

# My Beef With Big Media: How government protects big media—and shuts out upstarts like me.

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In the late 1960s, when Turner Communications was a business of billboards and radio stations and I was spending much of my energy ocean racing, a UHF-TV station came up for sale in Atlanta. It was losing \$50,000 a month and its programs were viewed by fewer than 5 percent of the market.

I acquired it.

When I moved to buy a second station in Charlotte—this one worse than the first—my accountant quit in protest, and the company's board vetoed the deal. So I mortgaged my house and bought it myself. The Atlanta purchase turned into the Superstation; the Charlotte purchase—when I sold it 10 years later—gave me the capital to launch CNN.

Both purchases played a role in revolutionizing television. Both required a streak of independence and a taste for risk. And neither could

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happen today. In the current climate of consolidation, independent broadcasters simply don't survive for long. That's why we haven't seen a new generation of people like me or even Rupert Murdoch—independent television upstarts who challenge the big boys and force the whole industry to compete and change.

It's not that there aren't entrepreneurs eager to make their names and fortunes in broadcasting if given the chance. If nothing else, the 1990s dot-com boom showed that the spirit of entrepreneurship is alive and well in America, with plenty of investors willing to put real money into new media ventures. The difference is that Washington has changed the rules of the game. When I was getting into the television business, lawmakers and the Federal Communications Commission (FCC) took seriously the commission's mandate to promote diversity, localism, and competition in the media marketplace. They wanted to make sure that the big, established networks—CBS, ABC, NBC—wouldn't forever dominate what the American public could watch on TV. They wanted independent producers to thrive. They wanted more people to be able to own TV stations. They believed in the value of competition.

So when the FCC received a glut of applications for new television stations after World War II, the agency set aside dozens of channels on the new UHF spectrum so independents could get a foothold in television. That helped me get my start 35 years ago. Congress also passed a law in 1962 requiring that TVs be equipped to receive both UHF and VHF channels. That's how I was able to compete as a UHF station, although it was never easy. (I used to tell potential advertisers that our UHF viewers were smarter than the rest, because you had to be a genius just to figure out how to tune us in.) And in 1972, the FCC ruled that cable TV operators could import distant signals. That's how we were able to beam our Atlanta station to homes throughout the South. Five years later, with the help of an RCA satellite, we were sending our signal across the nation, and the Superstation was born.

That was then.

Today, media companies are more concentrated than at any time over the past 40 years, thanks to a continual loosening of ownership rules by Washington. The media giants now own not only broadcast networks and local stations; they also own the cable companies that pipe in the signals of their competitors and the studios that produce most of the programming. To get a flavor of how consolidated the industry has become, consider this: In 1990, the major broadcast networks—ABC, CBS, NBC, and Fox—fully or partially owned just 12.5 percent of the new series they aired. By 2000, it was 56.3 percent. Just two years later, it had surged to 77.5 percent.

In this environment, most independent media firms either get gobbled up by one of the big companies or driven out of business altogether. Yet instead of balancing the rules to give independent broadcasters a fair chance in the market, Washington continues to tilt the playing field to favor the biggest players. Last summer, the FCC passed another round of sweeping pro-consolidation rules that, among other things, further raised the cap on the number of TV stations a company can own.

In the media, as in any industry, big corporations play a vital role, but so do small, emerging ones. When you lose small businesses, you lose big ideas. People who own their own businesses are their own bosses. They are independent thinkers. They know they can't compete by imitating the big guys—they have to innovate, so they're less obsessed with earnings than they are with ideas. They are quicker to seize on new technologies and new product ideas. They steal market share from the big companies, spurring them to adopt new approaches. This process promotes competition, which leads to higher product and service quality, more jobs, and greater wealth. It's called capitalism.

But without the proper rules, healthy capitalist markets turn into sluggish oligopolies, and that is what's happening in media today. Large corporations are more profit-focused and risk-averse. They often kill local programming because it's expensive, and they push national programming because it's cheap—even if their decisions run counter to local interests and community values. Their managers are more averse to innovation because they're afraid of being fired for an idea that fails. They prefer to sit on the sidelines, waiting to buy the businesses of the risk-takers who succeed.

