

1 Neither being the case, let me conclude simply by saying
2 that I think the decisions facing the FCC are extraordinarily
3 difficult and important. If you went back 50 years in this
4 country and picked the average community, they would be lucky
5 if they saw three television stations. Today, 50 years later,
6 there are double or triple that number of over-the-year
7 broadcast stations, there are more radio stations, and if you
8 can afford them, a big if, there are also access to hundreds of
9 DBS channels and cable channels. As well as new developing
10 media, cellular, Internet and so forth.

11 At the same time one clear message, I think, we heard from
12 virtually all the panelists is the importance of leaving room
13 for creativity. And the relationship between structure and
14 creativity is extremely important.

15 As Repound once said, that artists are the antenna of the
16 race. The artists are those who, through their intuitions,
17 vaguely perceive the future and translate them into creative
18 tangible form. And I think its extraordinarily important that
19 whatever formula the FCC comes up with, there is some capacity
20 for building into that mathematical formula the ability to
21 measure the potential of any ownership structure for not only
22 permitting creativity, but for enhancing it and sustaining it.

23 We will take a five- to ten-minute break and then we will
24 start with our next panel.

25 Thank you very much.

1 **MS. ORTIZ:** Those of you who have signed up for the public
2 comment period, when the second panel ends, would you please
3 meet me over here by the podium so I can just explain to you
4 how we're going to do this. We'll take a break after the
5 second panel, and then start the public comment period.

6 **MR. WESTEN:** All right. Thank you for making that break
7 so quick and efficient.

8 Our current panel is on local news. Dualopoly and
9 cross-ownership rules. I think it goes without saying that
10 local news is one of the cornerstones or needs to be one of the
11 cornerstones of an American broadcasting system and American
12 democratic system. The issue is difficult because ultimately
13 the issue is not how good is local news but what's not on,
14 what's missing. And is there a relationship between what's
15 missing, if anything, and ownership and structure.

16 Now, the FCC has spent enormous effort over the last 70
17 years structuring at first AM radio and then FM radio and then
18 television, to encourage high quality and diverse local news.
19 And throughout, the FCC has struggled to increase the number of
20 broadcast stations on the assumption that more stations is
21 healthier than fewer stations and that more stations will
22 generate better news, more news, and so forth.

23 In the 1980s the FCC, and then in the 1990s, Congress
24 began to change their approach, allowing group owners to vastly
25 increase the ownership of radio in particular to where in some

1 markets up to half the audiences are now controlled by one
2 particular owner. And now the FCC is considering new revisions
3 to those rules addressing television and newspaper
4 cross-ownership and increased dualopoly ownership of let's say
5 more than one radio or more than one television station in the
6 market.

7 And these I think extraordinarily important questions, and
8 the core issue here is how to spark again the most vital
9 creative and diverse local news operations possible.

10 Do we need greater concentration of control in order to
11 give us that quality of high quality news? Or will greater
12 concentration of control decrease local news quality, pushing
13 national organizations to centralize their operations in
14 New York or Minnesota or Los Angeles?

15 And today we have with us again an extraordinarily
16 talented and diverse group of panelists. Let me again say that
17 we have about ten minutes for each presentation, and we will
18 begin on your far left with Marty Kaplan.

19 Marty is Associate Dean of the USC Annenberg School of
20 Communication. He's the director of the Norman Lear Center,
21 and a former White House speechwriter and journalist. Marty.

22 **MR. KAPLAN:** Thank you, and thank you, Commissioner Copps,
23 for encouraging us to turn out today and to be part of your
24 road show that's so important.

25 My theme today is, what do we need to know? What do we as

1 citizens need to know to live our daily lives in this society,
2 but also what do we, the FCC, need to know? It's a little
3 presumptuous to say that we are the FCC, but you are our
4 trustees, you are commissioned, someone has to commission you.
5 We commissioned you, so we have to ask ourselves collectively
6 as a society, what is it that we need to know in order to do
7 what we in the name of the FCC are about to do?

8 Since 1998, with my colleague, Dr. Matthew Hale, who's
9 here today, I've been conducting empirical studies of the
10 content of local news on broadcast television. In particular,
11 we've been looking at the quantity and quality of political
12 campaign coverage by stations across the country in races at
13 all levels of government in both primaries and general
14 elections.

15 What's motivated these studies has been Thomas Jefferson's
16 idea that Americans need to be informed in order to be good
17 citizens. Since most Americans today say that they get most of
18 their news from local television stations, the kind of
19 attention that those stations pay to campaigns and elections,
20 not in paid ads but in journalism, is a good measure of the
21 health of our democracy.

