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It's Time for the FCC to Relinquish Control of Media Ownership

by

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If nothing else, the hullabaloo regarding Russian attempts to influence the 2016 election, and last week's congressional hearings, highlight the important role of Internet outlets such as YouTube, Facebook, and Twitter as alternatives sources of information and entertainment. Indeed, it is blinking reality not to recognize that in many respects, new media sources, including but those accessible via the Internet, have overtaken an information marketplace in which traditional newspapers and broadcast TV and radio stations thrived.

The diversity of viewpoints readily available in today's media marketplace is sharply at odds with the maintenance of legacy media ownership controls by the Federal Communications Commission. But change finally may be in the works. The FCC is set to vote shortly on Chairman Ajit Pai's proposal to curtail substantially the agency's broadcast ownership restrictions that long ago outlived their original purpose.

FCC rules that date back to the 1970s restrict an entity's ownership of TV stations, radio stations, and newspapers within a local market. Back when the FCC first imposed bans on newspaper/broadcast cross-ownership and on radio/TV cross-ownership, most Americans relied on their local newspapers or broadcast TV and radio stations for news and information. When put in place, the FCC and media control advocates rationalized such bans as necessary to ensure viewpoint diversity.

But Section 202(h) of the Telecommunications Act of 1996 requires the FCC to periodically review all of its media ownership regulations and to "repeal or modify any regulation it determines to be no longer in the public interest." Pai's proposal to significantly curtail the agency's broadcast ownership restrictions is consistent with the FCC's statutory duty.

An abundance of new media alternatives has rendered the existing broadcast ownership restrictions unnecessary. The FCC's latest Video Competition Report indicates that in 2015 just 12.4 million households relied on over-the-air broadcast TV exclusive of any cable or direct broadcast satellite (DBS) service. Anyone not living in a cave is aware that hundreds of different cable and DBS channels have become available since the 1990s. In 2015, cable and DBS subscriptions totaled over 99 million.

Of course, the Internet also has expanded dramatically alternative sources of information and the ready availability of a multitude of diverse viewpoints. Consider the potent competition offered by online video services. By early 2017, Amazon Prime subscriptions climbed to 80 million and Netflix surpassed 50 million. Consumers also have access to numerous Internet-streaming media outlets such as YouTube, Hulu, and Pandora. Additionally, thousands of niche websites and social media services offer information and entertainment content via vidcasts, podcasts, and other messaging formats.

Meanwhile, the country's print newspapers have been hit hard by sharp declines in readership. And newspapers have suffered losses in ad revenue to alternative media outlets, including cable news and online publications that cater to local markets. According to a 2016 Pew Research Center report, only 20 percent of adults get news from print newspapers, and only five percent of those aged 18 through 29 do so. A 2014 Pew study of 438 digital news sites found that over half of such sites had a local focus. Over 400 newspapers, or one-fourth of those nationally, have reportedly gone out of business since the FCC imposed its newspaper/broadcast cross-ownership ban in 1975.

In the face of such financial hardships confronting legacy media outlets, is there any good reason to think that FCC cross-ownership restrictions are necessary to promote diversity of opinion? There is evidence that commonly owned media outlets often publish and broadcast diverse viewpoints. Combined media outlets with uniquely branded properties can reach different audience segments. Moreover, enforcement of outdated FCC broadcast ownership rules is likely harmful to the viability of broadcast TV, radio, and newspapers. Sharing of resources can enable more rapid and cost-effective reporting, for instance. Improved financial and operational efficiencies through cross-ownership may be the only way to ensure the vitality of broadcast TV, radio, and newspaper outlets in the digital media marketplace.

Chairman Pai's proposal to eliminate or reduce FCC broadcast ownership restrictions also is also bolstered by free market and free speech principles. In competitive markets like today's media marketplace, firms should be free to organize themselves as they see fit to best ensure efficiency and productivity. Competition incentivizes firms to cater to the interests of viewers, listeners, and readers.

Furthermore, newspaper publishing and broadcasting are forms of speech entitled to First Amendment protection from government infringement. FCC ownership regulations that serve no purpose in an era of media abundance, in effect, restrict speech in a way that implicates the First Amendment.

Even assuming it once made sense for the FCC to impose broadcast ownership restrictions, it is improper in the digital age for the commission to maintain its role as "media ownership" gatekeeper. Quite predictably, media control advocates want the FCC to cling to its old rules. But the unceasing expression of pro-media control viewpoints through a multitude of Internet news sites, cable and satellite TV outlets, and social media, just demonstrates that market changes have rendered broadcast ownership controls unnecessary and no longer in the public interest.

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