Unless we have a climate that will allow more independent media companies to survive, a dangerously high percentage of what we see—and what we don't see—will be shaped by the profit motives and political interests of large, publicly traded conglomerates. The economy will suffer, and so will the quality of our public life.

Let me be clear: As a business proposition, consolidation makes sense. The moguls behind the mergers are acting in their corporate interests and playing by the rules. We just shouldn't have those rules. They make sense for a corporation. But for a society, it's like over-fishing the oceans. When the independent businesses are gone, where will the new ideas come from? We have to do more than keep media giants from growing larger; they're already too big. We need a new set of rules that will break these huge companies to pieces.

## I. THE BIG SQUEEZE

In the 1970s, I became convinced that a 24-hour all-news network could make money, and perhaps even change the world. But when I invited two large media corporations to invest in the launch of CNN, they turned me down. I couldn't believe it. Together we could have launched the network for a fraction of what it would have taken me alone; they had all the infrastructure, contacts, experience, knowledge. When no one would go in with me, I risked my personal wealth to start CNN.

Soon after our launch in 1980, our expenses were twice what we had expected and revenues half what we had projected. Our losses were so high that our loans were called in. I refinanced at 18 percent interest, up from 9, and stayed just a step ahead of the bankers. Eventually, we not only became profitable, but also changed the nature of news—from watching something that happened to watching it *as* it happened.

But even as CNN was getting its start, the climate for independent broadcasting was turning hostile. This trend began in 1984, when the FCC raised the number of stations a single entity could own from seven—where it had been capped since the 1950s—to 12. A year later, it revised its rule again, adding a national audience-reach cap of 25 percent to the 12 station limit—meaning media companies were prohibited from owning TV stations that together reached more than 25 percent of the national audience. In 1996, the FCC did away with numerical caps altogether and raised the audience-reach cap to 35 percent. This wasn't necessarily bad for Turner Broadcasting; we had already achieved scale. But seeing these rules changed was like watching someone knock down the ladder I had already climbed.

Meanwhile, the forces of consolidation focused their attention on another rule, one that restricted ownership of content. Throughout the 1980s, network lobbyists worked to overturn the so-called Financial Interest and Syndication Rules, or fin-syn, which had been put in place in 1970, after federal officials became alarmed at the networks' growing control over programming. As the FCC wrote in the fin-syn decision: "The power to determine form and content rests only in the three networks and is exercised extensively and exclusively by them, hourly and daily." In 1957, the commission pointed out, independent companies had produced a third of all network shows; by 1968, that number had dropped to 4 percent. The rules essentially forbade networks from profiting from reselling programs that they had already aired.

This had the result of forcing networks to sell off their syndication arms, as CBS did with Viacom in 1973. Once networks no longer produced their own content, new competition was launched, creating fresh

opportunities for independents.

For a time, Hollywood and its production studios were politically strong enough to keep the fin-syn rules in place. But by the early 1990s, the networks began arguing that their dominance had been undercut by the rise of independent broadcasters, cable networks, and even videocassettes, which they claimed gave viewers enough choice to make fin-syn unnecessary. The FCC ultimately agreed—and suddenly the broadcast networks could tell independent production studios, “We won’t air it unless we own it.” The networks then bought up the weakened studios or were bought out by their own syndication arms, the way Viacom turned the tables on CBS, buying the network in 2000. This silenced the major political opponents of consolidation.

Even before the repeal of fin-syn, I could see that the trend toward consolidation spelled trouble for independents like me. In a climate of consolidation, there would be only one sure way to win: bring a broadcast network, production studios, and cable and satellite systems under one roof. If you didn’t have it inside, you’d have to get it outside—and that meant, increasingly, from a large corporation that was competing with you. It’s difficult to survive when your suppliers are owned by your competitors. I had tried and failed to buy a major broadcast network, but the repeal of fin-syn turned up the pressure. Since I couldn’t buy a network, I bought MGM to bring more content in-house, and I kept looking for other ways to gain scale. In the end, I found the only way to stay competitive was to merge with Time Warner and relinquish control of my companies.

