a daily newspaper, a broadcast network, a movie studio, a satellite service, and four cable networks. And now he wants to gain access to the DirecTV platform.

Consolidating media ownership means that a few large corporations can exercise considerable control over the news. And as the distinguished Supreme Court Justice Learned Hand remarked in 1942, "The hand that rules the press, the radio, the screen, and the far-spread magazine rules the country."

Let's look at what has happened in radio. Clear Channel, as I mentioned, has over 1,200 radio stations, which reach 110 million listeners in every State and the District of Columbia.

New York Times columnist Paul Krugman wrote an eye-opening column on March 25, 2003, entitled "Channel of Influence." I ask unanimous consent that his column appear in the hearing record after my statement.

In his column, Krugman notes that many pro-war demonstrations called "Rally for America" were organized by stations owned by Clear Channel, a company "notorious and widely hated—for its iron-fisted centralized control."

Krugman further notes that Clear Channel's top management has a long—and mutually profitable—history with President Bush. According to Krugman,

> "The Vice Chairman of Clear Channel is Tom Hicks . . . When Mr. Bush was Governor of Texas, Mr. Hicks was Chairman of the University of Texas Investment Management Company, called Utimco, and Clear Channel's Chairman, Lowry Mays, was on its Board. Under Mr. Hicks, Utimco placed much of the university's endowment under the management of companies with strong Republican Party or Bush family ties. In 1998 Mr. Hicks purchased the Texas Rangers in a deal that made Mr. Bush a multimillionaire."

Is there a *quid pro quo* going on here? One that involves a company whose radio stations already reach 110 million Americans? Is it really in the public interest to make it easier for this company—and a few others like it—to dominate the airwaves and determine what news the American people will—or won't hear?

I don't think so. So I urge my colleagues to review the broadcast ownership rules very carefully. We made substantial changes in 1996 that may not be in the public interest. The jury is still out. I don't think we should be in any hurry to deregulate the industry even more. I repeat what Chairman Powell said: "getting it right is more important than just getting it done." Getting it right means serving the public interest, not boosting profitability. Thank you, Mr. Chairman.

CHANNELS OF INFLUENCE

By Paul Krugman

By and large, recent pro-war rallies haven't drawn nearly as many people as antiwar rallies, but they have certainly been vehement. One of the most striking took place after Natalie Maines, lead singer for the Dixie Chicks, criticized President Bush: a crowd gathered in Louisiana to watch a 33,000-pound tractor smash a collection of Dixie Chicks CD's, tapes and other paraphernalia. To those familiar with 20th-century European history it seemed eerily reminiscent of. . . . But as Sinclair Lewis said, it can't happen here.

Who has been organizing those pro-war rallies? The answer, it turns out, is that they are being promoted by key players in the radio industry—with close links to the Bush Administration.

The CD-smashing rally was organized by KRMD, part of Cumulus Media, a radio chain that has banned the Dixie Chicks from its playlists. Most of the pro-war demonstrations around the country have, however, been organized by stations owned by Clear Channel Communications, a behemoth based in San Antonio that controls more than 1,200 stations and increasingly dominates the airwaves.

The company claims that the demonstrations, which go under the name Rally for America, reflect the initiative of individual stations. But this is unlikely: according to Eric Boehlert, who has written revelatory articles about Clear Channel in Salon, the company is notorious—and widely hated—for its iron-fisted centralized control.

Until now, complaints about Clear Channel have focused on its business practices. Critics say it uses its power to squeeze recording companies and artists and contributes to the growing blandness of broadcast music. But now the company appears to be using its clout to help one side in a political dispute that deeply divides the Nation.

Why would a media company insert itself into politics this way? It could, of course, simply be a matter of personal conviction on the part of management. But there are also good reasons for Clear Channel—which became a giant only in the last few years, after the Telecommunications Act of 1996 removed many restrictions on media ownership—to curry favor with the ruling party. On one side, Clear Channel is feeling some heat: it is being sued over allegations that it threatens to curtail the airplay of artists who don't tour with its concert division, and there are even some politicians who want to roll back the deregulation that made the company's growth possible. On the other side, the Federal Communications Commission is considering further deregulation that would allow Clear Channel to expand even further, particularly into television.

Or perhaps the *quid pro quo* is more narrowly focused. Experienced Bushologists let out a collective "Aha!" when Clear Channel was revealed to be behind the pro-war rallies, because the company's top management has a history with George W. Bush. The Vice Chairman of Clear Channel is Tom Hicks, whose name may be familiar to readers of this column. When Mr. Bush was Governor of Texas, Mr. Hicks was Chairman of the University of Texas Investment Management Company, called Utimco, and Clear Channel's Chairman, Lowry Mays, was on its Board. Under Mr. Hicks, Utimco placed much of the university's endowment under the management of companies with strong Republican Party or Bush family ties. In 1998 Mr. Hicks purchased the Texas Rangers in a deal that made Mr. Bush a multimillionaire.

There's something happening here. What it is ain't exactly clear, but a good guess is that we're now seeing the next stage in the evolution of a new American oligarchy. As Jonathan Chait has written in The New Republic, in the Bush Administration "government and business have melded into one big 'us.' " On almost every aspect of domestic policy, business interests rule: "Scores of midlevel appointees . . . now oversee industries for which they once worked." We should have realized that this is a two-way street: if politicians are busy doing favors for businesses that support them, why shouldn't we expect businesses to reciprocate by doing favors for those politicians—by, for example, organizing "grass roots" rallies on their behalf?

What makes it all possible, of course, is the absence of effective watchdogs. In the Clinton years the merest hint of impropriety quickly blew up into a huge scandal; these days, the scandalmongers are more likely to go after journalists who raise questions. Anyway, don't you know there's a war on?

Senator LAUTENBERG. Mr. Chairman, I think the question that has to be answered is, What was the purpose of the law change that was made in 1996? What is the mission of the FCC? Is it not for the public good? And I do not understand what good it does the public to have these consolidations that are taking place. And I will not run through the review of how many stations were owned by Clear Channel and others in those earlier years and how many they have now.

It is a question, to me, of the principle of, What do we want to accomplish? And what I see is, we want to accomplish a delivery to the public of information that is as balanced, as objective, as you can get. And it is very apparent in some of these cases that consolidation has resulted in getting a tilt one way, through lots of stations, lots of channels, and that is the dominant view that you hear constantly. And I wonder whether, with the Chairman of the FCC, Chairman Powell's, earlier announcement, whether there is an interest in responding to the public through those of us who are here to serve the public interest. I think it is unfortunate, and I agree with colleagues who ask for Mr. Powell's review once again. And I heard the Chairman very clearly about the question of interference. But it is my understanding, Mr. Chairman, that the law, the result of the legislation, was a court opinion that may not have so clearly defined what we wanted to have come out of that legislation.

So I raise the question about, What good does it do the public? And I, frankly, do not see this concentration, expansion of stations and outlets, doing the public any good. I see it doing the owners, I see it doing the companies, lots of good. It is more revenues, there are more profits, there is more control, and, in some ways, I think, is more threatening to the public good.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Snowe?

STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM MAINE

Senator SNOWE. Thank you, Mr. Chairman. And I thank you, as well, for conducting what is three of three hearings on this issue regarding media ownership rules, and I certainly think that this hearing is at a pivotal juncture, obviously, with the FCC prepared to either eliminate or ease some of the ownership and cross-ownership within the media industry without having the benefits of being informed, in terms of the impact of these significant issues that will have, obviously, profound implications in the future.

And, obviously, it is of great consequence to the public and could result in an irreversible course of action resulting in a lessening of the diversity of opinion and voices in the public, lessening local and community input, reducing community involvement. So, obviously, this all has significant implications for the future.

As the *New York Times* put it the other day, “In a few weeks the FCC is going to be voting on what could be the most significant change in media ownership rules, expanding the reach of the Nation's largest broadcast and newspaper companies.” And here we are 3 weeks out, Mr. Chairman, and we have no foreknowledge of what types of rules will be proposed by the FCC.

Now, the biennial review is no secret. It was incorporated in the 1996 Telecommunications Act. So that was no secret, obviously, to the FCC, that they are required to meet those responsibilities and obligations. We understand about the D.C. District Court action. Again, it does not rationalize and justify the fact that we are not being informed, at least in terms of the intent of the FCC, because it does have major public implications.

We have seen a lot discussed in the media. We have seen articles after articles talking about diversity index and what might happen in the 35 percent cap and so on, but we have not been informed.

And that is why I joined the majority on this committee back in April asking for the Commission at least to give us a preview of these rules so that we could at least have an opportunity to weigh the implications and the ramifications.

I think it would be appropriate before these significant changes that could have a sweeping impact on our society and how we engage in public debate. We are not talking about a cursory review. We are talking about a review process that potentially could open the door to the last barrier of restrictions to unfettered ownership within the industry. And when we look at the rate of consolidation—there is a recent report that was conducted that said five companies or fewer could control almost 60 percent of the television households. And, you know, these concerns are well grounded. They certainly have precedent. I mean, in 1945, Justice Black, in an opinion that was rendered by the Supreme Court, he stated that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public. So what happens, Mr. Chairman, with the diverse and antagonistic sources if those voices are silenced?

So those have, I think, wide-ranging consequences that have no benefit, without a public airing of understanding. And that is why, Mr. Chairman, I do think it is essential that the Commission justify how any changes in media rules will promote diversity, will promote localism, will promote competition. And I would hope that before any final rules are made, that we have the opportunity at least to have a chance to respond and to explore those issues. They have obviously been explored in the media. They ought to be able to be explored before the U.S. Congress. More than 20,000 filings have been submitted to the FCC, so obviously there is considerable public interest.

I am not saying that the FCC has not done their job, has not conducted a thorough review or analysis. The question is, Do we have an opportunity to have input before these rules are made final? In 3 weeks, on June 2, they will be made final. And I think that is the issue before us today.

And I want to also say, Mr. Chairman, that I am very pleased that you have invited Mr. Frank Blethen, who is the Publisher and the CEO of the *Seattle Times,* that is owned by the Blethen newspapers, which Frank has continued the longstanding tradition of family media newspaper ownership. These newspapers serve communities for more than 100 years, and we, in Maine, came to know Mr. Blethen when the Blethen Maine newspapers purchased the Portland newspapers that were once owned by another great family, the Guy Gannett Communications that owned newspapers for more than 100 years in the State of Maine. So we were fortunate to have one family owned institution buying another. And under Frank's leadership, the Blethen newspapers are continuing longstanding community involvement, independence, and high standards of journalistic integrity.

So, Mr. Chairman, I appreciate the opportunity to express my views.

The CHAIRMAN. Senator Sununu?

STATEMENT OF HON. JOHN E. SUNUNU, U.S. SENATOR FROM NEW HAMPSHIRE

Senator SUNUNU. Thank you, Mr. Chairman. And welcome to the witnesses.

Mr. Chairman, I think as we go through this hearing process, it is important that we do keep in front of us what the objectives of this regulation is under this statute. Senator Allen mentioned, and Senator Snowe, as well, that diversity and competition, those are important to keep in front of us at all times.

It was suggested, maybe not intentionally, that one of the jobs of these regulations was to make sure that the information the public is getting is fair and balanced. Now, that sounds like a pretty noble goal. But I do not want the FCC in charge of deciding what is fair and balanced. I do not want legislators deciding what is fair and balanced. What is important is that we have diversity, diversity of ideas and opinions, whether it is coming from newspapers or radios or television, and not that we look to somehow shape what is or is not fair or balanced in the eyes of legislators somehow controlling what information does or does not get out there. Concerns were raised about, you know, *The Matrix* being on the front of a magazine and having a company that owns the magazine also having rights in the movie. Now, that is not something I lie awake at night worrying about.

And if you go out to any newsstand right now, *The Matrix* is on the front of every magazine. And the week before, SARS was on the front of every magazine. And why would that be? It is because magazine owners want to sell magazines, and I think nothing more and nothing less. I think we have to be careful about seeing, sort of conspiracies where none exist, because if we focus on, sort of, the emotionalism of the issue, we are not going to do a good job in supporting or helping to shape a good policy or good regulation.

Two final points. First, I think it is important that the FCC act on these issues in a timely way. There have been a lot of efforts to slow the process down, to delay the process, to say, "Well, you know, there are 3 weeks to go. That cannot possibly be enough time to really do a proper job here." These regulations have been on the books for decades, and the media industry, the telecommunications industry, and the broadband industry are changing at a very, very fast pace, and I think it is fair to say that these regulations deserve a hard look, if nothing else.

Second, we have had months, if not years, to collect information, to review information. And I think to suggest that the FCC does not have enough information to make an intelligent decision is simply wrong. They may not make a decision that every Member in this room will agree with or that every industry representative will agree with, but I think they have had ample time to collect information and make a good decision.

And, to that end, I think it is also important that they have a sound basis for this decision. If, ultimately, these ownership criteria are arbitrary, we are going to go to court, and if recent cases are any precedent, they are going to be struck down. You need a sound basis for maintaining these regulations that are rooted in the principles of diversity and competition and locality. And if there is any message that the FCC should take from these hearings and these discussions, it is that you have got different opinions, but if you do not have a sound basis for the regulation, it opens itself up to litigation, and the public is not well served, the markets are not well served, and I think that would be a mistake.

I look forward to the testimony and appreciate the time of the witnesses.

Thank you, Mr. Chairman.

The CHAIRMAN. I, too, look forward to the testimony, and I would ask my remaining colleagues to make their opening remarks brief.

Senator Cantwell?

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Mr. Chairman. I will make mine brief. I will submit them for the record and just say that I also welcome one of the panelists, Frank Blethen, from the *Seattle Times.* As far as localism and diversity, it is kind of interesting that Mr. Blethen has newspapers in two states, Washington and Maine, and that both those states are represented by two women Senators. So something is working well on the diversity side.

With that, Mr. Chairman, I will submit my remarks.

[The prepared statement of Senator Cantwell follows:]

PREPARED STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Thank you, Mr. Chairman.

Ownership of the broadcast and print media touches some of our most core American values: freedom of speech, open and diverse viewpoints, vibrant economic competition, and local diversity. I am pleased to welcome our witnesses today to talk on such important matters, and I want to welcome in particular Washington State's own Frank Blethen, whose family owns the *Seattle Times*.

Washington State has a long and rich history of quality local news and broadcasting, and a strong commitment to highlighting the local angle.

A similar attention to diversity and localism has served America well by expanding economic opportunities and energizing civic discourse. Diversity and localism promote competition and choices for advertisers. They create opportunities for small companies, minorities, and women. They allow innovative programming to find an outlet. They ensure the flow of information necessary to inform the democratic process. They guarantee that the interests of each community are served.

If we are to continue to benefit from this freedom of the press, the Federal Communications Commission will need to answer some tough questions about the balance between the public interest and the economic efficiencies that result from consolidation. Since 1934, when Congress first charged the FCC with regulation of the public airwaves, its directions have been to regulate "consistent with the public interest, convenience, and necessity."

Because the airwaves are a public resource, Congress required that the Commission go beyond mere economic analysis and above the bounds of traditional antitrust analysis. For most of the past sixty years, the FCC has worked to promote the diversity of owners and viewpoints, to ensure public access to multiple sources of information, and to meet the needs of local communities. Indeed, in this pending media ownership rules docket, the FCC has specifically recognized its mission as "promoting diversity, competition, and localism in the media."

While economic efficiencies may be available from relaxation of these media rules, any benefits must be measured against, and held up to, the standard of the "public interest." As a Senator who cares about the citizens of my state, I am concerned that these rules benefit the radio listener in Cowlitz, the newspaper reader in Burien, and the television viewer in Methow, not just allow achieving a certain market share. Economic efficiencies may promote the public interest, but these efficiencies must be tested against the public interest standard.

These rules must consider the ability of a local public to get urgent information, and they should not restrict the ability of new artists to reach listeners. They should not allow one provider to be the owner of every media source a viewer sees. They should not cause local advertising rates to skyrocket. If this is the result, it comes time to question whether relaxation is in fact in the best interests of the American people.

Broadcast media in all its forms, print, electronic, over-the-air, have continuing and real obligations to inform and serve Americans.

These media are often licensees of a public good, and are the "voice" of news and ideas for many Americans. The FCC must ensure that these media are responsive to, and representative of, the political, educational, and entertainment needs of Americans. I hope that the witnesses today can enlighten us on the ways the FCC can structure its rules to meet those obligations.

The CHAIRMAN. Senator Lott?

STATEMENT OF HON. TRENT LOTT, U.S. SENATOR FROM MISSISSIPPI

Senator LOTT. Thank you, Mr. Chairman. I also would like to ask consent that my statement be put in the record and just make this one comment.

I think our media-ownership rules are working well. It makes good sense to review them, but basically I think we should leave them as they are.

With that, I would like to hear the witnesses.

[The prepared statement of Senator Lott follows:]

PREPARED STATEMENT OF HON. TRENT LOTT, U.S. SENATOR FROM MISSISSIPPI

Mr. Chairman, thank you for holding this important hearing today on the media ownership rules which are currently under review by the Federal Communications Commission. Media ownership is a topic which has always been of great interest to me, and I have been following the status of the biennial review at the FCC very carefully. I am particularly interested in those rules which apply to the broadcast television industry. Since the public airwaves belong to the American people, I believe that the Federal Government has an appropriate and proper role to play in overseeing the ownership arrangements which are permitted for the broadcasting companies which operate over our public airwaves.

I am especially interested in the 35 percent National TV Ownership Cap which protects the careful balance of interests in programming between national and local interests. I am concerned about permitting a single company to own more local affiliate stations, so that such a company could control the programming to a share of the national audience which is greater than 35 percent. I believe that the Nation is in danger of losing the localism and diversity of viewpoints that are offered under the current ownership cap structure if the current cap is raised.

I also believe strongly that network affiliates should have great freedom to preempt programming when the station management deems it to be offensive under community standards, and preemption should also be allowed when local station managers decide that a program of local interest such as an important ball game would be better programming for that particular community in that time slot. I am concerned that such decisions regarding preemption would be curtailed if these decisions are made even more often in national headquarters offices rather than by those who work in the local stations. Some participants in this debate argue that the tremendous growth in the media marketplace in recent years through options such as cable, DBS, and the Internet supports a relaxation of broadcast ownership rules. As refreshing as it is to have more media options for American consumers in the marketplace, for the most part these options are national in scope, rather than local.

The Newspaper/Broadcast Cross-Ownership Ban is also of interest to me. I have heard strong arguments that the ban should be repealed across-the-board—thus allowing one company to freely pursue the acquisition of a daily newspaper or broadcast television station, depending on which of the two the company already owns in that market. Despite the strong arguments for repealing this ban, I am worried about the effect that lifting the ban would have in smaller markets, such as the ones in my home State of Mississippi. If one company were allowed to own both a newspaper and a TV station in one of the small markets in my state, and that company proves not to be fair, accurate, and balanced in it's coverage of local news, the detrimental impact of such news coverage would be multiplied significantly.

I regret that the FCC has not provided more information to Congress regarding the biennial review that is taking place on media ownership rules, since major changes in our media marketplace—especially the change of a number of rules at once—could have a far-reaching impact on the careful balance of the diversity of voices in our country. It would be helpful to know more about the diversity index which is being created by the FCC in order to better assess the effect that various possible rule changes could have on the media marketplace, and I wish that we had this information to weigh along with the testimony which is being provided today. Mr. Chairman, I do look forward to hearing the testimony of the witnesses who have joined us as this Committee exercises its oversight responsibilities regarding media ownership rules.

The CHAIRMAN. Thank you.

Senator Nelson?

STATEMENT OF HON. BILL NELSON, U.S. SENATOR FROM FLORIDA

Senator NELSON. And I, will just say that I think we all know common sense tells us that local content helps bring communities together, that diverse perspectives makes our democracy work, and that competition ensures that consumers will get a fair shake.

Thank you.

The CHAIRMAN. Thank you, Senator Nelson. I thank my colleagues.

Our first witnesses are Mr. Mel Karmazin, President and Chief Operating Officer of Viacom; Mr. Jim Goodmon, President and CEO, Capitol Broadcasting Company; Mr. Frank Blethen, the Publisher of the *Seattle Times;* and Mr. William Dean Singleton, Vice Chairman and CEO of the Media News Group and Publisher of the *Denver Post* and *Salt Lake Tribune.* Welcome to the witnesses. Thank you for your patience.

We will begin with you, Mr. Karmazin.

STATEMENT OF MEL KARMAZIN, PRESIDENT AND CHIEF OPERATING OFFICER, VIACOM, INC.

Mr. KARMAZIN. Thank you, Mr. Chairman. My voice is gone, so I will try to do the best I can.

I assume I have about an hour for my opening comments, so I was going to deliver this testimony. But based on what I heard, there is no chance I will deliver that. I would rather address some of the issues that I have heard.

First of all, I was here 2 years ago when the process started for us to review the biennial, which the 1996 Act required. It is now 2 years later, and I am still hearing that we ought to be delaying it because we have not had enough time. Trust me, we have had enough time to review it. And I agree with what the Senator said; I may not like everything that comes out, but clearly June 2 has been too far into the future for where this issue has been dealt.

I saw an extraordinary chart of a company that showed that five companies appear to be controlling the world based on that chart. Viacom is the largest company in the advertising business. Viacom's revenues in advertising are $12.5 billion. The advertising pie is $300 billion. We are not Microsoft as far as what we have. The media business is a very extraordinarily fragmented business with so much competition out there that if you take a look at these charts, it has no semblance of the reality that is taking place in the marketplace.

Then I heard a story about how one radio operator owns all of the radio stations in a market. I do not think that is the way it should be. I would absolutely not endorse that. I certainly think that diversity and localism and all of those things are important. I have been a broadcaster for 30 years. I loved the days when there were only three broadcast networks, when there was no FM radio, when there was no satellite, when there was no cable.

In New York City, Senator, there are over 100 radio stations. Why is it right and what makes anyone believe that the courts are going to be able to say that eight is the number that you could have in New York? If you could have six in a small market, like you described, then in a big market like New York there really ought to be room for a whole lot more.

Decide how many different owners you believe is appropriate. Do you believe that in radio in New York you want five owners, six owners, seven owners? Whatever you feel, the FCC feels, the courts support, then that would mean maybe one company should be able to own 10 percent, 15 percent of the stations in a market, not 100 percent? 15 percent? That would mean, in New York City, one company would be able to own 15 radio stations, not the eight that is currently mandated.

We agree on the subject of duopoly. We think that local ownership rules should be expanded. We believe that in some markets, smaller markets, there should be less expansion than in bigger markets where there are far more choices. So I think it is a local issue based on the number of voices, based on the amount of competition. That should be determined. But this should be, even though we do not have a horse in that race, we think in smaller markets there really ought to be expanded local ownerships so the industry can compete.

We have heard an extraordinary amount of talk about the 35 percent cap. As I understand, the reason, in part, the Commission is looking at it is the courts determined that the 35 percent cap would not pass muster. We report to the FCC, at Viacom, CBS, and we report one segment, the network and the stations. We do not break out our network, we do not break it separately; it is one segment. And the reason for that is the network television business is not a very good business. Proof of it is if you take a look at who is in the broadcast-network business, the only people who are in it are people who also own television stations because the television-station business is a great business, which is why, in part, a lot of the station operators are against the expansion of the 35 percent cap. In order for us to preserve.

So why is the Commission looking at this? Because someone should have an interest in preserving free, over-the-air broadcasting, because if somebody does not have an interest, then what would happen is content, sports content first and then other content, would find its way migrating onto cable, where you can charge the consumer $2 for a cable channel.

So if the premise behind not giving relief on the 35 percent cap is so that you do not want to encourage free, over-the-air broadcasting by the networks, then what you will do is you will encourage the networks, us, to put more of our content on cable and charge the consumer for that; whereas, today all they need to do is watch our commercials.

So I have about another hour, but you are looking at me like I should stop, so I am going to stop.

[Laughter.]

The CHAIRMAN. I was not doing that, Mr. Karmazin. Really. If you want to continue, go ahead.

Mr. KARMAZIN. That is OK. Hopefully I will get a few questions.

The CHAIRMAN. I am sure you will.

[Laughter.]

