Federal Communications Law Journal

Volume 52 | Issue 3 Article 5

5-2000

The CBS-Viacom Merger: Impact on Journalism

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I. INTRODUCTION

"There exists in America a control of news and of current comment more absolute than any monopoly in any other industry."[1]

With the September 7, 1999, announcement by Viacom Inc. and CBS Corporation that their respective boards of directors unanimously approved a definitive agreement to merge the two companies in the largest media

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1. UPTON SINCLAIR, THE BRASS CHECK (1919).

transaction ever, it reignited a decades' old debate in America's journalistic community.[2]

Critics of these megamergers argue that the implications for journalism are enormous. They warn of a growing media-industrial complex potentially threatening to democracy. Others would characterize those views as nothing more than alarmist positions that have been proven wrong in the past.

The one indisputable fact: the eighty-billion-dollar Viacom-CBS merger would make the new Viacom the world's leading company in the production and distribution of news. Viacom proclaims that "the merger should also serve the public interest by helping to sustain the continued vitality of free and universal broadcasting."[3]

It is that claim of preserving the vitality of "free and universal broadcasting" that is at the heart of this and every other public debate over the power of big media. Although mass media in America has and will make continual evolutions, the fears expressed as a result of recent media conglomerate transactions are reminiscent of the debate ignited by Upton Sinclair over eighty years ago when he suggested moneyed interests were crippling journalism in U.S. newspapers and magazines.

Tom Goldstein, Dean of the Columbia University Graduate School of Journalism, recently observed: "Too often, commentary on media concentration has been fragmentary or anecdotal. We need to recast the debate, which shows signs of stagnating. We need to add new perspectives. That is why we should welcome fresh efforts at understanding media concentration."[4]

While I would not even begin to suggest that an essay of this nature could or would provide the answers to the questions of media consolidation and its effect on the practice of journalism in America, it is my hope that examinations of this kind will provide an outlet for the dissemination of information and discussion of relevant issues.

II. THE CASE AGAINST THE MERGER

The arguments against the proposed Viacom-CBS merger are no different than those advanced by opponents to other recent media mergers.

Perhaps the two biggest merger critics are Ben Bagdikian, a Pulitzer Prize-winning journalist and former Dean of Berkeley's Graduate School

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2. *See Viacom and CBS to Merge in Largest Media Transaction Ever*, CAMBRIDGE TELECOM REP., Sept. 13, 1999, *available at* 1999 WL 8104230.

3. *Id.*

4. Tom Goldstein, *Does Big Mean Bad?*, COLUM. JOURNALISM REV., Sept./Oct. 1998, at 53.

of Journalism, and Mark Crispin Miller, professor of media studies and director of the Project on Media Ownership at New York University.

Both men warn of a growing and "unprecedented media concentration" and contend that "the effect on journalism and society is going to be profoundly negative."[5]

Bagdikian, Miller, and others seem to cite three reoccuring and compelling rationales for their fears of media consolidation and megacorporate journalism: financial pressures, stifling of free discourse, and news content manipulation.

A. *Financial Pressures*

Opponents argue the financial pressures are the result of Wall Street's push for profit at the expense of good journalism. The late Edwin Diamond, a veteran reporter and professor at the NYU School of Journalism, observed:

> TV news has become too money-making to be left to news people. More and more, Wall Street sits in the executive producer's chair . . . when news went public and had to answer to stockholders with higher profits, the picture changed and newsroom budgets began to be squeezed to increase profits. . . . The result is often passive news, soft news, personality news, crime news, and news as entertainment.[6]

More specifically, Medill School of Journalism Dean Ken Bode predicts cuts in the CBS news division if the merger goes through. He points to the elimination of more than a hundred employees in October 1998 and further contends that CBS and Viacom expect to achieve a savings of one hundred million dollars with the merger by eliminating more jobs. Those cost reductions, Bode argues, will have journalistic consequences, particularly at some of CBS' major market stations where they are already understaffed.[7]

Why all the cost-containment and cutbacks? Some, like Alex Jones, the host of National Public Radio's On The Media, suggest that large conglomerates simply have "no understanding or value for news and journalism values."[8] As conglomerates grow, journalism becomes a smaller part of what they do and journalistic values get increasingly subordinated to the business and economic values of the parent company.

5. Paul Farhi, *How Bad Is Big?*, AM. JOURNALISM REV., Dec. 1999, at 29.

6. Jane Wardlow Prettyman, *Where's The Real News?* AM. REV. (visited Jan. 1, 2000) <http://www.americanreview.net/>.

7. *See* Mark Crispin Miller, *Can Viacom's Reporters Cover Viacom's Interests?*, COLUM. JOURNALISM REV., Nov./Dec. 1999, at 50.

