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Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Policy Implications of the Changing Video Marketplace	)	MM Docket No. 91-221
	)	
To: The Commission	)	

COMMENTS OF THE TELEDEMOCRACY PROJECT

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The Teledemocracy Project, a media policy group sponsored by Essential Information, is filing these comments because the Federal Communications Commission (FCC) is overlooking and misinterpreting data about the current state of the television industry.

In its July 11, 1991 Notice of Inquiry, FCC Commissioners expressed concern that some of its television rules and policies may unfairly affect broadcasters' ability to compete with cable and other new technologies.[1] The Commissioners' concern was prompted by a report prepared by the FCC's Office of Plans and Policy (OPP).[2] This report found that profits and audience share of broadcast television had declined over the last decade due to increased competition from cable and other new sources of programming.[3] The report predicted that broadcasters will "suffer" declining revenues in the future as a result of increased competition and that the industry will be less dominant by the end of the 1990s.[4] It concluded that increased competition to broadcasting and the corresponding decline in market share requires that the FCC eliminate certain ownership

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[1] FCC Notice of Inquiry, In the Matter of Review of the Policy Implications of the Changing Video Marketplace, MM Docket No. 91-221. Adopted July 11, 1991.

[2] Office of Plans and Policy Working Paper #26. Broadcast Television in a Multichannel Marketplace, DA 91-817, 6 FCC Rcd 3996. (OPP report.)

[3] Ibid., p. viii.

[4] Ibid., p. ix.

restrictions on broadcasters.[5] Specifically, the report urged the Commission to eliminate the broadcast multiple ownership and network-cable cross-ownership rules and to relax its duopoly rules.[6] It also called on Congress to provide the FCC with authority to relax its cable-broadcast cross-ownership prohibition.[7]

Profits

The report justifies elimination of broadcast ownership restrictions by highlighting specific dire economic claims[8] that ironically contradict broadcasters' own optimistic statements.[9] For example, the report's gloomy assessment that "[c]ompetition has reduced television stations profits,"[10] and that drastic changes in ownership restrictions are therefore justified, contradicts a September, 1991 Federal Reserve Board filing by the National Association of Broadcasters (NAB) which states, "The vast majority of television and radio stations are financially sound. Throughout the eighties, television station profits *have shown remarkable consistency* for affiliated stations, and profits

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[5] Ibid., p. x.

[6] Ibid.

[7] Ibid.

[8] Ibid., pp. 32-40.

[9] Comments of the National Association of Broadcasters before the Federal Reserve System. In the Matter of the Supervisory Definition of Highly-Leveraged Transactions, Docket No. R-0734, September 23, 1991. (NAB comments.)

[10] OPP report, p. viii.

have shown an increase for independent stations."[11] [Emphasis added.] In addition, the NAB's Federal Reserve filing contradicts the FCC report's claim that "independents apparently suffered losses on average in 1986-88."[12] The report even contradicts its own gloomy scenario by conceding that, "Average profits of network affiliates have been extremely high [from 1975 through 1989], over 20 percent of net revenues."[13] Claims that broadcasters have "suffered" a long term decline during the 1980s, and that elimination of ownership restrictions is therefore justified, are over stated.

Moreover, data provided in the OPP's own report show that broadcasters were realizing greater revenues as competition was increasing during the 1980s. From 1980 through 1989, average inflation adjusted net revenues increased by 58.7 percent for affiliate stations and 27.6 percent for independents.[14]

Audience Share

The report's claim that broadcasters are losing audience share at a rate that requires special FCC action are also exaggerated. The rate of decline in broadcasters' audience share over the last few years has been significantly slower than the rate of increase for cable. In the 1982-1983 season, the prime

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[11] NAB comments, p. 7.

[12] OPP report, p. viii.

[13] Ibid., p. 36.