[The prepared statement of Mr. Karmazin follows:]

PREPARED STATEMENT OF MEL KARMAZIN, PRESIDENT AND CHIEF OPERATING OFFICER, VIACOM

Good morning, Chairman McCain, Senator Hollings, and members of the Committee. I am Mel Karmazin, President and Chief Operating Officer of Viacom. Thank you for the opportunity to testify today about the FCC's ownership proceeding and the important review that agency has undertaken pursuant to Congressional and judicial directives.

Viacom has a well-known position of asserting that fulsome deregulation of the Commission's outmoded broadcast restrictions is not only warranted but long overdue. It is utterly unsupportable and unrealistic that broadcasters should be handcuffed in their attempts to compete for consumers at a time when Americans are bombarded with media choices via technologies never dreamed of even a decade ago, much less 60 years ago when some of these rules were first adopted.

The current proceeding has had more focus and public attention than almost any review in the agency's history. There have been thousands of comments filed; an official FCC hearing took place in Richmond; and countless ad hoc hearings have been held in San Francisco, Chicago, Los Angeles, Seattle, Phoenix, New York and Burlington, Vermont, to name but a few venues. Letters also have poured into the FCC from both sides of the aisles in the U.S. Senate and House of Representatives. Little new can be said on this topic. Any hard evidence to be had is already on the record and, as many in Congress and the Administration have said, it is time for the Commission to do its job and complete this biennial review. The public interest is not served by delay.

Anyone who has read the vast number of submissions in the FCC ownership proceeding will see that Viacom argues for deregulation of broadcasting rules across the board—even the ones that have no effect on us. Conversely, some big and powerful companies, along with their trade associations, have been arguing that the networks should receive no relief from the national ownership rules—particularly, the television cap. At the same time, these companies have been zealously advocating for relief on *all* of the local rules so that they can enjoy the efficiencies of consolidation. At Viacom, there is no talking out of both sides of our mouth when it comes to arguing for deregulation. We do not own newspapers, and despite the fact that newspapers are formidable competitors for ad dollars in local markets, we favor elimination of the newspaper-broadcast cross-ownership ban. We do not own television stations in small markets, where unhealthy consolidation is more likely to occur, but we support relaxation of the local television ownership rule across all market sizes. For there to be a robust broadcasting industry, all broadcasters need deregulation of *all* broadcast ownership rules.

In the 1996 Telecommunications Act, Congress mandated that those wishing to preserve the broadcast ownership rules must prove that the rules are still necessary in light of competition. Viacom has joined with FOX and NBC in submitting substantial and compelling economic and factual evidence that cannot be ignored or refuted by proponents of the status quo. Those who favor maintaining the regulations have failed to carry their burden. The Commission, therefore, must repeal or modify the broadcast ownership rules—that's what the statute says.

Let's focus on the national television station cap, the most vigorously debated rule under consideration. This rule, which limits ownership to TV stations serving 35 percent of the nation, is supported most ardently by network affiliates, the Network Affiliated Station Alliance, and their trade association, the National Association of Broadcasters. The arguments they have come up with against deregulating this rule are woefully lacking.

First, NASA/NAB argue that affiliates, as opposed to stations owned and operated by the networks—known as O&Os—are "local" and, therefore, better understand and know their viewers. This is simply not true. Most television stations in this country are held by multi-station groups owned by large corporations headquartered in cities located far from their stations' communities of license—Hearst-Argyle and the *New York Times* in New York, *Tribune* in Chicago, Cox in Atlanta, Belo in Dallas, *Post-Newsweek* in Detroit. What does it matter that Viacom's main offices are in New York? The corporate group owners are no more "local" in the cities where they own TV stations than is Viacom. Yet, like Viacom and all good broadcasters, group owners work hard to know what viewers want in each market where it has a media outlet. Localism is just good business.

Networks invest billions of dollars in that programming, but most of the return on their investment is realized at the station level. Only two of the so-called "Big Four" networks are profitable in any year, operating on low, single-digit margins. Compare the networks to television stations—run by networks and affiliates alike—which operate on margins anywhere from 20–50 percent. If networks are precluded from realizing more of the revenue generated by stations, networks' ability to continue their multi-billion dollar programming investments will diminish, and more and more programming will migrate from broadcasting to cable and satellite TV, where regulation is less onerous. More Americans then will have to pay for what they now get for free.

NASA/NAB's second argument, that affiliates provide more local news than do network-owned and-operated stations is, again, false. In a study commissioned by Viacom, FOX and NBC, Economists Incorporated found that the average TV station owned by a network provides more local news per week—*37 percent more*—than does the average affiliate—a finding consistent with the FCC's own independently conducted study.

Third, NASA/NAB contend that affiliates preempt network programming substantially more often than do O&Os in order to substitute programming more closely attuned to the interests of local viewers. Wrong again. In another study, Economists Incorporated found that preemption rates for both O&Os and affiliates in 2001 amounted to *less than one percent* of prime time programming, with affiliates a bit higher than network-owned stations. But the difference in preemption time cannot be attributed to affiliates caring more about their local viewers than their own bottom lines. Rather, as the study found, any difference between the preemption levels of O&Os and affiliates is largely due to higher rates of economic preemptions by affiliates (that is, for paid programming and telethons), not local public affairs programs and high school football, as they would have you believe. Nor is it true that affiliates stand as the bulwark against allegedly inappropriate network programming. The fact of the matter is that preemptions based on content are rare. But in the handful of cases over the past years when an affiliate has determined that a program's subject may be too sensitive for its market—as was the case last week with our Providence affiliate with respect to the "CSI: Miami" episode dealing with fire hazards at nightclubs—we understand and accommodate. Our own stations would do the same thing for their market's viewers.

Finally, NASA/NAB argue that raising the cap will leave affiliates in need of protection in their network relationship. Companies like Cox, Hearst-Argyle, Gannett, the *New York Times,* and the *Washington Post* hardly need protection. Instead, networks and their affiliates need each other. Broadcast networks rely almost exclusively on advertising revenues for their survival, and a prominent feature of the pricing that broadcast networks can still charge despite declining audience levels is that they provide advertisers access to all U.S. households in 212 television markets virtually simultaneously. If a network cannot maintain affiliations in all of those markets, it loses its uniqueness in the advertising sales marketplace. Despite the inevitable tensions in the network-affiliate relationship, no network can afford to risk losing affiliations in even one market, much less 10 or 20 or 50.

Through this proceeding, the networks are seeking the opportunity to invest even further in the broadcasting industry. Doing so is a vote of confidence for all broadcasters: It will only serve to increase the value of television stations, and it ensures that free, over-the-air, quality programming will continue to be available to American households.

I'd like also to address radio ownership, because in the last few months, radio consolidation has become the poster child against deregulation, the so-called "canary" signaling trouble in the mines of ownership rules relaxation. It's time for a reality check. It's true that the 1996 Telecom Act eliminated the limit for ownership of radio stations nationwide. But that doesn't mean the radio market is concentrated. There are 3,800 separate owners of commercial radio stations across the country. While the largest radio owner nationwide owns about 1,200 stations, that number constitutes only about 11 percent of the nearly 11,000 commercial radio stations in this country. Viacom does not even rank among the top three radio owners. After Clear Channel, the second largest radio owner is Cumulus Broadcasting, with 258 stations. Third largest is Citadel Communications, with 210 stations.

Through its Infinity Broadcasting, Viacom is the fourth largest radio station owner, with 185 stations nationwide, a mere 1.7 percent of all commercial stations. Further, our stations are located in only 42 of the 286 radio markets in the United States. That means that Infinity has *no* radio station in *85 percent of the Nation's markets*. Even in the smallest market where we operate—Palm Springs, California, ranked 162—Infinity owns a single radio station out of a total of 21 commercial radio stations operating there. Yet, despite the fact that Infinity lags behind the largest group owner by more than 1,000 radio stations, we rank second to it in terms of revenues. This attests to the fact that competition is, indeed, alive and well in the radio industry. In 1992, 60 percent of all radio stations were losing money. Thanks to Congress and its wisdom, the radio industry is healthier today.

The single biggest complaint of those opposing radio deregulation is that diversity has been lost and that the same songs are played on every radio station across the country. Just not true. The FCC's study found that song diversity has remained largely unchanged since 1996. And format diversity has also increased since that time, according to studies by Bear Stearns, Katz Media Group and others. Most importantly, listeners are happy. An Arbitron study released earlier this year found that radio listeners are "very pleased" with the programming choices available to them. More than two-thirds, or 69 percent of those surveyed, said their local stations do a "very good" or "good" job of providing a wide variety of programming. And nearly 75 percent of listeners think that their local radio stations do a "very good" or "good" job of playing the music they like.

Deregulation at the national and local levels has not changed the fact that Infinity, like any serious broadcaster, continues to operate the old fashioned way—by managing and programming all of its radio stations at the local level. Excellence in service to our customers—that is, the local listeners—is critical to our stations' financial success. In order to attract advertisers, who are the sole source of revenue for radio, we must lure listeners with programming they want. Moreover, our station managers live where their radio stations are located, and they care about their communities.

Once you look at the radio facts, you will see that deregulation has made the canary a happy fellow.

In conclusion, the FCC must move forward now and complete its review based on the realities of today's competitive media marketplace. That's what the public interest demands.

Thank you.

The CHAIRMAN. Mr. Goodmon?

STATEMENT OF JAMES F. GOODMON, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CAPITOL BROADCASTING COMPANY, INC.

Mr. GOODMON. Well, good morning, Mr. Chairman.

My name is Jim Goodmon. I am President of Capitol Broadcasting Company in Raleigh. It is a family-owned company. We own television stations in the Carolinas, and some radio. I am the third-generation president of my company. The fourth is now the program director of one of our stations, and the fifth would be working there, my grandson, if it did not violate the child labor laws. We are a family business.

I also consider myself the best CBS affiliate in America. I hope Mr. Karmazin thinks that. We have worked very closely.

[Laughter.]

Mr. GOODMON. We were the first digital television station in the United States, the first high-definition, and all that was through our work with——

The CHAIRMAN. Let us not get into that one.

Mr. GOODMON.—CBS.

[Laughter.]

Mr. GOODMON. No, I am going to mention that. And then I am very proud of the progress that CBS has made. We are a proud CBS affiliate.

Having said that, I need to suggest that I basically do not agree with anything that Mr. Karmazin said.

[Laughter.]

Mr. GOODMON. And let me go through that. I am here to talk about, specifically, the 35 percent cap.

Now, the law says that when the Commission considers ownership, it should consider the public interest. And in the Commission's rulings, they consistently say, "OK, what is that public interest?" It is localism, diversity, and competition. Now, I would suggest that there is not any way you can say that allowing these large companies to own more television stations improves localism, improves diversity, or improves competition. I mean, it is intuitive. It does not happen.

If you go by the law and if you look at the rules the Commission wrote, localism, diversity, and competition, there is no way you could say we should have fewer owners, we should have these large companies owning more TV stations. Well, now how do they get to it? Because that is what the Commission has said they are going to—how do they get to this localism, diversity, and competition is not important?

Well, the first way they get there is they say, "Wait a minute. These rules are old-fashioned. What are you talking about? We have got all these cable channels, we have got all this satellite stuff, we have got the Internet, we have got TiVo, we have got wireless. These rules do not make a difference anymore." Senator Allen, your point is that we have got all this diversity. OK? My suggestion is that when you look at that, you need to consider that in all those things I talked about, the only industry, the only group, the only organizations that are specifically charged with local service are local broadcasters.

I would suggest to you, you could have 500 cable channels and you will never hear the name of your town mentioned. Those are national services—national cable, national satellite. There is no local requirement on the Internet.

So I do not think there is a substitute. I would not agree with you that can substitute cable, satellite, the Internet for local broadcasting stations. Now, remember, there is a fixed number of these things, that there is a fixed number of these stations. It is very dangerous, when you have a fixed number of things, to let large groups own more and more of a very fixed—it is fixed—this is not open market, free market. This is a fixed number of stations.

So the first thing they say is, "Well, diversity—these rules do not make any difference because we have got all this other stuff."

The second issue is that the broadcasting industry somehow needs economic assistance. I would suggest that any study you do would show that broadcast television stations are the most profitable business in the history of the United States. The head of Fox just announced a 54 percent cash-flow margin for his O&Os. I mean, these are the most profitable things you can have. Now, I am having trouble with—we are going to change this localism-diversity-competition notion for an economic reason. I mean, this is a very profitable industry.

Now, and then the last is, “Wait a minute, the R-word has left Washington. The R-word is gone. There is going to be—we are going to get rid of regulation.” Deregulation. Let the free market decide here. I would just point—it is not a free market. There are a limited number of television stations. And anytime you study that kind of market, you fight very hard against concentration because you and I cannot start a TV station. You cannot. I mean, there is a limited number of them. You cannot do that.

So the reason that the Commission is giving for avoiding localism and diversity and competition are not right. I mean, they do not—I cannot make it compute.

Two other things. What you are going to do when you allow the networks to own more and more local affiliates is, you are basically saying, OK, we are going to let you program those local stations. I want to give you two examples quickly.

Fox announced they want to do “Marry a Millionaire.” They paraded 25 or 30 women across the stage in bikinis. There was a guy behind the microphone. He picked the one he liked, and they got married. I mean, a legal marriage.

OK, now, we said, at our Fox affiliate, “We are not going to do that.” You know, we are taking all this reality stuff. It is really tough to take all that. But we said we are going to stop a demeaning marriage and the family. We did not take it. Fox got upset with us about it, but we got through it.

Now, the point I am making, and this is a very important point, it is—I am not saying I did the right thing. People were mad we did not take it; people, you know, wanted to congratulate us for doing it, but I said I did something. I tried to make a local decision. I tried to make a decision that had something to do with where I lived and what my community—there is no manager of a Fox station that would not clear that program. As a matter of fact, if you look at the record, in history there has never been a network-owned station that preempted a network program for content reasons. That has never happened.

So what you are doing now when you raise these caps is you are saying, “OK, this is fine. We are going to let them decide what the program is in L.A. We are going to let them put it on their network, and then we are going to let them put it on the local station.” Now, that does not have anything to do with the way local broadcasting is supposed to work, in my view.

One other—we can talk about—there are two or three other programs, but I do not have the time to do that. Let me suggest this. What you all are saying, Senator Allen and Senator Sununu, you all are saying we have got all this diversity; and, therefore, these rules are not important. I would take it a step further. I would say that because the networks have the most popular cable channels, because the networks have the most popular Internet sites, these other mediums we were talking about, they also dominate those mediums, that we have less diversity. We have got a whole lot more channels, but we do not have a whole lot more voices. I mean, it is not even—well, you can tell what I am working on. I mean, I just do not buy this diversity business.

And, finally, I am having the worst time getting people to talk to me about this. We have a 35 percent rule, which says stations can own 35 percent of the country. We do not have a 35 percent rule. We have a 70 percent rule, because a UHF station only counts half. So you can own 70 percent of the country under the current rule. We raise it to 45, then you would be able to own 90. So the suggestion—I do not get this. It is not a 35 percent rule; it is a 70 percent rule. And the notion that we are supposed to raise a 70 percent rule, I cannot get them interested in this at the Commission.

And one final factor. We are now in the middle of—I am getting back to what you told me to not talk about—we are now in the middle of an enormous transformation in broadcasting from analog to digital. We are right in the middle of this. Right? Why in the world would we change ownership rules? Because we do not know what in the world the digital future is. On one station, I can run five channels, or I could run HD. Why are we doing this now? I mean, it does not make sense to consider ownership changes right here in the middle of the digital transition.

And if you are interested in the future economics of the broadcasting industry, please make some rules for digital. Listen, I have been on the air 7 years, and I still do not have the rules for the digital transition. That is the economic help that we need in broadcasting.

So I want to thank—it looks like it is lost in FCC, the position that we are taking. I wanted to thank Congressmen Burr, Dingell, Deal, Markey, and Price, for H.R. 2052, which will codify the national cap. My understanding is that there will be a—the same bill will be introduced in the Senate, and I really urge you all to take a look at that. I really urge you to take a look at codifying the 35 percent cap.

And, by the way, the recent poll that was published says 72 percent of your constituents do not even know we are talking about this. This is sort of inside baseball to 75 percent of the country. And you are not going to find anybody—I have not seen anybody who says it is a good idea to let the big companies own more stations. It just does not fit.

I will say, again, that I am the best CBS affiliate in America, and I love CBS, and it was very hard for me to oppose my Chairman.

And thank you very much.

Mr. KARMAZIN. He should have been sworn in.

[Laughter.]

[The prepared statement of Mr. Goodmon follows:]

PREPARED STATEMENT OF JAMES F. GOODMON, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CAPITOL BROADCASTING COMPANY, INC.

Chairman McCain, Senator Hollings and members of the Committee, I appreciate the opportunity to appear before you in support of the public interest and its core values—localism, diversity and competition. I am Jim Goodmon, President and Chief Executive Officer of Capitol Broadcasting Co., Inc., which launched the Nation's first digital broadcast station 7 years ago. Capitol owns and operates five television stations and one radio station—all in the Carolinas. Although we own the facilities and equipment, the airwaves are valuable public property—property that deserves our respect. As a third generation broadcaster, I am concerned that we are no longer adequately guarding the airwaves. That is why I believe that it is imperative that we retain the national television ownership cap at 35 percent. I want to quickly address four issues and concerns: the uniqueness of broadcasting as a medium; the attack on localism; the myth of marketplace changes creating more diversity; and the reality of today's 35 percent rule being a 70 percent rule.

The Uniqueness of Broadcasting as a Medium

First, broadcasting is a unique medium—distinct from all other media. Our licenses are granted by the Commission to serve "the public interest, convenience, and necessity" of a local community. It does not matter if you own a station in New York City or Glendive, Montana. It does not matter if you own one station or 50. Our duty is the same. We must serve the public interest and reflect local community standards. No other medium is charged with this responsibility.

Due to spectrum scarcity creating a significant barrier to entry, a free market analysis simply does not apply to the broadcasting industry.

And there is no substitute for local broadcast television. It is free and available to all the Nation's economic levels. It is the primary source for local news, weather, public affairs programming, and emergency information. Two hundred national cable and satellite channels cannot replace a single local news and information signal.

The Attack on Localism

Broadcasting's uniqueness begins with localism, which is the second issue I would like to address. Your predecessors wisely made localism the bedrock upon which broadcasting in the United States was built, but today large media giants are trying to replace localism and community standards with financial opportunity and corporate objectives. Since the national television cap was increased from 25 percent to 35 percent, we have seen significant consequences, including a shift in the delicate balance of power between the networks and local affiliates resulting in many local programming decisions being made in New York and Los Angeles, not Phoenix or Columbia or Juneau or Baton Rouge or Topeka.

At Capitol, we made the decision not to air several FOX reality programs, including "Temptation Island," "Who Wants to Marry a Millionaire" and "Married By America" because we thought they demeaned marriage and family. Managers at stations owned by the Fox network could not have made those decisions. The record at the Commission does not include a single example of a network owned and operated station pre-empting a program based upon community standards. I am not saying we made a right or wrong decision—I am simply saying we made a local decision reflecting our view of local community standards in Raleigh-Durham, North Carolina. Promos are also an issue of concern. During last year's World Series, we ran alternate network promos due to the violent and explicit promos FOX planned to air to promote its new line-up of network shows. Why? Because we believe the World Series should be family-friendly programming. The right to reject or preempt network programming must remain at the local level for stations to discharge their duty to reflect what they believe is right for their individual communities, whether it is to reject network programming based on community standards or whether it is to preempt national network programming in order to air a Billy Graham special, the Muscular Dystrophy Telethon or local sports.

I can't imagine that anyone in this room really wants to take away local control over television programming. The Parents TV Council says that American families are "disgusted" by the "raw sewage . . . that is flooding into their living rooms day and night through the television screen, and poisoning the minds of an entire generation of youngsters." The Christian Coalition, Family Research Council, and others joined in a call to reinstate the family hour. And in my own state, the North Carolina Family Policy Council recently spoke out in favor of the 35 percent cap to maintain local control.

In the early days of broadcasting, there were three checks and balances—the content providers as producers, the networks as wholesalers and aggregators of programming, and the local affiliates as the distributors. Independent producers no longer provide checks and balances because the networks now produce much of their own programming thanks to vertical integration, and as the networks are allowed to buy more local stations, they are becoming the distributors as well—dissipating the final check and balance. Can you imagine only having one branch of government? In effect, that is what is happening to broadcasting.

The Myth of Marketplace Changes Creating More Diversity

Third, proponents of media deregulation claim that the marketplace has changed—that there are now 100s of cable and satellite channels and thousands of Internet sites. Yes, it is true that there are more outlets, but the voices are the same. The bottom line is that five companies—four of whom are the broadcast networks—control most of the so-called new voices in the marketplace. Those five companies own most of the top-rated cable channels, as well as the most-viewed websites. I contend that it is a myth that marketplace changes have created more diversity.

The 35% Rule is Actually a 70% Rule

Fourth, today's 35 percent rule is actually a 70 percent rule due to the UHF discount, which allows owners to only count 50 percent of the TV households in markets in which they own UHF stations. This rule is outdated with over 85 percent of all viewers receiving their local signals via cable or satellite. And when the digital transition is complete, the rule will be obsolete with 94 percent of all digital stations being located in the UHF band.

Conclusion

Three final thoughts in conclusion, the economic arguments offered by those proposing increasing the cap are ludicrous. Free over-the-air and network television is a very profitable business with tremendous margins that other industries envy. With deregulation comes a flood of investment bankers, the people that stand to gain the most from the Commission's proposed action. And with the digital transition, now is not the time to make major ownership changes. The technology and its multiplicity of uses are changing daily. With digital it is technically possible to broadcast four or five channels on a single station. My point is that after 7 years of operating a digital television station, and experimenting with a number of ideas, we still don't know where the transition will lead. To open the gates at this point is dangerous. We need to know more before making decisions that could have dramatic impact on a communication future still to be determined. Finally, I am concerned, as we all should be, that deals are going on between certain members of the Commission and a few large media groups. A letter from a major broadcast group to Chairman Powell offers to "trade" increasing the ownership cap for other concessions. Deal making should not be taking place between a few media giants and a government agency with appointed, not elected, officials.

Let's honor the system that has served our democracy so well in the past and require that the airwaves be used for the "public interest, convenience, and necessity" on a local basis, like your predecessors envisioned. We must retain the national television ownership cap to preserve localism that reflects local community standards. I am grateful to Congressmen Burr, Dingell, Deal, Markey and Price for introducing H.R. 2052 on Friday to codify the national cap at 35 percent. I urge the Senate to introduce a companion bill. One poll shows that 72 percent of your constituents are not aware that media ownership restrictions may be relaxed, so I am grateful this committee is giving this issue attention. Thank you for allowing me to testify.

The CHAIRMAN. Mr. Blethen, welcome.

STATEMENT OF FRANK A. BLETHEN, PUBLISHER, *THE SEATTLE TIMES*

Mr. BLETHEN. Good morning. Thank you for having me.

I am Frank Blethen, the fourth, family publisher of the fourth-and-fifth generation private family-owned *Seattle Times.* I appreciate the comments from the Washington Senator, where my family has 107-year connection, six generations.

The CHAIRMAN. Pull the microphone just a little bit closer, please, Mr. Blethen.

Mr. BLETHEN. Is that OK?

And from the Senator from Maine, where my family has a 12-generation connection. But, Chairman, I think only you know that I am probably the only Sun Devil that is testifying today.

[Laughter.]

The CHAIRMAN. Thank you.

Mr. BLETHEN. There is, in freedom, a variety of voices. There is, I believe, a fundamental reason why the American press is strong enough to stay free. That reason is that the American newspaper, large and small and without exception, belongs to a town, a city, at the most to a region.

"The secret of a free press is that it should consist of many newspapers, decentralized in their ownership and management, and dependent for their support on the communities where they are written, where they are edited, and where they are read." These eloquent words were from noted journalist Walter Lippman, more than 50 years ago. Today, we live in the America of Mr. Lippman's worst nightmare, an America whose very democracy is at risk because we are on the verge of losing our free press.

When I began my career, American democracy appeared secure. Its foundation was the 1,700-some newspaper voices deeply connected to the communities that they served. Today, there are fewer than 280 of us independents left, and most in small communities.

Recently, we saw the *L.A. Times* fall to a Wall-Street-driven conglomerate. We are about to witness the same fate for the *Orange County Register.* Imagine that by the end of the year, L.A. will no longer have a newspaper owned and managed by people who care about or are a part of the city. This is our future if you permit repeal of the cross-ownership ban and other FCC restrictions on monopolization.