8. Andie Tucher, *The Real Dangers of Conglomerate Control*, COLUM. JOURNALISM REV., May/Apr. 1997, at 50.

That feeling is echoed by Eric Alterman, a columnist for the *Nation.* He refers to a joint press release from Sumner Redstone and Mel Karmazin outlining how the new Viacom will be number one in virtually all forms of electronic media in America.[9] But missing from that "boasting," as Alterman calls it, is any mention of what the new organization will do to be the leader in journalistic enterprises.[10]

As Alterman points out: "It's nearly impossible to imagine a nonjournalist being willing to risk so much on behalf of a journalistic principle, when a victory would leave the enterprise no more profitable than would quiet capitulation."[11]

New Yorker media critic Ken Auletta agrees. During the Viacom-CBS merger negotiations, Auletta said he doubted there was much in the way of discussions on how to improve the CBS's news product. Instead, he said much of the discussion focused on the benefits for shareholder value, stock prices, and revenue generation. "[T]hat's the way businessmen think. . . . How do we make more money? [N]ot necessarily 'how do we produce the best product?'"[12]

B. *Stifling of Free Discourse*

There is much more than just finances at stake according to Bagdikian, he argues many voices are stifled as a result of mass media consolidation. At issue is the possession of power to "surround almost every man, woman, and child in the country with controlled images and words."[13]

Some critics wonder if those powerful images and words will be helpful or harmful to society, representative of or repressive to democracy in our nation. It would be difficult not to acknowledge the "power" argument. In fact, Viacom President Redstone called the deal with CBS "a merger that is unequaled in quality and power—the power of it's content, the breadth of its distribution."[14] CBS CEO Karmazin echoed those thoughts: "We will reach people in the home watching the number one

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9. *See* Eric Alterman, *Big Media Is Not Always Better*, INTELLECTUAL CAPITAL (Sept. 30, 1999) <http://www.intellectualcapital.com/issues/issue306/item6646.asp>.

10. *See id.*

11. *See id.*

12. *Newshour with Jim Lehrer: Merging Forces* (visited Mar. 26, 2000) <http://www/pbs.org/newshour/bb/business/july-dec99/cbs_9-7.htm>.

13. Goldstein, *supra* note 4, at 52 (quoting BEN BAGDIKIAN, THE MEDIA MONOPOLY (5th ed. 1997)).

14. *Newshour with Jim Lehrer: Merging Forces* (visited Mar. 29, 2000) <http://web-cr05.pbs.org/plweb-cgi/fastweb?getdoc+newshour+newshour+5286+1+wAAA+cbs%26and%26viacom%26and%26merger>.

network, watching our cable channels. We will reach people outside the home, when they're in cars and seeing our billboard, and seeing our bus advertising, and listening to our radio stations."[15]

That extensive reach of a Viacom-CBS combination is what some find worrisome. "When too few people own too much media, it leads to a homogenization of the culture and the marginalization of many cultures," maintains the Reverend Jesse Jackson.[16] The civil rights leader has met with CBS's Karmazin to express his concern that a Viacom-CBS merger could shut out minorities and minority voices. Jackson says large media couplings often put employment opportunities beyond the reach of African Americans and Hispanics.[17]

Alterman puts it like this: "The danger posed by mega-mergers like that of CBS and Viacom is only partially the reduction in diversity of voices. No less worrisome is the likely homogenization of opinion all across the spectrum."[18]

Bagdikian, Miller, Jackson, and Alterman suggest that a small number of corporate decision makers ultimately will decide which messages reach the public. These skeptics and others of giant media companies question rather pointedly whether "alternative" voices, viewpoints, and perspectives stand a chance of making it onto the air when the big keep getting bigger and opportunities are limited.

C. *News Content Manipulation*

Perhaps the most troubling fear to merger opponents though is the control over news and public affairs programming that could be exerted by corporate interests. Bagdikian terms it the "new communications cartel."[19] He contends these large "corporate controllers" are engaged in a significant level of manipulation of and interference in news content in pursuit of their own corporate self-interest.

Many others would agree with his assessment and say it could happen with a CBS network operated by Viacom. Want proof? Merger opponents cite a litany of examples from the General Electric/NBC and Disney/ABC acquisitions. For example, an NBC Today Show segment in November of 1990 on consumer boycotts failed to mention a major boycott of GE

15. *Id.*
16. Tim Jones, *Jackson Goes To Ground Zero To Warn About Bigger Media*, CHI. TRIB., Sept. 23, 1999, § 3, at 1.
17. *See id.*
18. Alterman, *supra* note 9.
19. Goldstein, *supra* note 4, at 52 (quoting BEN BAGDIKIN, THE MEDIA MONOPOLY (5th ed. 1997)).

