Summary of
Opening Statement for
David F. Poltrack
Executive Vice President, Research and Planning, CBS Television
At the
FORUM ON MEDIA OWNERSHIP RULES
Columbia University Law School
January 16, 2003

	Under Finsyn Rules	**Today**
Number of hours the average individual watches television	4.02 (1994 – 1995)	4.58 (2000-2001)
Number of channels received by the average viewing home	40 (1995)	102 (2002) - Big 4 = 4% of choices - Big 4 + affiliated cable nets = about 25% of choices
Number of different regularly scheduled programs aired by the 4 broadcast networks in a season	129 (1994 – 1995)	134 (2001 – 2002)
Percentage of programs returning for a second season	33.3% (years leading up to 1993)	33.3% (last three seasons)
Number of series staying on schedule for three seasons	8 – 10 series (years immediately preceding 1993)	7 series (1997 through 2000 seasons)
Diversity of voices: Number of different production entities involved in CBS primetime schedule	38 (1995 – 1996)	43 (2002 – 2003)
Sitcoms (as percentage of 4 networks' schedules)	46% (1994 – 1995)	30% (2002 – 2003, as of January)
Movies (as percentage of 4 networks' schedules)	6% (1994 – 1995)	5% (2002 – 2003, as of January)
News magazines (as percentage of 4 networks' schedules)	8% (1994 – 1995)	9% (2002 – 2003, as of January)
Dramas (as percentage of 4 networks' schedules)	35% (1995)	41% (2002 – 2003, as of January)
Reality (as percentage of 4 networks' schedules)	5% (1995)	15% (2002 – 2003, as of January)

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Good afternoon. I am David Poltrack, Executive Vice President, Research and Planning for CBS Television. Thank you for the opportunity to share with you my perspective on the television programming issues related to the deregulation of the FCC's broadcast ownership rules.

Several of those addressing you today are not only opposing the deregulation of the FCC's broadcast ownership rules, they are proposing the reversal of the 1993 elimination of the Financial Interest and Syndication Rules. While I disagree with their position, I welcome the opportunity to discuss the impact, to-date, of the elimination of these rules on the television programming activities of the broadcast networks. I believe that this discussion will not only demonstrate the positive results of the elimination of the fin-syn rules; but also serve to demonstrate the potential benefits from further deregulation.

The best way to frame this discussion is to look back at the period just prior to the elimination of the rules and analyze what has changed in the network television programming market since that time. Before you today are representatives from the creative community, from the advertising industry and from the broadcast industry. These individuals are speaking on behalf of their sector and are focusing on how that sector will either be harmed by or benefit from the proposed deregulation. However, in your deliberations, the key constituency is the viewing public. How will the public be served by this deregulation?

I would like to devote the remainder of my allotted time to a demonstration how the public has been served by the elimination of the Financial Interest and Syndication Rules.

First of all, the number of hours that the average individual spends watching television has increased fourteen percent, from 4.02 hours during the 1994-1995 broadcast year to 4.58 hours during the 2000-2001 broadcast year, the most recent year for which Nielsen Media Research has reported this statistic. I would argue that this increased level of viewing demonstrates that the public is responding favorably to the enhanced quantity and diversity of programming offered today.

One reason that the viewer is watching more today is the increased amount of program options from which to choose. In 1995 the average viewing home received forty channels of television programming. Shortly, Nielsen will release the number for 2002 and that number will have passed the 100 level, 102 to be exact. The four major broadcast networks represent just four percent of the average viewer's programming choices. Even if you combine all of the cable television networks owned by the parent companies of these broadcast networks' with these companies' broadcast holdings you only account for approximately one quarter of the average viewer's choices.

Second, the number of different programs aired by the television networks in a season has not changed significantly. The four networks aired 129 different regularly scheduled programs during the 1994-1995 television season. These four networks aired 134 different regularly scheduled programs during the 2001-2002 season and have already aired 101 different programs in the first half of this season. And, in response to the growing competition from cable television, the networks are increasing the number of original programs each summer.

So the networks, freed from the constraints of the Rules, are offering viewers more, not less, choice today.

Back in the early 1990s, the proponents of the fin-syn rules argued that, without these rules, the networks would favor those programs in which they had a financial interest. The networks allegedly would keep these programs on the air, even if they were attracting only a marginal number of viewers, in order to recoup their investments. Those favoring the Rules claimed that this would prevent more deserving programs from reaching the viewers.

This has certainly not been the case. In the years leading up to 1993 the networks returned approximately one-third of the programs introduced each season for a second season. For the last three seasons that retention has remained at the one-third level.

