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ABSTRACT

Anticipating government relaxation of guidelines for public affairs programing on television (the Federal Communications Commission--FCC--has already deregulated radio programing), researchers analyzed 1978 programing data for commercial television stations to determine percentages of informational (news plus public affairs), local, and nonentertainment programing. The FCC currently uses a 5-5-10 standard: five % of all programing is news/public affairs, five % is locally produced, and ten % is nonentertainment programing. The analysis showed that the television stations appeared to be doing a "good" job when it came to meeting and exceeding FCC public interest program minimums, although about nine % of the stations failed to meet the minimum requirement for local programing. Most of those failing to meet this local programing standard operated in smaller markets. Overall, the television stations covered by the 5-5-10 standard aired about three times more news and public affairs programs, about two and one-half times more nonentertainment programing, and nearly twice as much local programing as the amounts demanded by the FCC. These results differed little from those reported in similar analyses of 1974 and 1976 data. (RL)

RADIO-TELEVISION JOURNALISM DIVISION

DEREGULATION OF TELEVISION?

A BASE FOR POSSIBLE CONSIDERATION.

by

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> "(i)t is the purpose of the First Amendment to preserve an uninhibited market-place of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market whether it be by the Government itself or a private licensee."[1]

With that quote from Red Lion serving as a philosophical base, the Federal Communications Commission (FCC) recently moved to begin an "experiment" in the deregulation of radio.[2] What will happen in the future of radio under a lessening of FCC regulation is anybody's guess. However, as a basis for deregulation of radio, the Commission in its deregulation order, relied a great deal on what has happened in the past.

The deregulation order eliminated the guidelines for the amount of non-entertainment programming each radio station was "advised" to carry, the number of commercial minutes per hour they should not exceed, eliminated community ascertainment requirements and program log keeping requirements for commercial radio stations. Over 20,000 comments, for and against, were filed with the Commission, a number the Commission itself noted was "extraordinary." Even though many more comments and filings were against deregulation of radio than for it, in the end deregulation won out. Perhaps that was partially due to the political mood of deregulation in Washington, or possibly it might have been partially due to the evidence presented at hearings supporting deregulation.

The major area of debate centered around that non-etertainment programming portion of the broadcast day, and the Commission's policies regarding non-entertainment programming. Those opposed to deregulation of radio expressed their greatest fears that if non-entertainment programming guidelines were to be eliminated, radio stations nationwide would then cease to program in the "public interest." Claimants contended news and other types of programs in the public interest would disappear if deregulation were to occur.

In its deregulation decision the Commission noted time and again that if the dictates of Red Lion were to be adhered to, then the marketplace, not the government, should decide radio programming. The concept of regulatory commissions began as a protection of the marketplace when monopolistic and oligopolistic conditions demanded some degree of protection in the public's interest.[3] Industrial concentration was to be eschewed, and unrestricted competition was to be a primary goal.

The FCC was formed partly on this concept. However, the FCC was also formed not so much to protect the marketplace of tangible goods and services, but rather that intangible marketplace of ideas. Certainly the Commission has a responsibility in the area of spectrum management, however a large portion of the debate on radio deregulation was focused on how well radio would fare in maintaining a free marketplace of ideas once deregulation was in force.

A large portion of the final opinion deregulating radio was devoted to determining how well radio stations are presently doing in serving this public interest and maintaining a free marketplace of ideas over the airwaves. The Commission implies throughout its opinion that if radio stations are doing a "good" job today, they will continue doing that same good job in the future.

A major problem for the Commission has always been how to determine whether or not any one licensee, or group of licensees, is doing a "good," "bad" or indifferent job of serving that public interest. For this reason the Commission set forth percentage guidelines for non-entertainment programming for broadcasters to use as a guide. For radio, in the deregulation proceedings, the question was, how well are radio stations living up to the 6-8 programming standards set forth by the FCC?[4]

The FCC examined its own data, the National Association of Broadcasters (NAB) presented additional studies and evidence, and other studies using similar data bases were presented, and all concluded that most commercial radio stations met or exceeded the FCC's 6-8 minimums, and many exceeded these minimums by several times.[5] This question was a critical one, for the non-entertainment (news, public affairs, and other types of non-entertainment programming) portion of the broadcast day is of primary importance in the FCC's evaluation of a licensee's public interest programming performance.