[14] Ibid., percentages derived from figures in Table 12.

time audience share of the three networks was 73.[15] The networks' hefty 58 share in the 1989-1990 season represents a 20.5 percent decline over the eight year period. At the same time, basic cable's prime time audience share was 4 in the 1982-1983 season.[16] Basic cable's 14 share in the 1989-1990 season represents a 250 percent increase over the eight year period. Clearly, the strong rate of growth in cable's prime time audience share was not matched by a similarly strong rate of decline for broadcasters'. Indeed, the rate of decline was minuscule compared to the rate of increase. Current trends indicate that a rapidly growing cable industry does not require a rapidly declining broadcasting industry. This evidence shows that broadcasters have remarkable power to be competitive, and even sustain dominance, despite dramatic growth in cable.

Furthermore, the broadcasting industry still remains the most dominant video source and their unparalleled experience at attracting large audiences to their programming will likely continue throughout the 1990s and beyond. In the 1989-1990 television season, network affiliate all day viewing shares for all households was 52, compared to basic cable's 20.[17] The networks held such dominance despite competition from 100 regional and national cable networks.[18]

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[15] Ibid., p. 28, Table 8.

[16] Ibid.

[17] Ibid., p. 23, Table 6.

[18] Ibid., p. vii.

Advertising

The OPP report concludes that the broadcast networks and individual television stations have lost advertising revenues and predicts that this situation will "worsen" in the future.[19] But the report ignored indications that broadcasters have strong staying-power that will allow them to compete fairly under current ownership restrictions. The rate of decline in broadcasters' advertising revenues, for example, was significantly slower than the rate of increase for cable. From 1984 through 1989, broadcast network advertising revenues declined by only 8.2 percent. During this period, cable advertising revenues increased by 138 percent.[20] Clearly, the strong rate of growth in cable's advertising revenues was not matched by a similarly strong rate of decline for broadcasters'. In addition, the report ignored its figures showing that advertising revenues for national syndication increased by 18.6 percent, hardly a sign that broadcasters are in dire trouble.[21]

Again, current trends clearly show that a rapidly growing cable industry does not require a rapidly declining broadcasting industry in need of special FCC action. Slight losses in broadcasting are not a sign of trouble for the communications industry, but rather a healthy consequence of new competition, primarily from the industry's sister oligopoly -- cable

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[19] Ibid., p. 134.

[20] Ibid., percentages derived from figures in Table 25.

[21] Ibid.

television.

The report claims that broadcasters have maintained significantly high revenues during years of heightened competition and declining dominance by inferring that revenues remain strong because of advertiser "habit" in dealing with broadcasters and "notions" that the broadcast networks have more "prestige or status" than cable television.[22] The report predicts that revenues will fall more dramatically when the free market suddenly takes over as a result of the current recession and thereby causes advertisers to significantly cut dealings with broadcasters.[23] Not surprisingly, no concrete evidence was offered to support this ideologically-motivated explanation. The Commission should reject the report's recommendations.

Further study of the future of television is needed before the FCC can justify eliminating any broadcast ownership restrictions at this time. There is currently no evidence to suggest that greater competition from cable and satellites will significantly erode traditional broadcasters' ability to compete fairly. The FCC should welcome the minor erosion in broadcasters' market power and should not rush to further concentrate ownership.

Network-Cable Cross-Ownership

Elimination of the network-cable cross-ownership rules in particular would further reduce competition by creating the

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[22] Ibid., p. 134.

[23] Ibid.

opportunity for even greater concentration of broadcast and cable ownership. If such deregulatory action were taken, many new and talented programmers will find it even more difficult to gain access to viewers than they do today. The vertically integrated structure of the cable industry has provided many examples to support conclusions that concentrated ownership hampers diversity.[24] It is uniformly acknowledged, for example, that large multisystem operators (MSOs) have consistently excluded programming from their systems when such programming posed a competitive threat to their financial interests. It is possible that broadcasters would also exclude programming from their cable systems when their broadcast interests are threatened.

