The Impact of Ownership on Content: Does it Matter?

by Benjamin Compaine

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Columbia Institute for Tele-Information
Graduate School of Business
Columbia University
809 Uris Hall
New York, NY 10027
(212)854-4222

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Benjamin Compaine

Professor
Center for Information Industry Research
Temple University
Philadelphia, Pennsylvania

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Summary

Virtually everything we know about the relationship between ownership of television outlets and programming is outdated. The assumptions that have governed FCC regulation and researchers were formed in an era of broadcast oligopoly.

Television today has become as diverse as the magazine rack. There are, as in the print world, the mass audience programs that continue to get large audiences. But at any given moment of any given day one third or more of television sets are tuned to programs that are as special interest as the journals of opinion, of hobbies, and of entertainment.

We can say very little with certainty about what effects the content of television has had on societies, although we can feel certain that they have been extensive and varied from society to society. Even areas in which there has been considerable research, such as the effect of violence on television, have failed to produce clear cause and effects. Neither this selective review nor an exhaustive review of the literature will yield a definitive resolution to the question of what forms of ownership have on what types and amounts of content, if for no other reason than the bulk of the research to date, worldwide, has been undertaken in an environment of limited video options.

Certainly ownership has an effect on content. Public television, with its different "ownership" and strategic charge from its board of directors than commercial television has distinctive content. We know that the state owned or controlled broadcasters in Europe created programming that is distinctive from the United States model. But within the commercial sectors of the U.S. broadcasting industry, it is very difficult to point to how ownership has been the cause of specific programming. We cannot say that group owned stations are programmed differently than independently owned stations. We cannot says that stations owned by racial minorities, by specific ethnic groups, or of a specific gender behave, in aggregate, differently from one another.

We *do* know that historically programming types have fallen in a rather narrow range. And when broadcasters have deviated dramatically, often due to out-of-the-mainstream content such as extreme politics or social mores, they have ben reigned in by the FCC and the Courts. Diversity has been mandated, but only a mainstream sort of diversity.

We also know that all of our experiences and therefore assumptions about television must be re-evaluated. Technology has provided what the FCC never could--almost unlimited bandwidth. Industry, ever motivated by the marketplace above all else, has responded with a wealth of programming choices from a myriad of sources.

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Benjamin M. Compaine
Center for Information Industry Research
Temple University

We all agree that the pervasiveness of television, with its power as an audio-visual medium, with the immediacy it can convey, and the entertainment it generates has earned it weighty consideration as a social, political, economic and cultural phenomenon. From its earliest days in its audio only radio incarnation, broadcasting has been recognized as a powerful medium over which government must maintain control. The Courts, Congress and the Federal Commissions Commission have made twists and turns that would make a pretzel look straight to reconcile the clear proscription of the First Amendment with the overpowering desire to keep control over the content of the airwaves.

For its first three decades as a commercial medium "television" was a term with a widely understood meaning. It referred to the video segment of the broadcast industry. Television was used interchangeably as the name of the receiver that sat in living rooms, recreation rooms, bedrooms and kitchens of residences and as a reference to a technology that used terrestrial towers to broadcast signals to end users. This was the television industry. If one was watching television, they were watching a VHF (or maybe UHF) signal captured by an antenna. A manufacturer or merchant that advertised on television did business with one of a handful of local television stations or one of three national television networks. (The industry professional, of course,, often used the term broadcasting. But that is a technical term rarely used by viewers. And even those in the industry might have to differentiate their work in television from the "other" broadcasting, radio).

With the growth of cable delivered programming to 60% of US homes and the widespread adoption of videocassette recorders in about 90% of homes, and direct broadcast satellite to more than 3% of homes, television must be given an expanded meaning. It must be applied to any of the technologies that put a video signal into a standard television set. (At least for now this excludes television-like content that is starting to become available on CD-ROM or even online to those who have personal computers.)

Virtually everything we know about the relationship between ownership of television outlets and programming is outdated. The assumptions that have governed FCC regulation and researchers were formed in an era of broadcast oligopoly.

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Television today has become as diverse as the magazine rack. There are, as in the print world, the mass audience programs that continue to get large audiences. But at any given moment of any given day one third or more of television sets are tuned to programs that are as special interest as the journals of opinion, of hobbies, and of entertainment.

For this paper television, as a market, as a medium, and as an industry, encompasses all popularly available video delivery technologies, including broadcasting, cable, DBS, videocassette and disk, and other broadband wired or wireless. Thus, all that was written in the past about the need for regulation to foster diversity and competition on television because of limited spectrum is irrelevant. All of the policies, court decisions and laws, justified in the "public interest" that were in conflict with First Amendment proscriptions against content regulation, are becoming moot.

What This Paper is About

The first part of the question of the title is vague enough so that probably any answer could be defended. That is because ownership of content could have a broad range of interpretation: public corporation or privately held? Public as in government owned or private sector? Ownership of over-the-air broadcast stations or local cable operations? Ownership of program sources, such as studios or of distribution facilities, such as a cable or broadcast network or video retail outlets?

We could further seek to define the main question. Are we talking about ownership effects at the local level or on a national or international basis? And by ownership do we really mean control or, literally, ownership? We could ask whether ownership of any combinations of the above result in different results than ownership of only one component? Does cross ownership with another medium, such as newspapers, make a difference?

The second part of the title's question is similarly open to interpretation and nuance. Does it matter to whom: the mass audience, small, segmented interest, advertisers, stockholders, government policymakers? Does it matter in a political sense, as in furthering or inhibiting one form of governance over another? Does it matter in a social sense, as in promoting or reducing societal issues (e.g., violence, teen-age pregnancy)? Does it matter culturally, in either lessening cultural divides or increasing them, in providing material for focused cultural identifies or a common national identify? Does it matter in an economic sense, to potential advertisers, to consumers who use -- or avoid advertising as a source of information, and to the effect, of any, of advertisers on the content?