Thus, using these studies as an evidentiary base, the Commission concluded that there is compelling evidence to support the thesis that radio stations as a whole are fulfilling their public interest requirements in programming at the present time, or, conversely, there is no compelling evidence to support a contention that they will not continue to live up to present performance levels in the future.

Certainly not all of the deregulation decision was based on the quantitative evidence surrounding non-entertainment programming percentages. The First Amendment questions of the Fairness Doctrine, Section 315, and other related issues were also examined. Econometric models were presented and examined. But all of these were said to be more subjective questions and arguments when compared to the more objective quantitative data regarding station non-entertainment programming performance. In that such objective data exists, and were presented into evidence, the radio industry had to stand or fall on its past quantitative performance in the areas of news, public affairs and other forms of non-entertainment programming. That record was cited repeatedly in the final deregulation of radio decision and served as a primary base for the decision. In that decision, the Commission did not find the radio industry wanting, and deregulation of radio moved forward.

Television and Radio Comparisons:

The FCC has also mandated that television licensees air specific percentages of public interest programming.[6] This 5-5-10 standard is more specific than the 6-8 radio standard. Three categories are broken out: informational (news plus public affairs), local and total non-entertainment programming. Obviously these are strictly quantitative measures, however former Commissioner Glen Robinson once noted that to evaluate individual licensees in any other way would surely invite "grave First Amendment problems."[7]

If we examine the media, some differences are apparent. Television, for good or for bad, is said to be "the most powerful medium." In that important program category of news, TV news is usually much longer than radio news appearing in blocs of a half ~~hour, and hour, or longer~~ at a time. Plus, in TV, news appears to play a more important role in the program day than in radio. In a recent Radio Television News Directors Association survey, it was reported that about a quarter of the stations surveyed had no news department at all.[8] In this study presented here, all TV stations examined (556) carried news at some time during the day.

However, it is the rare community where residents cannot pick up a number of radio signals, especially at night on AM. Such penetration without the cable is not the same for television. In television the rule in the majority of communities and markets is still the one of one, two or three TV signals, or a monopolistic or oligopolistic fact.

Historically, the fear has been that under such monopolistic or near-monopolistic conditions the seller (here the broadcast station) will violate the public trust and interest. Regulation can be designed to attempt to prevent that possibility.

Thus, in the radio deregulation hearings, and in many filings with the Commission, a primary question raised was, will radio stations, if deregulated, do away with news, thus violate the public interest? In a Los Angeles, for example, with 60 radio stations in the market, that question is not so critical for there should always be local news somewhere on the dial there. But in the single, or few, radio station markets, the argument was that that question does become critical.

The only evidence pro-deregulation forces had to offer was the past performance of small market radio stations. That evidence showed that quantitatively nearly all radio stations in all market sizes do broadcast some news each day, even if local news coverage might suffer in those stations without news departments. Again, the evidentiary base used to show that radio was doing a "good" job as a whole in news programming was a quantitative one drawn from FCC data on radio programming.

However, there are 10 times more commercial radio stations (7,863) than there are commercial TV stations (752). As in radio, if TV stations in single or few station markets were to eliminate news and other forms of non-entertainment programming, the local public interest would suffer.

All of these questions are at issue if one is to even begin considering television deregulation. In the radio deregulation proceedings the Commission asked for and received evidence regarding the performance of the radio industry in the non-entertainment programming area. That played a major role in its decision to deregulate. The question now posed here is, how well is the commercial television doing?

The Facts for TV:

The FCC has been releasing programming data for all U.S. commercial TV stations since 1973. This study analyzes the station data for the reporting year 1978 regarding these issues. Only stations covered by the 5-5-10 rule were included in this analysis. Terrestrial satellite TV stations were also eliminated. This left 556 commercial TV stations in the present study.