It is generally considered necessary for a program to complete three seasons on a network primetime schedule to be a candidate for syndication. Those opposing the elimination of the Rules in 1995 claimed that the networks would keep programs in which they had a financial interest on the air long enough to achieve syndication potential, even if those programs were marginal performers. In the years immediately preceding the sunsetting of the Rules in 1993, eight to ten of the series introduced each year stayed on the schedule for three seasons. For the 1997 through 2000 seasons the average was just seven programs. There is no evidence that the networks are keeping more marginal series on their schedules now that they have financial interest in more of these series.

The network television program market is an intensely competitive market. Only the strongest programs survive. There is too much at stake for the networks to favor marginal programs just because they have a financial interest in them.

So far, our survey of the network program market has not revealed any substantial changes in the composition of that market from the viewers' perspective. However, there has been one significant change in the composition of the network primetime lineups.

Of the 129 different programs on the four networks' schedules for the 1994-1995 season, almost one-half, forty-six percent, were situation comedies. This season, only thirty percent of the programs introduced to-date have been situation comedies. Movies have also lost some ground, declining from six percent of the 1994-1995 lineups, to five percent this season. Newsmagazines remain fairly stable increasing slightly from eight percent to nine percent of the total.

On the plus side, dramas have grown from thirty-five percent of the primetime lineups in 1995 to forty-one percent this season. However, the programming type that has made the biggest jump is reality programming. This form of unscripted programming has grown from five percent of the network primetime schedules in 1995 to fifteen percent this season.

There is a chorus of commenters in the FCC's ownership proceeding---most of whom are in the business of producing sitcoms and movies of the week, the two genres being partially displaced by reality programming--- that are regularly decrying this change in the composition of the television programming landscape.

It may, therefore, come as a surprise to you that I am going to cite this programming trend as an example of how the public is today benefiting from the elimination of the Financial Interest and Syndication Rules. Let me explain.

The reason that there are more reality programs on the network schedules is because the public wants more of this type of program. From 1995 until this season, in the face of an extraordinary increase in competition, the average network program rating has declined 33%. During that same period, a period during which the number of reality programs more than doubled, programs in this genre only declined nine percent in average rating. This season there are currently three reality programs in the Top 10 for Total Viewers. Viewers like reality programs.

So why did we not have more reality programs on the network schedules before 1995? The answer is because of the Financial Interest and Syndication Rules. Under these rules the networks could not develop these programs on their own. They had to find outside programmers willing to supply them. However, the networks' primary program suppliers were the major studios. These studios were not interested in developing programs in this genre because there was no aftermarket for them. Once the Rules were eliminated, the networks, looking for relatively inexpensive programming for the summer, experimented with reality programs. They soon discovered a substantial appetite for these programs.

The fact is that, in many cases, the networks take financial interests in programs only after failing to find outside parties willing to take on the burden of the early year deficits given the increasingly unlikely prospect of a program having a successful network, and syndication run.

Many of the proponents of retaining the fin-syn rules back in the 1990's claimed that the elimination of these rules would result in a financial windfall for the networks. It is estimated that only two of the four major networks and neither of the two new broadcast networks made a profit on their primetime schedules in the just completed 2001-2002 broadcast year. What these proponents of the rules characterized as a windfall has turned out to be merely self-preservation.

Each of the networks now has a new development unit looking for “alternative” program options. Having tapped into an unmet demand for the reality program genre, the networks are experimenting with a greater diversity of program forms.

It should be noted that, along with this diversity in program forms, there also continues to be a diversity of creative voices represented on the network primetime schedules. The 1995-1996 CBS primetime schedule involved thirty-eight distinctive production entities. The 2002=2003 schedule involves forty-three production entities.

Also, this increased diversity has not come at the expense of quality. Most critics acknowledge that programs such as CSI, THE WEST WING, ALIAS, 24, EVERYBODY LOVES RAYMOND, WILL & GRACE and MALCOLM IN THE MIDDLE are comparable to the best programs of television’s past.

The message is clear. The diversity of television programming, prior to 1995, was constrained by the economic structure imposed by the Financial Interest and Syndication Rules. The elimination of these rules has freed the networks to invest in the development of new program forms. Whether or not you personally enjoy these programs, a substantial number of viewers do. Therefore, I would argue that the public has benefited from the elimination of the rules and would certainly not be served by the re-introduction of these Rules. And, bottom line, it’s the public that really counts.

In conclusion, when we analyze the primetime network television program market, before and after the elimination of the Financial Interest and Syndication Rules, the only substantial change that we find is a greater diversity in the types of primetime programs offered to viewers. While the growth of reality or “alternative” programming has adversely affected many elements of the creative community designed to serve the old network programming model, it has also allowed new players to enter the market. The success of these new players has added diversity to the market. It has also stimulated the networks to invest in the search for new and different program forms.

A free market system, with a significant number of competitors and consumer options, will best serve those consumers. The television market of today is certainly one of many competitors and myriad consumer options. The viewers’ choices have more than doubled since 1995. The time has come to remove the outmoded and unnecessary regulations that prevent it from being a truly free market.

Thank you