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The simple and probably self-evident answer to at least any one of these questions is simply, Yes. We assume ownership matters in some way to some things. It is similarly easy to say that the difficulty is setting the priorities and establishing the direction of the effects of some definition of ownership.

The subtext to the question, is really: Are there *patterns* of ownership that matter? Can we say that stations owned by public corporations, as a group, program differently than those that are privately held? Do stations owned by racial minorities carry measureably different content than other stations? Does programming on cable networks controlled by cable operators have different types or slants on content than networks owned by broadcasters, Hollywood studios or independent producers.

A rigorous response to any one of these questions could make a fine, resource consuming research topic. Many of these questions have not even been addressed by researchers or may be almost impossible to reliably measure. This paper clearly cannot address all these interpretations. What it will do is review some relevant areas of what we know about ownership and content effects and then provide one person's interpretation of what this means for a variety of players and stakeholders in the video arena.

The scope of this paper is to treat ownership in a generalized manner. That is, ownership means whatever individual or entity controls the programming available on any of the mass audience video delivery pipelines, including broadcast stations, cable systems, or networks. Within the context of ownership is the closely associated role of competition faced by an owner in whatever the relevant market.

Short Review of Current Laws and Regulation on Ownership

The substance of what has historically been broadcast is closely associated with the regulatory regime that has grown up for the industry. One could imagine that a broadcast industry that had been subjected to the same First Amendment standards as the print media would have sounded and looked very different.

By far the most powerful six words in the history of regulation must be "the public interest, convenience or necessity." They were written into The Radio Act of 1927 and were incorporated without alteration in the Communications Act of 1934. They are the encompassing principals which account for and justify much radio and television policy and regulation.

This vague mandate has been the legal underpinning to such practices, generally upheld by the courts, as limitations on the number of licenses under a single ownership,

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limitation on the number of licenses that a single owner may have in any market, restrictions on cross ownership of broadcasting and newspapers or broadcasting and cable and of network ownership of cable. It has been cited to support the Fairness Doctrine for many years, for restricting content under various definitions of indecency and obscenity over the airwaves, as justification for rules on the responsibilities of license holders to provide programming of specified types, such as public affairs, news, children's, and public service.

The widely accepted truism that broadcasting needed to be regulated differently than the print media of the time grew out of the twin concerns of interference between frequencies and the scarcity of electromagnetic spectrum that needed to be somehow allocated. Ithiel de Sola Pool, among others, has proposed that other policies could have been implemented for broadcasting that would have avoided the involvement of the political process in media content. "The scheme of granting free licenses for use of a frequency band...was in fact what created scarcity. Such licensing was the cause not consequence of scarcity.... Clearly it was policy, not physics, that led to the scarcity of frequencies."[1]

The notion of broadcasters having a public interest responsibility was initially articulated in 1922 at the First National Radio Conference by then Commerce and Labor Secretary Herbert Hoover.[2] Although the Navy made an attempt to control the airwaves immediately after World War I, government policy from the start was that wireless would be kept in the private sector, but as "trustees" for the public. Senator Clarence Dill, one of the architects of the 1927 Act, wrote that "the one principal regarding radio that must always be adhered to, as basic and fundamental, is that government must always retain complete and absolute control of the right to use the air."[3] Thus, those entities awarded licences held them, in theory, for a finite limit (initially three years, now five years). And to win renewal of the license they must show that they adhered to standards of content and behavior that the FRC and later FCC promulgated from time to time.

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[1]Ithiel de Sola Pool, *Technologies of Freedom* (Cambridge, Mass: Harvard University Press, 1983), p. 141.

[2]Herbert Hoover, Speech to then first National Radio Conference (Feb 27, 1922), as cited in Thomas G. Krattenmacher and Lucas A Powe, Jr., *Regulating Broadcast Programming* (Cambridge, Mass: MIT Press, 1994), p. 8.

[3]Clarence Dill, *A Traffic Cop for the Air*, 75 REV. OF REV. 181, 184 (1927).

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Over the years the FCC has fought a battle within itself on how far it could or should go in directing content. In 1931 the Court of Appeals upheld the FRC's right to consider past programming as the basis for denying license renewal.[4] Although the government has never mandated specific programs, its tight reigns on licenses and the ensuing climate of license challenges by contending groups that could result in expensive legal battles for license renewal gave both Congress and the FCC a very potent "raised eyebrow" poker to keep broadcasters within the current limits of broadcasting in the public interest.

Still, the FCC invoked this power sparingly. For the most part it tried to find content neutral standards for licensing and renewal: the financial capacity of applicants, their character, degree of previous broadcast experience and the like. In 1941 the Commission did go so far as to ban advocacy and editorializing by broadcasters in the Mayflower decision.[5] But by 1949 the Commission revered direction, *requiring* editorializing on public or controversial issues, so long as they were balanced. This became the basis for the Fairness Doctrine.[6]

But there long lurked what critics of its attempt to influence policies might call its fluid sense of what acceptable and even desirable programming should be. In 1946 it released a document known as the "Blue Book." Although never accepted as an official FCC ruling or regulation, it did layout what at least some faction of the FCC had in mind as programming in the public interest, including the obligation to carry non-advertiser supported programming, with an emphasis on balanced programming; carrying live local programs, carrying programs devoted to the discussion of public issues; the elimination of advertising excess.[7]

The Blue Book created a huge controversy for many reasons, not the least of which was the heavy handed attempt to direct program content under the public interest rubric. It did lead broadcasters to incorporate some of its message into its voluntary Code of Practices.