One of the first questions asked in the radio deregulation hearings was, how many radio stations do not meet the 6-8 minimums? Here the question is, how many TV stations do not meet the 5-5-10 TV minimums?

As to the five percent minimum for informational programming and the 10 percent minimum for total non-entertainment programming the answer is simple. All 556 commercial, nonsatellite TV stations covered by the FCC standard met or exceeded it. This result was expected since Wirth and Wollert found that in 1974 and 1976 the average station exceeded the five percent informational (news plus public affairs) minimum and the 10 percent non-entertainment minimum by two and one-half to three times.[9] The data provided in Table 1 show that the 1978 results are quite similar to those reported by Wirth and Wollert for 1974 and 1976.

In the five percent local programming category, 53 of the 556 stations covered by the standard failed to broadcast the minimum level. As might be expected, the majority (38) of these were in smaller television markets (101+); seven operate in the top-50.

In sum, TV stations appear to be doing a "good" job when it comes to meeting and exceeding FCC public interest program minimums. In local programming, about nine percent fail to meet the minimum requirement. Most of those failing to do so operate in smaller markets. Consequently, the primary question here is the same as it was for radio deregulation--can the "little guys" meet the requirements?

This question involves the fear that as television market size decreases, from one to 212, and as market competition decreases, from 12 TV stations in Los Angeles to one in an Alpena, Michigan, the quantity of public interest programming will also decrease. At least this was the thesis presented by opponents of radio deregulation. Studies of the quantitative data presented by and to the FCC on this issue, as part of the radio deregulation proceedings, generally disproved this thesis. But is it true for television?

Examiniation of Table 1-A suggests that an overall case can be made that television stations are doing, at least, an adequate job in those programming categories deemed most important by the FCC in fulfilling their public interest responsibilities. Overall, the TV stations covered by the 5-5-10 standard air about three times more news and public affairs programs than that demanded by the FCC, about two and one-half times more non-entertainment programming, and nearly twice as much local programming. These results differ little from those reported in the analyses of the 1974 and 1976 data. Consequently, TV would seem to have a pretty good track record when overall station performance is compared to the FCC's public interest program requirements.

The information provided in Table 1-B addresses the market

TABLE 1

PROGRAMMING PERCENTAGES FOR ALL COMMERCIAL, NON-SATELLITE TV STATIONS, FOR STATIONS EXAMINED BY MARKET COMPETITION, AND BY TV MARKET SIZE.

	INFORMATION PROGRAMS - (NEWS + P.A.)	TOTAL NON-ENTERTAINMENT PROGRAMS	TOTAL LOCAL PROGRAMS
A. TOTAL FOR ALL STATIONS (N=556)	14.5%	24.2%	9.5%
B. PERCENTAGE OF AIRTIME DEVOTED TO PROGRAM AREAS BY NUMBER OF STATIONS IN THE MARKET.			
1. FOUR OR MORE (215)	15.0%	24.8%	11.5%
2. THREE (237)	13.9	23.1	8.2
3. TWO (64)	14.4	24.4	8.4
4. ONE (40)	14.4	26.4	8.0
C. PERCENTAGE OF AIRTIME DEVOTED TO PROGRAM AREAS BY MARKET SIZE.			
TOP-10 (44)	16.4%	27.1%	15.6%
11-25 (55)	15.8	25.0	12.9
26-50 (81)	14.6	23.7	10.1
51-100 (154)	14.2	23.7	8.9
101-150 (135)	13.7	23.5	7.7
151 and above (87)	13.8	24.4	7.4

competition question. The thesis here is that a decrease in competition will lead to a decrease in public interest programming. The Table shows this is not necessarily the case. The average station which operated in a "low competition" market (one and two station) devoted a larger portion of its broadcast day to informational programming than did the average station operating in a three station market, and almost as much as the average station operating in a "high competition" market (four or more stations). In total non-entertainment programming, the markets with the least competition exceed all others. Only in local programming do stations operating in the least competitive markets (one station) come out last; and even here, in the aggregate, they exceed the FCC's local program minimum by three percent.