22 Our most recent study is funded by the Pew charitable
23 trusts and conducted in collaboration with the news lab at the
24 University of Wisconsin, Madison, under the direction of
25 Political Science Professor Ken Goldstein. To date, we have

1 captured and analyzed, from the 2002 midterm elections, about
2 90 percent of the campaign news stories that aired on the
3 top-rated early evening half hour and the top-rated late
4 evening half hour on 122 randomly selected stations during the
5 last seven weeks of the campaign throughout the country. The
6 stations are a representative national sample of the four
7 top-rated broadcasters in the top 50 U.S. media markets
8 covering 65 percent of the nation's households. Our data set
9 of campaign stories is culled from more than 4,000 hours of
10 local news programming, and we have analyzed to date almost
11 7,000 stories. It is the most ambitious such study ever
12 undertaken in the U.S.

13 And today I'm going to be releasing for the first time the
14 national findings of that study. And as you listen to these
15 numbers, keep in mind as a kind of baseline: When the spectrum
16 was given away for free in the late 90's it caused a creation
17 of a commission that was co-chaired by Les Moonves, the
18 president of CBS, and political scientist Norm Bernstein called
19 the public interest obligations of broadcasters in the digital
20 era.

21 The question they asked is, what is it that we the public
22 should get in exchange for giving the spectrum \$80 billion, or
23 so, worth of real estate? What do we deserve to get in return
24 for that? And their answer was A) We shouldn't have a new
25 regulation. We should do it on a voluntary basis. And

1 B) Here is the recommendation they came up with. They said
2 that in the last month of every campaign, primary and general,
3 presidential and mid-year, that every station, every night,
4 should contain five minutes of candidate discourse, of
5 candidates talking on their news. So that's the baseline, five
6 minutes a night, every station around the country, every race.

7 Here's what we found in our study: Forty-eight percent of
8 the early and late evening half hours of local news watched by
9 most Americans during the 2002 general elections, nearly a
10 majority of the broadcasts in our sample, contained no campaign
11 coverage at all. When campaign stories did air, they mostly
12 were less than 90 seconds long, they mostly contained no
13 soundbites from candidates, they mostly came in the last two
14 weeks before election day. They focused on strategy and polls,
15 the horserace stories nearly half the time. They focused on
16 statewide over local races by almost seven to one, and they
17 were out numbered by paid campaign ads by nearly four to one.

18 In other words, most Americans probably saw more primetime
19 entertainment on a single night than they saw election coverage
20 over an entire campaign season of watching local news.

21 The -- the full results will be found on our website,
22 www.localnewsarchive.org, where you can not only shortly see
23 the results nationally and by local stations, you can actually
24 gain access to and watch all 7,000 stories.

25 Today, the FCC is reported to be searching for an

1 objective formula for, as it says on its own website, a sound
2 empirical basis for FCC media ownership policies that promote
3 competition, diversity, and localism. Any such formula must
4 take account of the current reality of local news. With the
5 FCC's obligation to promote competition, diversity, and
6 localism comes the obligation to measure competition,
7 diversity, and localism. Until the FCC has empirical tools to
8 measure local news and until it has used those tools in a broad
9 sample of the nation's media markets, it will not be possible
10 to conclude that current policies can achieve the FCC's goals.
11 And it would be a riverboat gamble to overthrow those policies
12 in order to do a better job of achieving them.

13 Of course the First Amendment permits local news
14 broadcasters to air the amount and quality of news that they
15 want, subject to the FCC's licensing requirements. And yes,
16 some ways of assessing journalistic quality involve subjective
17 elements. Drawing the line between hard and soft news, for
18 example, may differ from person to person and place to place.
19 But our research on campaign news suggests that there are some
20 objective yardsticks that everyone might be able to agree on.

21 For example, we measure the percentage of broadcast news
22 time that local stations spend covering campaigns and
23 elections. The percentage of news broadcasts that contain at
24 least one campaign story. The average length of campaign
25 stories. The percentage of a station's campaign stories about

1 local races, and the frequency of length of candidate
2 soundbites. Today, no one knows what those numbers look like
3 across America. Not for individual stations, not for
4 individual media markets, and not for station ownership groups.
5 The closest that anyone has come to drawing those nationwide
6 baselines, is the Lear Center research that I've described
7 today, and our study is limited. Yet even with it's
8 limitations, our data are powerfully suggestive of what a
9 comprehensive national study could reveal.