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[4]KFKB Broadcasting Association v. Federal Radio Commission, 47 F.2d 670 (D.C. Cir.1931).

[5]In the Matter of the Mayflower Broadcasting Corporation and the Yankee Network, Inc., 8 FCC 333 (1941).

[6]In the Matter of Editorializing by Broadcast Licensees, 13 FCC 1246 (1949).

[7]Federal Communications Commission, *Public Service Responsibilities of Broadcast Licensees* (Washington, DC:FCC, March 7, 1946), at 55 as cited in Robert Britt Horwitz, *The Irony of Regulatory Reform* (New York: Oxford University Press, 1989), p.161. It's principal author was FCC economist Dallas Smythe.

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did lead broadcasters to incorporate some of its message into its voluntary Code of Practices.

Other attempts over the years to affect content include the Avco Rule on transferring licenses[8], requirements to "ascertain" tastes, needs and desires of the community as a criteria for license renewal[9], a 1963 inquiry to mandate limitations on advertising time[10], and less formal proposals advanced to spread out public affairs programming among the networks[11], a daily hour of educational children's programming.[12] More recently the Prime Time Access Rule, restricted prime time network entertainment programming to three hours every night but Sunday.[13]

In the nearly 70 years since the Federal Radio Act several axioms have emerged that have guided FCC regulation of the structure and programming of broadcast licensees. These essentially are how the FCC has come to define broadcasting in the public interest:

competition
diversity
localism

Competition and Diversity

The FCC has considered promoting diversity of voices in broadcasting since the 1940s. In 1941 it required NBC to divest one of its two networks. And shortly thereafter it promulgated its ruling barring common ownership of two same type broadcast stations

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[8]In the Matter of Powell Crosley, Jr., Transferor, and the Aviation Corp., Transferee for the Transfer of Control of the Crosley Corp. Licensee, 11 FCC 3 (1945).

[9] *Report and Statement of Policy Res.: Commission en banc Programming Inquiry*. 44 FCC 2302 (1960).

[10]Commercial Advertising, 36 FCC 35 (1964).

[11]Horwitz, p. 163.

[12]Ibid.

[13]Amendment of Part 73 of the Commission's Rules and Regulations with Respect to Competition and Responsibility in Network Television Broadcasting, Report and Order, 23 FCC 2d 382, 385-87 (1970).

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in a market. Indeed, the FCC has been very clear about the lengths it thought it must go to promote diversity:

> A proper objective is the maximum diversity of ownership that technology permits in each area. We are of the view that 60 different licensees are more desirable than 50, and even 51 are more desirable than 50.[14]

The principles of competition, diversity, and localism have been central of the FCC's interpretation of regulation of broadcasting and the Courts have frequently agreed to use these criteria for decisions. There has been an assumption that promoting competition -- by limiting multiple ownership of stations within a market, will lead to diversity of content. There is, at least, a theoretical argument that questions this assumption as applied to broadcasting as it has been structured in the United States. It runs like this:

Under a system of advertising-supported programming, advertisers are most interested in maximizing their audience. They will pay broadcasters proportionally more for a larger audience than a smaller audience. As the cost of programming is fixed, regardless of audience size, broadcasters may maximize profit finding programs that have the broadcast appeal. In a marketplace characterized by a small number of providers, each will seek to provide such programming.[15]

For example, suppose a market has three television stations. There are 10,000 television households that are on during a particular time period, program cost is $300 and advertisers will pay for commercial time at the rate of $1.00 per viewer. Assume that program A is the choice of 7500 viewers, program B 2000 viewers and program C 500 viewers. If they are operated competitively, all three would gravitate toward program A. If each gets an equal audience share of the 7500 households who choose program A, they would each earn $2200 ($2500 less $300), much better than they would do by running programs B or C.

On the other hand, a monopolist owning all three station would also seek to maximize profit. If it used the same strategy as the three independently owned stations total profit would be $6600. But if it put program A on one channel and programs B and C or the other channels, total profit would be $9100 ($7200 plus $1700 plus $200). So at least in

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[14]22 FCC 2d at 311.

[15]The following example is taken from Thomas G. Krattenmaker and Lucas A. Powe, Jr., *Regulating Broadcast Programming* (Cambridge, Mass.:The MIT Press, 1994), pp 42-43.

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theory, "it may be that, in some ranges, monopolists will offer more choices than a number of separately owned firms."[16]

This possibility is particularly relevant to cable television. Although there are thousands of cable operators throughout the country, very few households have no options today of who can provide cable to them. To the individual household, the cable operator is a monopolist (ignoring for the moment the substitutes and indirect options that exist). Clearly if all the cable operator offered was retransmitting broadcast stations there would be few takers where broadcast signals are reasonably strong. To attract its next customer the cable operator has an incentive to offer some programming that current nonsubscribers do not have and is presumably different from the package that it already offers. For some people, that may be the addition of Court TV, for others, the History Channel, for others Black Entertainment Network and for others the Comedy Channel. So long as the marginal revenue of adding a programming type different from one already carried exceeds its marginal cost, a cable operator is satisfied and consumer welfare is enhanced.

The Federal Communications Commission has tried to influence diversity in broadcast television programming through regulations limiting or restricting broadcast outlet ownership. These include:

1) Standards for awarding licenses that give added weight to ownership by racial minorities;

2) Limit to the number of outlets that may be controlled by a single entity in a local market

3) A limit to the number of licenses that may be owned nationwide by a single entity or the aggregate audience share that a single entity may have access to.

There is no evidence that any of these policies on ownership has in fact resulted in greater (or less) diversity of content.