This committee gave us a peek into this bleak future with your recent hearings on the abuses of radio concentration and cable rates. Less localism, fewer voices, less access, less original information, and higher advertising rates and consumer subscription rates. If cable rates and Clear Channel made you nervous, just wait for the monopolization feeding frenzy if cross-ownership is repealed.

More than 200 years ago, Thomas Jefferson said he foresaw battles, "between rapacious capitalism and democracy." Jefferson understood that power and size, left unchecked, would invite abuse and would crowd out civic values and overwhelm the public interest.

It is instructive that the only entities that want these rules repealed are large, Wall-Street-driven conglomerates. They claim they need less competition and more monopolization to compete, yet these are very lucrative businesses. They brag about newspaper profit margins of 30 percent or greater, and up to 50 percent on their broadcast houses. These are hardly businesses that need to worry about new competition.

Ownership matters. Lippman's variety of independent voices gave us the structure for the press' critical watchdog function. Media concentration and Wall Street ownership has turned the watchdog into a lap dog. It has always been that the most serious problem in American journalism is not what we cover, but what we do not cover. When the watchdog stops barking, we are all in trouble.

The FCC rules discussion has been a big business, special-interest discussion conducted in dark behind closed doors without the light of media scrutiny and the enlightenment of robust public debate. Why? Because the corporate entities that financially gain from monopolization now control most of what we read, see, and hear, and how we receive it.

The arguments made for less regulation are false. Yes, we have the Internet, and we have hundreds of cable channels. But we all know most reliable news and information on the Internet or cable is generated from already existing newsrooms almost always from newspapers. Simply repackaging and repeating someone else's content is hardly new news. And, besides, the very corporations who claim this is a new competition have already monopolized the most visited Internet sites and cable ownership. There may be more access points, but there are fewer voices and less competition.

This committee has become the first line of defense in Jefferson's battle to save our democracy from rapacious capitalism. There is no business justification that I am aware of, other than monopolization, for lifting any of the current rules or allowing any entity to engage in any cross-media ownership.

As a businessman journalist, as a local independent, my family knows how to make a profit to survive. We have no problems with profits. They are essential. But in our family, we have a saying that we make money so we can practice fiercely independent journalism. We represent and are beholden only to the citizens of the handful of communities we are privileged to serve. We are not beholden to Wall Street or any other powerful local sources. We are our community's watchdogs. But we are a fast-dying breed. America needs your leadership to take freedom of the press off the endangered species list.

Thank you.

[The prepared statement of Mr. Blethen follows:]

PREPARED STATEMENT OF FRANK A. BLETHEN, PUBLISHER, *The Seattle Times*

Freedom Is a Variety of Voices

"There is freedom in a variety of voices."

"There is, I believe, a fundamental reason why the American press is strong enough to remain free. That reason is, that, the American newspaper, large and small, and without exception, belongs to a town, a city, at the most to a region."

The secret of a free press is, "that it should consist of many newspapers decentralized in their ownership and management, and dependent for their support—- upon the communities where they are written, where they are edited, and where they are read."

These eloquent words were from noted journalist Walter Lippman more than 50 years ago.

Today, we live in the America of Mr. Lippman's worst nightmare.

An America whose very democracy is at risk because we are on the verge of losing our free press.

When I began my career, American democracy appeared secure. It's foundation was the 1,700 newspaper voices deeply connected to the communities they served.

Today, there are fewer than 280 of us independents left.

Most in small communities.

Concentration and Monopolization Feeding Frenzy

Recently we saw the *L.A. Times* fall to a Wall Street-driven conglomerate. We are about to witness the same fate for the *Orange County Register.* Imagine, by the end of the year L.A. will no longer have a newspaper owned and managed by people who care about or are part of the city.

This is our future if you permit repeal of the cross ownership ban and other FCC restrictions or monopolization.

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Less localism, fewer voices, less access, less—information and higher advertising and subscription rates.

If cable rates and Clear Channel make you nervous, just wait for the monopolization feeding frenzy if cross ownership is repealed.

Bigness and Power Corrupt

More than 200 years ago, Thomas Jefferson said he foresaw battles between "rapacious capitalism and democracy."

Jefferson understood that power and size, left unchecked, would invite abuse and would crowd out civic values and overwhelm the public's interests.

It is instructive that the *only* entities that want the rules repealed are the large Wall Street-driven conglomerates.

They claim they need less competition and more monopolization to compete.

Yet, these are very lucrative businesses.

Monopoly Profit Margins

They brag about newspaper profit margins of 30 percent, and up to 50 percent on broadcast houses.

These are hardly businesses that need to worry about new competition.

Ownership Matters

Ownership matters.

Lippman's variety of independent voices gave us the structure for the press' critical watchdog responsibility.

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It has always been that the most serious problem in American journalism is not what we cover, but what we don't cover. When the watchdog stops barking we are in trouble.

The FCC rules discussion has been a big business, special interests discussion. Conducted in the dark, behind closed doors. Without the light of media scrutiny and the enlightenment of robust public debate.

Why?

Because the corporate entities that financially gain from monopolization now control most of what we read, see and hear.

False Arguments

The arguments made for less regulation are false.

Yes, we have the Internet and we have hundreds of cable channels.

But we all know most reliable news or information on the Internet or cable is generated from already existing newsrooms, almost always from newspapers.

Simply repackaging and repeating someone else's content is hardly new news.

And besides, the very corporations who claim this is a new competition have already monopolized the most visited Internet sites and cable ownership.

There may be more access points, but there are fewer voices, and less competition.

Action

This committee has become the first line of defense in Jefferson's battle to save our democracy from rapacious capitalism.

There is no business justification that I'm aware of—other than monopolization—for lifting any of the current rules or for allowing any entity to engage in cross-media ownership.

I am a businessman/journalist. As a local independent, I know how to make a profit to survive. I have no problem with profits. They are essential.

But in our family, we make money so we can practice fiercely independent journalism. We represent and are beholden only to the citizens of the handful of communities we are privileged to serve. We are not beholden to Wall Street or any other powerful local forces.

We are watchdogs.

We are a fast-dying breed.

America needs your leadership to take freedom of the press of the endangered species list.

Thank you.

The CHAIRMAN. Thank you.

Mr. Singleton?

STATEMENT OF WILLIAM DEAN SINGLETON, VICE CHAIRMAN AND CHIEF EXECUTIVE OFFICER, MEDIANEWS GROUP, INC.; IMMEDIATE PAST CHAIRMAN OF THE BOARD OF DIRECTORS, NEWSPAPER ASSOCIATION OF AMERICA

Mr. SINGLETON. Good morning.

I am Dean Singleton, Vice Chairman and Chief Executive Officer of Media News Group, a private, family-owned company that publishes 50 daily newspapers, from the *Denver Post,* in Colorado, to the *Humboldt Sun,* in Winnemucca, Nevada, as well as 121 non-daily newspapers. I am also immediate past-Chairman of the Board of the Newspaper Association of America.

I cannot talk very much today about the bikini-clad women on TV. We just print news, and we would like to be able to broadcast it.

I am very pleased to appear before the Committee today to discuss the compelling reasons for eliminating the FCC's long outdated and counterproductive ban on newspaper/broadcast cross-ownership. The newspaper ban is the last vestige of a series of one-outlet-per-customer local media-ownership restrictions adopted by the FCC in the 1960s and 1970s. Of those limitations, only the newspaper/broadcast cross-ownership rule has remained completely unchanged over the past three decades. All of the Commission's other restrictions on broadcast ownership have been either eliminated or significantly relaxed over the years. Only newspapers have been completely barred from participating in the broadcast markets of their local communities.

This inaction on the part of the Commission is not for a lack of evidence. To the contrary, in four exhaustive proceedings over the past 6 years the agency has accumulated a mountain of evidence supporting the repeal of the newspaper/broadcast cross-ownership ban.

In 1975, when the FCC adopted the ban, hundreds of newspapers were allowed to keep their broadcast stations. Forty of so of those grandfathered communities still exist today. These communities have essentially taken the guesswork out of eliminating the ban. They have provided the Commission with illustrative case studies of the substantial public-interest benefits that will result from repeal of this rule. Representing the full gamut of market sizes, the record shows that they have consistently provided their communities with unmatched levels of service.

At the same time, there is simply no evidence that the existing grandfathered situations have threatened competition in their local markets. To the contrary, there is substantial evidence before the FCC showing that even the smallest markets containing newspaper/broadcast combinations remain vibrantly diverse and competitive.

The evidence offered by grandfathered communities further shows that co-owned outlets generally present diverse perspectives on news and informational issues. Jointly owned newspapers and broadcast stations have strong economic and professional incentives to avoid coordinating their viewpoints. Local autonomy and editorial freedom is the tradition of newspapers, and the same principles apply to the operation of local stations owned by newspapers.

The evidence presented by newspaper publishers and other parties has been confirmed by several recent studies. A study commissioned by the FCC specifically found that, and I quote, "Affiliates co-owned with newspapers experience noticeably greater success over our measures of quality and quantity of local news programming than other network affiliates."

The results of a 5-year study released by the Project for Excellence in Journalism at Columbia University echoes these findings. That study concluded that, "Stations in cross-ownership situations were more than twice as likely to receive an A grade than were other stations," and that, on the whole, "these stations were more likely to do stories that focused on important community issues and more likely to provide a wide mix of opinions."

Let me offer what I believe would happen close to home in my newspaper markets. Fairbanks, Alaska, is perhaps the most remote, isolated community in America. There are six commercial television stations in the market. All struggle financially. Under today's rules, my newspaper thrives with an award-winning news presentation while the television stations struggle to broadcast even a small amount of local news. There are no commercial news radio stations. In Central and Northern Alaska, many communities cannot get my newspaper delivered because they are so isolated, but they can get radio and television. They deserve more.

In Eureka, California, in another remote section of the country, there are four commercial television stations. The strongest station has a news staff of 11, and the other 3 do not produce substantive newscasts at all. Imagine the community service we could provide by putting our newspaper resources behind television and radio news, especially if we purchase a station that produces no news today.

I own a newspaper in Pittsfield, Massachusetts, which covers the western quadrant of Massachusetts. There is no television station there and there never has been. If this rule is changed, we could put a TV station on the air that provides local television news for the first time ever in that community.

Newspapers will add new resources to struggling television and radio enterprises, and those broadcast outlets will strengthen newspapers as the number of media choices continue to explode in a changing media environment. If the FCC's decision is based solely on the record evidence and not on political emotion, the Commission will be compelled to eliminate the archaic and wholly unnecessary cross-ownership prohibition.

Thank you. I will be happy to answer questions.

[The prepared statement of Mr. Singleton follows:]

PREPARED STATEMENT OF WILLIAM DEAN SINGLETON, VICE CHAIRMAN AND CHIEF EXECUTIVE OFFICER, MEDIANEWS GROUP, INC.; IMMEDIATE PAST CHAIRMAN OF THE BOARD OF DIRECTORS, NEWSPAPER ASSOCIATION OF AMERICA

Good morning. I am Dean Singleton, Vice Chairman and Chief Executive Officer of MediaNews Group Inc., a private company that publishes 50 daily newspapers—including *The Denver Post,* the *Los Angeles Daily News* and *The Salt Lake Tribune*—as well as 121 non-daily newspapers.

I am also the immediate past-Chairman of the Board of the Newspaper Association of America. I am very pleased to have this opportunity to appear before the Committee today to discuss the compelling reasons for eliminating the FCC's long outdated and counterproductive ban on newspaper/broadcast cross-ownership.

The newspaper ban is the last vestige of a series of "one outlet per customer" local media ownership restrictions adopted by the FCC in the 1960s and 1970s. Of these limitations, only the newspaper/broadcast cross-ownership rule has remained completely unchanged over the past three decades, with only four permanent waivers of the rule granted by the FCC over the last 28 years. All of the Commission's other restrictions on broadcast ownership have been either eliminated or significantly relaxed over the years. Aside from these four situations and the newspaper/broadcast combinations that were "grandfathered" when the rule was originally adopted, newspaper publishers—alone among local media outlets—have been completely barred from participating in the broadcast markets of their local communities.

This inaction on the part of the Commission is not for a lack of evidence. To the contrary, over the past few years, the agency has accumulated a mountain of evidence supporting the repeal of the newspaper/broadcast cross-ownership ban. Recognizing the need to review the cross-ownership restriction in light of the explosive growth among media outlets that has occurred in the years since the ban was first adopted, the FCC has initiated no fewer than four proceedings over the past 7 years to reconsider the ban. In a scaled-back version of the promise it made to the Court of Appeals to review the rule in its entirety during its consideration of the *ABC/Cap Cities* merger, the FCC in 1996 launched an inquiry regarding its waiver policy for newspaper/radio combinations. Two years later, the Commission sought public comment on the rule as well as other media ownership regulations in its first biennial review proceeding. In 2001, the agency again gathered evidence by initiating a broad notice and comment rulemaking proceeding specifically on newspaper/broadcast cross-ownership. Just over a year later, that rulemaking proceeding was rolled into the FCC's current omnibus proceeding on media ownership, giving interested parties a third opportunity in 4 years to submit evidence on the rule. Each of these proceedings has produced a wealth of record evidence regarding the extensive public interest benefits—as well as the lack of public interest harms—that would result from repealing the ban. There is no substantial evidence or data in the record supporting the ban.

In particular, the evidence concerning the operations of the 40 or so grandfathered newspaper/broadcast combinations has essentially taken the guesswork out of eliminating the ban. These combinations have provided the Commission with illustrative case studies of the substantial public interest benefits that will result from repeal. Indeed, the extensive record before the FCC is replete with evidence of the clear public interest benefits offered by newspaper-affiliated broadcast stations. Representing the full gamut of market sizes, these co-owned facilities consistently have provided their home communities with unmatched levels of service.

At the same time, there is simply no evidence that the existing combinations have threatened competition in their local markets. To the contrary, there is substantial record evidence before the FCC showing that even the smallest markets containing newspaper/broadcast combinations remain vibrantly diverse and competitive. The evidence offered by existing combinations further shows that co-owned outlets generally present diverse perspectives on news and informational issues. Jointly-owned newspapers and broadcast stations have strong economic and professional incentives to, and do in practice, avoid coordinating their viewpoints. It is important to note that, especially with newspaper ownership of broadcast stations, viewpoint diversity does not require ownership diversity. Local autonomy and editorial freedom is the tradition of newspapers, and the same principles apply to the operation of local stations by newspapers.

The evidence presented by newspaper publishers and other parties has been confirmed by several recent studies on newspaper/broadcast cross-ownership. A study commissioned by the FCC in connection with its omnibus media ownership proceeding specifically found that "[a]ffiliates co-owned with newspapers experience noticeably greater success under our measures of quality and quantity of local news programming than other network affiliates." That conclusion was true even where the newspaper and TV station were located in different markets, and the results were even greater for combinations in the same markets. The results of a five-year study recently released by the Project for Excellence in Journalism at Columbia University echoes these findings. That study concluded that "stations in cross-ownership situations were more than twice as likely to receive an 'A' grade than were other stations" and that, on the whole, these stations "were more likely to do stories that focused on important community issues, more likely to provide a wide mix of opinions, and less likely to do celebrity human-interest features." In addition, dispelling any concern that newspaper/broadcast combinations will simply represent single, monolithic viewpoints, the FCC-commissioned studies also confirmed the extensive evidence already on the record that existing newspaper/broadcast combinations do not demonstrate a pattern of coordinating viewpoints on important political issues.

Those who oppose relaxation of the antiquated newspaper/broadcast cross-ownership rule usually predict that mass, national consolidation of the newspaper and broadcast industries will happen if the rule is changed. I believe those predictions are unfounded. Instead, relaxation of the rules will result in dramatically improved information flow in each local market—market by market.

Let me give you some examples close to home in my newspaper markets.

> Fairbanks, Alaska, is perhaps the most remote, isolated community in America. There are four commercial television stations in the market. All struggle financially. One station covers news with a staff of eight, another has six, the third has two and the fourth has no local news gathering capacity. My newspaper employs 31 in the news department. Under today's rules, my newspaper thrives with an award-winning news presentation, while the television stations struggle to broadcast even a small amount of local news. There are no commercial news radio stations. In central and northern Alaska, many communities cannot get my newspaper delivered, but they can get television. Imagine how their lives could be improved if I could put my 31 newsroom personnel behind television coverage.
>
> In Eureka, California, in another remote section of the country on the North Coast of California, there are four commercial television stations. The strongest station has a news staff of 11, and the other three don't produce substantive local news. My newspaper devotes 23 people to local news coverage. Imagine the community service we could provide by putting these news resources behind television and radio news, especially if we purchase a station that produces no news today.
>
> I own a newspaper in Pittsfield, Massachusetts, which covers the western quadrant of Massachusetts. There is no television station there and never has been. But there is a license allocated to the market. But with 51 newsroom employees at my newspaper, I could serve this community with television news for the first time ever. The current restraints, however, do not allow that to happen.
>
> And let me talk about a larger market . . . Denver, Colorado. There are at least three radio stations that call themselves news stations, but they're really not news stations at all. They are *talk* stations. The largest two have news-gathering staffs of about six, and the other has five. Not much news-gathering resources. But the two newspapers managed by the Denver Newspaper Agency have combined news resources of almost 500. Imagine the public service we could provide by putting our news assets behind a real, full-time news station.

There are similar stories to be told in almost every American market. Newspapers will add new resources to struggling television and radio enterprises, and those broadcast outlets will strengthen newspapers as the number of media choices continue to explode in a changing media environment.

The fact is that the communications world—and the media alternatives available to our citizens—has undergone a vast transformation since the newspaper/broadcast cross-ownership ban was adopted over a quarter of a century ago. Back in 1975, the FCC was concerned that daily newspapers might dominate the still-fledging television broadcast industry. Whatever merits that concern may have had nearly three decades ago, it simply has no place in today's media environment. For example, there are now 70 percent more radio outlets and 50 percent more television stations than there were in the 1970s. Now omnipresent cable and satellite television services were still in their infancy in 1975, and the Internet—with its vast potential for delivering news and information—was non-existent when the newspaper/broadcast rule was adopted. Traditional media thus have been bombarded with a host of new, multi-media rivals in recent years.

In this vastly diverse, competitive, and ever-growing environment, the ban on cross-ownership of daily newspapers and broadcast outlets plainly is not needed. Quite to the contrary, the extensive record before the agency demonstrates beyond question that the prohibition frustrates the achievement of significant and vitally needed operating efficiencies and, most importantly, deprives the public of enhanced local news and other new and innovative informational services.

Based on that record evidence, the FCC is required by the terms of Congress' Biennial Review mandate to eliminate the archaic and wholly unnecessary cross-ownership prohibition.

Thank you. I would be pleased to attempt to answer your questions.

The CHAIRMAN. Well, thank you, Mr. Singleton, and thank all the witnesses already. It has been very interesting.

Mr. Singleton, in your testimony you state that local autonomy and editorial freedom is the tradition of newspapers and the same principles apply to the operation of local stations by newspapers. Mr. Kimmelman, however, provides an example where this is not the case. "One thing that has not changed over time," he says, "is that owners have a bias. For example, of all the newspapers that have editorialized on the issue of whether the Government should give digital spectrum to the broadcasters during the debate in 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." Not a small issue either, Mr. Singleton. About $70 billion worth of an issue. One of the great giveaways in American history. Do you think that is an anomaly, or do you think that Mr. Kimmelman has a point?

Mr. SINGLETON. Well, I cannot speak for other newspaper owners. I can speak for my newspapers. All of our editorial—comments on our editorial pages are made by an independent editorial board of people who live in the local community and vote their own beliefs on that editorial board. I, as the owner, do not participate in their editorial decisions.

The CHAIRMAN. Well, then, in all due respect, your comments, "local autonomy and editorial freedom is a tradition of newspapers, and the same principles apply to the operation of local stations by newspapers," applies only to your newspaper.

Mr. SINGLETON. No, I think that is true of most newspaper companies.

The CHAIRMAN. That is why I go back to my previous question. If you are talking about your newspaper, if you are here to testify about your newspaper, fine. But if you are here to testify as a witness on the larger issue, then it seems to me you could address this issue, that every newspaper that was owned by a broadcaster editorialized in favor of a $70 billion giveaway, every newspaper that was not associated editorialized the other way. Do you think that is an anomaly?

Mr. SINGLETON. I do. It is my experience that most newspaper companies leave editorial comment to their local editorial boards.

The CHAIRMAN. So it was a coincidence.

Mr. Blethen, we have examples of newspapers and television stations cross-ownership, right? And we have them, in the case of New York, *New York Post* and WWR and WNYW, the *Tribune,* and the *Los Angeles Times,* and *KTLA Tribune, Chicago Tribune, and WG and Cox Atlanta Journal, Constitution,* and WSV, Gannett, *Arizona Republic,* and KPNX, et cetera. Have you seen any stifling of localism, diversity, or in competition as a result of these major—and there are many others, but these are major markets in America?

Mr. BLETHEN. Well, absolutely, and I would take issue with my friend, Dean Singleton, that I think ownership does matter. And if you have Wall-Street-controlled ownership, ultimately there is a chill over what you comment on and what you do not. To my knowledge, there has been only one conglomerate newspaper that has editorialized against a repeal of the cross-ownership rule, and that is by the *Philadelphia Inquirer,* who is owned by a newspaper company that is public but is pure newspaper. I think if you look at what all the other chain and conglomerate newspaper editorials have said, you would find the same result you did in spectrum, that, uniformly, they have been editorializing for cross-ownership repeal——

The CHAIRMAN. But have you seen——

Mr. BLETHEN.—and relaxing any of the rules.

The CHAIRMAN.—any examples of a lack or reduction in localism, diversity, and competition as a result of this cross-ownership?

Mr. BLETHEN. Absolutely. I think any city you go to where you have this cross-ownership, you have reduced voices. Our industry, the newspaper industry, has gone through some of the most massive disinvestment and layoff in the last half-dozen years that it has ever experienced. Chain-owned newspapers are smaller, there is less original news. And what they talk about is not synergism anymore, but how they are going to reduce expenses by doing cross-ownership.

The CHAIRMAN. Mr. Goodmon, a *Chicago Tribune* article dated August 14, 2002, discusses local Fox affiliates' discontent with the network's airing of an episode of action show *24,* commercial free. The affiliates wished to preempt the program; however Fox Networks Group president and CEO stated in the article, quote, "Any station that does that is in violation of their contract and is in danger of losing their affiliation." Have any of the national broadcast networks ever threatened to pull your or other affiliation due to your decision to preempt network programming?

Mr. GOODMON. Let me buildup to that. In our Fox agreement, there is what is called the "three-strikes rule." And that is if you preempt the network and they do not approve it, after the third time you do that they have the right to pull your affiliation agreement.

Now, the preemption that we did for "Marry a Millionaire," "Temptation Island," and "Married by America," it took us a little while, but we made those preemptions under our community-standards part of the contract. Now, in getting through that, it took Fox a little while to get to that. I mean, there was some suggestion, and one of the station reps suggested to us if we did not like their programming, why did we not sell the station to them? My notion about that is, "I didn't say I didn't like Fox or didn't want to be a Fox affiliate. I'm trying to decide what programming I think should be in our market."

But there is, clearly in the contract, if you have three preemptions that they do not approve that are not community standards—oh, there was one case where we had the chance to get the Duke-Maryland game. They were number one and number two in America. And Fox said, no, it will be the third strike, because they did not want us to preempt their—that would be, sort of, what I would call a "business preemption."

So I would not say that we have been threatened. I would say it is in the agreement. I mean, it is part of the network agreement.

If I may add one thing, Senator, we have, in Raleigh, a news-sharing agreement with the local paper. We are just getting into this. They use our weather. We have their reporter on our 11 o'clock news. My point is, there are a lot of news-sharing agreements that can come about without joint ownership.

The CHAIRMAN. Mr. Karmazin, you should have the ability to respond. Go ahead.

Mr. KARMAZIN. First of all, the idea of a fixed number of stations. We own 35. There are 1,100 commercial television stations. So what we are talking about is approximately 3.5 percent of this fixed number of stations.

