

F.C.C. HEARINGS CONCERNING  
MEDIA CONSOLIDATION

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Remarks by  
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Chairman Martin and the other members of the Commission, welcome to Los Angeles, and thank you for this opportunity to speak about an issue that plays such a large role in our lives as creative members of the entertainment community.

My name is Marshall Herskovitz – I am a producer, writer, and director in television and films, having helped create such series as “thirtysomething” and “My So-Called Life”, and such films as “Legends of the Fall”, “Traffic”, and “The Last Samurai”. I speak to you today in my capacity as president of the Producers Guild of America.

Consolidation of industries is a fact of life in America, and one can argue its merits or dangers to society, but the consolidation of media must be looked at through an entirely different lens, since information is literally the lifeblood of a free society. Without a truly free flow of information, our nation cannot possibly fulfill the terms of the First Amendment to the Constitution.

There is no question in the mind of anyone in our industry that consolidation of media does, and will increasingly, restrict the free flow of information, for the following reasons:

First and foremost, the dissemination of information – and by information I mean the full gamut of communications in our country – is no longer even the primary goal of these corporations. In the old days, each communications entity, be it a newspaper, local television station, movie studio, or network, was owned and operated by people who were passionate about that one thing. Even though most were publicly held corporations, nevertheless there was a demonstrable pride in the fulfillment of a public trust. That pride was evident in the legendary names – and long tenures – from that bygone era: Sarnoff, Paley, Goldenson, and many more.

The purpose of a modern media conglomerate is to serve the bottom line of that conglomerate. There cannot possibly be the pride of a public trust when your company has stakes in literally dozens of different media outlets who have been mandated to cross-promote each other and show steady growth in each quarter. In such circumstances a newspaper or a network cannot be a calling, they can only be an asset, and an expendable asset at that.

The result of this shift in priorities has been a shift in programming, one that is evident to every single creative member of our community. You have other panels that will cover the news divisions, and the danger to our society when a news bureau's mandate is to be marketable rather than truthful, but that mindset also affects the entertainment divisions of these corporations.

When I started in this business there were three networks. Each network, blocked by this Commission from owning its own programming, chose from literally dozens of production companies the best programs it could find. These networks saw themselves as broadcasters first of all, as a conduit to the American people for ideas and entertainment, a "department store" if you will, where the consumer could find a broad range of programming. Today, the situation is markedly different. Each network or cable channel, part of a media conglomerate, is charged with asserting its own "brand identity". Programs that aren't compatible with that identity are discarded. Each network also is charged with doing business as much as possible with its own corporation's production company, thus limiting the pool of possible candidates.

I have personally felt the effects of this change. Back in those early days of my career, my affiliation was with a production company that could sell to any network. Now, because every production company is charged with doing business with its own sister network, I must choose a production company and network as one package, owned by the same conglomerate. So the job of that production company, unlike when I started out, is not to find the best network for my project, or the highest license fee, or the most creative autonomy, or even the most advantageous time slot to help my show compete. No, the job of that production company is to place as many shows as possible on its sister network, period. So the production company, which is supposed to be my ally, my protector, my partner, has become instead simply a farm team for its network.

This fundamental structural change has led to a fundamental management change as well. Networks, who used to trust the expertise of independent producers to create shows for them, are now charged by their corporate superiors to micro-manage those shows. Ask any show-runner on any network and they will tell you that the level of control now exerted by network executives – over script, direction, cinematography, costumes, even the color of sets – is unprecedented in the history of the medium. The at-the-time eccentric choices that went into making "thirtysomething" the ground-breaking show it was, would absolutely never be permitted today.

The result of all this is that the independent producer no longer exists in television. Because conglomerates have been permitted to own both networks and production companies, there is no incentive for them to do business with anyone else. Are there any programs at the networks produced outside of their own conglomerates? Yes, but the number declines each year, and each of those programs is made by the production company of another conglomerate. There is no longer even one independent production company, not one, making scripted television programs. Every production company is now a subsidiary of one of the network-owning conglomerates.

The members of my Guild produce programs in television, film, and new media, but they all have one thing in common – they are passionate about what they do. The spirit of initiative, of entrepreneurship, is at the heart of American business, and if you talk to these producers you will find that spirit, not because they are looking for a way to get rich quick – not that they'd mind – but because they have stories they are dying to tell. When a person is an entrepreneur, he puts his life into his projects. When a person is an employee, and an expendable employee at that, that alchemy, that magic blend of passion and vision and courage that is responsible for every great piece of programming, simply cannot happen. Consolidation of media is turning our artists into employees, and make no mistake, the result will be harmful for our society. I'm of the belief that storytellers matter, that art matters, that art helps a society define itself. The consolidation of media inherently endangers the storyteller, because to that conglomerate the story has no inherent value, other than as an asset to be exploited.

The public airwaves are owned by the people, and access to those airwaves is supposed be regulated in such a way as to protect the interests of the people, the broadest range of people in our nation, not just the interests of the officers and stockholders of these corporations. A world where there are no independent producers has inherently abdicated that regulatory responsibility.

For these reasons, today we ask you to limit the power of these conglomerates to control what is seen on America's televisions. We urge you to set aside, at the very least, 25% of prime-time programming, so that it can be created by producers outside the oligarchy of these consolidated companies. This must be done in order to protect the diversity of voices and stories that should be reaching our airwaves.

Thank you very much, and thank you for holding these important hearings.