The assumption behind granting preference to racial minorities is that minority owners are more likely to provide programming aimed at minority audiences than white owners. The racial preference has resulted in a small net gain in the number of stations

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[16]Ibid., p. 43. There is at least a piece of anecdotal real world evidence of this theory in the newspaper business. In Philadelphia, where I teach, Knight-Ridder owns the only two daily newspapers. The two newspapers, the *Inquirer*, a broadsheet and the *Daily News*, a tabloid, have been maintained as very different products, with distinctive editorial voices and audience niches.

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owned by minorities, but there has been much churn in ownership. There is suspicion that in some cases the minority owners are a front for white ownership and after the required year of minority ownership control returns to a white owned entity. One study from the Department of Commerce found that between 1991 and 1993 minorities gained ownership of 38 stations (television and radio) but gave up control of 42.[17]

Moreover, Congress has specifically forbade the FCC from undertaking any research into whether minority-owned stations did indeed provide any substantially different programming than other stations. The lack of government data has hindered academic research as well.

The FCC's limits on multiple local ownership ("duopoly") were also imposed with the assumption that more different voices could result in greater programming diversity. There has never been substantiation that joint ownership would affect broadcasters programming choices in local markets not has the FCC ever conducted empirical research on single versus joint ownership operations. We do have some evidence that newspapers under common ownership in a single city do differentiate themselves.[18]

Under current rules, no single entity may control more than 12 television stations (14 under some limited circumstances) or reach more than 25% of the national audience. However, the television networks, through which most of the populations gets its programming, have no limits on the number of affiliates. Given the economics of broadcast programming, therefore, the dominance of three (now four) networks undermines the intention of fostering content diversity through ownership limits.

Only the "right kind" of diversity. Attempts of broadcasters to break out of the programming mainstream have been dealt with harshly by the FCC and the Courts when the programming ventures too far afield. The Commission came made its displeasure known in 1970 when a college FM station broadcast an interview with Jerry Garcia of the Grateful Dead that included some four letter words for emphasis.[19] A few years later, WGLD, a group owned station in the Chicago market became the highest-rated station with a so-called topless radio live call in format. The FCC ruled it obscene, fined the

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[17]As reported in David A. Vise and Paul Farhi, "FCC Minority Program Spurs Deals--and Questions," *The Washington Post*, June 3, 1993, P. A1. The complete study is U.S. Department of Commerce, "Analysis and Compilation by States of Minority-Owned Commercial Broadcast Stations," ii (October 1993).

[18]Ronald G. Hicks and James S. Featherstone, "Duplication of Newspaper Content in Contrasting Ownership Situations," *Journalism Quarterly* 55:549-554 (Autumn 1978).

[19]WUHY-FM, Eastern Education Radio, Notice of Apparent Liability, 24 F.C.C. 2d 408, (1970).

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owner $2,000 and the format was dropped.[20] Perhaps the most well-known case in this area is *FCC v. Pacifica Foundation.*[21] Here, New York station WBAI-FM aired a program about contemporary attitudes toward language. In this context it played a routine by comedian George Carlin in which he says the "words you couldn't say on the public...airwaves." Upon a complaint from a listener, the FCC ruled that, while not legally obscene, this language could not be broadcast at times when children migth be listening (later judged to be variously after 10pm or midnight).

Note that these cases, all from the radio world, involved an educational station owned by a college, a group owned commercial station, and a non-profit foundation owned station. All three got into trouble in the process of being "diverse."

Network Restrictions

The FCC has ruled on the relationship of the networks with their affiliates , presumably to help ensure some latitude among local stations to provide local programming and reduce the financial clout of the networks. For example, in 1970 the FCC adopted its financial interest and syndication rules. These prevented the dominant networks from holding a financial interest in the programs provided to it by independent producers. Similarly, they were forbidden to engage in domestic or international program syndication. The Commission's objective was primarily to strengthen the negotiating position of independent television program producers with the networks and perhaps prevent networks from favoring inn their schedules programs in which they had a financial interest.[22] The rule, phased out in 1993, had no discernable effect on program diversity.

A more focused attempt to promote diversity was the Prime Time Access Rule (PTAR)[23], implemented in 1970. The rule effectively prevented the three older networks from programming more than three hours during prime time. The assumption was that in limiting the amount of network programming, local stations would have greater latitude in providing more locally-based programming and expand the opportunities for independent producers of quality first run programming. The PTAR has created new

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[20]Sonderling Broadcasting Corp., Notice of Apparent Liability for Forfeiture, 27 Rad. Reg. 2d (P&F) (1973).

[21]FCC v. Pacifica Foundation, 438 U.S. 726 (1978).

[22]Krattenmaker and Powe, p. 98. See note 181.

[23]47 C.F.R. § 73.658(k) (1993).

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opportunities for producers and syndicators of game shows and off network re-runs. A very few quality local programs can be attributed to the action, such as "Chronicle" on Boston's WCVB (surviving even a change in the station's ownership). But there is little evidence, scientific or observable, that the PTAR has fundamentally affected the type of quality of programming available.

Judicial Responses to Content Regulation

While the federal courts have not always upheld FCC rulings and regulations, they have been consistent in upholding the basic premise that content regulation for broadcasting may be held to a less rigorous First Amendment standard than the print press. This remains true despite the reality that there are far more broadcast television stations in most markets than there are daily and weekly newspapers.

In 1943, the Supreme Court upheld FCC regulations limiting how radio stations could contract with networks.[24] In the landmark *Red Lion* case in 1969, the Supreme Court upheld the personal attack portion of the Fairness Doctrine, requiring a broadcaster to give air time to a journalist to reply to an aired attack by a radio preacher.[25] This case is frequently juxtaposed to the *Miami Herald v. Tornillo* case, decided a few years later, with the opposite conclusion based on First Amendment principles as applied to the print media. In 1978 the Court upheld the FCC's Pacifica Foundation ruling (while printing Carlin's entire monologue in an appendix to the opinion.)[26]

Research on Video and Ownership

Having covered the general case of television content and regulation, we can now move ahead to a narrower outcomes of specific programming and ownership issues. Questions include the extent to which the number of local competitors effects content; the degree to which group owned stations might behave differently than independently owned stations; differentiation between network owned stations and others, or between stations owned by programmers, by cable companies, or any other pattern of variables. For example, do minority-owned stations program differently than others?