I do not have a horse in the race on newspapers, that we have no plans that if the broadcast/newspaper——

The CHAIRMAN. Mr. Goodmon raised the point that five companies control 60 percent of news and entertainment programming.

Mr. KARMAZIN. Yes, I have no idea where that statistic came from. I certainly know that there are unlimited number of choices out there. It sounds to me like not a real number. It depends upon how you count things. But I think that there is just—if you include the Internet—the last time I testified, there wasn't even here a Fox news network. You know, when I started coming here there was CNN. There are far more choices. For the first time this year, the cable audiences have exceeded the broadcast audiences.

The other thing that I agree on is that television stations are very profitable businesses. So the idea of when Mr. Goodmon says that it is a very good business, it is. The idea of a broadcast network is a less-good business. We are not crying poverty, we are not asking for a collection. What we are saying is that if there is an interest—if there is an interest—to keep the NFL on free, over-the-air broadcast television, because we have seen that there is now a Sunday-night package that is on cable, how long before we see another package when the broadcasters are not going to pay for the NFL? We have seen the NBA migrating more to a cable model.

You know, companies like ours that are involved in a bunch of different businesses, we have a choice as to where we allocate resources. We are very committed to this free market. We believe in localism. Our general managers are in the market. It is no different than these newspaper companies that own television stations. They are not sitting all in their local market. They have got the same local managers that we have sitting in our local managers.

If you are going to be a good television station, you are going to do all the things that Mr. Goodmon says. You are going to serve your community, you are going to serve your advertisers, you are going to serve the public interest. Localism is all about that.

We have stations—our affiliate in New York, which is an owned and operated station, Channel 2, preempts the network to run the Yankees. They preempt our network to run the Yankees. Someone has got to pay for the people we are sending into Iraq to cover the news. Somebody has got to pay for the NCAA tournament, because the affiliates are not paying. The network is paying and giving it to them.

And, by the way, including our good affiliate here, we are paying them. So the fact that Fox might expect them to run their programming is, in part, because Fox is also paying them to do that in the form of comp.

The CHAIRMAN. Senator Dorgan?

Senator DORGAN. Mr. Karmazin, you are very good. I followed, almost for the last year, all of the discussions about the leadership issues in your corporation and the stakes that were involved for your continued leadership, and I understand why. You are very good.

You, in response to the chart I put up, seemed to suggest, "You know, gosh, we are just kind of a mom-and-pop operation, and mom ain't doing so well, and there are so many voices and there's so much opportunity out there that—do not worry about concentration." And yet 90 percent of the top–50 cable channels are owned by the top four television and cable networks. You know what has happened with respect to both radio and television concentration. And you talked just a moment ago about free market and localism. And it seems to me that concentration and the words "free market" and "localism" travel in opposite directions, inevitably. Is there a point at which you think that there are appropriate limits to be placed on ownership with respect to broadcast stations? If so, what is that?

Mr. KARMAZIN. Well, let me give you an example, Senator. We own, in New York City, a TV station, Channel 2, which has its own independent local news operation. We also own CBS network. And, by the way, I love all this stuff about publicly traded companies. I believe the assumption is that as a publicly traded company, I am calling Mike Wallace and I am calling Don Hewitt, and I am telling them what companies to do stories on on *60 Minutes.* Anyone who has ever watched *60 Minutes* or got that famous phone call from Mike Wallace, OK, will know that that is not the case. There is as much news integrity at publicly traded companies as anywhere else.

I believe, in the area where we are dealing with today, I believe there are antitrust laws, I think that there is a role for Government. All that has happened is——

Senator DORGAN. Do you think there should be limits?

Mr. KARMAZIN. Ithink that there should be limits when those limits are justified for good reason.

Senator DORGAN. Can you——

Mr. KARMAZIN. So, absolutely.

Senator DORGAN.—tell us when they are justified?

Mr. KARMAZIN. I am sorry?

Senator DORGAN. Can you tell us when they are justified?

Mr. KARMAZIN. They are justified when one company has six radio stations out of six in that market. But it is not justified when one company can only have eight out of 100 in New York. That is not justified, and I believe the courts will see our side of that argument more than the argument, if that rule stayed, that says that.

There is also—the courts have said there is no argument for the 35 percent cap. So that is why we are here. So if there is an argument——

Senator DORGAN. Well——

Mr. KARMAZIN.—make it——

Senator DORGAN. Yes. Let me just say, on the 35 percent cap, you know, in 1996, when we had the bill on the floor of the Senate, I am the one that offered the amendment that would have struck the cap and reverted back to the 25 percent. And I actually won that vote about 4:30 in the afternoon. And I thought, this is a pretty big deal, winning a vote on the floor of the Senate. And then dinner intervened, and several Senators had an epiphany over dinner, and we came back and had a re-vote and I lost. So I won——

Mr. KARMAZIN. Senator——

Senator DORGAN.—for about 4 hours.

Mr. KARMAZIN.—if, in fact, it went the way it was supposed to, had you had a drink after dinner we would have the cap totally eliminated.

Senator DORGAN. Yes, we do not drink up here.

Mr. KARMAZIN. OK.

[Laughter.]

Senator DORGAN. You are thinking of New York. We do not drink here.

[Laughter.]

Senator DORGAN. But let me ask Mr. Goodmon—Mr. Goodmon, this issue that Mr. Karmazin discusses, we are just bit players in New York. It is a giant market. We are just bit players. And, therefore, using that extrapolation, let us relax the ownership rules. How do you respond to that? He has made that point twice.

Mr. GOODMON. Right, I would have the—I actually got these from Fox—of the top 200 channels in New York, program channels, 189 of them are broadcast channels. I mean, broadcast is clearly the dominant media. When Bush did one of his speeches about the war, the broadcast networks had 50 million viewers, and all the cable networks put together had ten or eleven. I mean, the horsepower is with the broadcast stations.

And Mr. Karmazin wants to talk about 1,300 and put a number to that. You have got to see where the stations are. You know, 5 percent of the country is in New York. I mean, the way we do this is what percentage of the total country do you cover in people, not in numbers of markets.

And I do want to say this about the court. My reading, which is just my reading, is the court said, "Look, this 35 percent rule, you guys did not give us a reason." They did not say, "You have got a bad reason." They said, "You have to give us a reason." And they further said, and they double-negatived, it was really hard to understand, "We do not think that you cannot establish a cap and make it stick." I mean, the court believes that there should be a cap, and they believe that the Commission should establish it, and they want the Commission to defend it. They never said, "You cannot have a cap." I mean, that is——

Senator DORGAN. All right.

Mr. Karmazin, in order to retain some shred of credibility, I had better amend my statement when I said there is no drinking in Washington. Clearly I must have been jesting.

[Laughter.]

Senator DORGAN. But let me ask Mr. Blethen, on this issue of concentration, you heard the comments about localism and competition and diversity. I thought your statement and Mr. Goodmon's statement were particularly effective dealing with these issues.

What do you think will happen if the FCC takes full measure of its opportunity and does a kind of a "Katie, bar the door" ruling here and we substantially relax the limits and move ahead? What is the future look like to you in that circumstance?

Mr. BLETHEN. Well, you know, one hates to be accused of being overly dramatic, but I think we see the beginning and the end of our democracy. All you have to do is look at the decrease in a variety of voices, an investment in news and editorial, and the increase in concentration in the last 20 years and project that forward another 10 to 20 years, we have got no watchdog, we have got no free press left.

For the last 2 years, most of the trade media, at least the newspaper trade media, has been speculating on all of the rumored deals that the large companies have been talking about. They have been planning deals to start swapping newspapers and TV stations and start having big chains take over small chains. They have been planning this for 2 years. They have been buying cross-ownerships in places like Phoenix and L.A. in anticipation of the rule being repealed, they are so sure it is going to be repealed.

It is going to be a sad day for America if this happens.

Mr. SINGLETON. Senator, may I comment on that?

Senator DORGAN. Yes.

Mr. SINGLETON. Frank, who is a dear friend of mine, likes to make it look like the world is going to come to an end because groups own newspapers. In fact, he is a group who owns many newspapers himself, and the reason he is in Maine and I am not is he bid more money to buy the newspaper than I did.

But there is not a big concentration in the newspaper industry. There are 13 public companies that own newspapers in America, and they account for 22 percent of the daily newspapers published in the country, which means there are 78 percent of the daily newspapers published in America that are owned by independent privately owned family companies, like mine. And this woe that is going to happen because of some relaxation of the rules belies the fact that 78 percent of the daily newspapers in the country are owned by independents, like us and like Frank's family.

Mr. BLETHEN. I could respond, but I do not think that is what you want me to do.

Senator DORGAN. Mr. Chairman, I think I am out of time, but if I could ask just one additional question of Mr. Goodmon, and ask for a very short answer.

Mr. Goodmon, I asked, when I began my opening statement, I rhetorically asked about the meeting that I referred to with Chairman Powell, in which news reports had you quoted as saying, "Let's Make a Deal," atmosphere. Can you amplify on that and what you know or what you think you know happened at these meetings?

Mr. GOODMON. Well, as you know, we have—it is not just the cap which I am talking about; it is newspapers duopolies, there are several proceedings in here.

Senator DORGAN. That is correct.

Mr. GOODMON. And what it looks like, what it has been looking like for some time, is the idea is, you know, I will support—you know, if you want me to do the ownership, then you have got to support the newspapers, or I will do the duopolies—I mean, there is sort of a very bad way—each one of these things needs to be separate—so they looked to be like there was some trading. I did not say anything about that until a letter was released by Belo suggesting that they would change their position on the cap—they would have been against the cap for 100 years—in return for the Commission acting—those are his words—in return for the Commission acting favorably on the NASA petition, which is not even part of the ownership.

Senator DORGAN. Right.

Mr. GOODMON. So then I had something to bring this up and say, "Do we really want to do these ownership rules, you know, with newspaper duopolies and everybody sort of trading around?" And I think there has been some maneuvering in order to get the votes.

Senator DORGAN. Mr. Chairman, you have put together a really excellent panel. I think this panel, more than most any I have seen, shows the contrast in views on these issues. Thank you for bringing the panel to us.

The CHAIRMAN. Thank you. Senator Burns?

Senator BURNS. Thank you very much, Mr. Chairman.

Mr. Goodmon, I have more than a passing interest in Raleigh——

Mr. GOODMON. Yes, sir.

Senator BURNS.—North Carolina.

Mr. GOODMON. Yes, sir.

Senator BURNS. And you know what that connection is.

Mr. GOODMON. Yes, sir. He told me to tell you hello.

[Laughter.]

Senator BURNS. But I am interested in these preemptions.

Mr. GOODMON. Right.

Senator BURNS. Even though it may be in the contract that you have with your network, if you view something that clearly that your community does not want and finds it runs counter-culture to their community. Do you mean to tell me that Fox, that is a one-time—if you exempt them, that is a strike one?

Mr. GOODMON. No. If we invoke the community-standards clause—that has been done very seldom—then it is not a strike. A strike is if we decide to run a basketball game instead of the network or we decide to preempt for some business or programming reason. That is a strike. A community-standards is not a strike and—now we had to work on that, but I think the network now understands that point of view.

Senator BURNS. Well, that sort of concerns me. And does Viacom, with their affiliates, do they have the same kind of a contract, Mr. Karmazin, as—with their non-owned stations, with their O&Os—not with their O&Os?

Mr. KARMAZIN. I understand the question. What we negotiate when we negotiate an affiliation agreement includes an amount of preemptions. So in Mr. Goodmon's contract with CBS, he has an amount of opportunity to preempt for whatever reasons he chooses to preempt our network. OK? We like it as little as possible, because we need to have Raleigh covered in our market. But there is a negotiation by the broadcaster and our affiliate-relations department on the amount of preemptions one can do, because you cannot have a network unless you have an affiliate system. So if the affiliates are not going to run it, you are not going to have a network.

So I will also tell you that this whole right-to-reject argument is so bogus as it applies to us—I cannot tell about Fox, and I doubt it is an issue with Fox—is that the existing preemption level that exists in the contracts today have not been approached. The affiliates have the right, but do not, of preempt. Those facts are available, they are quantifiable, and we have them.

Senator BURNS. Now, you say you own 35 stations in Viacom, and now is there a difference between the preemption rates with the O&Os and the independents?

Mr. KARMAZIN. They are both negligible. My guess would be that the CBS owned-and-operated stations would be more inclined to deal with the programs. We do not take our programming recommendations from our affiliates. That would be chaotic, because there would be no way to have 212 people in the room in deciding what programs go on the air. But the CBS owned-and-operated stations are in the room. So when the decision is made to air programming and what programming is appropriate, the person who runs our owned-and-operated stations would participate in that decision and more inclined——

And, by the way, if you go down the list of who is preempting, the other networks—so let us forget the fact that there would be nothing anybody would ever want to preempt on CBS, but let us assume the other networks. The amount of preemptions are *de minimus.* It is a non-issue.

Senator BURNS. OK, now, we learned from this business of concentration, and my good friend from North Dakota, we have suffered in our States from concentration, and we understand what it does and what it is going to do to the industry that is number one in each one of our States. We are seeing three packers kill 85 percent of the fat cattle in this country. Now, I know we are not in an Ag Committee meeting here, and maybe most of you do not know much about that, but some of you do, or some have got a grain or two. We know that—and also in our market for our grains.

We see this happening, because there is—and from the testimony that was offered to this committee in the hearing that the Chairman on radio concentration, we heard about outdoor advertising, we heard about venues, we heard about a lot of—for entertainment—the control; other words, the horizontal and vertical integration that happens.

Because basically, folks, market power, we are talking about advertising dollars. Now, we might want to talk about this great thing about diversity and news and is it balanced and are they going to endorse me or the other guy or this idea or are they limiting voices. Basically, we are talking about advertising dollars, because that is what drives our industry. That is what keeps us on the air. That is what keeps our printing presses running. But whenever you get the integration thing going, then that is market power, and then it is very difficult for a little independent in Bismarck, North Dakota, to go against a big conglomerate that comes in and owns maybe seven stations out of the eight, because that is pretty tough.

So I think what we are talking about here is we have to be very careful on the impact of especially vertical integration, because of the market power it gives in a local market, even though they may be managed from Wall Street. And that is what we have to worry about more than anything else, especially in rural areas, and that is why we are concerned about this, and we will continue to monitor that.

And I thank the Chairman.

The CHAIRMAN. Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Karmazin, let me tell you what happened in Eugene, Oregon, so we walk through sort of a specific case.

The community very much wants a 10 p.m. news broadcast, and the network said, "No, we are not going to do it. It is going to get in the way of national programming." The network sent to the local affiliate a letter saying, and I will quote here, what their interest was, was "to have a consistent national pattern of distribution." Those were their words from the network to the local affiliate talking about a newscast at 10 p.m. in the evening. Are you telling me that kind of thing is rare, that we do not see much of that? Because I think, to my colleagues, what you said was, "Hey, this business about, you know, preempting, you know, local coverage hardly ever happens." Well, that is not what the network affiliates, the local people, tell me in Oregon. And this is a specific, concrete case of something that is important to the community, news.

Mr. KARMAZIN. OK, so I cannot speak for Eugene, Oregon. But let us assume that in America there is nobody requiring the owner of that station to be a network affiliate, that if that station thinks that they can serve that community better by doing a 10 o'clock news and a 9 o'clock news and an 8 o'clock news, they do not have to carry the network. So I do not think it is quite that simple that there is the issue that—in Eugene, Oregon.

On the other hand, there is still the ability of the people in Eugene, Oregon, to decide if, in fact, they want a 10 o'clock news. I do not know. I am, unfortunately, a little naive about the number of TV stations that are licensed or available in Eugene, Oregon. If you gave me some help——

Senator WYDEN. Mr. Karmazin, you are saying that this particular station could have exercised their constitutional right to go broke. I understand that.

Mr. KARMAZIN. I do not believe that that is the——

Senator WYDEN. I understand that. They wanted some news, and I do not think it is rare.

Mr. KARMAZIN. If you are saying that it is the networks that are making these stations rich so that they do not go broke, that is part of the reason that—what we are saying; it is the network, OK, that is bearing the cost so that the stations do not have the costs. So, yes, you are getting right to my point, which is the fact that being an affiliate—when I die and come back, I want to come back as an affiliate.

[Laughter.]

Senator WYDEN. All right.

Mr. Blethen, when the companies talk about efficiencies and economies of scale as justification for consolidation, I think we need to look at what that really means in practice. There was an article in the *Columbia Journalism Review* that recently noted that when TV stations in the same market combine, and I will quote here, "it often means combining news staffs and resources, reducing the richness of the community's news diet." What is your sense? Is that as prevalent as this particular journalism review seems to suggest?

Mr. BLETHEN. Well, even the people advocating cross-ownership repeal no longer talk very much about convergence or synergism, which they used to, because it has been proven not to be there.

When you look at newspapers and you look at TV, you are talking about two very different kinds of enterprises, and there have been these attempts to try to turn reporters and editors into technicians, carrying cameras and carrying microphones, and they have not worked. They have distracted from the journalism that they did, and they have not worked in terms of enhancing anything. And even the people advocating this will now admit that there are really two things they can—three things—they are able to cut costs, because they can cut the news and public-service presentations because they no longer have a competitor; they gain market power and eliminate a competitor; and they can raise rates.

Senator WYDEN. All right. One last question for you, Mr. Karmazin, with respect to this question of conflicts of interest, because I think, as much as anything, what I am concerned about is the prospect that it is going to be harder for people to blow the whistle. I looked, for example, I mentioned in my opening statement the question of reporters, for example, being willing to dig into accounting irregularities at a parent corporation. And you all now own 15 broadcast stations and—excuse me, in 1996 you owned 15 broadcast stations; today, you are at 35. In 1996, you owned one cable station; today, you own 25. You own Paramount, UPN Network, Simon & Schuster. The subsidiary, Infinity Broadcasting, owns 180 stations, not to mention the Internet interests, *CBS.com, PBD.com, MTV.com, CBSSportsline.com,* and you have got the 50 percent interest in Comedy Central.

Now, I think you have made the argument with respect to the fact that you do not call people up and say, "Hey, you know, bag that story." I understand that, and nobody thinks that kind of thing goes on. But are not you a little bit troubled about the potential for conflicts of interest that are going to make it a little less likely for people, in areas such as the question of accounting fraud, to be willing to spend the time knowing that it is going to be hard to justify to somebody at the top, at the parent?

Mr. KARMAZIN. Not the least. And I will point to *Fortune Magazine,* which is owned by AOL/Time Warner. And if you ever wanted to take a look at a magazine who was critical of a merger, it is *Fortune Magazine* being critical of its own parent company. So, no, I have seen countless examples of where that does not work.

And thank you for the commercial on our assets, but I would go back to our revenues. So all of those things you have added together come to $12–1/2 billion in advertising out of $300 billion. What percentage do you feel is so concentrated? Because we are certainly nowhere there.

Senator WYDEN. My time is just about up, and I guess I am not willing today to pluck a percentage out of the air, but I do think that the policies that we have today, which have put basically a tremendous number of eggs in the basket of five powerful interests, is producing the kind of thing we are seeing right now in Eugene, Oregon, which you have basically said, "Hey, look, if you want a newscast, then, you know, so be it, and I guess you are going to go broke in the process." I think the country deserves better, and

I think it is possible for people to make money and to be profitable, at the same time be sensitive to local interests. And my concern is we are draining the lifeblood out of what a lot of communities in this country want, particularly in my home State, which is 3,000 miles from a lot of these major markets, and that is why you are hearing a bipartisan point.

Senator DORGAN. Would the Senator yield for just a quick point?

Senator WYDEN. Of course.

Senator DORGAN. Mr. Karmazin's response to you, that if that station in Eugene, Oregon, says, "No, we are going to do this newscast," that they would yank the CBS affiliate status, I mean, that is exactly the opposite of localism, is it not? I mean, localism would be giving people at home the opportunity to make local decisions. But saying, "You go ahead and make your local decision. We will yank your affiliation with CBS," is that not exactly moving in the opposite direction?

Mr. KARMAZIN. No, I totally disagree. That is not it at all. The idea is that—and, by the way, I have lived in this country longer than you, because I am older, so I believe in the same rights of the people in this country as you do. What I am saying about a network is when a station—usually the network relationship has a term, there is a term, and two people sit down and they decide, "Do you want to be a network affiliate, or don't you?" And if, in fact, you do, then you are expected to run the network. It means if something local happens, you want to preempt it, you get a certain amount of preemptions you are entitled to, but if you decide that instead of watching *60 Minutes,* instead of watching—a local affiliate says, "You know what? I do not want it to air *60 Minutes* because it is too controversial, you know, to my community or something." If that is the reason, so be it. But if what they are saying is they can make more money by preempting *60 Minutes* and running an info-commercial or they can make more money running something else, that is not what makes a network exist. You have to have a national coverage. You cannot not have Eugene, Oregon. So if we cannot clear our program in Eugene, Oregon, then the advertisers in that program, the performer in that program—so let us assume it was one of our lower rated shows, one of our news magazines. Our feeling is the people in Eugene, Oregon, have a right to see that news magazine, so we will have to go to another station to find somebody willing to carry that program. It is not like we want to deprive it from Eugene, Oregon.

Senator WYDEN. Mr. Chairman, my time is up. I just want to acknowledge that I think there will be tensions between the desire for national coverage and localism. But what has happened is all the trends now are against localism, and that is why we have got a significant community in my state without a 10 o'clock newscast. And that is the bottom line.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Goodmon, you were eager to comment.

Mr. GOODMON. Yes, sir.

You know, I want to point out that there is not anything in localism or diversity or competition that has to do with percentage of advertising. We keep talking about these business terms. What we are talking about is voices. We are talking about control.

But, now, there is an obvious conflict between the affiliate and the network. I mean, it goes on at—CBS pays me because of the situation I am in. Because I am in another situation, I have to pay Fox. I mean, everything—there are all these different situations.

Now, if, if, you allow the networks to own the local affiliates, then there is no balance. We do not have a chance. There will be no negotiation. Mr. Karmazin buys a station in Raleigh, he can own more stations. I am not a CBS affiliate anymore. I mean, there is a—we have got this very important national network programming, and we have got this very important local programming, and we have a great system. And the deal is to keep it in balance. And what I am afraid is going to happen is we are going to get out of balance. The affiliates need to have some—I will point out this—when the rule changed from 25 to 35, since that happened, preemptions have gone way down. I mean, we are scared. We are scared. The balance is in favor of the network, and getting more so that way. And as they own more stations, it is more in their favor.

Now, I think that this is—it is not one or the other. We need the networks. We need the local stations. So where is the balance? And I am suggesting that if you let the networks own more and more stations, then those stations are going to be programmed nationally. They are going to make the decision nationally as to what is on that station. And the local operators will not get an affiliation.

We just need a balance here. And my suggestion is we have got a pretty good one.

The CHAIRMAN. Senator Sununu? I apologize. I had misplaced him in the order in the opening statements.

Senator SUNUNU. And I am enraged.

[Laughter.]

Senator SUNUNU. And I want you to know that, Mr. Chairman.

Well, Mr. Blethen, how many newspapers do you own?

Mr. BLETHEN. We own six.

Senator SUNUNU. Six?

And, Mr. Singleton, how many do you own?

Mr. SINGLETON. We own 50.

Senator SUNUNU. Fifty.

Mr. Blethen, how long have you been in the newspaper business?

Mr. BLETHEN. My entire life.

Senator SUNUNU. How many papers did you own, say, 30 years ago?

Mr. BLETHEN. Two.

Senator SUNUNU. Two. Now, you talked about the 1,700 newspapers, and now there are only 280 independents. How many of those 1,700 do the 280 own?

Mr. BLETHEN. I am not sure I completely tracked the question, but I think what the answer is, is when you look at——

Senator SUNUNU. Well, let me be clear. You said there are 1,700 newspaper voices deeply connected to the communities they serve.

Mr. BLETHEN. Right.

Senator SUNUNU. Today there are fewer than 280 left. Are you saying the 1,700 have gone down to 280 independents?

Mr. BLETHEN. No, there are about 1,500 newspapers left in America, and about 280 of them are classified as independents. And the——

Senator SUNUNU. Do you consider yourself an independent?

Mr. BLETHEN. I consider us an independent.

Senator SUNUNU. But you own six papers.

