

Summary of Testimony of Ben Compaine  
United States Senate, Committee on Commerce, Science and Transportation  
September 28, 2004

The viewpoint I take is measuring whether consumers of the media—all of us—have access to a greater universe of diverse content from more sources than 15 or 20 years ago. Or is there a concentration resulting in fewer sources and implicitly less diversity?

I want to make three points today:

First, that television is more competitive than it has ever been, in number of different networks and owners of networks. The audience is more fragmented than it has ever been. Far from being more concentrated, by important measures it is far less so.

Second, that radio is more concentrated only in comparison to an extremely fragmented industry that existed before 1996. No other industry could have expanded 10 fold over three decades and still have no owner hold more properties at the end than at the start of that period. In absolute terms radio is still highly competitive and as diverse as ever.

Third, that the Internet is already proving itself as a popular, ubiquitous and effective medium for expanding distribution of both video and audio for more players and access to more sources of information for consumers than we could have reasonably expected even 15 years ago. And the technology continues to improve to provide more competition for existing players.

We need to look beyond what percent of the audience watches what company's shows at any given time. A more important measure is whether viewers and listeners can, should they choose to do so, just as easily watch or listen to content from a reasonable number of other sources. "Mass media" after all, means that it caters to a mass interest.

My findings lead me an observation and a question for policy-makers:

- The technology and industry are changing too fast for the way Congress does and should work. I believe the current F.C.C. understands the forces and trends well and should be given latitude to do its job. Though a cumbersome process – as is most of democracy – the courts have served as an viable check on as well as motivators to the Commission.
- My question may be more controversial. When almost 90% of households view television via a cable or satellite connection, why are we still making a regulatory distinction between broadcast and other avenues of video distribution.

Testimony of Ben Compaine  
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My name is Ben Compaine. I've been tracking media ownership trends since the first edition of my book, *Who Owns the Media?*, was compiled in 1978. Let me note up front that I have never been employed by any major media company nor have I been a paid consultant for any major media company.

The concerns you address today about media ownership are not new ones. In 1978 the Federal Trade Commission held two days of public hearings in this city as part of its investigation of mergers and acquisitions in publishing. After shifting through the anecdotal stories of the critics and the pessimistic scenarios of doomsayers, the FTC under President Carter could find no basis for any rule making, policy changes or legislative suggestions.

But the focus in 2004 is on television and radio—areas which have a richer history and basis of government regulation and court involvement. So this morning I will restrict my comments to these areas.

I start by questioning one of the fundamental assumptions of media ownership: that it is more concentrated than ever. Typical is a *Seattle Times* editorial last March that stated flatly, "The news industry in America is already far down the road to media concentration." In the same editorial they cite CNN, Fox News, National Public Radio—all separately owned sources of news that have been added to the media menu in the last two decades. None have been subtracted.

The viewpoint I take is measuring whether consumers of the media—all of us—have access to a greater universe of diverse content from more sources than 15 or 20 years ago. Or is there a concentration resulting in fewer sources and implicitly less diversity? This applies to entertainment, culture, news and opinion. I suspect we would all agree that a goal is to assure enough players to ensure that sources and diversity are sufficient to satisfy small as well as mass audiences.

I want to make three points today:

First, that television is more competitive than it has ever been, in number of different networks and owners of networks. The audience is more fragmented than it has ever been. Far from being more concentrated, by important measures it is far less so.

Second, that radio is more concentrated only in comparison to an extremely fragmented industry that existed before 1996. No other industry could have expanded 10 fold and still have no owner hold more properties at the end than at the start of that period. In absolute terms radio is still highly competitive and as diverse as ever.