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[24]NBC v. United States, 319 US 190, 87.

[25]Red Lion Broadcasting Co. v. FCC, 395 US 367.

[26]FCC v. Pacifica Foundation, 438 U.S. 726 at 751-55.

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Whether differences are identified depends on what discriminating factors are being sought. Usually, researchers have used one or more of the measures by which the FCC has evaluated programming efforts. Most prominent is the amount of local programming, primarily news and diversity of content. These measures are, of course, meaningful only if one buys into the FCC's assumptions. Or, looking at it another way, what is good is what the FCC says is good, so that's what we should measure. There has been precious little questioning in the academic literature on whether we are evaluating broadcasters on the right stuff. For example, a marketplace approach would be to simply base quality on what viewers wish to tune in to when they have a choice. Perhaps the license renewal criteria should have been to consider ratings within so many points of the average station for a certain size market over a multiple year period. The argument could probably be made that any licensee that consistently reported low ratings is clearly not performing in the public interest and should surrender its license to another who is willing to program for the public.

Much of the richest literature on the effects of ownership on content actually comes from the newspaper business. Like broadcasting, newspapers are locally based, may be owned by a group or independently, and are almost as dependent on advertising revenue as are broadcasters. (Large city newspapers get about 80% of the income from advertising, smaller papers a lower proportion). Unlike television and radio, few have any direct local competition, which serves as grist for studies of the effects of competition on content. In general, the findings that have emerged in recent years is that intense local competition between two newspapers has at the very least lead to increases in the amount of money the papers spend on the news-editorial budget.[27]

The literature on the effect of group ownership on content has been largely inconclusive. In what is probably the most definitive of a long line of studies[28], there were some small difference between group and independent newspapers: group papers had slightly less space devoted to news and editorial copy, but had larger news staffs who had to write less copy for a given amount of total newshole. Group papers devoted more space to the editorial page and to editorials about the city in which the paper was located. The typical story in group owned papers was shorter. The author concludes,

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[27]Barry Litman and James Bridges, "An Economic Analysis of Daily Newspaper Performance," *Newspaper Research Journal*, 7:9-26, Spring 1986. Stephen Lacy, "The Effect of Intracity Competition on Daily Newspaper Content," *Journalism Quarterly*, 64:281-90 (Summer-Autumn 1987). Stephen Lacy, "Newspaper Competition and Number of Press Services Carried: A Replication," *Journalism Quarterly* 67-79-82 (Sprint 1990).

[28]Stephen Lacy, "Effects of Group Ownership on Daily Newspaper Content," *Journal of Media Economics"* 4:35-44 (Spring 1991).

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"...The differences [in the group owned papers] found in this national sample might improve the group newspaper from the reader's point of view."[29]

Competitive Effects and Television Content

In television as with newspapers, more of the research effort has looked at the impact of competition in the local market than on the type of ownership. There has been some work, however, with significance for ownership questions.

One project looked at the relationship between news competition of television stations in the local market and the impact on financial commitment to news, as measured the by number of news employees and news budgets. Competition was measured by how close two stations were in the ratings for their early evenings newscasts. In this study, stations that were very close in the rating spent more and had larger staffs (holding size of the market constant) that did stations that had a large lead or were far behind in local news ratings.[30]

New video comptetion. As noted at the outset, competition today covers more than local broadcast television stations. The widespread adoption of cable, the growing channel capacity of cable and the proliferation of programming services have all promoted the promise of greater diversity of content, increased segmentation of audience interests, and, therefore, heightened competition for the traditional players. Evidence is mounting that these expectations are indeed being realized.

Cable is available to more than 90% of households in the U.S. and nearly 65% of those choose to subscribe to cable service.[31] Besides retransmitting broadcast channels--

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[29]Ibid., 44.

[30]Stephan Lacy, Tony Atwater, and Xinmin Qin, Competition and the Allocation of Resources for Local Television News," *Journal of Media Economics* 2:3-13 (Spring 1989). On the other hand, a study that looked at differentiation among the three major broadcast networks found that, by one measure, art least, the network newscasts were becoming less differentiated. Despite ratings competition over 14 year time span of the study. Joseph R. Dominick and E. Albert Moffett, "Economic Influences on Long-Form Network News Stories," *Journal of Media Economics*, 6:37-48 (Spring 1993).

[31]*The Kagan Media Index*, No 89 (July 31, 1994).

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network affiliates, independent and public stations--they carry an increasing array of general interest and specialized channels. There more than 25 basic nationally available programming services with significant distribution, among them Cable News Network, Black Entertainment Network, Nickelodeon, ESPN, MTV, C-Span, QVC, Discovery Channel, Arts and Entertainment Channel, CNBC, USA and the Family Channel. Some of these have ownership affiliations with broadcast networks (ESPN with ABC, CNBC with NBC). More of them are either independent or are related to the cable companies themselves. In addition there are 11 major pay cable services available, including HBO, The Disney Channel and Galavision. And a third of television households have access to pay-per-view programming, often special events.