10 For example, there is a huge range of performance among
11 the 122 stations we studied. Some stations aired the campaign
12 story on less than 20 percent of their top-rated half hours.
13 Other stations had campaign stories on more than 90 percent of
14 those broadcasts. Some stations spent only one percent of this
15 most-watched news time on campaigns. Other stations spent as
16 much as 11 percent. On some stations, an average campaign
17 story was well over two minutes long. On other stations, it
18 was just 40 seconds. Nine stations covered no local races at
19 all during their top-rated half hours. Four stations devoted
20 more than half of their political coverage to local races.
21 Other measures also demonstrate how different television
22 stations around the country can be.

23 This raises the research question of what range of news is
24 available to Americans within individual media markets, where
25 they live and watch and vote. And it brings as the policy

1 question of what ranges constitute acceptable competition,
2 diversity, and localism. Here, too, our findings are
3 suggestive.

4 Our study included 22 markets where we analyzed as many as
5 three or four stations within that market. When you look at
6 the percentage of news time they gave to campaign news and the
7 frequency and length of their campaign stories, what did we
8 find? In half of those 22 markets, virtually all the stations
9 we studied were below or at the national average on each of
10 those three measures. Localism shows a comparable result.

11 When you measure what percentage of campaign stories in those
12 22 markets went to local races within half -- with in those
13 markets what we discovered was that within half of our markets,
14 all the stations we studied were below the national average.

15 For the FCC to do its job, it must be able to relate
16 station ownership to station performance measures like these.
17 While our research was not designed to study that correlation,
18 our 122 stations do include 45 owned by large owners, with
19 audience reach above 20 percent, 54 owned by medium-sized
20 owners, and 23 by small owners.

21 It turns out that nationwide, the large owners in our
22 study carry a lower percentage of local campaign news than the
23 national average. The medium and small owners carry a higher
24 percentage of local campaign stories. Our sample picked up 24
25 markets where we have data from stations with large owners

1 competing with stations from small or medium owners, or both.
2 In two of those 24 markets we're awaiting final numbers, but in
3 16 of the remaining 22 markets, stations with small or medium
4 owners provided more coverage of local elections than with the
5 large owner. There were only two markets where large owners
6 provided more local campaign coverage.

7 Before the FCC lifts the ownership caps, wouldn't it be
8 useful to find out how owner size actually correlates to local
9 campaign coverage and to other objective measures in markets
10 around the country? What we already know from our study is
11 this: Depending on what city Americans live in, the campaign
12 coverage they get can be rich, poor, or anywhere in between.

13 Media competition, diversity, and localism -- those three
14 FCC goals -- aren't about national averages. They're about the
15 actual opportunities afforded by broadcasters to citizens
16 within individual markets. Today no one knows what that
17 complete picture actually looks like. Not for campaign news,
18 not for any other kind of news. We're happy to make our data
19 available to anyone wanting to start drawing that picture, but
20 until those ambitious studies are conducted, any major changes
21 in media ownership rules by the FCC can be no more than a roll
22 of the regulatory dice. It is difficult to imagine Thomas
23 Jefferson entrusting the future of American democracy to a
24 crapshoot.

25 Thank you.

1 **MS. TEAGUE:** -- at KCBS. When I worked at KCAL, it was
2 owned by Disney, and although Disney's taken its share of
3 bashing today, I will say that its purchase of KCAL years ago
4 and its commitment to television news and putting three hours
5 of primetime news on the air I think really has been a benefit
6 to this -- to this market. I worked for KCBS under a variety
7 of owners including Larry Tish, Westinghouse, Viacom, and there
8 was some Pillsbury guy in there somewhere. I can't even
9 remember what his relationship to us was.

10 But the other duopolies that we're witnessing right now
11 here in this market are KNBC-TV, KVEA, and KWHY, which is part
12 of the NBC-Telemundo merger. And there's also the merger of
13 KTTV, FOX 11, and KCOP, which are now one television station,
14 or operating as one unit. So it's really -- even though we're
15 a year into the merger of KCAL and KCBS, it's really too early
16 to tell what the full effects of this are going to be.

17 But let me talk a little bit about why the KCAL and KCBS
18 merger is significant. As those of you who have spent much
19 time watching television news in Los Angeles, you know that
20 KCAL was quite a local news force in this market. It was a
21 very strong independent, non-network affiliated station. So it
22 had no obligation to any sort of networks, and it had very
23 strong news. It -- as I said, we put on the -- I was there
24 when we put on the first three-hour block of primetime news.
25 The station routinely broke into programming for breaking news,

1 regularly offered more election coverage of virtually any
2 station in Los Angeles, and offered more live election night
3 coverage of any station in the market.