The FCC should consider an alternative approach to level the competitive playing field that unfairly protects large corporate conglomerates such as the broadcasting networks and MSOs. That approach must include placing limits on the number of cable systems that MSOs can own and maintaining current ownership restrictions on broadcasters. It is ironic that the FCC argues for a "new" approach while, in fact, it is merely preserving and reinforcing the old, concentrated and dominating structure of the current broadcasting system. Indeed, the FCC's "new" approach

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[24] See In the Matter of Competition, Rate Deregulation and the Commission's Policies Relating to the Provision of Cable Television Service. MM Docket No. 89-600, 5 FCC Rcd 4962 (1990), para. 113. Report states, "[T]he record shows that vertically integrated cable operators often have the ability to deny alternative multichannel video providers access to their vertically owned programming services. If permitted to continue, this practice could jeopardize the viability of new competition to cable."

will only promote further concentration and therefore less competition and less diversity.

Before the
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250 E Street, S.W.
Washington, D.C. 20219

In the Matter of	)	
	)	Docket No. 91-7
The Supervisory Definition of	)	
Highly-Leveraged Transactions	)	

Before the
FEDERAL DEPOSIT INSURANCE CORPORATION
550 17th Street, N.W.
Washington, D.C. 20429

In the Matter of	)	
	)	Docket No. 050984
The Supervisory Definition of	)	
Highly-Leveraged Transactions	)	

Before the
Board of Governors of the
FEDERAL RESERVE SYSTEM
20th and Constitution Avenue, N.W.
Washington, D.C. 20551

In the Matter of	)	
	)	Docket No. R-0734
The Supervisory Definition of	)	
Highly-Leveraged Transactions	)	

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provided live coverage of the birth and death of the coup. Over the years, broadcasting has provided us with these and other indelible images of moments in history.

The impact of the broadcast industry, however, extends beyond the news and entertainment programming it provides its viewers and listeners. The broadcast industry employs more than 216,000 people, 37.8 percent of whom are women and 16.9 percent of whom are minorities.[9/] In addition, in 1989 the broadcast industry generated $29.7 billion in advertising revenues and is thus critically important to many other industries that rely on broadcast advertising to reach their customers and clients. The broadcast industry is a major force in America's economic life.

The vast majority of television and radio stations are financially sound. Throughout the eighties, television station profits have shown remarkable consistency for affiliated stations, and profits have shown an increase for independent stations.[10/] In 1984, the average affiliated station generated $3,585,000 in pre-tax profits, and in 1990 that figure was

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9/ "Facts About Broadcasting," This Is The NAB, at 27 (1991).

10/ *See* Appendix A hereto for a chart showing pre-tax profits for the average affiliate and independent stations for the period 1984 through 1990.

$3,590,000.[11] During that five year period, pre-tax profits never fell below $3,445,000.[12]

Independent stations, many of which entered the industry in the early and mid-eighties, experienced a decline in profits in the mid-eighties, but have since seen substantial improvement. In 1990, the average independent station had pre-tax profits of $1,033,000.[13] Part of that increase is attributable to the rising popularity of the Fox network, with which many independent stations are affiliated.

Similarly, television station cash flow figures have been consistent for affiliate stations and have shown an increase for independent stations.[14] The average affiliate station experienced an increase in cash flow from $4,610,200 in 1984 to $5,912,000 in 1990.[15] After experiencing a decrease in cash flow in the mid-eighties, independent stations have seen their cash flow increase in recent years. Thus, in 1990, the average

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11/ "1985 NAB Television Financial Report," National Association of Broadcasters, at 40; "1991 NAB/BCFM Television Financial Report," National Association of Broadcasters, at 33.

12/ "1990 NAB/BCFM Television Financial Report," National Association of Broadcasters, at 33.

13/ "1991 NAB/BCFM Television Financial Report," National Association of Broadcasters, at 64.

14/ See Appendix B hereto for a chart showing cash flow for the average affiliate and independent stations for the period 1984 through 1990.

15/ "1985 NAB Television Financial Report," National Association of Broadcasters, at 40; "1991 NAB/BCFM Television Financial Report," National Association of Broadcasters, at 33.