The rise of cable has seen a loss of market share by the traditional television networks and local stations. The market share of the networks has declined from 90% or more to the current mid-60% range. To an increasing extent in recent years cable has also become a significant competitior to broadcast television for a share of advertising expenditures for television.[32]

The impact of cable has been noticeable and measurable along the lines of providing increasing diversity to viewers and economical marketing opportunities to advertisers. Researchers have substantiated that the increase in cable programming has gone beyond "just more of the same." There has been an increase in the diversity of program types as well as in the programs available at any given time of the day.[33] The same study suggests (with some qualifications) that "many of the objectives of public television are being met by cable television." Indeed, "virtually every type of programming offered on public television is not only available on cable television but in greater quantity as well."[34]

Videocassette are another source of competition for viewer time and another opportunity for expansion of content for the video tube. By 1995 more than 90% of homes with television sets had at least one VCR. This has translated into a booming business for cassette sales and rentals. Cassette sales growth has been particularly

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[32]Paul Kagan Associates, in "The CAB: Defender of the Faith," *Cable Television Business*, April 15, 1989, pp. 22-25.

[33] August E. Grant, "The Promise Fulfilled? An Empirical Analysis of Program Diversity on Television," *Journal of Media Economics*, 7:(1), 51-64.

[34]Ibid., 63.

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significant. Whereas in 1983 cassette rental revenue was about five times cassette sales, the ratio in 1994 was about two to one.[35]

This change has significance in light of research that indicates that it is in the sell-through market in which there has been the more substantial impact of diverse programming. Whereas the major studios continue to dominate the rental market, a second tier of independent video programmers and distributors have concentrated their efforts in providing content for special interest markets. Cassette sales have "increased the supply for minority tastes (e.g., new nontheatrical audience segments like children and housewives) together with narrow appeal programming (i.e., nontheatrical content categories like how-to and music videos)."[36]

Television Content and Ownership

Unlike the print media, the structure of broadcast media has been restricted almost since the start of modern industry. In particular there have been stipulations on the number of radio and television stations that may be owned by a single entity, by the mix of AM/FM and VHF/UHF stations, by a limitation on multiple ownership in any market and, eventually, on the cross ownership of a newspaper and television station in any market.[37] The rationale for these policies has been to promote diversity through maximizing the number of individual owners, and therefore "voices" in each local market as well as nationally.[38]

The data however, does not sustain this position, at least not in recent years. Differences in programming based on ownership, as in measuring the effects of competition, can be based on surrogate measures for quality, such as time allocated for local news or other local programming types (again, using the FCC's standard for desirable effects) or diversity of viewpoints held by viewers (presumably the desired outcome of FCC policy).

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[35] *The Kagan Media Index*, 89 (July 31, 1994).

[36] "Competition and Content in the U.S. Video Market," *Journal of Media Economics*, 7 (1), 29-48, at 46.

[37] Christopher Sterling, "Television and Radio Broadcasting," in Benjamin M. Compaine, et al, *Who Owns the Media?* (White Plains, NY:Knowledge Industry Publications, 1982), pp. 299-371.

[38] See, for example, Henry Geller, "FCC Media Ownership Rules:The Case for Regulation," *Journal of Communications*, 32:xxx (Autumn 1982).

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Multiple studies have concurred that programming differences related to group ownership are mixed and, even at that, are quite small. For example, stations owned by larger groups broadcast slightly fewer minutes per week of all local programming but more minutes of both local news and public affairs programming. Regression analysis studies of many of the ownership variables that might affect news staff size (such as size of the market, UHF vs VHF signals), found that all variables had relevance *except* ownership.[39]

Measuring diversity is more difficult, but presumably more to the point of concerns about ownership. Ultimately the objective is to promote content diversity: of ideas or attention to issues. Using this issue measure, a regression model testing issue diversity against multiple variables again found mixed and statistically insignificant relationships with cross ownership of television and newspapers. That is, factors such as greater occupational mix in a market or greater racial diversity were strongly related to issue diversity. Newspaper/television cross ownership was not.[40]

The traditional commercial broadcasters in the United States have been buffeted by new competition from players who have benefited from new technologies. But there are other sources of change in ownership and industry structure in the television business that may impact content. Public television in the U.S. has long been a controversial also ran in the industry. In a study that may have implications for state owned or controlled broadcast authorities outside the U.S., a researcher studied a form of ownership change in public television. "In public broadcasting, ownership change...is accomplished by means of executive and legislative turnover."[41] This study found that executive turnover and the changes in Administration policies over the years has resulted in programming that is "tried and true as well as bland and elitist."[42] While commercial broadcasters may be criticized for having to program with one eye on the needs of their advertisers, public television has had to gear its programming to orient programming to the upscale audience that constitutes its donors. The managers of public television, in the U.S. at

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[39]John C. Busterna, "Television Station Ownership Effects on Programming and Idea Diversity: Baseline Data" *Journal of Media Economics*, 1:63-73, at 67.

[40]Ibid., 68-72.

[41]Marilyn Lashley, "Even in Public Television, Ownership Changes Matter," *Communication Research*, 19:720-786 at 771 (December 1992).

[42]Ibid., 783.

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least, have "routinely traded off creative, innovative and diverse programming in favor of secure federal, corporate and subscription funding."[43]

Denmark, typical of many Western European nations, has in recent years liberalized its broadcasting environment by adding commercial networks to the heretofore restricted government broadcasting monopoly. In 1988 a commercially funded private network went on the air in competition to the government funded public network. The government had been concerned that permitting commercial competition would have a negative effect on television content. The opposite may have been the result. In a short time the evening newscast of the private station achieved near parity in viewer ship with the government station. The new station did this by differentiating its newscast from the more established one. It's stories were longer, used more sources and sound bites, and sought a human interest angle in the news. Some Danish journalists believe this has lead to the government station improving its newscast, covering stories that are of greater interest to the general audience.[44]

Entering the New World of Television Content

It has already been pointed out that regulation, research and the conventional wisdom about television has been made largely irrelevant by the expanded viewer and programmer options made possible by the widespread availability of cable, videocassettes, and other broadband wireless distribution methods. However, the new frontier that has been opened with the arrival of these conduits has created opportunities for new vertical integration of program creators and carriers.