4 KCBS on the other hand was -- traditionally has been kind
5 of what I call the "also ran" station among the three network
6 affiliates. And one reason for that is that even though it's
7 owned by a major corporation, it's had frequent management
8 changes, shifts -- frequent shifts in management philosophy,
9 frequent turnover of on-air talent, and really a confusion
10 among viewers about the station's identity. Whether it's, you
11 know, one -- one day it's the breaking news station, and the
12 next minute it's a, you know, long-form station and people just
13 get very confused about what it is.

14 It's also suffered from repeated budget cuts by its parent
15 corporation. I know I went through many of those when, you
16 know, the -- one of the ones that I remember the most was when
17 we were ordered to do lots of tie-ins when Survivor first came
18 on the scene. And so we went out and dutifully did our part
19 about, you know, what kind of recipes you can find for cooking
20 bugs in the wild and found people who actually did this and,
21 you know, and all of the CBS stations did this and helped make
22 Survivor a success.

23 Well, a few weeks later, you know, right after Survivor
24 aired, you know, everybody was thrilled and said, "Oh, we've
25 made so much money." And then a couple of weeks later they

1 came through and announced that our particular station hadn't
2 made its revenue targets and then we were cutting millions of
3 dollars from the budget and that was going to mean cuts within
4 the news department. So, you know, I went through many, many
5 times -- many, many situations like that, but what the result
6 of that was that it really took away the resources that that
7 particular station had to cover news.

8 I was fortunate about six years ago to be a part of an
9 effort to -- to change the station's identity to one of serious
10 investigative reporting through the creation of the special
11 assignment unit and also a branding campaign, which some of you
12 may remember, which was called What's Right With Southern
13 California. And it was, you know, having some success. We had
14 a general manager who was looking long term and trying to --
15 which was one of his big mistakes, looking long term in
16 television -- and he -- you know, we were very -- you know,
17 trying to, you know, bring the station back and put it on the
18 map for something substantive. Well, that didn't, you know,
19 last very long. They said that he wasn't spending enough time
20 on the bottom line, so he was removed. And as a result, they
21 pretty much dismantled the effort. Special Assignment still
22 exists but it's kind of, you know, a shadow of its former self.

23 In other -- in some cities, what's happened with
24 dualopolies is that the -- both stations have continued to
25 maintain their own identities and -- to the point of competing

1 with one another. Well, what's happened with KCAL and KCBS is
2 a complete blending of these two stations. And they're now
3 housed in the same location, coverage decisions for both
4 stations are made at joint editorial meetings and through one
5 assignment desk. Reporters work for both television stations
6 and, in fact, they carry mike flags, you may have seen them,
7 where you -- one side says "Channel 9", and you can just turn
8 it and the other side says "Channel 2." So one moment you're
9 Channel 2, and the next minute you're Channel 9.

10 Anchors who -- you know, traditionally that's who you
11 identify with a television station. They regularly have show
12 assignments, but they also -- there's a lot -- there's been a
13 lot of switching from, you know, from station to station. So
14 people are very confused about, you know, which station is
15 which. And one reporter told me that, you know, people say,
16 "Well, are you not there anymore?" You know, because they
17 don't -- you know, they're just very -- it's confused the
18 audience.

19 There's a real minimal effort to maintain the identity of
20 either one of these television stations. The photographers and
21 reporters are providing coverage of 11½ hours of news each
22 weekday on both of the stations, if you combine how much
23 they're doing each day, which is a lot of news, obviously. But
24 what's happening is that the reporters say that they don't have
25 enough time to do quality reporting that they once did when,

1 for example, KCAL was independent from -- from KCBS. So what's
2 happening is that they don't have -- they have to be live all
3 the time, and they don't have time to change their stories from
4 newscast to newscast.

5 But if you're at KCBS, you think, well, this is great
6 because we have all these resources. We have now two
7 helicopters to cover news. We -- you know, we have more
8 reporters than we once did because it was a station that had
9 just been drained by Viacom. And the effort seems to be at
10 this point that the -- they are trying to prop up KCBS as, you
11 know, to the -- to the detriment of KCAL.

12 So the effect seems to be a loss of identity for a once
13 strong, independent voice in Los Angeles. And that's of KCAL.
14 Since they're trying to prop up the weaker dualopoly partner.
15 Since they once made coverage decisions independently, now
16 you've got one set of voices; you have one decision. If
17 there's a story that perhaps a lot of different stations are
18 covering in the day, there would be discussions of each of the
19 television stations about, how are we going to cover this
20 story, who are we going to speak to, you know, what angle are
21 we going to take to story? Now you have one decision. And
22 they'll go to one location, as opposed to two locations. And
23 so that, I mean -- that seems like a small number. But I mean,
24 there's a lot -- you -- you add up all of those decisions that
25 are being made throughout a year and that's a lot of different

1 locations that you're not going as a result.

