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A Battle for Control of TV

Network Victory at FCC Would Rob the Public of Diversity

By HENRY A. WAXMAN

If you think that television programming is bland and predictable now, imagine what it will be like if the three networks manage to persuade the Federal Communications Commission to repeal a set of 1970 rules that have been instrumental in bringing more diverse and better programming to television. Unfortunately, it appears that the Reagan Administration and the networks share fond memories of the "good old days," when just three enormous companies completely dominated the television industry and its programming.

At first blush, the rules under siege seem classic Washingtonese. Their name—the financial interest and syndication rules—sounds vapid and technical, and their definition is slightly confusing.

But the operation of the rules is simple: The three television networks are forbidden to syndicate the programs that they broadcast, and they can't share in any of the $800 million that independent producers earn each year from selling "rerun" rights to individual stations.

Because ABC, NBC and CBS want the rule repealed, and the independent program producers want it continued, the issue often is cast as a fight over profits—the networks versus the production community. This seems to be the FCC's view, and, as the rule moves closer to repeal, important public-interest questions are being brushed aside.

Diversity and competition are the major public-interest issues; others include advertising costs, television's portrayal of women and minorities and the economic viability of independent television stations not affiliated with a network. All the issues boil down to one: what people will be able to see when they switch on their sets.

The rules that the FCC wants to repeal were instituted in 1970 after it concluded that "(the) public interest requires limitation of network control and an increase in the opportunity for development of truly independent sources of prime-time programming." At the time, the three networks, for all practical purposes, controlled the entire program production process. And, because they could require producers to give them syndication rights, they also could control what and to whom they would sell through syndication.

As Grant Tinker, onetime head of MTM Productions and now president of NBC, said, "Syndication is where the money is made, if any money is made at all." Yet, to have shows broadcast, producers had to cede these syndication rights away. The FCC found that the networks accepted virtually no entertainment programs in which they did not have a financial interest in syndication or other subsequent use.

To break this network dominance and strengthen independent producers and stations, the FCC ruled that the networks could no longer syndicate programs after they showed them.

For producers, this meant that they retained their rerun rights and could sell the programs to any stations they wanted. It meant increased revenue and independence, thus enabling them to try innovative programs.

For independent stations, the rule meant opportunities to bid for programs, such as "M*A*S*H," that would attract viewers and advertisers, thus strengthening them in competition with network affiliates for prime-time audiences. Increasing ratings and revenues allow independent stations to broadcast first-run material, such as "A Woman Called Golda" and the "Life and Adventures of Nicholas Nickelby."

For advertisers, it meant lower costs because of more outlets, and thus more competition.

For women and minorities, competition brought new artistic realism.

For the public, the benefits were the greatest: more television stations and more choices of what to see and when to see it.

Since 1970, there has been a 26% increase in the number of independent producers, and the number of independent television stations has doubled. If the rule is repealed, and if my legislation to turn the rule into a law is not approved, we are likely to return to the pre-1970 period, when 97% of all evening television programs were controlled by the networks.

Of course, the networks have a legitimate economic interest in seeking repeal; their balance sheets reflect (in part) the control that they hold over the television industry. Moreover, cable and other telecommunication technologies threaten to raid network viewers. Yet, in reports to stockholders and advertisers, the networks boast that the nascent cable competitors will have little effect on their audience share.

Although they also argue that repeal would benefit the public interest, it is difficult to discount the overall benefits to the public of the last 12 years. But these improvements have not solved all of television's problems. There are still too many programs aimed at the lowest common denominator. Progress is likelier with an ever-expanding pool of independent producers and stations than with three companies dominating our most important medium.

Despite the clear public benefits of the existing rules, network pressure seems to be pushing the FCC toward repeal. In fact, the commission has suddenly advanced its first hearing to Monday.

It appears that only congressional action to keep the rules intact can maintain the competition and diversity that the public interest requires.

David Poltrack, CBS' vice president for research, nicely framed the repeal issue when he conceded that new, non-network programs are "distracting network viewers." But Poltrack added, "We think we can control" that. He could be right, of course—if the financial interest and syndication rules are repealed.

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