Figure 1 charts the overlapping holdings of the many players in the cable programming arena. The cable companies in particular have been actively involved in creating or purchasing interests in the networks and producers of the programming they are carrying. The television networks, which had been precluded until recently by the financial interest and syndication rules from creating their own prime time programming have also invested in programming for cable. Among the most prolific acquirers of programming sources have been the largest cable MSOs: Tele-Communications, Inc. (TCI), Comcast, Time Warner, Continental and Cablevision are among the large multiple system operators who have substantially invested in programming.

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[43]Ibid, 784.

[44]Angela Powers , Hildir Kristjansdottir, and Hal Sutton, "Competition in Danish Television News," *Journal of Media Economics*, 7(4), 21-30.

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This trend has at least some stakeholders concerned. The most visible source of their apprehension is TCI. TCI has sizeable investments in companies that run Cable News Network, BET, The Discovery Channel, Court TV, Home Shopping Network and its rival, QVC. The U.S. Justice Department is looking into TCI's vertical involvement. The concern is that it might soon have the power to block new programmers from getting established. This is because TCI controls cable systems which reach about 20% of cable households nationwide (and approaching 30% if major TCI investments in other cable companies are included). Channels that are advertising support need to be carried on TCI cable systems to have the prospect of reaching a reasonably sized audience. Viacom, which has far smaller cable holdings but is a major programmer (MTV, Showtime) told the FCC that without TCI's base, a new channel would need to be carried "by nearly every other cable system in the United States in order...to succeed."[45]

Another potential bottleneck could be that cable-owned programmers will refuse to provide their fare to their DBS or telephone broadband rivals. Indeed, all the spectrum capacity of broadband telephone carriers, DBS and the like would not amount to much if the most popular programming was controlled by a small number of dominant cable companies that refused to sell to competing delivery modes (or, more realistically, set prices that were not economical).

This issue was addressed in the 1992 congressional action that reversed some of the regulation of the 1984 Cable Act. The 1992 act specifically prevented cable programmers from denying programs to competitors. Meanwhile, the potential new players, the regional telephone companies who have several overlapping plans for providing their own broadband video services, have apparently recognized that the importance of guaranteeing themselves an independent source of original programming. One consortia, consisting of Pacific Telesis, Bell Atlantic and Nynex, have joined with Creative Artists, a large Hollywood talent agency, to jointly develop programming along with the delivery technology.[46] With 30 million households in the service area of the three telcos, programming produced by this group would be guaranteed a potentially sizeable distribution even without TCI's cooperation.

Other former Bell telephone companies are in discussions with other Hollywood programmers. With the growing channel capacity, the appetite for programming will

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[45]David Lieberman, "Has TCI Staked TOO Big a Claim on Multimedia Frontier/" *USA Today*, August 26, 1994, p. 1 via Prodigy.

[46]Amy Harmon, "3 Baby Bells, CAA Promise Results From Joint Venture," *The Los Angeles Times*, Home Edition, November 1, 1994, p D-4 via Prodigy.

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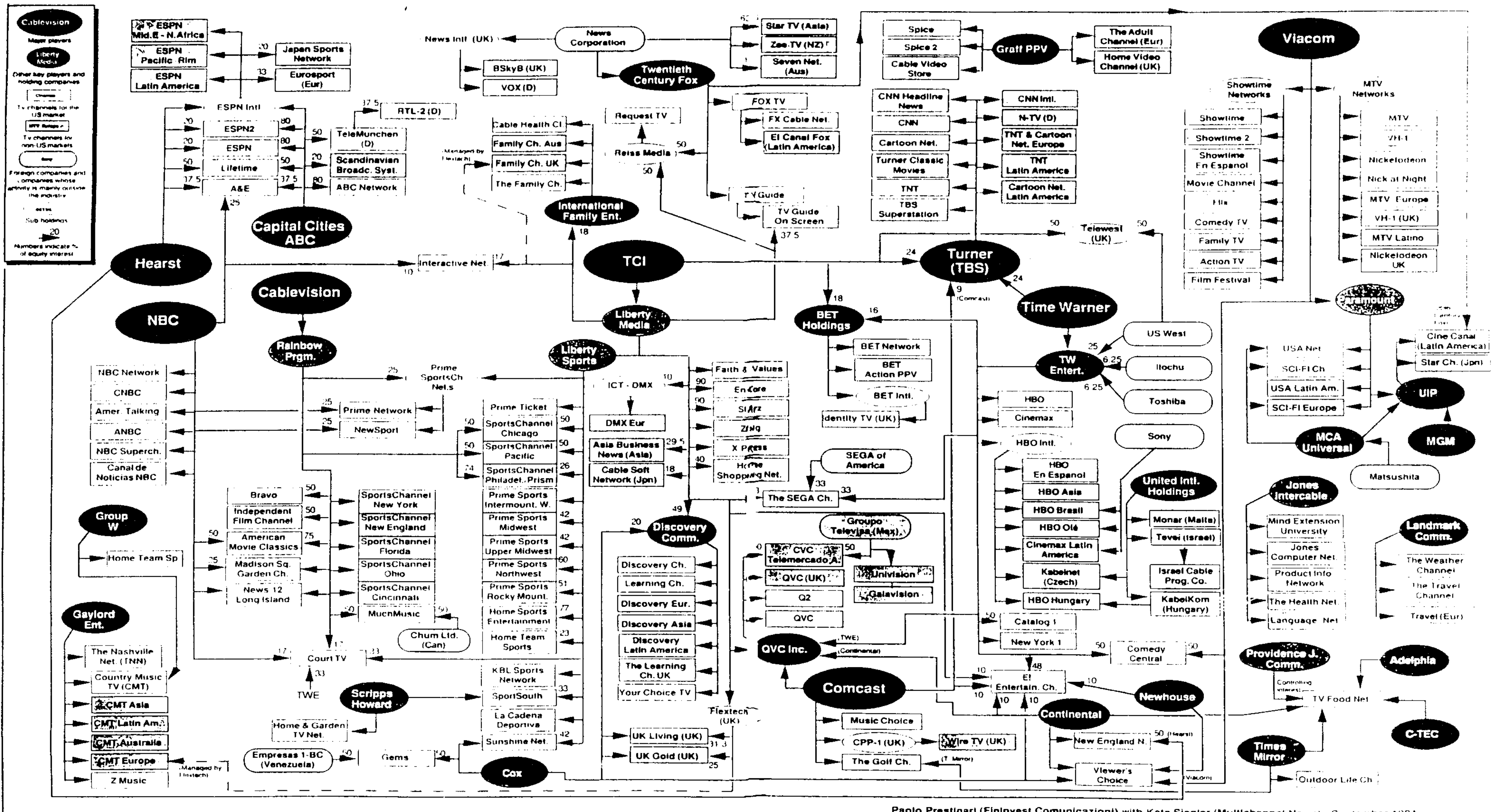
Figure 1