Today, the only way for media companies to survive is to own everything up and down the media chain—from broadcast and cable networks to the sitcoms, movies, and news broadcasts you see on those stations; to the production studios that make them; to the cable, satellite, and broadcast systems that bring the programs to your television set; to the Web sites you visit to read about those programs; to the way you log on to the Internet to view those pages. Big media today wants to own the faucet, pipeline, water, and the reservoir. The rain clouds come next.

## II. SUPERSIZING NETWORKS

Throughout the 1990s, media mergers were celebrated in the press and otherwise seemingly ignored by the American public. So, it was easy to assume that media consolidation was neither controversial nor problematic. But then a funny thing happened.

In the summer of 2003, the FCC raised the national audience-reach cap from 35 percent to 45 percent. The FCC also allowed corporations to own a newspaper and a TV station in the same market and permitted

corporations to own three TV stations in the largest markets, up from two, and two stations in medium-sized markets, up from one. Unexpectedly, the public rebelled. Hundreds of thousands of citizens complained to the FCC. Groups from the National Organization for Women to the National Rifle Association demanded that Congress reverse the ruling. And like-minded lawmakers, including many long-time opponents of media consolidation, took action, pushing the cap back down to 35, until—under strong White House pressure—it was revised back up to 39 percent. This June, the U.S. Court of Appeals for the Third Circuit threw out the rules that would have allowed corporations to own more television and radio stations in a single market, let stand the higher 39 percent cap, and also upheld the rule permitting a corporation to own a TV station and a newspaper in the same market; then, it sent the issues back to the same FCC that had pushed through the pro-consolidation rules in the first place.

In reaching its 2003 decision, the FCC did not argue that its policies would advance its core objectives of diversity, competition, and localism. Instead, it justified its decision by saying that there was already a lot of diversity, competition, and localism in the media—so it wouldn't hurt if the rules were changed to allow more consolidation.

Their decision reads: "Our current rules inadequately account for the competitive presence of cable, ignore the diversity-enhancing value of the Internet, and lack any sound bases for a national audience reach cap." Let's pick that assertion apart.

First, the "competitive presence of cable" is a mirage. Broadcast networks have for years pointed to their loss of prime-time viewers to cable networks—but they are losing viewers to cable networks that they themselves own. Ninety percent of the top 50 cable TV stations are owned by the same parent companies that own the broadcast networks. Yes, Disney's ABC network has lost viewers to cable networks. But it's losing viewers to cable networks like Disney's ESPN, Disney's ESPN2, and Disney's Disney Channel. The media giants are getting a deal from Congress and the FCC because their broadcast networks are losing share to their own cable networks. It's a scam.

Second, the decision cites the "diversity-enhancing value of the Internet." The FCC is confusing diversity with variety. The top 20 Internet news sites are owned by the same media conglomerates that control the broadcast and cable networks. Sure, a hundred-person choir gives you a choice of voices, but they're all singing the same song.

The FCC says that we have more media choices than ever before. But only a few corporations decide what we can choose. That is not choice. That's like a dictator deciding what candidates are allowed to stand for

parliamentary elections, and then claiming that the people choose their leaders. Different voices do not mean different viewpoints, and these huge corporations all have the same viewpoint—they want to shape government policy in a way that helps them maximize profits, drive out competition, and keep getting bigger.

Because the new technologies have not fundamentally changed the market, it's wrong for the FCC to say that there are no "sound bases for a national audience-reach cap." The rationale for such a cap is the same as it has always been. If there is a limit to the number of TV stations a corporation can own, then the chance exists that after all the corporations have reached this limit, there may still be some stations left over to be bought and run by independents. A lower limit would encourage the entry of independents and promote competition. A higher limit does the opposite.

### III. TRIPLE BLIGHT

The loss of independent operators hurts both the media business and its citizen-customers. When the ownership of these firms passes to people under pressure to show quick financial results in order to justify the purchase, the corporate emphasis instantly shifts from taking risks to taking profits. When that happens, quality suffers, localism suffers, and democracy itself suffers.

#### A. *Loss of Quality*

The Forbes list of the 400 richest Americans exerts a negative influence on society, because it discourages people who want to climb up the list from giving more money to charity. The Nielsen ratings are dangerous in a similar way—because they scare companies away from good shows that don't produce immediate blockbuster ratings. The producer Norman Lear once asked, "You know what ruined television?" His answer: when The New York Times began publishing the Nielsen ratings. "That list every week became all anyone cared about."