Mr. BLETHEN. We own papers in two states where we have, in one state, 108-year family connection; and, in one state, a 300-year family connection. We have no intention of ever owning any newspapers outside of states that we deeply care about——

Senator SUNUNU. But my point is, obviously, that you are partly responsible for this consolidation, and you suggest that at the beginning of your career, when there were more of these papers, American democracy appeared secure because there were 1,700 voices. Today, there are fewer than 280. Does that mean that, as a participant in this consolidation, you are a threat to democracy?

Mr. BLETHEN. No, it is a great question, and you phrase it very well. The fact of the matter is, I have never taken objection with some level of size or scale in newspaper ownership.

Senator SUNUNU. Is Mr. Singleton a threat to democracy?

Mr. BLETHEN. Yes.

[Laughter.]

Mr. BLETHEN. What I object to is——

Senator SUNUNU. And I appreciate——

Mr. BLETHEN.—54 newspapers and——

Senator SUNUNU.—the candidness of your response, but I think it is an outrageous response. I think to suggest that a business owner that happens to own 50 newspapers, by virtue of his ownership of 50 newspapers, is somehow a threat to democracy, I think that is an outrageous statement. And I will certainly give you time to amplify it a little bit, but it is a strong charge, and I think it is an inappropriate charge. But, please, give your side of the story.

Mr. BLETHEN. There are two things that matter, whether it is absentee ownership and whether it is Wall-Street-controlled ownership. And what we are seeing in the——

Senator SUNUNU. Which does Mr. Singleton represent?

Mr. BLETHEN. He represents both. He is not a public company, but he has financed his newspaper chain through heavy debt, dealing extensively with bankers and Wall Street folks.

Senator SUNUNU. Mr. Singleton——

Mr. BLETHEN. My——

Senator SUNUNU. Mr. Singleton, who did you——

The CHAIRMAN. Senator Sununu?

Senator SUNUNU. —borrow your money from?

The CHAIRMAN. Senator Sununu, please let the witness respond. Go ahead, Mr. Blethen.

Mr. BLETHEN. In the America I talked about that—30 years ago, most ownership was connected to the city or the region. Today, that is not the case. And when your newsrooms are run by people who are absentee owners, in effect, who do not have any connection with the community that they are involved in, you get a different brand of commitment and a different brand of journalism. When you make the next step, and you go to publicly traded ownership, you only have one fiduciary responsibility, and that is your short-term stock prices and your short-term earnings, and it is not journalism, and it is not community service.

I am going on my 18th year as publisher of my newspaper, and I have not hit the average yet. The *Hearst* newspaper we compete with averages a new publisher about every 5 years.

Senator SUNUNU. Mr. Singleton, how do you respond to the charge that your local newspapers are not committed to the communities they serve, and that because you have borrowed money, somehow you owe fealty to Wall Street?

Mr. SINGLETON. I think it is preposterous. Our company is owned by two families, one family in New Jersey that goes back in this business to 1852 in this business. We are a privately-owned company owned by two families that are expansion minded. Yes, we borrow money. But I suspect my debt ratio is no higher than Mr. Blethen's debt ratio.

To say that we are a problem because we have 50, but he is not a problem because he has 6 really makes no sense. And it gets into the emotional issue that we are talking about.

The facts are the facts. There are 13 public companies that own newspapers, and they control 22 percent of the daily newspapers published in this country, and they put out some of the best newspapers in this country; not just because they are public. Being public does not get in the way of putting out good newspapers. But there are only 22 percent controlled by public companies; 78 percent are controlled—privately-owned, private families like mine and like Frank's and like many other private families. And to suggest that private families that own newspapers are a threat to democracy is not very credible.

Mr. BLETHEN. Could I respond?

Senator SUNUNU. Well, I think you already did, and my time is limited. I mean, I think you responded to the exact point that was made, which is trying to justify the argument that by virtue of his ownership of 50 newspapers, he is a threat to democracy.

Mr. Karmazin, you own local stations? Or you own TV stations, certainly. How many do you own?

Mr. KARMAZIN. Local TV stations and local radio stations.

Senator SUNUNU. How many TV stations?

Mr. KARMAZIN. Thirty-five.

Senator SUNUNU. Thirty-five stations. Do you do any local news on those stations?

Mr. KARMAZIN. On all but one. Or two.

Senator SUNUNU. Do you do any other local programming?

Mr. KARMAZIN. Sure. Yes, obviously in order for our TV stations to be successful in the market, they have got to serve their local community. So, obviously, in addition to running the network, all of our stations do, with the exception of a couple, local news and local programming and local public affairs and local fund raising and the same kind of localism that any good television operator would do in any market.

Senator SUNUNU. Finally, let me just ask Mr. Blethen. You talked about cross-ownership. There are, I think, a couple of dozen, maybe a few dozen, cases where there is cross-ownership between newspapers and TVs. These have been grandfathered, I guess, over time or, in some cases, waivers have been given. You suggested earlier, in response to questioning, that somehow this cross-ownership results in less local value, less quality of news, or it somehow weakens the local connection, but you did not give any specific examples. Can you give an example of where there is a partnership or a consolidation between TV and the newspaper and that the quality of service has degraded and the local interests have not been served?

Mr. BLETHEN. Spokane, Washington.

Senator SUNUNU. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Would you like to elaborate?

[Laughter.]

Mr. BLETHEN. Well, I am already at risk of losing one friend, and I would kind of hate to——

[Laughter.]

Mr. BLETHEN. I am trying to save a few friends, and I would rather not elaborate.

The CHAIRMAN. In the Committee, we try to stay with a time clock, but we also think it is most important to make the record complete. And I appreciate Senator Sununu's questions, and perhaps, for the record, you could elaborate on your answer to Senator Sununu's—I think it is an important question.

Mr. BLETHEN. Well, it is a very good question, but let me elaborate in a little different fashion. Mr. Singleton referred to the Committee of Concerned Journalists and the Columbia study, which took a look at the 40 grandfather stations and came to the conclusion that they are two-and-a-half times more likely to have good news. What that does not tell you, though, is—it does not get under the individual makeup of each of those 40.

I know in some of the newspaper associations comments, they have singled out Cedar Rapids, Iowa, as an example of this quality news. Well, Cedar Rapids, Iowa, is a third-generation family newspaper and television station that does some of the best journalism and public service in our country. Ownership matters. And I think if you get under those 40—and I am not sure where they all are—but when you get under those 40, what you are going to find is if you do not have ownership that is connected to those communities—and increasingly, that is the case—you get a disinvestment in the news on both the print side and the TV side.

The CHAIRMAN. What happened to Spokane, Washington?

Mr. BLETHEN. You are going to make me lose more friends, aren't you? Spokane, Washington, is a grandfather—it is a family-owned paper, it is a grandfathered situation. The family that owns the newspaper and the TV station has been involved in a major city redevelopment that has become very controversial. Even *Editor and Publisher Magazine,* which never criticizes the industry, criticized them for not covering it. The only coverage that has come out of this controversy, and there is lots of legal action around it now, has been by a struggling weekly that has been trying to get their story out.

Senator SUNUNU. If I may conclude, Mr. Chairman, that suggests that you do not find cross-ownership a problem as long as the cross-ownership is not driven by people that uncaring and cold and do not really care about local content. And——

Mr. BLETHEN. I find cross-ownership a problem whether it is public or whether it is private. You are making——

Senator SUNUNU. But you are——

Mr. BLETHEN.—35 percent margins—30, 35 percent on newspaper, 50 percent on TV. Why in the world do you need to combine your voice?

Senator SUNUNU. Well, this is not a——

Mr. BLETHEN. Why not remain a more——

Senator SUNUNU.—question of who is making money. It should not be a question of who is making money and who is not making money and are they making enough money. I am certainly——

Mr. BLETHEN. Except that is——

Senator SUNUNU. I do not want the——

Mr. BLETHEN.—that is the argument the advocates make for wanting to repeal cross-ownership, that they need it to compete.

Senator SUNUNU. I have not heard that argument made, at least not in this panel. Maybe somebody will step up, maybe in the next panel, and make that argument. But you certainly have not refuted the facts of the study that show increased local content over all of these 40 combinations, and you have expressed the concern about the personality or the tenor or the management style of those involved in the consolidation. But I do not see that. There may be other reasons, but I do not see that as a basis for sound regulation.

You have been very generous, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Lautenberg?

Senator LAUTENBERG. Thanks, Mr. Chairman.

This last discourse was kind of interesting, because it was said earlier that the FCC knows best about what ought to happen, and we legislators ought not to interfere. But we legislators can call one person's statement outrageous and talk about the other person as wanting to make money and all kinds of insinuation and accusations here.

I would like to modify that a little bit, because what we should be interested in is encouraging commentary from the witnesses, to the fullest extent possible, that has relevance to whether or not we do anything to reexamine the law as it was promulgated.

Mr. Singleton and I know each other a long time. I have not seen you. You look well. And, based on what I hear, you are doing OK.

[Laughter.]

Senator LAUTENBERG. I would ask you about a comment that was made apparently while I was out of the room or maybe in your statement—I did not see it—13 public companies owning just 22 percent of the newspapers. That was the statement that you made that——

Mr. SINGLETON. That is correct.

Senator LAUTENBERG. OK. I think the more relevant issue is, What percent of the circulation, percentage of the circulation, do these 13 companies account for?

Mr. SINGLETON. Because they tend to own larger newspapers, they account for somewhere close to 50 percent.

Senator LAUTENBERG. Wow.

Mr. SINGLETON. Because they tend to own larger newspapers, they account for somewhere close to 50 percent.

Senator LAUTENBERG. Wow. And I think that is really the issue. The question is—and I asked it in my initial comments—What good does it do the public at large? What good does it do to promote interest, values, et cetera? I am not talking about a cleansing mechanism. I am just talking about—people can hear what they want. Mr. Singleton, you know very well that there is a chain in New Jersey that has newspapers around the country, some of which have very radicalized conservative views, some of which are more liberal. But the fact is that people are getting a chance to hear—or to read, rather, what it is that they choose to read, if there is competition.

And I ask the question, once again, about what good does it do the public to have these ceilings lifted? Right now, the prospects are 45 percent. But what happens if we were to get down to where there were five papers, five media outlets that had all of the power? What possible good can come out of that kind, if I can call it, a deregulation of a standard? It is, after all, a public commodity that we are talking about—the airwaves, not so much directed at the newspapers, but the broadcasts over the airwaves. Does the public get better served as these companies get larger? I am afraid to ask Mr. Karmazin, because his—why do I not ask you that?

[Laughter.]

Mr. KARMAZIN. Thank you for asking.

Yes, I do. Before the radio consolidation took place, in 1996, there were about 60, six-zero, percent of all the radio stations losing money. Legitimate, not funny accounting. Losing money. The fact is today there are still 3,800 different owners of radio stations today. In order for you, as a businessman, to invest in your programming, to invest in your business, to hire people, you need to have a good business. So what you want to do—I cannot tell you the number, but what you need to do is have a healthy, free, over-the-air broadcasting system, because if, in fact, you did not have it, there would be no investment, there would be nobody covering the news, there would be nobody investing in their business, there would be nobody paying—I assume you listen to some New York radio every once in awhile, so we are paying Don Imus an awful lot of money to be on the radio. We think that serves the people of New York and New Jersey real well. The same, though you probably do not listen to Howard Stern, but the same thing for Howard Stern.

Senator LAUTENBERG. Then you are deciding where my taste begins and ends, huh?

Mr. KARMAZIN. Yes, I can tell in your phone calls.

Senator LAUTENBERG. Get me out of that realm. How about public radio?

[Laughter.]

Mr. KARMAZIN. We have, as you know, two all-news radio stations. If we were not healthy, if we were not successful, we would consolidate the news room of CBS and WINS and have one all-news radio station. So it is very important, and it is very important to the public, to have a successful, free, over-the-air broadcasting system.

And, listen, I do not have a horse in this race, but I cannot let it go. To say that companies like the New York Times and Tribune and Gannett, these public companies, you know, are causing democracy to go away in the United States is bizarre to me. OK? I do not see it at all.

Senator LAUTENBERG. Well, you obviously are expressing—I know it is not a self-interest opinion.

Mr. BLETHEN. Could I respond to that, please?

Senator LAUTENBERG. I would like you to.

Mr. BLETHEN. I did not say the *New York Times* is making democracy going away, and I need to clarify. The *New York Times,* the *Wall Street Journal,* and the *Washington Post* are publicly companies, but they are controlled by the families. They are essentially private companies. And thank goodness that we do have them, because right now they are a beachhead against the pall that has been created in journalism in America today.

Mr. SINGLETON. Senator Lautenberg, could I respond to that question, too?

Senator LAUTENBERG. Sure.

Mr. SINGLETON. I do not have a horse in cap rate percentage, but what we are talking about in newspapers and owning television in the same market, there are 40 stations last year who eliminated local news because they could not afford to produce it anymore, and there will be many, many more of those as network compensation goes away.

We are saying we are in the news business in our markets. We do an excellent job with a lot of people covering local news. Let us use those resources to keep local news in stations that otherwise would not have local news. That goes by the wayside in this argument. We are trying to improve or even have local news in television markets where there is not much local news in the television markets.

Senator LAUTENBERG. Mr. Goodmon, you are the only one who has not commented. Do you have a——

Mr. GOODMON. I am enjoying this.

[Laughter.]

The CHAIRMAN. You need the microphone, Mr. Goodmon.

Mr. GOODMON. What we are talking about, again, is localism. Mr. Karmazin says that broadcasting stations are very, very profitable. I would suggest there is nothing any more profitable than that. Next he says is that he has to own more because his network does not make much money. I cannot connect it. I mean, I do not know—that is certainly not in the communications. That is never mentioned network financial health. We are talking about localism, diversity, and competition.

We have a fixed market here. The financial problems of other organizations—you do not want to throw away localism for that, and I will argue forever—I will argue forever that a local owner is better than a group owner, because the local owner is there. I mean, I know—I mean, I call it the “haircut rule.” When I get a haircut, and that is not often, but when I do, I hear about what is on my television station. Localism is very important. It is why we have them.

In the Communications Act, it did not say we are going to have these national stations. It said we are going to have these local stations. And if there is a fixed number, we need as many owners as possible. And I do not understand why we are going to change this because Mr. Karmazin wants to make more money on his network.

I am just—let us do a tax break or an oil well or something.

[Laughter.]

Mr. GOODMON. I mean, it does not—the two are not connected. Now, this relationship is really important. I love my network. I cannot go without my network. He cannot go without a local station. But this balance is very important, and we have got to have some say in what is cooking.

Mr. KARMAZIN. But when I go to this affiliate, and I tell him the new AFC football contract is costing us so much money that we cannot afford to put it on our CBS network, we are going to put it on cable, he is going to sit there and say, "What is my network doing to me? Where is my network?" The NCAA tournament costs us $6 billion. You know, then I am saying, "OK, what is my network doing if they do not give me that program?" If we do not do *CSI,* if we do not do the kind of programming our affiliates want, you know, they are not going to be affiliates.

So I think it is sort of disingenuous to separate the network and the stations.

Mr. GOODMON. Now, the FCC report that I read said that the networks are very profitable. I mean, maybe I will go back and look at that, but the FCC report said the networks are profitable. We will have a national system of broadcasting if you allow the networks to own the stations. They will determine all the programming. They do—the big groups. I am not just picking on the networks. The groups do it, too. A group will buy a program. It will call all of its stations and say, "You are going to run this." They buy everything for the group, they program the group nationally, there is no local input. I mean, that is all I am saying.

Mr. KARMAZIN. If you have——

Senator LAUTENBERG. Mr. Chairman, I thank you very much for the time, Your Honor, but the witnesses—the case rests.

[Laughter.]

Mr. KARMAZIN. There are—let us assume the big networks, say—so Fox, Viacom, and CBS, Disney, and GE—you can call as a witness anyone in the financial community—I cannot speak for whatever the FCC report is—to determine the profitability of the broadcast networks. That data is available. Disney is losing hundreds of millions of dollars this year.

Senator LAUTENBERG. Is some of that—since you are provoking this; forgive me a minute more, Mr. Chairman—does that talk to Disney's management?

[Laughter.]

Mr. KARMAZIN. I think Disney's management is terrific. I think Michael Eisner has done a great job for that company. I think it speaks to the complexity and the difficulties of running a business where the costs are going up, the audiences are going down, there is far more competition; and the best way to solve it is relaxing the ownership rule.

Senator LAUTENBERG. I come out of the corporate world, and I ran a pretty good company, I think that Dean Singleton knows, and we have done well because we worked hard. But simply because you get larger does not mean that you get more profitable, and that cannot be the objective in something as sensitive as the public access to information. That, to me, is the question that really is at stake here, and I think we have to determine whether growth in size will benefit or harm the public's access to information.

Thanks, Mr. Chairman.

The CHAIRMAN. Senator Allen?

Senator ALLEN. Thank you, Mr. Chairman.

Several points I want to make here. Number one is, let us get updated in reality. Number two, Mr. Jefferson. And, number three, on to the cross-ownership issues.

Let us look at reality here, and it seems to be getting lost. Let us look at the media marketplace. We are talking about regulations, and regulations have to have some rational reason, and also this discussion ought to be based on reality in the real marketplace here in the last 25 years, and you have these FCC regulations.

FM, there are twice as many FM stations, 4,000 to over 8,200 stations. Full-power TV stations, from 988 in 1978 to now over nearly 1,700. Low-power TV stations have gone from zero in 1978 to 2,200-plus. Cable subscribers, from about 13 million in 1978 to now 69 million. DBS subscribers, zero in 1978, 16-million-plus now. And a variety of other things, including the Internet, which were no one on the Internet in 1978, 72 percent now. There were three networks back then, broadcast networks. Now there are seven in English, two in Spanish, 231 cable networks, as opposed to 28 back then. And you just think back then, in some local communities you had a weekly newspaper in that county. You have a daily that may have been in that community, and you had maybe a TV station and a radio station. The point is, is that the people have so many more options and opportunities to get their ideas.

And as far as Mr. Jefferson is concerned and regulations, 202 years ago, Mr. Jefferson enunciated his view of the sum of good Government in his inaugural address here in Washington, and he said, "The sum of good Government was a wise and frugal Government, which should restrain men from injuring one another, but shall leave them otherwise free to regulate their own pursuits of industry and improvement, and that the Government should not take from the mouths of labor the bread they have earned."

So the point is, is Mr. Jefferson loved freedom. Mr. Jefferson loved people searching and finding the truth. In his day, the only opportunity was the newspaper. Today, Mr. Jefferson would be thrilled, because he was one who embraced advances in technology. He was an inventor, an innovator, and he would love—as far as localism, the Internet is an individualized empowerment zone where the individual determines whether they want to read *WashingtonPost.com* or the Danville or the Roanoke paper or any other paper, the *Denver Post* if you want to see what they are blasting the Raiders about, or any other newspaper, you can read it. And so the reality is, is that there has been a tremendous change here.

Now, my question to you all is, where you have cross-ownership, newspaper/TV cross-ownership, which according to facts, and it is not just from the FCC, but also from the Columbia University Project on Excellence in Journalism 5-year study released, they said that stations in cross-ownership situations were more than twice as likely to receive an A grade than were other stations. And they are also more likely to do stories focused on important community issues, more likely to provide a wide mix of options and opinions, and less likely to do celebrity human-interest features.

Now, let me ask you all, any who want to comment on this, why would these studies that have shown an empirical basis that the FCC should treat smaller markets more similarly than large markets? Why should small markets not be able to have that same opportunity, as do larger markets?

Mr. BLETHEN. Well, there is a real danger in using that study as empirical evidence. That is the only study I am aware of that has been done trying to evaluate that quality. It has not been out very long. It has not been discussed, it has not been vetted, and it has not been debated. And I have already mentioned a handful of communities that I am aware of where I am aware that there is good television journalism and investment in these situations is where there is local ownership.

And I know, in our situation in Seattle, if we were to buy a television station, we do not see that there is any synergism, but we would eliminate a competitor, we would have more control over rates. And any kind of sharing of information and news, we already have an arrangement with the owner of another newspaper——

Senator ALLEN. Well, let me ask you this. Why should larger markets allow this? Why should there be a distinction between larger markets and small markets on these limitations?

Mr. BLETHEN. I do not think there should be.

Senator ALLEN. You do not think they should be allowed anywhere.

Mr. BLETHEN. Exactly.

Senator ALLEN. All right. Well, let me ask you—anybody else want to comment on this?

Mr. Singleton?

Mr. SINGLETON. I would just like to point out, once again, in the media issue there are emotions and there are facts, and the facts speak for themselves.

Thank you.

Senator ALLEN. Let me ask Mr. Goodmon a question. How many stations do you own in Raleigh?

Mr. GOODMON. Two.

Senator ALLEN. Two.

Mr. GOODMON. Yes.

Senator ALLEN. All right. Any why do you own two stations? Why did you desire to own two stations?

Mr. GOODMON. Well, the Commission made it possible. I compete against an ABC O&O, an NBC O&O, a Sinclair duopoly, and a Paxson duopoly. I did not want them to get it. I mean, that is a strategic issue. If you are asking me if I like duopolies—is that the question?

Senator ALLEN. Well, I mean, I would not imagine that you would invest in something you do not like.

Mr. GOODMON. No, well, I—well, no, that is defense. I did not want the other guy to get it. You do not want the other stations to get it against you. I do not think we should have duopolies.

Senator ALLEN. Even though you do have that.
Mr. GOODMON. Well, but the——
Senator ALLEN. Under what——
Mr. GOODMON. Well, but the rule says you can do it, and if your opposition can buy one, you want to get it before they do.
Senator ALLEN. Has that been harmful to the viewers in the Raleigh/Durham area that you own those two stations?
Mr. GOODMON. Has it been harmful?
Senator ALLEN. Has it been beneficial or harmful, the fact that you all own two stations in the Raleigh/Durham viewership area?
Mr. GOODMON. Well, I would have to say because I own it, it is beneficial.
[Laughter.]
Mr. GOODMON. But I—that is not the issue. It was——
Senator ALLEN. Well, no, this is——
Mr. GOODMON. No, it is a financial issue.
Senator ALLEN. Well, the fact that you have done this——
Mr. GOODMON. Right.
Senator ALLEN. —and your testimony is that it has been beneficial. Maybe you do not think it is beneficial, but do you not think others in smaller markets ought to have that same opportunity?
Mr. GOODMON. Well, if you are going to do duopolies, I think the test that they have now is pretty good. You know, if you are going to do——
Senator ALLEN. You have to have eight stations.
Mr. GOODMON. You have to have some others. My view—right. That is what I am saying. I think we have got a pretty good rule now. I think if you——
Senator ALLEN. Were you——
Mr. GOODMON.—do not have many stations and you do duopolies—if you have got a station with four markets or——
Senator ALLEN. Four stations.
Mr. GOODMON.—a market with three stations or four stations, I do not think, in terms of voices, you want to double them up. But I am not—the truth is, I do not—you know, I just——
Senator ALLEN. All right. Let us say you have a small——
Mr. GOODMON. I think it is another——
Senator ALLEN. Let me ask you this.
Mr. GOODMON. Right.
Senator ALLEN. As far as your business——
Mr. GOODMON. Right.
Senator ALLEN.—these two stations you own——
Mr. GOODMON. Yes.
Senator ALLEN.—where there is some convergences or efficiencies and that some of the improvements, your technology or——
Mr. GOODMON. Yes.
Senator ALLEN.—equipment could be used for both——
Mr. GOODMON. Yes.
Senator ALLEN.—both stations?
Mr. GOODMON. Yes.
Senator ALLEN. Now, in a smaller market, do they not have a harder time, really, sometimes, because they do not have as many viewers that they do in larger areas?
Mr. GOODMON. Yes.

Senator ALLEN. And so could they not also benefit——

Mr. GOODMON. They are having a tough——

Senator ALLEN.—from this——

Mr. GOODMON.—time with the digital conversion, too.

Senator ALLEN. Exactly.

Mr. GOODMON. Right.

Senator ALLEN. And so to the extent they can do that and will cover two stations rather than having one completely fail, would that not be beneficial, conceivably, as a business proposition?

Mr. GOODMON. As a business proposition, yes. As a matter of localism and number of voices, I am not sure. You got me on one on this list that I am not working on. Generally speaking, I think there should be as many owners as possible. Now, there might be some economic reasons to do them in a—but that is fine. That is fine.