2 So the product has been diluted. There's, you know,
3 communities have one less outlet to get truly local news on the
4 air. People are always complaining about trying to get through
5 to anybody at television stations. I worked on the assignment
6 desk and on the planning desk for many years. You know, trying
7 to get through to anybody and get their attention about a story
8 is virtually impossible. Unless it's appeared in the paper,
9 unless somebody at this television station just happens to be
10 interest in what it is that you're pitching, you know, you're
11 really going to be out of luck. So it's even more difficult
12 now with what's going on.

13 Sure.

14 I was just going to comment. One other -- one other thing
15 that's going on is the KNBC-KVEA merger, and those -- those
16 stations are about to merge at the end of -- at the end of this
17 month and they will began to have their -- have newscasts from
18 the same location and produce news together. So it's a matter
19 of -- that one is obviously of great concern because you
20 have -- in Los Angeles you have a real competitive situation
21 between Telemundo and Univision. And to now have one of those
22 voices be taken over by NBC, it's going to be very interesting
23 to watch.

24 So in -- in conclusion, what I would urge the FCC to do is
25 to study what's going on right now because I think it's just

1 too early to be able to tell what the final outcome of all of
2 these mergers has been so far. And I just think that there's a
3 lot more information that we need and a lot more evidence that
4 we need.

5 Thank you so much for your time.

6 **MR. WESTEN:** Thank you, Sylvia.

7 Our next panelist, Jay Harris, is former publisher of the
8 San Jose Mercury News, and currently holds the Wallis Annenberg
9 Chair for Journalism and Communications at the USC Annenberg
10 School and is founding director of the Center for Study of
11 Journalism and Democracy. Jay.

12 **MR. HARRIS:** Thank you very much, Tracy.

13 Good afternoon, ladies and gentlemen. I truly appreciate
14 the opportunity to speak at this forum, and I'd like to start
15 by extending by thanks to Commissioner Copps and the FCC staff
16 participating in this forum, and to Sandra Ortiz, executive
17 director of USC Center for Communication Law and Policy, for
18 organizing it.

19 I'm particularly appreciative of your commitment to this
20 endeavor because of my concern that the public has only a
21 minimal awareness of the sweeping rule changes the FCC is now
22 considering. They do not know about the possible, if not
23 probable, long-term impact of those changes on the news media
24 the American people rely on for the information they need to
25 fulfill their responsibilities as citizens.

1 Now, the commission has invited comments on the proposed
2 rule changes and related studies and received several thousand
3 comments in response. In addition, several thousand e-mails
4 have been received and public hearings held. These facts
5 inarguably reflect a degree of public input, but the volume of
6 comment and the official process notwithstanding, I think it's
7 safe to assert that the vast majority of people outside the
8 beltway are not well or fully informed about the content or the
9 likely impact of the proposed changes.

10 And if it is true, that most Americans are generally
11 unaware of the changes being considered, the public discourse
12 and public input that are bedrock ideals of our form of
13 government have been largely illusory. So this hearing is
14 particularly welcome.

15 I approach my remarks today with a particular focus on the
16 public interest in the rejuvenation of an independent, diverse,
17 and robust American news media. It is a subject I have some
18 familiarity with having worked in journalism for more than
19 three decades and positions including stints as a local and a
20 national reporter, as executive editor of one metropolitan
21 daily and publisher of another, and as a vice president for
22 operations of one of the nation's largest newspaper companies.

23 Based on the experience and a personal familiarity with
24 the dramatic changes that have swept the news media during my
25 career, I would list the following among the most concerning of

1 the likely consequences of the changes the commission is
2 considering:

3 First, a further reduction in the quality and quantity of
4 news and information that Americans must have to fulfill their
5 responsibilities as citizens in our democracy.

6 Second, a reduction in the diversity of voices and points
7 of view in the continuing dialogue among citizens about matters
8 of public import that a true and vital democracy requires.

9 Third, the probability that the rule changes will lead
10 eventually to the further deterioration of the already
11 lamentable quality of local television news in most
12 communities.

13 And finally, the possibility that increased consolidation
14 and cross-ownership of television and newspapers in a single
15 market may lead to still more market-driven deterioration of
16 the capacity of local newspapers to serve the needs of their
17 communities.

