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MASS DEREGULATION OF MEDIA THREATENS TO UNDERMINE DEMOCRACY

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THE FCC ORDER IS A RADICAL ELIMINATION OF MEDIA OWNERSHIP LIMITS.

Yesterday the FCC declared a free fire zone for media mergers.

Under the old rules,

- no TV-Newspaper mergers were allowed, except where a firm was failing;
- TV duopolies were allowed in about 60 markets that covered about two-thirds of the nation;
- Every merger was subject to a rigorous public interest review.

Under the new rules,

- TV-newspaper mergers will be allowed in about 200 markets, in which about 98 percent of the American people live.
- TV duopolies and even triopolies will be allowed in over 160 markets covering over 95 percent of the population.
- There will be absolutely no public interest review of mergers.

Ironically, the ruling gives the broadcast industry the right to seek a waiver and show that a merger is in the public interest outside of the free-fire zone. However, the public has no right to challenge mergers and show they are not in the public interest inside the free-fire zone. The rule completely favors the industry, at the expense of the public.

THE FCC'S DECISION ALLOWS CONCENTRATED MEDIA MARKETS TO BECOME EVEN WORSE.

The overwhelming majority of these markets are already concentrated and will become much more so as a result of the new rules.

- Approximately 90 percent of markets where mergers would be allowed under the new rule are already concentrated in the total number of major sources of local news.
- Approximately 80 percent of the TV markets where mergers will be permitted by today's ruling are *highly* concentrated.

The FCC has not provided a meaningful analysis for these rules. In declaring the free-fire zone, it looked neither at the audience of the news outlets nor even whether the TV station provides local news. The results will be devastating for local competition and diversity in local news.

- It would allow almost two thirds of the markets in the country to have only four local news sources in over a hundred cities across America.
- A single, dominant newspaper/TV conglomerate would control well over half the news audience and two-thirds of the reporters.

THE INCONSISTENCIES IN THE RULES HARM THE PUBLIC.

The ruling is ridded with inconsistencies.

- It counts UHF stations as a full station when it wants to allow TV stations in local markets to execute mergers. This increases the number of markets and the number of mergers that would be allowed.
- However, it only counts UHF stations as half a station, when it comes to the national cap on network ownership of local stations. This makes it easier for the networks to grow.

As always, the industry giants win; local diversity, competition and the public interest lose.

The new rules preserve the ban on mergers between the major networks. This is based on the recognition that

- each network is a large presence in the local market and
- because the networks are vertically integrated as producers of programming they could gain market power and distort the national programming market.

Unfortunately, the Commission ignored the identical problem when it comes to TV-newspaper mergers in the local news market.

- Both TV and newspapers produce local news coverage that is vertically integrated with their distribution system.
- A merger between a major TV station and a major newspaper would dominate the local news market to a far greater extent than TV combinations would dominate local or national entertainment markets.

The ban on mergers between major players should be applied to both TV and newspapers, not national networks.

CLAIMS OF ABUNDANCE WITH RESPECT TO LOCAL NEWS AND INFORMATION ARE WRONG ON THE FACTS AND WRONG ON THE LAW.

The facts before the FCC show that most people (80 percent) still get their news and information from broadcast news and television. The FCC's own experts could find little substitutability between the media.

- While the Internet has emerged as a new *distribution channel* for existing news sources—there is virtually no local news content on the Internet except that which is produced by local TV stations and newspapers—it is simply not a new voice.

- Even the most dedicated Internet users (the 6 percent who say they get most of their news from the Internet) are more likely to say they go to the web sites of the major networks and national newspapers than to independent sites.

Cable television is much the same story. Many viewers watch their local broadcast stations over cable television, but again, there is no new voice.

- Almost no cable systems provide local news.
- In the few communities where there are local cable news channels those channels are often owned by broadcast affiliates.

Media policy is, and always has been, about local news, like school board elections, fire and police services, local community values and congressional elections.

- The rule ignores the fact that a handful of firms account for 75 percent of all prime time viewing and 90 percent of news viewing and that the number of owners of major news outlets has shrunk by two-thirds in the past 25 years.
- On average, the number of broadcast stations and daily newspapers providing local news has declined in the past quarter century, while the population has grown in size and diversity.

The First Amendment deals with free speech, not free listening. A wider choice of channels, most owned by a small number of corporations ignores six decades of First Amendment jurisprudence.

- The Supreme Court's constitutional analysis of electronic free speech has always focused on the fact that there are vastly more citizens who would like to be broadcasters than there are licenses available.
- The Appeals Court did not require the FCC to change its rules, it only asked that they be better justified and it definitely has little tolerance for the kinds of inconsistencies the FCC has used to get the maximum deregulation possible.

WHY DON'T WE NEED TO BAIL OUT THE BROADCASTERS BY LETTING THEM BECOME BIGGER?

FCC Chairman Michael Powell has taken a relic of the past ("free over-the-air television"), an industry which has morphed into conglomerates that own both broadcast and cable networks, and used it as cover to benefit a handful of powerful media corporations.

- For most U.S. households, television is neither free, nor over the air. More than 85% of all TV households receive their service via cable or satellite.
- Broadcast/cable conglomerates' (e.g. Viacom/CBS, News Corp./Fox, ABC/Disney, and AOL Time Warner) TV stations have congressionally-mandated Must Carry and Retransmission Consent which allows them not only guaranteed carriage on cable, but the possibility of earning significant revenues from their programming.
- The cable channels owned by the five major conglomerates that own broadcast networks already capture 60 percent of the cable prime time viewers.

Because broadcast/cable conglomerates dominate prime time, they garner the lion's share of advertising revenues and are quite healthy.

- Their profit margins run from 20-50%, better than virtually any other segment of today's economy.
- Broadcasters have just had the largest pre-season sale of advertising in history.

Even so, stations could, under the old rules, obtain a waiver of the duopoly rule (which prohibits a broadcaster from owning two stations in a market in some instances) if they demonstrate that they will otherwise fail, and a similar waiver existed for the acquisition of failing newspapers.

BIGGER ISN'T BETTER WHEN IT COMES TO JOURNALISM

Claims that duopolies, bigger national networks and cross-owned newspapers do a better job of journalism do not stand close scrutiny. While they may increase profits, they hurt diversity and localism.

The FCC's conclusions were based on studies that lacked scientific controls and did not reach statistically valid findings.

- Comparing changes in news coverage by duopolies and non-duopolies shows that there was no difference.
- Controlling for the size of the market in comparing awards between affiliates and for cross-owned newspapers shows there is not difference.
- Claims that newspaper-TV combinations do not engage in slanted coverage and provide better coverage are not statistically valid, lacked scientific controls and are contradicted by dozens of scientifically valid studies identified in the FCC record.

The "synergies" that the major networks tout as being the essential reason for these cross-ownerships amount to nothing more than better advertising opportunities, according to some media experts.

In their book, *The News About the News*, Leonard Downie and Robert Kaiser note that "[m]uch of this news sharing amounts to little more than cross-promotion among co-owned or cooperating media. . . .With a few exceptions, attempts at synergy have produced relatively little additional original or improved journalism or new revenue. They mostly have 'repurposed' journalism already being produced by one news medium for use by another. In practice, this usually has meant repackaging newspaper journalism on television and the Internet, because newspapers continue to have by far the largest and most talented news-gathering staffs."

The behavior of Newspaper/TV conglomerates shows that the antagonism between these two news sources is diminished when they combine. The important watchdog role of the print media is lost when newspapers combine with other major media in local markets.