When all companies are quarterly earnings-obsessed, the market starts punishing companies that aren't yielding an instant return. This not only creates a big incentive for bogus accounting, but also it inhibits the kind of investment that builds economic value. America used to know this. We used to be a nation of farmers. You can't plant something today and harvest tomorrow. Had Turner Communications been required to show earnings growth every quarter, we never would have purchased those first two TV stations.

When CNN reported to me, if we needed more money for Kosovo or Baghdad, we'd find it. If we had to bust the budget, we busted the budget.

We put journalism first, and that's how we built CNN into something the world wanted to watch. I had the power to make these budget decisions because they were my companies. I was an independent entrepreneur who controlled the majority of the votes and could run my company for the long term. Top managers in these huge media conglomerates run their companies for the short term. After we sold Turner Broadcasting to Time Warner, we came under such earnings pressure that we had to cut our promotion budget every year at CNN to make our numbers. Media mega-mergers inevitably lead to an overemphasis on short-term earnings.

You can see this overemphasis in the spread of reality television. Shows like "Fear Factor" cost little to produce—there are no actors to pay and no sets to maintain—and they get big ratings. Thus, American television has moved away from expensive sitcoms and on to cheap thrills. We've gone from "Father Knows Best" to "Who Wants to Marry My Dad?", and from "My Three Sons" to "My Big Fat Obnoxious Fiance."

The story of Grant Tinker and Mary Tyler Moore's production studio, MTM, helps illustrate the point. When the company was founded in 1969, Tinker and Moore hired the best writers they could find and then left them alone—and were rewarded with some of the best shows of the 1970s. But eventually, MTM was bought by a company that imposed budget ceilings and laid off employees. That company was later purchased by Rev. Pat Robertson; then, he was bought out by Fox. Exit "The Mary Tyler Moore Show." Enter "The Littlest Groom."

### *B. Loss of localism*

Consolidation has also meant a decline in the local focus of both news and programming. After analyzing 23,000 stories on 172 news programs over five years, the Project for Excellence in Journalism found that big media news organizations relied more on syndicated feeds and were more likely to air national stories with no local connection.

That's not surprising. Local coverage is expensive, and thus will tend to be a casualty in the quest for short-term earnings. In 2002, Fox Television bought Chicago's Channel 50 and eliminated all of the station's locally produced shows. One of the cancelled programs (which targeted pre-teens) had scored a perfect rating for educational content in a 1999 University of Pennsylvania study, according to *The Chicago Tribune*. That accolade wasn't enough to save the program. Once the station's ownership changed, so did its mission and programming.

Loss of localism also undercuts the public-service mission of the media, and this can have dangerous consequences. In early 2002, when a freight train derailed near Minot, N.D., releasing a cloud of anhydrous

ammonia over the town, police tried to call local radio stations, six of which are owned by radio mammoth Clear Channel Communications. According to news reports, it took them over an hour to reach anyone—no one was answering the Clear Channel phone. By the next day, 300 people had been hospitalized, many partially blinded by the ammonia. Pets and livestock died. And Clear Channel continued beaming its signal from headquarters in San Antonio, Texas—some 1,600 miles away.

### C. *Loss of democratic debate*

When media companies dominate their markets, it undercuts our democracy. Justice Hugo Black, in a landmark media-ownership case in 1945, wrote: “The First Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.”

These big companies are not antagonistic; they do billions of dollars in business with each other. They don’t compete; they cooperate to inhibit competition. You and I have both felt the impact. I felt it in 1981, when CBS, NBC, and ABC all came together to try to keep CNN from covering the White House. You’ve felt the impact over the past two years, as you saw little news from ABC, CBS, NBC, MSNBC, Fox, or CNN on the FCC’s actions. In early 2003, the Pew Research Center found that 72 percent of Americans had heard “nothing at all” about the proposed FCC rule changes. Why? One never knows for sure, but it must have been clear to news directors that the more they covered this issue, the harder it would be for their corporate bosses to get the policy result they wanted.

A few media conglomerates now exercise a near-monopoly over television news. There is always a risk that news organizations can emphasize or ignore stories to serve their corporate purpose. But the risk is far greater when there are no independent competitors to air the side of the story the corporation wants to ignore.