18 You will note that I have stressed the public interest in
19 framing my concerns about the potential impact of the proposed
20 changes. I do so for two reasons. First, because I believe
21 the public interest should be the paramount consideration in
22 the development of the laws and regulations that govern our
23 society. And second, I understand the public interest to be
24 the central -- to be central to the responsible conduct of the
25 FCC's mission, from its inception in the 1930s through to this

1 day.

2 Many observers believe that the priority of ascertaining
3 and secured -- securing the public interest in its domain of
4 responsibility is not the clear cut imperative for the
5 commission that it once was.

6 The dominant trend at the commission since the mid-80's
7 has been the weakening of regulations and guidelines for the
8 broadcast industry. And the resulting impact on the public
9 interest as it is represented in broadcast news programming has
10 been decidedly negative. Local television news is the primary
11 source of news for most Americans, but the substantive content
12 of local television news reports has declined more or less
13 steadily in most markets. So has the quality of the journalism
14 local television news organizations produce.

15 During the last 20 years or so we have witnessed the
16 takeover of the vast majority of our nation's television and
17 radio news organizations by corporate conglomerates. It is
18 ever more clear that the paramount priority of these
19 corporations is not journalism in the public interest. It is
20 increasing profits and return to shareholders. This should not
21 be surprising as this is the primary purpose of these
22 businesses.

23 It must be said in fairness that there are a few among
24 them that do strive to balance the business priority of growth
25 in profits and returns with the social priority of fulfilling

1 that public trust, which journalism, regardless of the media
2 delivering it, constitutes. But such corporations are a
3 decided exception.

4 Compounding the problem of the priority on growth,
5 profits, and increased return is the now dominant pursuit of
6 the highest audience ratings, the broadest market penetration,
7 or the lowest common denominator in content. This is
8 manifested daily in many ways, not the least of which is the
9 increasing and worrisome tendency most evident in television to
10 blend news and entertainment and news and entertainment values.

11 It should not go unnoted that this period has also
12 witnessed the demise of serious journalism at most radio
13 stations in our country. And it must be said clearly that the
14 cumulative effect of these and other factors is the slow
15 starvation of American democracy, an unintentional act
16 accomplished by depriving citizens of the informational
17 sustenance they require to actively engage the responsibilities
18 of citizenship.

19 A visit to the FCC website reveals that neither in the
20 summary statement of the commission's strategic goals nor in
21 the summary statement of its six general goals for the next
22 five years is the term "public interest" to be found. This may
23 reflect the ascendant view at the commission over much of the
24 last 20 years.

25 For example, in her prepared remarks for the address to

1 the PLI conference in late 2001, Commissioner Abernathy
2 described her view of the FCC's public interest obligation.
3 "Although at times I wish I could end my inquiry into the
4 public interest with the plain language of the statute, more is
5 required of the commissioner," she said. "My regulatory
6 philosophy," she went on, "begins with the fundamental notion
7 that competitive markets function better than regulation to
8 maximize the public welfare."

9 Now, an alternative view was offered by former
10 Commissioner Tristany in remarks prepared for delivery for two
11 years earlier, on the occasion of the release of a notice of
12 inquiry on the matters of public obligations of TV broadcast
13 licensees.

14 "The most important aspect of the public interest standard
15 is this: It's the law," she said. "Congress imposed the
16 public interest standard 70 years ago and has never wavered in
17 its insistence that it apply to every broadcast licensee. The
18 difficulty, of course, is in defining the public interest," she
19 continued. "On its face the standard is broad and requires the
20 commission to exercise a great deal of discretion, and simply
21 because the task is difficult is no excuse for shirking it."

22 Whatever the view of individual commissioners, this much
23 would seem to be clear. In the proceedings at hand, the
24 commission has a responsibility to consider the full range of
25 possible and probable consequences of the rules it promulgates,

1 not just the specific intent and goals of the proposed new
2 rules. An examination of the proposed rules and the strategic
3 and five-year goals of the commission suggest a particular
4 emphasis on markets to produce public good.

5 In the same remarks in 2001, Commissioner Abernathy cited
6 her second guiding principle regarding regulation by the FCC,
7 and I quote, "Fully functioning markets deliver greater value
8 and services to consumers than heavily regulated markets do.
9 Despite the noblest intentions, governments simply cannot
10 allocate the resources, punish and reward providers, and
11 encourage innovation as efficiently as markets. The history of
12 our nation and the demise of those that adopted centrally
13 planned economies makes this proposition indisputable. While
14 there is a critical role for regulation," she concluded, "we
15 should strive to rely on and trust market forces whenever we
16 can do so consistent with the statute."