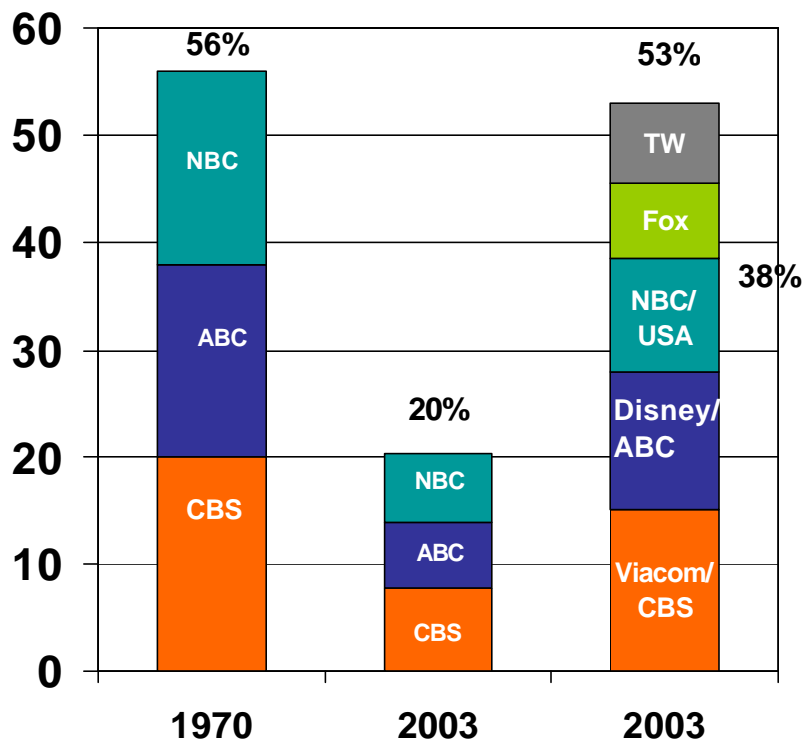
Third, that the Internet is already proving itself as a popular, ubiquitous and effective medium for expanding distribution of both video and audio for more players and access to more sources of information for consumers than we could have reasonably expected even 15 years ago. And the technology continues to improve to provide more competition for existing players.

I will elaborate briefly on each point. More comprehensive data on these and additional points are in a paper that I just completed that will be made available by the New Millennium Research Council here in Washington within a few weeks. I urge you to look through that paper.

### Television

The viewer market share of the three traditional television networks -- CBS, ABC, NBC -- has declined substantially since 1980. During the 1960s and 1970s, on a typical weekday evening, the three networks on average were watched by about 56% of all households with televisions. (See Figure 1) In 2003 on a weekday evening during prime

**Figure 1: Network Ratings 1970 and 2003**



Source: Ben Compaine, "Debunking Media Consolidation Myths: Competition in the Media Industry," New Millennium Research Council, Washington, DC, 2004. Copyright ©2004 Ben Compaine.

time those networks had only a 20% rating. Adding in the audiences they and their parent companies have gained through networks available by multichannel means such as cable or satellite, in 2003 their combined audience was *less than* in the 1970s and into the 1980s.

Let me make that as clear as possible. *In 2003, Viacom, with CBS plus all its cable networks, Disney, with ABC and its cable networks, and NBC, with its newly acquired cable networks, accounted for 18% fewer households during prime time than in the pre-merger, pre-cable three network days.*

Moreover, there is additional competition from newer networks, including Time Warner's WB and News Corporation's Fox. The five broadcast networks together aggregated to a 26% rating. Adding in the rating of these five broadcast networks with the cable networks owned by the same corporate family (e.g., CNN, HBO, etc. with WB), the five major providers of television programming accounted for an average 51% rating in December 2003. This was less than three broadcast networks had into the 1980s.

In television we all know that there are orders of magnitude more choices today than 25 years ago and, even with numerous acquisitions and startups by the old networks and their new parents, we have more networks, from more owners than in the days of three networks and seven station limits for any owner.

### Radio

On to radio. Issues need a context. Taken out of context, the radio industry has seen substantial consolidation in the last decade. The largest operator of radio stations in 2004 owned about 8.6% of the almost 14,000 radio stations nationwide. The four largest groups owned under 15% of all stations, a total not even close to any level of oligopoly by antitrust standards.

The context, however, is that of an industry that had more than tripled in the number of stations over three decades with no change in the limits of station ownership. In 1947, when a *de facto* limit of 13 stations to an owner was in place, there were about 1200 radio stations. By 1980 the limit was the same, but there were over 8700 stations. A single owner could hold no more than 0.16% of stations nationally. In 1990, by which time the cap had been raised to 12 stations, we were closing in on 11,000 stations.

So it should be no surprise that, like a bottle of seltzer that had been well shook, when the cap was removed in 1996 the industry burst into long delayed hive of activity. Even if the ownership limits had been eased from 1947 into the 1990s to maintain the same ratio of ownership to the number of stations, the cap would have been about 88 and the changes we have seen in recent years would have looked far less dramatic.

Often lost in the radio discussion is that National Public Radio, a loose network of more than 700 not-for-profit radio stations that broadcast common national programming for much of the day, would be the second largest radio chain. It claims to be available

everywhere in the U.S. There is also the growing interest in the national satellite-distributed radio services. In the January they had 1.6 million subscribers. At their current rate of growth that is expect to reach 4 million by the end of the year.

To be sure, the number of separate owners of radio stations in local markets is lower than prior to the lessening of regulatory limits in the 1990s. Still, larger markets have 15 or more separate owners—in addition to noncommercial stations—and in most of even the smallest markets there are more competitors in radio than television and newspapers combined.