Our market size results (Table 1-C) demonstrate a similar outcome. No matter what the market size, in the aggregate, the average TV station covered by the FCC's 5-5-10 policy in each market category exceeds those standards by a sizeable amount. Local programming, again, is seen as a possible shortcoming in the smaller markets. However, the average small market station (101+) still exceeds FCC local program minimums. Since 38 of the 127 stations in markets 101+ failed to meet the FCC's five percent local programming minimum, the remaining 89 stations must be performing significantly above the averages provided in Table 1-C.

Conclusions

In sum, television licensees appear to be doing a "good" job in meeting and exceeding the public interest program minimums established by the FCC. The aggregate data provided (Table 1) show that even when average station performance is evaluated by market competition and by market size, the TV stations covered by the FCC's 5-5-10 standard meet and exceed it. However, several problems still remain.

This analysis of the FCC data does not include terrestrial satellite TV stations. One study found these stations to be quite deficient in these program categories.[10] Likewise, independent UHF stations, which are not covered by the 5-5-10 rule, were not included. In radio, there is nothing comparable to the terrestrial TV satellite nor to the independent UHF station. For television deregulation to proceed, the public interest program performance of these stations must also be analyzed.

In the radio deregulation proceedings, the FCC determined that quantitative public interest program performance provided the most objective evidence as to whether radio stations were doing a "good" job. Such evidence; for or against the radio industry, was based on FCC-collected non-entertainment program data. It provided the base support for proceeding on to other areas of debate and discussion on the issue. In the end, a large portion of the FCC's rationale for deregulating radio was based on these data.

Furthermore, the FCC based its decision on data from only one year. These data here examine 1978, and when compared to the previously published studies by Wirth and Wollert, then one gets even a greater longitudinal perspective on the type of job commercial TV stations are doing nationwide in these non-entertainment programming areas.

In this paper, the question is television deregulation. The approach was to apply the methodology used in the radio deregulation hearings to the television medium to determine outcomes. The deregulatory mood in Washington may soon reach television, and such "objective" evidence should serve as the basis for further deregulatory discussions. This evidence is presented here.

[1] Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 390.

[2] 46 Fed. Reg. 36 (Feb. 24, 1981).

[3] See, e.g., Alfred E. Kahn. The Economics of Regulation. Vols. 1 & 2. (New York: John Wiley & Sons, 1970).

[4] 59 F.C.C. 2d 491; F.C.C. 76-419 (May 6, 1976). Here the Commission amended the Rules to allow the Broadcast Bureau to adopt a standard of 6% for FM and 8% for AM in total non-entertainment programming when inspecting radio station logs submitted each year for a composite week.

[5] 46 Fed. Reg. 36 beginning at 13924 summarized the various national and local studies of programming submitted. The Commission used such terms as "remarkable" in commenting on the outcomes of these studies showing both AM's and FM's to "substantially" exceed the 6-8 guidelines.

[6] 59 F.C.C. 2d 491. At the same time the 6-8 standard was adopted the FCC adopted a standard for all commercial TV stations except independent UHF's. For TV it's 5% informational, 5% local and 10% total non-entertainment.

[7] Statement of Commissioner Glen O. Robinson, Multiple Ownership Rules, 50 F.C.C. 2d 1046 at 1121.

[8] Vernon A. Stone, "Survey Shows TV News Staffs Expanding But Radio Newsrooms are Little Changed." RTNDA Communicator. Vol. XXXIV (Feb., 1980), p. 9. Stone here found 26% of all radio stations surveyed had no full time person hired in news. Of course these stations can still do rip 'n read news or use a parttimer, but the same study showed the average TV newsroom to have 13 fulltimers compared to one in the average radio newsroom.

[9] Michael O. Wirth and James A. Wollert, "Public Interest Performance of Multimedia-Owned TV Stations." 53 Journalism Quarterly (Summer, 1976); Michael O. Wirth and James A. Wollert, "Public Interest Programming: FCC Standards and Station Performance." 55 Journalism Quarterly (Autumn, 1978).

[10] James A. Wollert, "The Public Interest Doctrine and Terrestrial Satellite Television Stations." 22 Journal of Broadcasting (Summer, 1978).