17 This represents fairly, I think, the ascendant view in
18 communications regulation over the last 20 years. But others
19 would insist that while competitive markets are generally good
20 for producing efficiency, innovation, and profits, they do not
21 produce social good or serve the public interest as a matter of
22 course.

23 I am reminded here of an article that appeared in the
24 New Yorker last year. It quoted a 1926 essay by the legendary
25 and respected economist John Maynard Keynes.

1 Let us be clear -- "Let us clear from the ground the
2 metaphysical or general principles upon which, from time to
3 time, laissez faire has been founded," Keynes wrote. "The
4 world is not so governed from above that private and social
5 interests always coincide. It is not so managed here below
6 that in practice they coincide. It is not a correct deduction
7 from the principles of economic, the enlightened -- that
8 enlightened self-interest always operates in the public
9 interest."

10 Now the effect of market forces on the American news media
11 over the last 20 years supports Lord Keynes' assessment.
12 Consider the fact. Thanks to technological developments we
13 have witnessed a significant increase in the number of networks
14 and the channels available via cable and satellite. But we
15 have seen nothing near an equivalent increase in the number or
16 percentage of public affairs, political, and news programming
17 that the FCC once listed among the usually necessary indicators
18 of broadcasting in the public interest. We have witnessed the
19 emergence of giant television conglomerates, but one of the
20 largest reportedly eliminated local news programming in two
21 communities well known to Americans. The reported reason,
22 declining advertising revenues.

23 **MR. WESTEN:** Jay, if you can take a minute.

24 **MR. HARRIS:** I will take one minute.

25 It is a paradox of our times, our culture, and our

1 national priorities that the best journalism in America today
2 is better than ever. That is true in terms of techniques of
3 craft, fairness, and professionalism, diversity of coverage and
4 of staff and of quality and comprehensive -- of
5 comprehensiveness of news reports. However, in terms of
6 serving the needs of the citizens of the democracy, as regards
7 their responsibilities as citizens, the news media on average
8 perform that function less well than they once did.

9 Fewer people than one would want take advantage of the
10 best of American journalism. There are fewer and fewer
11 independent journalistic voices and an increasing number of
12 Americans are drawn to a shallow journalism that is a creation
13 of the marketplace, including a new pseudojournalism, which is
14 really nothing more than entertainment which uses the news as
15 grist for its mill.

16 And I conclude with these two observations. More people
17 watch the O'Reilly Factor on the average night than buy the
18 New York Times on the average day. On the Friday just past, I
19 asked the political consultant James Carville his affect of
20 shows such as Hannity & Colmes, Crossfire, and the O'Reilly
21 Factor on political dialogue and civic literacy in our country.
22 Carville, as you may know -- may know, is a host on CNN's
23 Crossfire, and this is what he said. "The viewers that turn to
24 such shows use them like a drunk uses a lamppost, for support,
25 not illumination." And he concluded -- and he concluded with

1 this observation about such shows, which are growing in
2 popularity. "It's entertainment."

3 Thank you very much.

4 **MR. WESTEN:** Thank you, Jay.

5 Our next panelist is Shaun Sheehan, who is currently vice
6 president for Washington Affairs at the Tribune Company and has
7 been since 1992. And I understand from the Tribune's website
8 that they own not only the L.A. Times and KTLA, Channel 5 here
9 in L.A., but they're the only media company with newspapers,
10 television stations, and websites in the nation's top three
11 markets, New York, Los Angeles, and Chicago. Shaun.

12 **MR. SHEEHAN:** Clearly that's the reason I'm here. We had
13 the opportunity to absorb the Times Mirror Company into Tribune
14 a few years ago, driven by the Staples Center scandal as Jay
15 well remembers. And that put -- that abuts us against the
16 newspaper cross-ownership rule, which quite frankly hasn't
17 gotten much discussion here. But given the proximity of the
18 Hollywood community, I could see why it's centered on the -- on
19 the production community.

20 I'm going to limit myself to that particular rule. It's a
21 fascinating rule. It was adopted in 1975. It's legs, though,
22 really go back to the 1930's with the old chain radio rules,
23 which is where all the -- Tracy spoke to this earlier.

24 In '75 the rule was put on and yet there were two
25 startling admissions by the commission. One of which is

1 television stations, who were owned by local newspapers, put on
2 the air more news and public affairs than any other category of
3 ownership that they could find. Secondly, they could establish
4 no harm driven by these existing combinations. Given that --
5 for that very reason many of the existing combinations were
6 grandfathered going forward, including the Chicago Tribune and
7 WGN in Chicago. In those days we used to own the New York
8 Daily News. So it was the New York Daily News and WPIX.