Finally, as a segue to my comments on the role of the Internet, thousands of radio and radio-like stations are available via the Internet. Stations are available from around the globe. Many of those with the highest listenership were owned by non-broadcasters. About 40% of listeners accessed stations from outside their local market.

### Internet

Barely 10 years after its “coming out” as a consumer medium, about two-thirds of Americans are using the Internet for everything from e-mail to news to weather to government forms to shopping, porn, sharing family photos, listening to radio and watching “television.” The Internet already has profound implications for access to information.

Of the five largest media companies, the Web sites of only one (Time Warner) are among the top 10 organizations whose Web sites get the most unique visitors per month. The sites run by federal government agencies are among the most frequented.

In 2004 for the first time more Internet household had broadband than used dial-up connections. With research that shows that households with always-on broadband used the Internet more than narrowband users, the expectation is that Internet access for information, commerce and communications will continue to grow.

The number of hours spent listening to Internet radio grew by triple digits between 2003 and the same period in 2004. Users with broadband spend far more time using Internet radio than dial-up users.

In addition, new devices are becoming available to make Internet radio accessible apart from a personal computer, including access via various wireless technologies. Indeed, video and film via the Internet are on the verge of becoming more mainstream. As some of the local telephone carriers upgrade their systems with fiber optic cable to the curb or the home, the transmission speed of downloads will be competitive with cable and satellite services. Devices are on the market that allow even today’s broadband users to download movies and video programming for storage on personal video recorders for viewing at their convenience.

### Need to Consider Choices Available, Not Choices Made

About a year ago this committee heard testimony from my friend Eli Noam. He has completed some landmark work on the revenue side of the media industry. It is helpful, yet only part of the mosaic that is media competition. A substantial piece of the debate must be on sources of content and distribution avenues that are readily and inexpensively available to most consumers. We need to look beyond what percent of the audience watches what company's shows at any given time. A more important measure is whether viewers and listeners can, should they choose to do so, just as easily watch or listen to content from a reasonable number of other sources. "Mass media" after all, means that it caters to a mass interest. It is unlikely that there should be 20 television shows on at the same time that are all mass interest.

As television viewers, most of us at any given moment are in the 75% that is watching one of programs that derive from a small number of providers. But at other times, we are part of the other 25% that is divided into many small audiences watching one of the many others providers. Both the 75% and the 25% are not the same people all the time.

### Policy Issues

My findings lead me an observation and a question for policy-makers:

- The observation is that while Congress certainly has the prerogative, it cannot micromanage effectively television and radio regulation. The technology and industry are changing too fast for the way Congress does and should work. I believe the current F.C.C. understands the forces and trends well and should be given latitude to do its job. Though a cumbersome process – as is most of democracy – the courts have served as a viable check on as well as motivator to the Commission.
- My question may be more controversial. When almost 90% of households view television via a cable or satellite connection, why are we still making a regulatory distinction between broadcast and other avenues of video distribution? There is a certain paradox in CBS being fined for the Janet Jackson Super Bowl fiasco when more than 90% of those viewing were doing so over cable or satellite. If ESPN had carried the same thing there would have been no fine (though perhaps the same controversy). The value of a television broadcast license today is almost exclusively in the "must carry" mandate that goes with it. If that were retained should broadcasters be allowed to turn off their transmitters, my hunch is that the FCC would be flooded with returned spectrum as licensees would opt to jettison what little is left of their public service obligation and regulation and move their operation directly to a multichannel platform.

Thank you for having me here. I expect I've raised as many questions as I've answered and would be delighted to respond to any you have, now or later.

**Benjamin M. Compaine**

Ben Compaine is a researcher and writer on issues of the economics and technologies of the information industry. He has been a Research Consultant for the Program on Internet and Telecoms Convergence at MIT as well as executive director of the Program on Information Resources Policy at Harvard University. From 1994 to 1997 he was the Bell Atlantic Professor of Telecommunications at Temple University. From 1986 to 1994 he was President and Chief Executive of Nova Systems Inc., a software firm. He is the author, co-author or editor of 10 books. His best known book, *Who Owns The Media?* was published as an all-new third edition in 2000. Other books include *The Digital Divide: Facing a Crisis or Creating a Myth?* (2001) and *The Information Resources Policy Handbook* (1999). His articles have appeared in trade, popular, and scholarly journals, including *Telecommunications Policy*, *Science Digest*, *Foreign Policy*, *Reason*, *Daedalus* and the *Journal of Communication*. His research and teaching interests include Internet and telecommunications policy, mass media economics, and the social and cultural implications of changing information technologies. A political science major at Dickinson College, he received his M.B.A. from Harvard University and Ph.D. from Temple University. He has been a consultant and invited speaker at conferences and seminars in Europe, South America, Asia, Australia as well as in the United States and Canada.