More consolidation has often meant more news-sharing. But closing bureaus and downsizing staff have more than economic consequences. A smaller press is less capable of holding our leaders accountable. When Viacom merged two news stations it owned in Los Angeles, reports *The American Journalism Review*, “field reporters began carrying microphones labeled KCBS on one side and KCAL on the other.” This was no accident. As the Viacom executive in charge told *The Los Angeles Business Journal*: “In this duopoly, we should be able to control the news in the marketplace.”

This ability to control the news is especially worrisome when a large media organization is itself the subject of a news story. Disney’s boss, after

buying ABC in 1995, was quoted in *LA Weekly* as saying, “I would prefer ABC not cover Disney.” A few days later, ABC killed a “20/20” story critical of the parent company.

But networks have also been compromised when it comes to non-news programs which involve their corporate parent’s business interests. General Electric subsidiary NBC Sports raised eyebrows by apologizing to the Chinese government for Bob Costas’s reference to China’s “problems with human rights” during a telecast of the Atlanta Olympic Games. China, of course, is a huge market for GE products.

Consolidation has given big media companies new power over what is said not just on the air, but off it as well. Cumulus Media banned the Dixie Chicks on its 42 country music stations for 30 days after lead singer Natalie Maines criticized President Bush for the war in Iraq. It’s hard to imagine Cumulus would have been so bold if its listeners had more of a choice in country music stations. And Disney recently provoked an uproar when it prevented its subsidiary Miramax from distributing Michael Moore’s film *Fahrenheit 9/11*. As a senior Disney executive told *The New York Times*: “It’s not in the interest of any major corporation to be dragged into a highly charged partisan political battle.” Follow the logic, and you can see what lies ahead: If the only media companies are major corporations, controversial and dissenting views may not be aired at all.

Naturally, corporations say they would never suppress speech. But it’s not their intentions that matter; it’s their capabilities. Consolidation gives them more power to tilt the news and cut important ideas out of the public debate. And it’s precisely that power that the rules should prevent.

#### IV. INDEPENDENTS’ DAY

This is a fight about freedom—the freedom of independent entrepreneurs to start and run a media business, and the freedom of citizens to get news, information, and entertainment from a wide variety of sources, at least some of which are truly independent and not run by people facing the pressure of quarterly earnings reports.

No one should underestimate the danger. Big media companies want to eliminate all ownership limits. With the removal of these limits, immense media power will pass into the hands of a very few corporations and individuals.

What will programming be like when it’s produced for no other purpose than profit? What will news be like when there are no independent news organizations to go after stories the big corporations avoid? Who really wants to find out?

Safeguarding the welfare of the public cannot be the first concern of a

large publicly traded media company. Its job is to seek profits. But if the government writes the rules in a way that encourages the entry into the market of entrepreneurs—men and women with big dreams, new ideas, and a willingness to take long-term risks—the economy will be stronger, and the country will be better off.

I freely admit: When I was in the media business, especially after the federal government changed the rules to favor large companies, I tried to sweep the board, and I came within one move of owning every link up and down the media chain. Yet I felt then, as I do now, that the government was not doing its job. The role of the government ought to be like the role of a referee in boxing, keeping the big guys from killing the little guys. If the little guy gets knocked down, the referee should send the big guy to his corner, count the little guy out, and then help him back up. But today the government has cast down its duty, and media competition is less like boxing and more like professional wrestling: The wrestler and the referee are both kicking the guy on the canvas.

At this late stage, media companies have grown so large and powerful, and their dominance has become so detrimental to the survival of small, emerging companies, that there remains only one alternative: bust up the big conglomerates. We've done this before: to the railroad trusts in the first part of the 20th century, to Ma Bell more recently. Indeed, big media itself was cut down to size in the 1970s, and a period of staggering innovation and growth followed. Breaking up the reconstituted media conglomerates may seem like an impossible task when their grip on the policy-making process in Washington seems so sure. But the public's broad and bipartisan rebellion against the FCC's pro-consolidation decisions suggests something different. Politically, big media may again be on the wrong side of history—and up against a country unwilling to lose its independents.