9 Other notable examples would be Belo and Alice of the
10 Dallas of the Dallas Morning News and WFAA and Cox in Atlanta,
11 WSB in the Atlanta Constitution.

12 I mention this because it's -- it's important to bear in
13 mind that no harm was found in '75. The Courts, however,
14 finding for the commission said we're going defer to you in
15 your predictive judgement, but somewhere down the line if
16 technology drives the process, bring the issue back to us
17 because you're starting to get very close to First Amendment
18 grounds that, quite frankly, we don't think you should be
19 treading on.

20 In 1975, and the good professor went through this a bit
21 earlier, there were about 950 television stations. Now with
22 low power, there's over 4,000. There were 700, 785 -- 7,785
23 radio stations. FM was very much in its commercial infancy.
24 Now we have 13,000 radio stations. Less than 10 million people
25 subscribe to cable. You all know it's over 70 million homes

1 have cable with over 230 national cable channels. Home
2 satellite dish viewing didn't exist. It's up to about 20
3 million homes.

4 The only thing that's gone down in net numbers from 1975
5 to the present is daily newspapers. I raise this because when
6 you say "scarcity" that's the underpinning for many, many
7 things in -- in telecommunications policy. Not just ownership,
8 but also EEO rules must carry requirements, et cetera. So this
9 rule we think puts scarcity very much in play unless it's
10 ameliorated, dropped or rescinded to some extent.

11 The next big event that comes along is the '96 cable act,
12 which the professor went through in detail, and the -- the
13 notion behind requiring a biennial review is really rather
14 simple. The migration of viewership from free media to pay is
15 so pronounced that it was thought that we have to open up these
16 rules, have them looked on a biennial basis to allow these
17 companies to gain scale, and so that they can continue to do
18 their public affairs, news, and what we deem to be in the
19 public interest.

20 The overarching notion is that a free system of broadcast
21 is a national treasure and it should be preserved. It, by the
22 way, is also the reason spectrum was allocated to broadcasters
23 through the existing spectrum block to allow going to digital.
24 Now Marty offered a figure of \$80 billion. I've heard 70
25 before. It's the first time I've ever heard \$80. More

1 recently Bear Stearns looks at that number, and given the
2 deflation of the value of spectrum, it's down to about
3 \$500 million. We can quibble about that, neither here nor
4 there. But the notion of a free medium, a very, very important
5 concept to bear in mind.

6 Further as the professor noted, the onus is now on the FCC
7 to justify retention of these rules. In the newspaper rule, if
8 you couldn't find a predicate in 1975, we find it very, very
9 suspect you're going to find one in the year 2003. Now the
10 commission did go out and commission several studies. I think
11 there's 12 or 14, two or three of which look at newspaper
12 ownership. All of which conclude precisely what they found in
13 '75. Guess what? Stations that are owned by local newspapers
14 air more news and public affairs than any other category of
15 station. We think, therefore, that buttresses our case that
16 much more completely.

17 Why news? If you're in the broadcast business like I am,
18 my company is, we own 26 television stations. Given the fact
19 that you do have 230 cable channels coming in against you, the
20 only thing that really differentiates you're signal against
21 your competition is the ability to go local. And local by
22 definition is news.

23 In this market, just a few years ago we never had a
24 morning newscast. We now put on four hours a day, I believe.
25 We do an hour at noon and another hour in the evening during

1 primetime. It's an enormous commitment. And what we want to
2 do is unleash the journalistic capabilities we also have in the
3 newspaper. We have 1,100 reporters on the street with the
4 L.A. Times. That's a huge aggregate cost. There's no other
5 institution in L.A. that has that kind of value that they can
6 put out on the street, and what we're attempting to do as
7 readership declines, is we're trying to find the venues through
8 which people in the L.A. market get their news and we're trying
9 to reach them.

10 The Internet competes against us for classifieds, but it
11 doesn't compete against us for newsgathering. And we think,
12 giving all -- given all I've just mentioned, given the
13 progression of media, given the fact that there was no factual
14 underpinning in '75, given the fact that the '96 act now
15 requires that FCC to justify if there's one rule that's ripe
16 for repeal it's the newspaper rule.

17 Thank you.

18 **MR. WESTEN:** Thank you very much.

19 Our next panelist is Val Zavala, vice president of News
20 and Public Affairs at L.A. public television station KCET; also
21 co-anchor of Life and Times, which many of you have seen, and
22 she has won numerous awards for her achievements. Val.

23 **MS. ZAVALA:** Thank you. Many of you have seen and been
24 on, as I look around the room.

25 First of all I'd like to thank Commissioner Copps. This