Senator ALLEN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Allen.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman. I believe that Senator Snowe was giving her statement before I——

The CHAIRMAN. Senator Snowe?

Senator CANTWELL. Senator Snowe, go ahead.

Senator SNOWE. That is OK. Go ahead.

Senator CANTWELL. Well, thank you, Mr. Chairman.

I guess, listening to the back and forth from our witnesses, I guess the question that comes to mind is really in categorizing this issue of whether you think there are cultural differences between your organizations. And I guess Mr. Karmazin, I wondered if you thought that there was a cultural difference between your organization and Mr. Blethen's organization.

Mr. KARMAZIN. Sure. I think that each of our general managers at each radio station creates the culture at that radio station, and the same thing would be true of the general manager of a TV station. The culture at Nickelodeon is very different than the culture at MTV. So I believe that, within an organization, the managers create their culture. And particularly on the local level, there is a distinct cultural difference. If you were to walk into our radio stations here in Washington, D.C., you will see a different culture in each different radio station.

Senator CANTWELL. And so you do not believe that there is a larger parent umbrella culture that is created by being part of a large organization?

Mr. KARMAZIN. I cannot see it at all. I do not believe that anybody who is watching Nickelodeon and watching Sponge Bob knows that that is the same company that is watching Ozzy Osbourne.

Senator CANTWELL. Well, let me be more specific. The Dixie Chicks and Clear Channel. Now, whether the organizations collectively decided or somebody said, "Hey, our station in such-and-such city is deciding they are not going to play the Dixie Chicks," I have to believe that culturally there was a lot more security of somebody saying, "Hey, some organization—some of the radio stations within our organization felt the same way, so let us use our own discretion, but let us do the same thing because there is a little bit of comfort here. Our parent organization is not coming down on this.

Our parent organization is encouraging it, so let us join the fray," which I find to be different culturally stationed in Seattle, all of a sudden deciding that some station unrelated in Miami is doing some activity, now they are going to pick it up. So, culturally, I see a difference.

Mr. KARMAZIN. And I do not. I compete with Clear Channel. They own 1,200 radio stations, and we own 15 percent of their stations. So if they are not playing Dixie Chicks, and the people in that market, because these have a lot of choices, want to hear Dixie Chicks, I am all over the Dixie Chicks.

[Laughter.]

Mr. KARMAZIN. So the sense is that I do not find those—and I am not suggesting, by the way, that the decision—I do not know where the decision was made, but if they make dumb decisions, you can own 100 radio stations and make dumb decisions. It does not matter whether you own 1,200.

Senator CANTWELL. Mr. Karmazin, I disagree. It reminds me of a discussion of another company in the State of Washington who felt, just because it got big, that maybe the culture was not going to cause problems for it, and they found out that the culture and aggressive attitude of their employees did, in fact, cause problems for them, because they did not realize that they were a large corporation. They did not realize how big they had become and how far their reach had gone.

Mr. KARMAZIN. Senator, I would invite you to visit any operation within our company and see whether or not we have sacrificed the culture for its size.

Senator CANTWELL. Well, I—thank you for your answer, because I do believe you are different cultures, and you said you were.

Mr. Blethen, did you want to comment on that?

Mr. BLETHEN. Well, yes, I—they are clearly different cultures. One is a culture of maximizing profits for an absentee owner, and one is the culture of journalism and public service when you have local ownership.

We have an example in Seattle that you know well, Senator, which is KING Television, which was long owned by the Bullitt family and was considered one of the best journalism and community-service stations in the country. I would even argue—I think they had had a period of time when it was probably the best of an exceptional commitment by the family. Unfortunately, they sold to a public company a few years ago. And, you know, you watch the same stations I do, and they are a shadow of their former selves.

Senator CANTWELL. Well, I guess that is my concern. I believe that communities across this country are melting pot of different opinions and ideas, and they have different texture, they have different flavors to them. And I think this proposal is about stripping that away. It is about making things more vanilla. And I do not think that that is what America wants to see in the diversity of their news.

So it leads me to the question, What is the rush? When I think about these rules and regulations, they have been in place for 60 years, and now all of a sudden—and I certainly applaud everyone's interest in the variety of new technologies and medium devices that people will be able to get content, but I think we are still quite a few years from that providing any kind of true competition to today's mass market. So what is the rush in overturning this rule? And what is the secrecy about?

Mr. Karmazin, I think, in your testimony, alluded to the fact that this had gotten more public debate than just about any other issue, and yet all I know was one public hearing, officially, in Richmond, and it took two FCC Commissioners, who decided to go out on their own to have non-formal hearings, and we almost had a riot in Seattle, people were so upset over this concept. I mean, I have gotten more mail on this issue lately than just about any other issue, because citizens are concerned. And yet we really have not had a public-hearing process.

So what is the rush?

Mr. KARMAZIN. So I guess the rush is that in 1996, in the biennial, the Congress told the FCC to review these rules every 2 years. I mentioned in my opening comment that I was down here 2 years ago, which was the start of this biennial. I cannot imagine anybody in Washington would want to be believing that this is a process that is being rushed. In my 30-plus years in the broadcasting business, I have never seen a issue get more attention than this one has gotten.

Senator CANTWELL. Well, here is a very detailed letter from 14 Members, mostly from this committee, and many from my colleagues. So we have, in the budget, I think, some language to the FCC saying, "Complete your business in a required timeframe." I am sure one of my well-meaning colleagues slipped in that little note basically urging the FCC to finish their business, in direct contrast to a very detailed position statement by many members of this committee and others who say, "We are going too fast, without public comment." I mean, if you think you are right, if you think that you are on the right side of this, you should not care whether we have more dialogue and debate about this issue to make sure that the public concern is addressed.

Mr. KARMAZIN. There are many things that I have read in the papers about this issue that I do not like, but the one thing I do have is a great deal of respect for all five members of the FCC. If they believe they needed more time, then they would have taken more time. But if they believe they have exhausted this study and that they have a conclusion, then I say this body should let them do their work and let them come out with their report in order.

Senator CANTWELL. Well, I think this hearing is probably a sign that there is anxiety about just letting them do just that.

Thank you, Mr. Chairman.

The CHAIRMAN. I think they are constrained, also, by a court order to act, Mr. Karmazin.

Senator Snowe?

Senator SNOWE. They certainly are. But, on the other hand, Mr. Karmazin, June 2 is final. I mean, that is the issue here today. And it is true, the biennial review has been incorporated, in the 1996 Act. It does mandate the FCC to review it, obviously, every 2 years. And so it certainly was anticipated on their part that they had to conduct this review. And, yes, it was a court order, but it still does not negate, I think, the responsibility of the FCC to share the intent of their changes and modifications. Would you not agree these are significant changes, just based on what has been speculated about in the media?

Mr. KARMAZIN. I really do not know what the outcome is going to be.

Senator SNOWE. Yes, that is the point.

Mr. KARMAZIN. But I trust the process. And if we do not trust the process, then I do not know what else we have. So the sense would be there are checks and balances. I assume we have—there have been hearings here. As I mentioned, I testified 2 years ago at a hearing here. There comes a time when even unpopular decisions—I mean, whatever way it goes, I have to live with it or go to court. But I do think we have a right to move on with our business and should not take this long to develop those modifications, if there are to be modifications. Whatever the rules are, we have an opportunity to follow them or go to court and see if they are constitutionally correct.

Senator SNOWE. Well, you know, I guess the fact of the matter is that, obviously, the FCC has to conduct its own exploration, but we also have a responsibility, as well, and it is to serve the public. I mean, this is serving the public interest, without question. I mean, we have had precedent in law, precedent in statute for more than 70 years with respect to these issues. And they are going to be undone very quickly on one day, June 2. That is the issue here.

Mr. KARMAZIN. That is true.

Senator SNOWE. There is no flexibility. And I have enormous respect for the members of the Commission. And obviously some Commissioners have concerns, as Senator Cantwell indicated, several of them had their own public hearings. I had urged public hearings back in January, and we had the first of three oversight hearings on this matter.

I just was watching CNN last night, and they were doing a story on this subject, and they invited the viewers to register, to log in, their yes or no with respect to the question, Do you think too few companies own too many media outlets? Yes, 98 percent.

Mr. KARMAZIN. And you want to——

Senator SNOWE. No, 2 percent. So, you know, I think the point is that there is a concern publicly about it, and it is the sanitizing of this process now. The fact that five companies are going to own 60 percent of prime-time broadcasting both in the broadcast and cable networks, that is disconcerting, because I do not know how that affects the three-pronged approach of diversity and localism and competition. I mean, those are the issues that we cannot overlook. Those were, sort of, the foundations and premises for these rule changes.

Now, I do not object, necessarily, to deregulation, per se, but we have gone through many deregulations—with the airline industry, with the telecommunications sector—and they have unintended consequences, and I have not been able to understand how you put the genie back in the bottle. I do not understand how you reverse courses once this is unleashed. That is what I am not understanding. Because this is really the last barrier. It is the last bulwark against open, unfettered ownership, you know, and that is the problem that I have with this. And I do not understand either with the rush.

I understand that the deadlines, but I think if the Commission had asked for time to—given the enormity of this issue, or if our biennial review is unreasonable, then that is something we ought to consider in terms of the timetable, Mr. Chairman. But it should not negate the consequences of not having a full airing of these issues before the Congress and before the public.

Mr. KARMAZIN. And, Senator, it is for that reason——

The CHAIRMAN. I think Mr. Goodmon wanted to comment, if he might.

Senator SNOWE. Yes, OK, thank you. Yes, go ahead, Mr. Goodmon. And we will go back.

Mr. GOODMON. Please remember my sign.

Senator SNOWE. Yes, 70 percent.

Mr. GOODMON. 70 percent, not 35 percent.

Senator SNOWE. Yes.

Mr. GOODMON. We have got plenty of diversity. What is the rush?

Senator SNOWE. Yes.

Mr. GOODMON. What is the hurry? The hurry is they have the votes at the Commission, and the hurry is that this is very important to the investment and financial sector in the country. Because what they see is going to be, as there was last time when the rules changed, a whole lot of station trading. There is going to be a lot of money loaned, and there are going to be a lot of commissions.

So what we have is the big companies wanting to get bigger, and I think that—Mr. Karmazin should want to own all of his affiliates. But I am saying that is not a good plan. We have enough—they are 70 percent. If they raise it to 45, it becomes 90 percent.

So I am saying there is already enough relaxation of ownership. There is no hurry on this, particularly because we are going into digital, and nobody has a clue as to what the broadcasting world is going to be like when we get there.

Senator SNOWE. That is right. Mr.——

Mr. GOODMON. But it does not make any sense.

Senator SNOWE.—Mr. Blethen, you mentioned an important point in response to Senator Sununu's question. The issue is ties to the community and localism. And that is one of the important dimensions in terms of establishing and upholding important principles regarding the dissemination of news and information to the public, and that is having ties to the community. And that is essentially what you have done both in Seattle and both in Maine with your ties to the state. We welcomed that, I should tell you, Mr. Chairman, because at the time we were sort of very concerned about who was going to purchase the Portland newspapers that had been owned by the Gannett family, as I said, for well more than 100 years and rooted in the community, they have been part of the community. And so we were certainly relieved when the Blethen family, the Blethen newspapers, purchased those newspapers, because it really continued that very important tradition in our State, and that is having ties and being sensitive to the issues and the needs of the community.

Mr. BLETHEN. If I could comment——

Senator SNOWE. Yes.

Mr. BLETHEN.—the comment about the "we should trust the process." You know, I am sort of a newcomer to this, but I am finding it really hard to trust a process which has been done behind closed doors with only the major players, the major owners involved. Over 80 percent of the American public does not know what is going on. Most of the Hill did not even know what was going on until recently. And where the vast preponderance of all these comments the FCC says they have received, indeed, have been against any relaxing of these rules. The Commission will talk about something like 18- to 20,000 comments, but I am told that 18,000 or so of those are all against repeal and that they are hard-pressed to find anything for appeal that is not from a corporation.

Senator SNOWE. Mr. Karmazin?

Mr. KARMAZIN. I think it is important to have a healthy industry to be able to evolve into a digital environment. We are all going to be UHF stations in the digital world, and I do not think, since it is many years away, regretfully not our fault, that I think you want to have a healthy industry to get to that digital transition. This is a bogus argument, because there is clearly a disadvantage of being a UHF station in the market, and the rules over the years have looked at the difference between a UHF station and a VHF station. I want one VHF station in a market, as compared to two UHF stations, when I can. So, you know, it is just another argument.

And regarding the process, just like I respect the Senator, the Chairman, and Senator Hollings, that this committee has had plenty of opportunities to deal with this over the time. And, again, I cannot speak for whether you have all the facts or not, but I think it is open. I hear a total disconnect. I hear no one knew about it, but there are 18,000 people complaining about it. So somebody knows about it.

Senator SNOWE. We do not know the specificity of what they are going to recommend.

Mr. KARMAZIN. Neither do we.

Senator SNOWE. OK, well, that is—but that is the point. Should we not? I mean, that is the issue here on a major modification. This is not inconsequential, and that is the issue that we are raising. Hence, the 20,000, you know, responses to the FCC. I would assume that that is a very substantial response to proposed changes by the FCC, whatever they happen to be. We are saying given the magnitude and the enormity of this issue and the implications for the future that will be unending, and the risk if we are wrong—the risk if we are wrong—and where is the balance, as Mr. Goodmon and Mr. Blethen have indicated? Where is going to be the balance? It is a high-risk proposition if we are wrong, and I think that is the issue, and it has been enshrined in statute and judicial precedent for more than 70 years, so I think we should hesitate and pause before we go into this June 2 up-or-down vote and no recourse.

And that is a concern, Mr. Chairman. And, you know, when they predicate this decision on the diversity of voices out there with subscribers to cable and Internet and so on, but the fact of the matter is, it is whose ownership? Who are the owners of all of these entities? And that is going to be the concentration of the source that is going to be disseminating the information in the final analysis. And that is, I think, a major concern. And they are predicating it on that basis, in terms of, you know, the diversity of voices, but it is going to be owned by a few, and that is the bottom line.

And so, you know, I just wish we were in a very different position here today and in the future, because I know the FCC is struggling with the deadline and all that. But I think, in the final analysis, it is more important to get it right, because the risks are far too great.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Snowe.

We are all in agreement that no one entity or company or corporation should own 100 percent of any media market. Is that right? Mr. Karmazin, do you agree with that?

Mr. KARMAZIN. That is right.

The CHAIRMAN. Mr. Goodmon?

Mr. GOODMON. Yes, sir.

The CHAIRMAN. Mr. Blethen?

Mr. BLETHEN. Yes, sir.

The CHAIRMAN. Mr. Singleton?

Mr. SINGLETON. Yes, sir.

The CHAIRMAN. So I guess what we are doing here is trying to decide what is appropriate, and that is what the difficulty that we are encountering. I think that Clear Channel, the situation that exists there today with 1,200-and-some stations and domination of various markets, was a warning sign to me, and I am concerned but unsure, uncharacteristically, unsure in how we maintain the balance that is necessary. But this hearing has been very helpful. I thank you for the spirited discussion, and I hope you will all remain friends.

[Laughter.]

The CHAIRMAN. And I thank the witnesses for coming. Thank you.

Due to the lateness of the hour and the lack of participation by members of the Committee, we will have another hearing between now and June 2, and Mr. Kimmelman and Mr. Mikkelsen will be invited back at that time, because I do not think they would get a fair amplification of their views by calling them at this late hour.

I thank you, and I thank the witnesses. This hearing is adjourned.

[Whereupon, at 12:10 p.m., the hearing was adjourned.]

APPENDIX

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM SOUTH CAROLINA

Thank you, Mr. Chairman. Today we return to the topic of media ownership, and more specifically, to plans afoot at the Federal Communication Commission to radically liberalize or eliminate many, if not all, of the current media ownership rules that have long guided our stewardship of the public airwaves.

Over the last several years, the amount of consolidation in the entertainment and media industries has been staggering. We have seen the combination of AOL and Time Warner, Viacom and CBS, Tribune and Times Mirror, and now, face Rupert Murdoch's bid to merge News Corporation with DirecTV. While technology has provided Americans with new media outlets, this growth has failed to outpace the insatiable desire of big media to effectively control what Americans see and hear on television. Today 90 percent of the top 50 channels on cable are owned by either the major TV networks or by cable operators. Moreover, the top 5 programmers (Viacom/CBS, Disney/ABC, News Corporation/Fox, NBC, and Time Warner) now control 75 percent of prime time programming and are soon projected to increase their share to 85 percent—the level reached by NBC, CBS, and ABC at their peak.

Mr. Chairman, Teddy Roosevelt once said that "the only way to meet a billion dollar corporation is by invoking the protection of a hundred-billion dollar government." As defenders of capitalism, we expect large media corporations to pursue policies in their own economic self-interest. But to protect the public interest, we similarly demand that our government act to protect civic and local community interests of ordinary citizens, particularly in areas related to the public airwaves and the marketplace of ideas.

While details of the Commission's proposal are finally starting to leak into the press, the process conducted by the FCC on a matter so fundamental to the foundation of American democracy has been shameful. Instead of sparking a national debate by putting forward specific rule changes to stand in the rigors of sunlight, as earlier requested by a majority of the members of this committee, the FCC has instead opted to keep its plans under wraps, further strengthening the hand of big media companies with direct-dial connections to the FCC and keeping the American public in the dark. Furthermore, by creating an arbitrary deadline of June 2, Chairman Powell and other proponents further deregulation have sought to squelch any meaning criticism of this proposal and hammer through one of the most far-reaching policy decisions in the history of American media.

Mr. Chairman, the American people deserve better. Unless we reverse course, radical rule changes in the existing national and local ownership limits could seriously, and perhaps irreparably, alter the fabric of American culture and civic discourse. While proponents claim that new rules will only be "incremental changes," the American public will not be fooled.

Further media concentration will mean fewer creative outlets for independent TV and content producers; higher ad rates for local and family businesses; fewer antagonistic sources of news and opinion, less air time for local politicians and community groups, and a growing reluctance of local station operators to take on network executives in rejecting nationally-produced programming that violates local community standards.

While many of us in Congress had hoped that the FCC would recognize the serious consequences that could result from a laissez faire approach to media ownership, it appears the message is not getting through. As a result, Senator Stevens and I will introduce legislation today to do what should not have to be done—namely, to re-establish by statute a 35 percent national broadcast ownership cap. This legislation is identical to a bill introduced in the House last week by Congressmen Burr and Dingell, and serves to underscore the substantial support in Congress for keeping the existing TV broadcast cap and protecting the interests of local communities.

While I welcome the testimony of the witnesses today and their responses to our questions, I hope that in the near future, we will have the opportunity to hear from the individual members of the Commission. These are not state secrets. The American people deserve to see the specifics of changes in store for them so as to allow for vigorous and meaningful debate. I have seen little out of the FCC to suggest that such a change of heart is in the offing, but I look forward to being pleasantly surprised.

PREPARED STATEMENT OF J. STEWART BRYAN III, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, MEDIA GENERAL, INC.

Twenty-eight years is a long time to ban an entire industry from entering a market based on nothing more than a conjectural "hoped-for" gain in diversity and absolutely no proof of any competitive harm. Yet, that is how long newspapers will have been prohibited from purchasing broadcast stations in their home markets when the Federal Communications Commission ("FCC") meets early next month to act in its omnibus media ownership proceeding. And this ban has continued despite the fact that the FCC does not regulate newspapers. The time for repeal of the FCC's newspaper/broadcast cross-ownership rule in all markets is long overdue, particularly given the recent liberalization of every other FCC media ownership regulation. This liberalization has left newspaper owners unique, among all business owners in the nation, in their inability to buy broadcast outlets in their home markets.

At the same time, the existence of the rule is preventing the development and delivery of new and innovative local information services and the infusion of new resources into struggling television news operations. In the last decade, as the cost of operating television stations and producing televised news, in particular, has gotten more expensive, we have begun to see an erosion in the delivery of local television news. Not only have television stations been faced with the expense of converting to digital transmission, but the presence of large group buyers has made it more difficult for small operators to compete in the program syndication market. Many small television stations have also seen their network compensation payments evaporate or change into "reverse compensation."

The result has been that many small market stations, and even some in large markets, have had to curtail or entirely eliminate their local newscasts. In the last 4 years, viewers of over 40 television stations around the country have lost local news coverage. Repeal of the newspaper/broadcast cross-ownership rule is desperately needed to reverse this trend.

The Media General Experience: Common Ownership of Newspaper and Broadcast Television Outlets in the Same Markets Has Increased Local News and Information Content and Not Caused Any Diminution in Staff

My name is J. Stewart Bryan III, and I am the Chairman and Chief Executive Officer of Media General, Inc., an independent, publicly-owned communications company situated primarily in the southeastern United States with interests in newspapers, broadcast television stations, interactive media, and diversified information services. Media General's corporate mission is to be the leading provider of high-quality news, information, and entertainment in the southeast by continuing to build on its position of strength in strategically located markets.

Media General is also one of the media industry's leading practitioners of "convergence," the melding of newspaper, broadcast television, and online research in the preparation and dissemination of local news. Media General's News Center in Tampa, Florida, is the most advanced convergence laboratory in the nation, and the only one, as far as Media General is aware, in which the news staff of a newspaper (*The Tampa Tribune*), broadcast television station (WFLA-TV), and online operations (TBO.com) are housed together under one roof. Besides this strong presence in Tampa-St. Petersburg (Sarasota), the Nation's 13th-ranked Designated Market Area ("DMA"), an operation that is "grandfathered" under the FCC's cross-ownership rule, Media General has similar convergence efforts underway in five additional markets where it has recently purchased television broadcast stations and daily newspapers—Roanoke-Lynchburg, Virginia, the 67th-ranked DMA; Tri-Cities, Tennessee/Virginia, the 90th-ranked DMA; Florence-Myrtle Beach, South Carolina, the 110th-ranked DMA; Columbus, Georgia, the 126th-ranked DMA; and Panama City, Florida, the 159th-ranked DMA.

At the beginning of 1995, Media General owned just three daily newspapers and, as of the start of 1997, it held only three broadcast television station licenses. Since then, Media General has expanded, now serving newspaper readers in 25 markets and television viewers in 21 DMAs. To *The Tampa Tribune*, the *Richmond Times-Dispatch*, and the *Winston-Salem Journal*, Media General has now added 22 other daily newspapers in Virginia, North Carolina, Florida, Alabama, and South Carolina, as well as nearly 100 weekly newspapers and other periodicals. Today, its 26 network-affiliated television stations reach more than 30 percent of the television households in the southeastern United States and nearly 8 percent of the nationwide television audience. Media General's Interactive Media Division also provides online content that includes news, information, and entertainment sources in virtually every one of the company's markets.

Initially, Media General's convergence efforts focused on Tampa, where it has owned NBC affiliate WFLA-TV and *The Tampa Tribune* since before adoption of the newspaper/broadcast cross-ownership rule. Over 10 years ago, WFLA–TV's news director and *The Tampa Tribune*'s sports department began to take a coordinated approach to covering local high school football and other sports. Shortly thereafter, the two outlets began sharing political polling information and coordinating political coverage, and the paper's religion columnist began making on-air reports on WFLA–TV.

Expanded convergence at Media General began in earnest 3 years ago, when WFLA–TV, *The Tampa Tribune,* and *TBO.com* moved all their news staffs and content operations into a new $35 million state-of-the-art facility, The Tampa News Center. While each of the three outlets has its own specific news and editorial staffs that make independent, final decisions about content, this convergence laboratory features a central news desk, the "Super Desk," which is continuously staffed by editors from all three media and facilitates the rapid exchange of story ideas, news content, and video images among the three outlets. All three outlets also maintain their news "budgets" or plans for stories on a building-wide "intranet," and the staff of each outlet can access the news "budgets" from the other properties.

Newspaper reporters are writing scripts for television newscasts and appearing on-air, and television reporters are writing stories for the newspaper. The newspaper has also made its archives available to the other two outlets. With the provision of special equipment to the photographers of all three outlets, The Tampa Tribune and TBO.com have been able to provide stories with pictures that otherwise would have been only text, including aerial footage obtained from WFLA–TV's helicopter. Similarly, The Tampa Tribune's photojournalists have been able to provide WFLA–TV with video for airing on its newscasts.