Structure of the Cable Programming Industry



Source: Multichannel News International, October 3, 1994, Supplement, pp. 20-21

likely provide opportunities for additional programming sources for a wider audiences. Assuming the 1992 Cable Act is not repealed or subverted, then whether or not a TCI agrees to carry a cable network it does not have a stake in may not matter, so long as there are sufficient alternative carriers, such as DBS or telephone.[47]

Discussion and Conclusions

We can say very little with certainty about what effects the content of television has had on societies, although we can feel certain that they have been extensive and varied from society to society. Even areas in which there has been considerable research, such as the effect of violence on television, have failed to produce clear cause and effects. Neither this selective review nor an exhaustive review of the literature will yield a definitive resolution to the question of what forms of ownership have on what types and amounts of content, if for no other reason than the bulk of the research to date, worldwide, has been undertaken in an environment of limited video options.

There is much room for speculation and for reasoned assumption about how television content has affected societies. We hear discussions of a "sound bite" political process, or the MTV generation. We learn about the global village. It is reasonable to assume that bringing war into living rooms on the nightly news has changed the way nations make war -- or perhaps go to greater lengths to avoid it. We can speculate that if Russia's broadcasters had been as closely controlled by the state as they had been under the Soviet Union, the battles in Chechnya would have been waged differently.

To return to the original question of this paper, certainly ownership has an effect on content. Public television, with its different "ownership" and strategic charge from its board of directors than commercial television has distinctive content. We know that the state owned or controlled broadcasters in Europe created programming that is distinctive from the United States model. But within the commercial sectors of the U.S. broadcasting industry, it is very difficult to point to how ownership has been the cause of specific programming. We cannot say that group owned stations are programmed differently than independently owned stations. We cannot says that stations owned by racial minorities, by specific ethnic groups, or of a specific gender behave, in aggregate, differently from one another.

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[47]The have been examples of both aural and video programming sent via the Internet as well. One college radiuo station was actually "broadcasting." to the Internet. There is a cadre of experimenters who have tied video cameras into their computers and are providing live, though not full motion, video to anyone who wants to access their "URL" (World Wide Web address) via dial-up modem. It remains to be seen whether the Internet can develop the bandwidth to maintain this avenue as Everyman's access point.

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We *do* know that historically programming types have fallen in a rather narrow range. And when broadcasters have deviated dramatically, often due to out-of-the-mainstream content such as extreme politics or social mores, they have ben reigned in by the FCC and the Courts. Diversity has been mandated, but only a mainstream sort of diversity. That too is changing in the new video world.

We also know that all of our experiences and therefore assumptions about television are must be re-evaluated. Technology has provided what the FCC never could--almost unlimited bandwidth. Industry, ever motivated by the marketplace above all else, has responded with a wealth of programming choices that now has a segment of the critic community worrying about overload. While much of the programming is more of the same (or is the same) as broadcasters have provided for years, there is a surfeit of programming, ranging from all news to all comedy, that should please virtually any audience. For those who do not find what they want by wire or air, independent producers of specialized programming now have the critical mass of videocassette households to aggregate an economical audience for almost any subject.

Perhaps most encouraging is that the old fear of bottlenecks has receded as serious efforts are coming to fruition for alternatives to the semi-monopoly of the local cable provider. Video dialtone, while not here at this moment, most certainly will be widely available by the end of this decade. Affordable DBS services most certainly are here.

Finally, we have current tools in place should either programmers or distributors merge into unhealthy concentration (wherever that level is set). Antitrust law has been used and can continue to be used. But for the foreseeable future, the movement continues to be toward more of everything.

There has always been and will likely continue to be a narrow range of mass interest content that at any point in time accounts for the bulk of what people watch. In 1995, the trial of O.J. Simpson has riveted mass audience attention. What differs today from say, the Watergate hearings of 1974, is that viewers have multiple video options to follow (or avoid) that story in much the same way they have had that latitude in print. Now the trial may be followed on Court TV or on CNN. It can be tracked less intensely on regular news shows. Junkies can get their fix on talk shows throughout the cable/broadcast spectrum. And those who want to get away from it have plenty of choices. The major networks do not feel compelled (often as a pack) to provide gavel to gavel coverage, pre-empting the regular schedule (and upsetting those who still want to watch their regular soaps).

If Congress and the Federal Communications Commission wanted diversity of content, they have it. And so will the rest of the world.

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