In Tampa, the pooling of news-gathering resources has increased the output of news content and has allowed the reporters at the three outlets to build on each other's "scoops" to present various angles of the same story. WFLA–TV's and TBO.com's full access to The Tampa Tribune's archives and research desk has also allowed these electronic outlets to bring more depth and perspective to their coverage of news and information. In return, The Tampa Tribune has gained faster access to breaking news and valuable opportunities for branding its product in a highly-competitive, two-newspaper market. Finally, by working together, the three outlets have gained improved access to political candidates and government officials. Together, they now conduct their own joint polls, hold town hall meetings, and organize other civic events, such as health fairs and community telephone banks that would not have been feasible without common ownership.

These convergence efforts have benefited both the Tampa outlets themselves and the communities they serve. A little over a year after moving into The Tampa News Center, WFLA–TV was recognized by the Project for Excellence in Journalism, which is affiliated with Columbia University, as providing the best television journalism in the Tampa-Bay region. Local polls of Tampa-Bay area residents have also found that a majority of the respondents believe that convergence has improved the quality of news coverage and had a positive effect on news presentations in the Tampa market. The three properties have also experienced the following successes as a result of the convergence model:

- Media General has increased the number of full-time news professionals in Tampa, despite the very serious advertising recession.
- While daily newspapers across the country generally have been suffering declining newspaper circulation, the *Tribune's* circulation again *increased* in total and in its core market of Hillsborough County during the last quarter of 2002 and the first quarter of this year.
- While many television stations were losing viewers, the ratings for WFLA–TV's 11 p.m. newscast have increased consistently through 2001, 2002, and 2003.
- Despite a downturn in the economy, WFLA-TV has maintained the same number of local newscasts and has replaced a syndicated program with a new, locally originated entertainment/variety program at 10 a.m. on weekdays.

Media General's three Tampa outlets continue to gain recognition in the journalistic community, receiving an extensive list of journalistic awards.

As in Tampa, the newspapers and television stations in each of Media General's other five convergence markets maintain separate news and editorial staffs. Nonetheless, despite the fact that they do not have the advantages of co-location as in Tampa, the news staff at these co-owned properties regularly share story ideas by e-mail, fax and telephone, and they publicize each other's news content. Media General's convergence markets have made great progress in providing their television cameramen with equipment that allows the newspapers to retrieve newsprint-quality photos, and they are equipping the print photojournalists with digital video cameras to provide the television station with video. The newspapers consistently make their archives available to the television stations. As a result of cross-ownership, the television stations in each of Media General's five smaller convergence markets have been able to increase the news and information they deliver to their communities.

Roanoke-Lynchburg DMA. Since Media General acquired WSLS(TV) in Roanoke, the station has expanded its weekday early morning newscast from 60 to 90 minutes. It has also added a locally-produced hunting and fishing show; numerous local specials concerning the Virginia and NASCAR races in Martinsville, Virginia, and the opening ceremonies of a nearby National D-Day memorial; and coverage of local and statewide political debates. As a result of convergence, the station's overall staff has grown by two individuals, and the news department staff, in particular, has increased by nine.

Tri-Cities, TN/VA DMA. Through convergence, WJHL(TV) in the Tri-Cities, TN/VA DMA has added a new 30-minute weekday newscast at 5 p.m. In addition, its program lineup now includes locally produced sports specials and periodic "Medical Watch" and "Education Week" shows. Convergence has also created employment opportunities. The station's full-time staff has increased from 74 to 88 employees.

Florence/Myrtle Beach DMA. In Florence, South Carolina, WBTW(TV) and *The (Florence) Morning News* have shared coverage of a number of major stories over the last year, including initiation of new local airline service, expansion of a local plant, and the shooting of a sheriff's deputy. Together, they have completed many projects, which the outlets believe could not have been covered if they had tried to do so alone, such as a seven-part series about the seven worst local traffic intersections and distribution of a hurricane tracking chart, which helped many local citizens monitor potentially devastating storms in the area during hurricane season.

Perhaps the Florence outlets' most notable achievement to date has been the extensive effort that they made in 2002 to cover local political campaigns and elections and provide debates among the candidates. In April 2002, the combined outlets sponsored a debate among gubernatorial candidates in the Republican primary, the first debate of the campaign and the first in which all seven party candidates participated. In October 2002, the outlets sponsored a debate among the Democratic and Republican gubernatorial candidates. In both debates, the outlets encouraged their readers and viewers to submit questions to be used in the debate. In November 2002, the outlets established a joint "election results" desk to which their reporters telephoned results, enabling both improved timeliness and an expansion of their election coverage. Both Florence outlets also launched a cooperative effort to stage a "town hall" community meeting called "Our Town Hartsville," and they each coordinated on a six-part series covering the meeting. In Florence, the overall employee count at WBTW(TV) has also increased by two individuals.

Columbus, GA DMA. Through convergence, WRBL(TV) in Columbus, Georgia, has been able to add a new 30-minute weekday newscast and, later this fall, is scheduled to debut both an additional half-hour newscast at 5:30 p.m. and a locally produced public affairs show. The combined outlets have also been active in efforts intended to facilitate civic discourse and debate, hosting a "Political Forum" in spring 2002 that was carried in both outlets and brought together a cross-section of local citizens to discuss and ascertain civic topics that they thought candidates should address. Several months later, on election night, the newspaper's reporters created print stories and provided constant on-air updates. The outlets' combined efforts have also allowed in-depth coverage of a local murder trial, presentation of a "Hurricane Watch" project, coverage of the collegiate Iron Bowl football game, and hosting and coverage of special events related to National Signing Day, featuring local area high school football players and their college selections. As a result of convergence, WRBL(TV) has added an additional staff reporter in the newsroom and plans to add another two in September 2003, with the debut of its expanded newscast and public affairs programming.

Panama City, FL DMA. In Panama City, Florida, Media General's smallest convergence market, WMBB(TV) works closely not only with the *Jackson County Floridan,* which is in the same DMA, but also with *The Dothan Eagle* and the *En-*

terprise Ledger in the adjacent Dothan, Alabama DMA. In May 2002, WMBB(TV), the three newspapers, and their websites jointly produced a special section on a locally controversial proposal to construct an I–10 highway connector between Florida and Alabama; reporters from the newspaper appeared on-air, and television station reporters contributed print pieces.

With convergence, WMBB(TV) has added an early evening newscast on Sundays from 5 p.m. to 5:30 p.m., and the newsroom staffs of the Panama City station and newspaper daily discuss developing new stories to improve both the timeliness and depth of local reports. In one recent example, the television station first learned about a breaking news story involving a bank robbery from a report phoned in by a member of the newspaper's staff. The two outlets also worked together to delve into accusations against a local sheriff's deputy for sexual misconduct with a young girl. Despite efforts from local government officials to prevent the story's dissemination, the station's and newspaper's reporters, working together, used their combined resources and clout to ensure its presentation to local residents.

As in other Media General markets, the outlets have collaborated on weather-related stories. The newspaper's daily weather package is produced by Media General's Interactive Division based on information from the television station's meteorologists. Both the newspaper and television station jointly produce a hurricane tracking map that includes basic information about hurricanes, a list of telephone numbers to call for help, and pointers on developing a severe weather survival plan.

Convergence has allowed staffing levels at WMBB(TV) to remain constant despite the general economic downturn. The station's news staff has increased by three, but overall the station has lost three employees.

Media General's success with convergence shows that the size of the market is irrelevant. With co-owned operations, it has been able to bring better, faster, and deeper news and other benefits to communities, large and small. The critical ingredients for successful implementation of convergence are co-ownership and strong leadership, and it is for these reasons that Media General has been able to achieve these public interest benefits in markets large and small.

Repeal of the Newspaper/Broadcast Cross-Ownership Rule Is Long Overdue

In 1975, the FCC asserted authority under the Communications Act to adopt a rule flatly prohibiting newspaper publishers, who hold no spectrum-related assets, from acquiring and operating broadcast stations in markets in which their newspapers are published. This rule was adopted not because the FCC had found any reason that newspaper owners as a group were unqualified for broadcast ownership, or because any claim had been made that newspaper-television station owners committed any specific non-competitive acts, but solely because the FCC hoped such a rule would add to local diversity. Although well-intentioned, the FCC conjectured that the rule would improve diversity despite making a number of contrary empirical findings on the record. For instance, the FCC found that there generally was significant diversity or separate operation between commonly owned broadcast stations and newspapers. Moreover, a study of licensee programming conducted by the FCC's staff documented that newspaper-owned stations rendered more locally-oriented service. On appeal, the reviewing courts explicitly recognized the lack of any documented public interest harm compelling adoption of the rule.

More than a quarter century later, the newspaper/broadcast cross-ownership rule still remains unchanged despite profound growth in media outlets and owners, liberalization of all other media ownership rules, and a mountain of evidence on the rule that shows, in contrast to the predictive judgments upon which the FCC relied in 1975, that cross-ownership does not harm any of the FCC's articulated policy goals and that the rule, in fact, now hinders the provision of news and innovative media services. Last fall, when the FCC issued its *Notice of Proposed Rulemaking* in its omnibus ownership proceeding, the action was at least the eighth time in almost as many years that the FCC had considered or been asked to consider the rule's possible repeal. Time and again, the FCC has collected more and more evidence supporting repeal, and each time has failed to take action on the evidence, promising repeatedly to act but never doing so.

The omnibus media ownership proceeding, which is to be decided on June 2, 2003, incorporated by reference all the comments filed in a separate 2001–2002 rulemaking proceeding dedicated solely to review of the newspaper/broadcast cross-ownership rule. Common throughout all the comments opposing repeal of the newspaper/broadcast cross-ownership rule that have been filed in both the omnibus and the newspaper-specific proceedings is a profound misunderstanding of the newsgathering resources and financial commitment required to deliver high-quality local news and information to the public. The same comments also reflect a complete unawareness of the fact that local media content at successful outlets is not dictated on a "top-down" basis but is consumer-driven and responsive to the needs of the audiences and communities they serve. The opponents of repeal cling to the simplistic and erroneous notion that maximization of the number of separate media owners is the only way to ensure diversity and competition in the local information marketplace. In light of the very real financial constraints and pressures facing broadcasters and newspaper publishers in today's vigorously competitive environment, however, eliminating the ban is the FCC's best option for ensuring continued vitality and, indeed, improvement in local news and information available to the public.

As the media industry has recognized and called to the FCC's attention in virtually unanimous comments, the current system is broken. Diversity of viewpoint does not require diversity of ownership, and the newspaper/broadcast cross-ownership ban has resulted in noneconomic ownership "islands." As noted above, both worsening financial conditions in the media sector and the economy overall and increasing competition from larger national and international players, which typically present the same undifferentiated non-local information in all markets, have caused many television stations in both large and small communities to curtail or terminate local newscasts. Prompt repeal of the rule is needed to stem and help reverse this decline.

Any Action Short of Complete Repeal of the Newspaper/Broadcast Cross-Ownership Rule Is Unconstitutional and a Violation of Numerous Statutory Provisions

Anything short of total repeal of the newspaper/broadcast cross-ownership rule will raise a whole host of legal problems. Most significantly, any ban on local newspaper/broadcast cross-ownership violates the First Amendment. Failing to repeal the rule in its entirety will also violate the Equal Protection Clause and Section 202(h) of the 1996 Telecommunications Act. In addition, keeping the rule in any market will run counter to the FCC's goals of fostering localism, innovation, and diversity.

First Amendment. Although the newspaper/broadcast cross-ownership rule unquestionably implicates First Amendment rights, the Supreme Court declined to apply traditional standards of First Amendment scrutiny when it affirmed the rule in 1975. Instead, relying on two cases from the early days of broadcasting, the Court concluded that broadcast spectrum scarcity justified a less rigorous First Amendment analysis that did not require consideration of whether the regulation was narrowly tailored or otherwise sufficient to withstand traditional First Amendment scrutiny.

In the intervening years, technological advances, media proliferation, and the FCC's revised approach to licensing broadcast stations have rendered the spectrum scarcity rationale obsolete. Broadcast licenses are now auctioned and, for all practical purposes, traded on the open market. There is no longer anything unique about spectrum that distinguishes it from other economic goods. Today, broadcasters are entitled to the same level of constitutional protection that all other media enjoy.

Without spectrum scarcity, the newspaper/broadcast cross-ownership rule must be evaluated, for First Amendment purposes, under strict or intermediate scrutiny, and it can survive neither analysis. Strict scrutiny requires the FCC to show that the rule is the "least restrictive means available of achieving a compelling state interest." In the past, the FCC and the courts have justified the newspaper/broadcast rule on the ground that it would produce a "hoped for" gain in diversity. As the extensive record before the FCC shows, with the amazing growth of new and traditional media outlets over the last quarter century and evidence that the rule is preventing the development of new and innovative information services, fostering diversity is no longer a "compelling state interest" that requires retention of any vestige of the cross-ownership rule. Moreover, the FCC cannot demonstrate that a ban on newspaper/broadcast cross-ownership actually achieves diversity. A blunt ownership restriction that bans all cross-ownership, particularly in smaller markets, is not "the least restrictive means" for attaining the FCC's purported "diversity" goal. Indeed, the rule may have the opposite effect of protecting and perpetuating ownership by companies not interested in providing news and information, a possibility that is more likely in small markets where the economics of television operations can be especially dire. The rule thus cannot survive strict scrutiny review.

The rule must also fail even under the lessened standard of intermediate scrutiny. That standard requires the FCC to demonstrate the harm posed by cross-ownership, provide a record that validates the regulation, and show that the rule is "narrowly tailored to further a substantial governmental interest." Again, the record before the FCC fails to demonstrate any actual harm but shows very positive benefits of cross-ownership, such as those common to Media General's experience in its six convergence markets. Moreover, a ban on cross-ownership in all small markets is not "narrowly tailored."

No matter which standard is applied, small markets have been just as affected as large markets by the dramatic growth in the number of media outlets and owners since the newspaper/broadcast cross-ownership rule was adopted. Media General has seen this profusion in all its markets, but particularly in the six DMAs where it practices convergence. The FCC staff's own recent study on outlets and owners also included many medium- and small-sized markets and found such a high rate of growth that it used words like "whopping" to describe it. There is also no question that consumers in smaller markets are just as entitled as those in large markets to the benefits of common ownership and access to the increased local information it produces.

Equal Protection. When restrictions like the newspaper/broadcast cross-ownership rule affect fundamental rights such as the First Amendment, the Equal Protection Clause of the United States Constitution requires that such regulations be narrowly tailored to a legitimate governmental objective. In the absence of an effect on fundamental rights, if a regulation is to withstand an Equal Protection challenge, the government must establish a rational relationship to a legitimate state interest.

As noted earlier, the "legitimate" objective that the FCC asserted in defending the initial adoption of the newspaper/broadcast cross-ownership rule, *i.e.,* enhancing diversity, has completely evaporated because of the profusion of media and lack of spectrum scarcity. In addition, "diversification" is no longer taken into account in initial licensing by the FCC, a point upon which the Supreme Court had relied in 1978 in upholding the rule based on a spectrum scarcity rationale.

Even if the FCC's assertion of a "diversity" objective in the Equal Protection context were deemed to be legitimate, a modified ban on cross-ownership that stops short of providing small-market relief would not be "narrowly tailored" because the FCC could not show, based on the record before it, that the rule in any way directly or materially advances diversity in such markets. The record before the FCC does not include evidence of any correlation at all between diversity and the existence of the rule, but, rather, suggests that the rule is harming the delivery of diverse local news. Thus, the rule also flunks the less strict "rational relationship" test.

The Supreme Court's denial in 1978 of the Equal Protection claims of newspaper owners has preserved a regulatory regime that has radically changed, and retaining any form of a newspaper/broadcast cross-ownership rule that discriminates against small market owners would also fail on Equal Protection grounds given other changes in the FCC's regulation of media ownership. For instance, vacatur of the cable television/television cross-ownership rule has occurred in all markets. When the Court of Appeals for the District of Columbia Circuit recently vacated that rule, it did not suggest any need to retain its restrictions in small markets; the FCC never mentioned such a concept when it sought rehearing; and the FCC has allowed the rule to disappear nationwide. If there is no reason to follow a graduated market approach in repealing cross-ownership of television and cable television, two outlets that the FCC does regulate, there can be absolutely no reason to do so for combination of newspapers, which are otherwise unregulated by the FCC, and broadcast stations. In addition, television/radio cross-ownership is allowed in all markets provided a certain number of "voices" remain, a standard that can be met in virtually all small markets. Moreover, businesses closely related to broadcasting, such as advertising agencies, rep firms, broadcast networks, equipment manufacturers, and program suppliers, may own broadcast stations in small markets, whereas newspaper publishers in the same markets are not be able to do so. Finally, all other businesses unregulated by the FCC (many of which compete with newspapers and television stations at the local level, such as Internet site owners and billboard companies) may own broadcast stations in their home markets, regardless of size, whereas newspapers may not.

Section 202(h) Violation. Section 202(h) of the Telecommunications Act clearly requires the FCC biennially to determine whether any of its ownership rules remain "necessary in the public interest as the result of competition" and to "repeal or modify any regulation" that is "no longer in the public interest." The United States Court of Appeals for the District of Columbia Circuit has found that this section carries with it a strong presumption in favor of repeal. The record before the FCC overwhelmingly demonstrates that the public interest benefits of repeal, in markets of all sizes, outweigh the benefits of retention. This record combined with the presumption in favor of repeal leaves no legally sustainable case other than full repeal. Section 202(h) also requires the FCC to consider the impact of competition on its rule review and, any standard short of full repeal that measures the permissibility of cross-ownership only by reference to one or two types of outlets in a market and ignores the documented and pervasive competition from all other media in a market will run afoul of Section 202(h).

Violation of the Statutory Goals of Localism and Innovation. The Communications Act articulates a number of specific public policy goals. Among them is the duty to foster localism under Section 307(b) and the duty to encourage the provision of new technologies and service to the public under Section 157(a).

Since the 1930s, localism has been one of the bedrock or core principles of our national communications policy. For nearly 70 years, the FCC has been carrying out this mandate by ensuring that licenses and frequencies are fairly, efficiently, and equitably distributed throughout the nation, so that citizens, no matter what the size of their communities, have access to broadcast stations and the local news they deliver.

As noted above and as Media General has documented extensively in the FCC's record, the ever increasing cost of producing quality news as well as other financial pressures on broadcasters and the general downturn in the economy have resulted in over 40 stations in small and even some large markets curtailing or entirely eliminating their local news broadcasts. Common ownership will allow the infusion of news-related resources into these failing local television operations. Refusing to allow common ownership in smaller markets will ensure that this negative trend in decreased local content will continue unabated, and the goal of localism will be poorly served.

The policy in favor of innovation was added to the Communications Act much more recently. With equal force, however, it requires full repeal of the newspaper/broadcast cross-ownership rule. There is no rationale in the record before the FCC, nor is there any other legally sustainable reason, for denying small market operators and consumers the same innovations and benefits, such as the enhanced local news resulting from convergence, that are available to their counterparts in larger markets. If anything, the costs and difficulties faced by small market operators make such changes even more deserved and compelling. The record is replete with the journalistic and public interest benefits that can redound to the benefit of consumers in smaller markets through convergence.

Media General has a strong interest in expanding its convergence efforts beyond the six markets where it currently offers such benefits. Like all other newspaper owners, however, Media General is hampered in doing so by the FCC's newspaper/broadcast cross-ownership ban.

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For decades, communications policymakers have been struggling to find a way to foster the provision of diverse local news and informational programming in the smaller markets of the United States. Media General has demonstrated that it can be done and done profitably. The result is hundreds of journalistic awards, a quantifiable growth in news and public affairs programming, ratings and circulation increases, and job creation. There is nothing in the FCC's record, other than anecdotes and speculative musings, that demonstrates any public interest detriment from such convergence. The FCC should be strongly encouraged to allow the benefits of newspaper/broadcast cross-ownership to flourish in all American markets, large and small.

Prepared Statement of Victoria Riskin, President, Writers Guild of America, west

Thank you Senator McCain and Senator Hollings, and Members and staff of the Senate Commerce Committee, for conducting these hearings. I appreciate the opportunity to submit this testimony for the record on behalf of the Writers Guild of America, west.

Senators, the Writers Guild is deeply concerned that the Federal Communications Commission is preparing to issue rules that will further deregulate the media and accelerate the negative effects of consolidation.

The media are the modern-day American Town Square, the place where people from different backgrounds and points of view share their stories and the American public learns about the world. Here is where American democracy comes alive and the American identity is forged. But today, barriers have been erected to keep all but a handful of voices from being heard in our town square.

The Federal Communications Commission and the Courts asked for data about diversity in entertainment programming. As president of the Writers Guild of America, west, which represents the great majority of writers and producers who create primetime entertainment programs, I can tell you that over the past decade, diversity of production sources in the marketplace has been 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 seventy-seven percent. In 1992, 16 new series were produced independently of conglomerate control; last year there was one.

The opportunity for access for a broad range of voices has been cut dramatically.

The claim has been made that because we now have hundreds of channels on cable. "choices abound." But more channels does not really mean more choices. In the past the FCC has defined a "major" network as one that reaches 16 million or more homes. By that definition there are ninety-one major networks. But of these ninety-one, 73, or fully eighty percent, are owned or co-owned by 6 corporate entities. Five of these 6 are the same corporations that run the broadcast networks: Viacom, Disney, News Corporation, General Electric, and AOL Time Warner.

Any doubt about the control exercised by these five companies was dispelled in a recent report by respected Wall Street media analyst Tom Wolzien, which I have attached to my comments. Wolzien points out that a "strong programming oligopoly is beginning to reemerge." For December, 2002, he found that the five conglomerates "controlled about a 75 percent share of prime-time viewing." Wolzien concludes that over the next few years, with the further consolidations he expects to occur, these five companies will control roughly "the same percentage of TV households in prime time as the three networks did 40 years ago."

In other words, the control by a few conglomerates will be as absolute as ever in history.

The data we submitted to the Federal Communications Commission as part of our official filing clearly documents the dominance of content by a handful of vertically integrated conglomerates; that is now corroborated by an independent analyst. No longer can anyone argue that the facts of such control or their potential impact are in doubt. The old programming oligopoly of media content is being rebuilt.

The creative community has seen in recent years how increasingly difficult it is to bring innovative shows to the air. All too often—indeed, virtually invariably—to get their work on television writers and producers must cede ownership and creative control to the network or cable companies. Most have no choice, none at all. They must accept the network or cable company as a partner and surrender their independence, with one result that if their show doesn't make the schedule, they are now prohibited from taking it elsewhere. Nearly one hundred small and medium-sized businesses—each with its unique point of view—have disappeared in the last 10 years. Why is the disappearance of the small independent producer and writer an issue for public concern? Because with them have gone stories from hundreds of writers and producers who care deeply about original drama and comedy, history, culture, and not just, for example, ratings, ratings, all the time ratings.

Members of the Commerce Committee have recently received letters from some of the most respected and famous independent writers and producers in Hollywood, including Grant Tinker, Diane English, Allan Burns and others, expressing their concern about the chilling control media conglomerates now have over entertainment programming and how this is impacting quality television. In fact, all the creative Guilds of the Hollywood community including the Producers Guild, the Directors Guild and, the Screen Actors Guild have warned the FCC in the strongest terms possible about the negative impact of media concentration and have called upon the FCC to establish limits on how much programming the conglomerates can produce for their own networks. In a letter to the Commissioners, Senators Wyden and Collins this week called upon the FCC to consider a new access rule that would be vital to the protection of the diversity of voices on television.

The Writers Guild urges the FCC to adopt rules governing media ownership that expand access and diversity, not limit it to these few gigantic companies. We ask you to encourage the FCC to take constructive action to remedy the serious imbalance that has taken root in the programming marketplace. We are asking that a few companies do not continue to have a stranglehold on free expression and robust open debate, and that independent voices are once again allowed to be heard in the land. Openness will help ensure program source diversity not for any given group of entrepreneurs or writers but for the marketplace of ideas and for Democracy itself. We ask that storytellers from all backgrounds be once again allowed independent access to America's town square. We ask these things because we believe that diverse programming from distinct and varied sources is the very definition of the public interest.

ATTACHMENT

Bernstein Research—Weekly Notes—February 7, 2003

RETURNING OLIGOPOLY OF MEDIA CONTENT THREATENS CABLE'S POWER

by Tom Wolzien and Mark Mackenzie

The Long View

Returning Oligopoly of Media Content Threatens Cable's Power

Overview

Common wisdom these days has the consolidated cable companies, particularly Comcast, taking a commanding lead in the age-old leverage battle with programmers. Supposedly this will give cable free rein to drive down prices paid for content. On the contrary, a strong programming oligopoly is beginning to re-emerge. This is permitting a three-pronged pincer movement that combines a surprising growth in control of national content with consolidated cable's unintentional increase in its exposure to powerful local retransmission consent requirements. The growth in content power will be additionally enabled by new consumer hardware and high-speed networks to the home. Comcast ($25) now must gain retransmission agreements covering 55 stations owned and operated by the largest programmers, who, together with AOL, controlled more than 70 percent of the prime-time viewing in December. This number would increase to 85 percent if independent and joint-venture services are consolidated with the big five—a likely event over the next few years as weaker cable networks are hammered on price. At that point, five programming giants would split roughly the same number of rating points controlled by ABC, CBS and NBC during television's "golden age." Additionally, the introduction of in-home networks and servers, coupled with the evolution of unbundled routes for content into the home, suggest that the implication of these changes may go far beyond the price paid to programmers. Going forward, the programmers' power threatens cable's ability to maintain the value of its "bundle" and eventually may shift it to "dumb pipe" status, devoid of the upside from intellectual property.

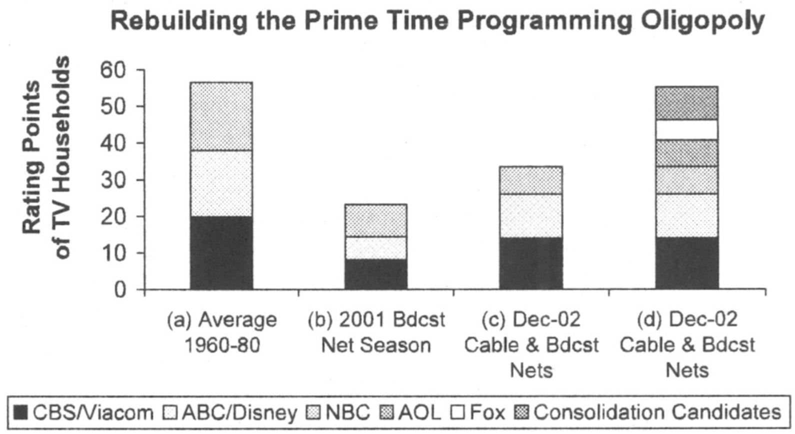
Part I: Programming Power Grows

The subject of this *Long View* is leverage—whether content or distribution can get an edge on one another going forward and, if content can get an edge, does that threaten cable's historic ability to bundle content and transport at a high-margin markup. Our view is that big-content is slowly gaining an edge, even as cable consolidates. That edge comes from a combination of local and national distribution and from evolution in the consumer electronics area.

Programming Oligopoly Reforming: A study of the December ratings from Nielsen Media suggests that we are beginning to see a rebuilding of the old programming oligopoly when cable and broadcast network and station viewing are considered. In December, Viacom ($37) controlled about 22 percent of prime-time viewing through its broadcast and cable networks. Disney ($17) controlled 18 percent, while News Corp. ($25), NBC and AOL ($10) were each in the 10–12 percent range. Together, the five companies controlled about a 75 percent share of prime-time viewing, not including their nonconsolidated partnerships like A&E, Court TV and Comedy Central.

Exhibit 1 shows what we found to be a major disconnect, at least for us, in perception and reality. Column (a) shows classic prime-time viewership during television's "golden age," when three networks split an average of 57 percent of the television households (ratings). Last season ABC, CBS and NBC split about 23 percent, as seen in column (b). 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 nets did 40 years ago. The programming oligopoly appears to be in a process of rebirth.

Exhibit 1 Programming Oligopoly Returning



Source: Bernstein analysis of Nielsen Media data.

Increased Retrans Exposure: In another surprising twist, the consolidation of the cable industry has actually left the largest cable company, Comcast, more exposed to the leverage of the largest programmers, as their local television stations can further exploit the need for the cable company to gain permission to retransmit the local signals. *The math resulting from consolidation is working against Comcast.* In 23 of the top 26 television markets covering half the population of the United States, Comcast now must gain retransmission consent for some 62 separate television stations owned by four of the top five program companies. Of the top 26 markets, only Houston, Phoenix and Portland, Oregon, currently don't have an overlap of Comcast with ABC/Disney, CBS/Viacom, Fox/News Corp. and/or NBC/GE. Exhibit 2 shows the programmers' big market leverage against Comcast.

Comcast's historic approach has been to avoid high-profile conflicts. Just how high-profile retransmission consent conflicts can be is recalled from 2000 when then Time Warner Cable took the ABC stations off in New York and other major markets for a day before the company was crucified in Washington and other media. The lesson: the more exposed cable companies are to high-quality local television stations owned by the major programmers, the more leverage those programmers have against cable. And Comcast is now the most exposed of all, even before taking into account what News Corp. might do with retransmission permission for its Fox stations should it enter the satellite business.

This overlap means that the programmers other than AOL probably now have sufficient control over Comcast through retransmission consent requirements for major stations to: (a) neutralize Comcast's scale threat to reverse program cost increases, and (b) parry cable attempts to place limits on data transmissions.

Exhibit 2 **Comcast's Retransmission Challenge**

DMA[1] #	DMA	AOL	Disney	Viacom	Fox	GE	Top 26 O&Os Stations	Retrans. Needed Now	CMCSA	AT&T	Comcast Subs (000)	T Subs (000)	Subs (000)
1	New York, NY		WABC	WCBS	WNYW/ WWOR	WNBC	5	5	x		670		670
2	Los Angeles, CA		KABC	KCBS/ KCAL	KTTV/ KCOP	KNBC	6	6		x		530	530
3	Chicago, IL		WLS	WBBM	WFLD	WMAQ	4	4		x		1,750	1,750
4	Philadelphia, PA		WPVI	KYW/ WPSG	WTXF	WCAU	5	5	x		1,790		1,790
5	San Francisco/Oakland/ San Jose, CA		KGO	KPIX/ KBHK		KNTV	4	4		x		1,830	1,830
6	Boston, MA			WBZ/ WSBK	WFXT		3	3		x		1,680	1,680
7	Dallas/Fort Worth, TX			KTVT / KTXA	KDFW/ KDFI	KXAS	5	5		x		560	560
8	Washington, DC				WTTG/ WDCA	WRC	3	3	x		860		860
9	Atlanta, GA			WUPA	WAGA		2	2	x		680		680
10	Detroit, MI			WWJ/ WKBD	WJBK		3	3	x		830		830
11	Houston, TX		KTRK		KRIV/ KTXH		3						-
12	Seattle/Tacoma, WA			KSTW			1	1		x		960	960
13	Tampa/St. Petersburg/ Sarasota, FL			WTOG	WTVT		2	2	x		210		210
14	Minneapolis/St. Paul, MN			WCCO	KMSP/ WFTC		3	3		x		340	340
15	Cleveland, OH				WJW		1	1		x		90	90
16	Phoenix, AZ				KUTP/ KSAZ		2						-
17	Miami/Ft. Lauderdale, FL			WFOR/ WBFS		WTVJ	3	3		x		780	780
18	Denver, CO			KCNC	KDVR		2	2		x		620	620
19	Sacramento/Stockton/ Modesto, CA			KMAX			1	1		x		550	550
20	Orlando/Daytona Beach/Melbourne, FL				WRBW/ WOFL		2	2	x		58		58
21	Pittsburgh, PA			KDKA/ WNPA			2	2		x		620	620
22	St. Louis, MO				KTVI		1	1		x		5	5
23	Portland, OR						0	0		x		485	485
24	Baltimore, MD			WJZ	WUTB		2	2		x	599		599
25	Indianapolis, IN			WNDY			1	1		x	197		197
26	San Diego, CA					WRC	1	1		x		29	29
	Total – 24 CMCSA Mkts	0	6	26	26	9	67	62	7	17	5,894	10,830	16,724

1 Designated Metropolitan Area.

Source: Corporate reports and Nielsen Media.

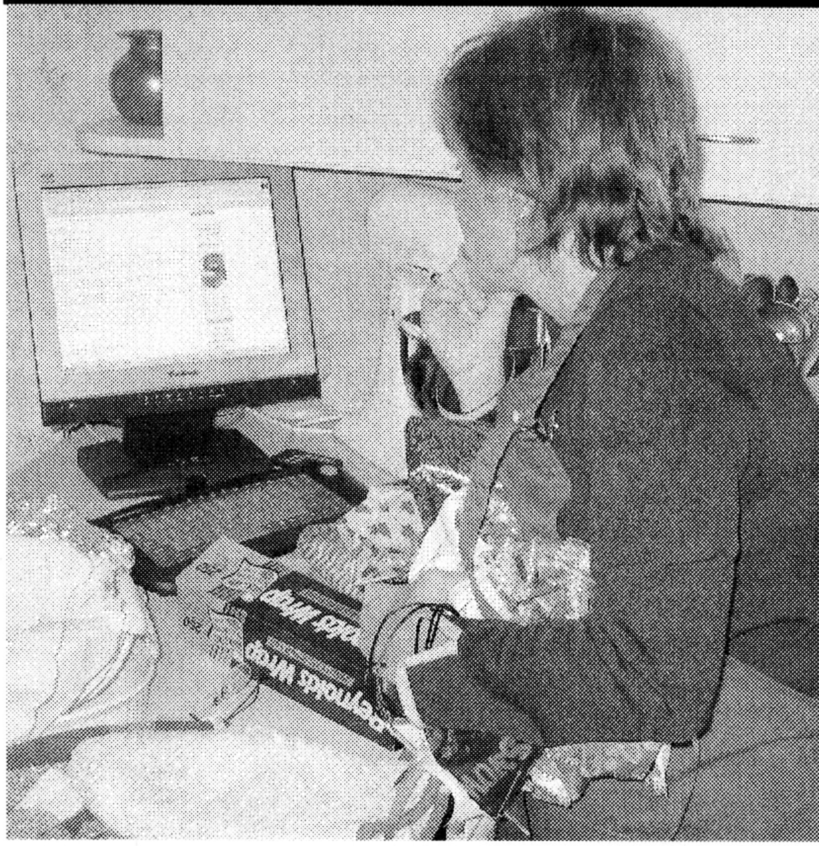
Part II: Convergence (Finally) Is Real

Revelation at the Kitchen Counter: Christmas day at my brother and sister-in-law's place in central New Jersey seemed like many others——toys and electronics for the teenage sons, the latest digital camera for their dad, Howard; but it was their mother Linda's present that was stunning in its simplicity, and, perhaps, for what it said about convergence and the coming threat to what is becoming to be seen as an all-powerful cable industry.

There on the kitchen counter, between the Kitchen Aid mixer and the Christmas cookies, was a new screen. It was a flat screen made by View-Sonic. The computer sat over the edge of the counter in a corner on the floor. Computers in kitchens aren't all that unique these days, but this screen had a couple of buttons on the front. Push one and get the Web. Push another and there was cable television. Right there on the display unit. No separate TV. No All-in-Wonder cards jammed into the computer. Just a cable wire and a computer wire into the back of the flat screen.

Just buttons. Just like AM–FM. TV-Internet. One device regardless of band. Simple. Threatening because it reminds that the consumer doesn't care how programming gets into the home . . . just that it is available.

Exhibit 3 TV-Internet Converge in the Kitchen



Source: Bernstein photo

Today when you buy cable television service, it is a bundle—transport and content. The reason the top cable companies are able to get away with charging such high margins is that they are selling that transport/content bundle. We consumers are unable to separate the bundle. We analysts have a difficult time even figuring out what the parts actually cost.

Data service is different. With their move into high-speed data, cable companies have, for the first time, unbundled their service. We consumers buy the data transport service for $40 or $50 a month, but, unlike video, we don't buy online content from the cable company. And this may be the beginning of the demise of cable's margins, not for what they make on data, but for what they may lose in conventional bundled services. Now, this isn't going to happen right away, but it should be considered in strategic discussions.

The coming threat is most easily illustrated by the difference between cable video-on-demand and the new Movielink—Web-delivered movie downloads on demand. The economics of a video-ondemand movie purchased from and delivered by the cable company are distinctly different for the cable company from a movie purchased via the studio's Web proxy, Movielink. To keep it simple, assume that both movies cost $4, assume that the revenue is split equally between the studio and the distributor. For the cable VOD purchase, half of the consumer's $4 goes to the studio and half goes to the cable company. For the Movielink purchase, half the consumer's $4 goes to the studio, and the remainder goes to Movielink. The cable company gets *nothing* above and beyond what it is already receiving for the data connection. It is providing transport just like the phone company.

Cable operators have been thinking that they will be able to make out very well in this environment if they just begin to ratchet up price for those who transfer large files. But, as we just saw, they were missing the intellectual property upside that they get from bundling transport and content. Two analogies: you and your associates work all night putting together a deal that creates $10 million in value. The lights burn late, but the electric company only gets in additional $0.13 cents for the extra kilowatt-hours. It doesn't get any of the value created under its lights. The same applies to a long distance phone company when you make a call on which value is created. The thought that a linear ratcheting of transport price can offset the intellectual property upside denies cable's basic bundling premise.

It is easy to deny any problem with the cable approach today. After all, Movielink is in its infancy and based on downloads of less than DVD quality for viewing on a computer screen. You can't watch it on your TV. And there is no other streaming product, much less pay-per-view streaming product, that we care about. If you're a consumer, just wait. If you're a longer-term cable investor, watch out. As the consumer electronics industry accepts the better MPEG–4 compression standard and couples it with in-home storage and these new hybrid computer-television flat panel displays, the combination could begin to threaten cable's wired monopoly.

Real Networks now claims some 800,000 customers paying for streaming video content via the Web—content which often rides the high-speed cable pipe without allowing cable to take any intellectual property upside. In the next few months, Major League Baseball games will begin to be sold by Real, and ride the cable pipe. Cable won't get an extra cent.

But the threat to cable goes much further than just the fledglings of Real and Movielink. It would have been easy to miss the small print on one of the ESPN slides at Disney's presentation to the UBS conference in December. Under the future business heading were listed "streaming video" and "payper-view." There was no indication that these would be provided in cooperation with the cable operator, and streaming could help give Disney its long-sought-after alternate distribution system. If Disney develops an alternative distribution system to the home, it wouldn't attack cable outright, but rather begin to offer bits and pieces of content that would steadily increase in length and quality over time.

Likewise, the troubled AOL is trying to reposition its "bring your own access" approach to delivering high-speed content. BYOA opens the door for going around the cable operators, who have had more than enough time to cut deals with AOL to control long-term streaming. Whatever the reasons—most likely "stereo hubris" from both sides—not only are there no streaming controls on AOL in the current deals with Time Warner Cable and Comcast, but even the old 10-minute limitation on streaming from the original @Home and Roadrunner contracts, seems to have gone away. While AOL made a big deal at its December analysts' meeting of planning to provide only small chunks of video by high speed, one mid-level AOL executive later told me that it wasn't whether they could stream much more than small chunks of video, but whether they had the guts to do so.

Cable companies may think they can control Movielink and Real and Disney and AOL by refusing to pass their data bits without being given a cut. This would be the old cable way. But to do so would initiate a radical change in the now well-established "open-ness" of the Internet—the ability of any consumer to get to any place in the world. Such a change by the largest cable companies likely would once again raise the profile of cable as gatekeeping monopolists. Such an attempt would pay hell in Washington and, depending on the content available, push users toward DSL or, in the future, wireless.

Cable had its chance to develop original high-speed content at the outset, but failed. The original concept for @Home lent itself to providing preferred positions to certain content providers who would make content available on an exclusive or priority basis to @Home subscribers. That potential died when @Home decided to merge with Excite, was pushed into AT&T, and subsequently became embroiled in the internecine warfare of that now dismembered company.

Part III: Hardware and Routes Benefit Content

High-Density Storage Alternative: Making this all the more complicated is the rise of in-home storage and networking. These new technologies open cable to competition from stored content as well as that streaming in real time. At this year's consumer electronics show, high-density storage was a major attraction. TiVo and Replay continued with their TV storage devices, but they were joined by the Sonys, Panasonics and Phillips' and others which were converting television storage into in-home servers for just about any type of material, including video. These devices, some of which can plug directly into the Internet, potentially provide the ability to put material on the television screen from any source, including material that has been streamed or downloaded.

Competitive Principles: Capacity to deliver video content to the consumer is determined by a combination of: (a) the ability to compress the content into smaller total packages using continuing advances in digital compression, (b) the capacity in the circuit to transport that data, (c) the ability to separate a piece of content into more-easily transportable components, and (d) the capability to store and reassemble the content before or at the home display device. Different types of content require different thresholds of capacity to reach the consumer.

The highest threshold of capacity is required by something that is happening live, in real time. Of course, a live concert, sporting, or news event only happens live once. After that it is prerecorded someplace—centrally, at the edge, or in the home. At minimum, a live transmission demands all of the bandwidth required by the currently best compression system, and direct access to the consumer without intervening storage.

Once content is preproduced or delayed, there become many more opportunities for delivery beyond a continuous stream. In theory, the content can also be transmitted: (a) in short bursts for reassembly, (b) not in real time (slowly), (c) by multiple routes and reassembled, or (d) splatted at super high speed. The only end requirement is that the data all wind up on a storage device in the home and in a form that can be reassembled by that device to make a coherent program. How it gets there and how long it takes to get there is not material, so long as it is available when the consumer wants it. At this point the aggregation of data potentially becomes more important than one single path, thereby suggesting the potential for a new generation of would-be gatekeepers who try to control the servers in the home.

Routes into the Home: When considering the potential routes into the home, we began by thinking how few there were 25 to 30 years ago. Back then, there was broadcast radio and television and the telephone. And you couldn't carry content in because hardware was too expensive. Video was recorded on huge reels of two-inch wide tape that played on sofa-sized machines costing hundreds of thousands of dollars. Today the number of routes into the home have exploded and may continue to expand with wireless data. And in-home storage is coming of age not only with the high-density storage of TV devices and the new consumer electronics servers, but also with PCs and video game consoles.

It is not difficult to imagine one of these storage devices offering the option of receiving content by any combination of: (a) cable modem, (b) cable, (c) satellite, (d) DSL, (e) over-the-air digital television, and (f) by wireless (WiFi) running at 2.4 GHz, another frequency, or using bits and pieces of the entire spectrum.

Part IV: Cable's Alternatives

Investing in High-Speed Content: To avoid "dumb pipe" status, the cable industry can try to return to what made it great in the video realm—the combination of transport and exclusive content. In addition to offering high-speed Internet transport, a cable company might also elect to offer another high-speed data option that includes content not available elsewhere. Of course, this would require the cable industry, once again, to fund the development of exclusive content, as it did during the 1980s. Back then, this effort was hugely successful because there weren't any alternatives—no Discovery, no TNT, etc. It was also an effort that was successful before the alternative distribution system of satellite.

To date, cable development of a premium alternative to data has not been successful in the marketplace, to great extent because of the @Home fiasco discussed earlier. But there may be another reason. Cable operators have taken to high-speed modem service and its 50 percent+ margins like drugs. Of course they love it. The content is free, and the profit ramp is steep. The problem is that in selling a commodity they may be setting themselves up for a fall by selling nonexclusive content that is not only free to them—but also free to any competitor that may emerge. It should be remembered that the key to satellite's emergence in the United States was Congressional action that required cable companies to sell to the satellite companies content that had previously been exclusive to cable.

Cable vs. Programmer Leverage in Contracts: If the cable operators don't want to invest in high-speed content, and if they don't want to have their commodity-data pipe compete with the intellectual property upside of their classic cable-video bundle, then their only other alternative is to attempt to prohibit competition through contracts with programmers. On the surface, it would seem to be easy to require cable programmers to refrain from providing any digital services over the Web that might compete with the cable operator's bundled businesses. The simple deal would be, "if you want your network on our cable, you must agree not to compete on the Web." Or, at least, cut the cable operator in on any broadband content action. Certainly that is possible with the likes of Movielink, Real or independent networks with little negotiating leverage.

However, what would seem to be easy for a powerful cable company, may not be in the future when it has to deal with the big content companies. As noted earlier, the growing leverage of the programmers through both national distribution and local stations will provide significant leverage to maintain price and develop new services.

Investment Conclusion

While it is currently popular to view cable as having "won" in the leverage battle against content (if not against satellite), such a view is both momentary and premature. The growing power of the content providers in viewership across their multiple network and local platforms threatens cable's short-term abilities to gain program pricing leverage, and its longer-term ability to protect its "intellectual property" upside within its content bundle. When coupled with the possibility of price-warfare from a reconstituted satellite industry seeking market share, cable's response will likely be to improve the offering in its "bundle," probably by offering very low-cost telephone service using the scale economics of Internet Protocol telephony.

Should this occur, then we would view the revenues of video from cable and satellite, data from cable and RBOC, and phone from cable and RBOC as all sloshing around the same bathtub. If satellite removes revenues from cable, then cable will try to remove revenues from the RBOCs. In the end, the economic realities of overcapacity will prevail to the detriment of both cable and the RBOCs, with principal distribution benefit accruing to the low-cost provider for any service.

If the scenario plays out as we expect, cable operators will neither invest in high-speed content in the near term, nor succeed in blocking programmers who want their content to ride the high-speed pathways. Having failed to differentiate themselves, cable operators will likely return to the idea of developing their own content. While the cable operators may think this approach will be successful, as it was for video in the 1980s, they run a high risk because, by then, the programmers will be far down the road in establishing their own services to the detriment of cable. Simply put, cable will be too late if it waits.

Programmers will continue to consolidate their cable networks, exploit the Internet and other distribution methods, and, barring heavy investment from the distribution players, move rapidly to strengthen what is already beginning to appear as a return to content oligopoly. Right now, the balance may appear to have tipped to cable, but over the longer term, the programmers hold the power.

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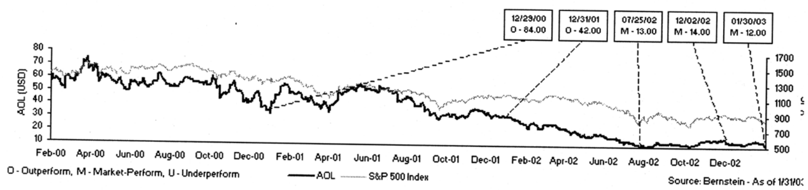
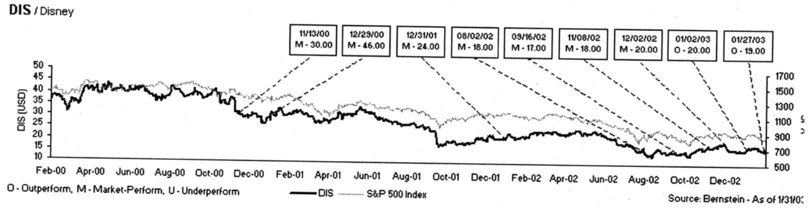
AOL / AOL Time Warner



DIS / Disney



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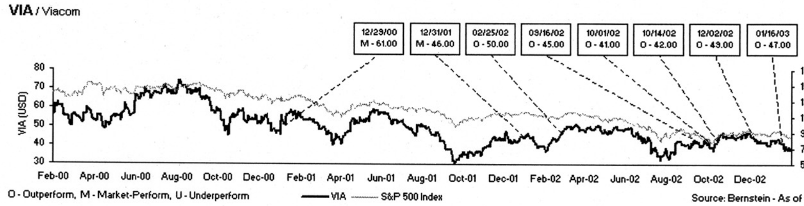
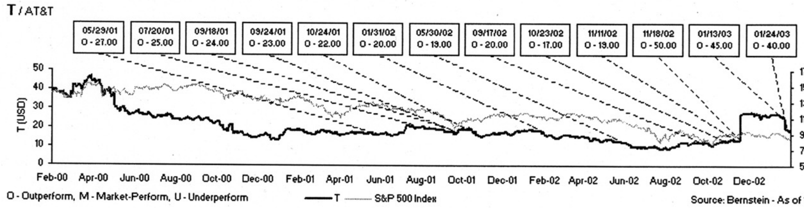


T / AT&T



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