products at the time.[20] A show guest claimed he was told not to discuss that particular boycott on the program.[21] Then-NBC News chief Lawrence Grossman claimed GE boss Jack Welch told him "not to use phrases like 'Black Monday' to describe the 1987 stock market crash, because it was depressing the price of blue chip stocks like GE."[22] ABC's *Good Morning America* in 1997 devoted much of its two-hour program one morning to a celebration of Disney World's twenty-fifth anniversary, including an interview with Disney CEO Michael Eisner. Charles Gibson reportedly acknowledged that "some people" at ABC were not "comfortable" about it.[23] ABC News investigative reporter Brian Ross reportedly pursued a story in 1998 about pedophiles that may have worked at Disney World. The story never aired. ABC maintained the decision to halt the story had nothing to do with Disney's ownership.[24]

Newsweek magazine columnist Jonathan Alter admits that stories like the Disney pedophile probe may get killed by editors because they are false or unfair or face other legal problems. But he wrote, "The trouble with big media mergers . . . is that the public can never be sure of the answers to such questions."[25]

Some critics maintain that the answer is clear. At a duPont-Columbia University Forum in 1998, Miller pointed to what he called "increasing evidence of direct and conscious manipulation of the news process by higher corporate powers."[26]

Bagdikian, working with a team of researchers from Sonoma State University for an annual review and media analysis billed as "Project Censored," attempts to find that evidence of manipulation. The group maintains that almost every under-reported story "rocks the boat of corporate interests."[27] While the group acknowledges that direct evidence may have to be surmised, they contend that their yearly findings should come as no surprise.

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20. *See* Todd Putnam, *The GE Boycott: A Story NBC Wouldn't Buy*, EXTRA!, Jan./Feb. 1991, *available at* (visited Mar. 26, 2000) <http://www.fair.org/extra/best-of-extra/ge-boycott.html>.

21. *See id.*

22. Jim Naureckas, *Corporate Ownership Matters: The Case of NBC*, EXTRA!, Nov./Dec. 1995, at 13.

23. Tucher, *supra* note 8, at 50.

24. *See* Jonathan Alter, *Big Media Gets Even Bigger*, NEWSWEEK, Jan. 24, 2000, at 42.

25. *Id.*

26. Goldstein, *supra* note 4, at 52.

27. PETER PHILLIPS & PROJECT CENSORED, CENSORED 1997: THE NEWS THAT DIDN'T MAKE THE NEWS (1997).

For example, "Project Censored" cited the lack of in-depth reporting by either NBC or CBS in 1997 on the risks of NASA's Cassini probe launch with seventy-two pounds of plutonium on board. Their report pointed out that parent companies General Electric and Westinghouse are two of the largest corporations with government defense contracts.[28]

Miller sees the clear potential for this type of reportorial censorship with the Viacom-CBS deal. "Viacom's vastness could inhibit its reporters from pursuing stories, [for example,] the character of Viacom's programming might limit coverage of the pathological aspects of the TV culture. The corporation that gives us Butt-head, Howard Stern, and *WWF's Smackdown* may be disinclined to welcome tough inquiries into the effects of such fare on the young."[29]

D. Opposition Underview

If we believe media opponents, global media giants and their increasing consolidation is a specter that now haunts the world. Robert McChesney of the watchdog group Fairness & Accuracy In Reporting sums up those arguments: Consolidation is a "system that works to advance . . . and promote commercial values, while denigrating journalism and culture not conducive to the immediate bottom line or long-run corporate interests."[30]

III. THE CASE IN SUPPORT OF THE MERGER

In heralding their plans to merge, a joint statement issued by Viacom Inc. and CBS Corporation proclaims "the merger should also serve the public interest by helping to sustain the continued vitality of free and universal broadcasting."[31]

Indeed, Viacom and CBS officials are not alone in making that assessment of their merger plans. Many industry observers agree and dismiss what they call the uninformed "sneers" of merger critics.

These media analysts suggest that the practice of good journalism is good business, big ownership empirically does not equate with censorship, and consolidation has proved beneficial to increasing alternative voices.

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28. *See id.*

29. Miller, *supra* note 7, at 50.

30. Robert McChesney, *The Global Media Giants: The Nine Firms that Dominate the World*, EXTRA!, Nov./Dec. 1997, at 11.

31. *Viacom and CBS to Merge in Largest Media Transaction Ever*, *supra* note 2.

A. *Good Journalism Equals Good Business*

Good journalism is good business, according to former NBC News president Michael Gartner. "It makes no difference if media are owned by corporations or families or individuals. What matters are the integrity and intelligence and intrepidness of those owners."[32]

Gartner contends that a news outlets' credibility is one of its assets, which can be eroded by blatantly biased reporting. "You can't generalize about owners, for the structure of ownership is immaterial."[33]

"Megamergers such as the CBS/Viacom deal may well be good news for journalism," suggests veteran media writer Paul Farhi of the *Washington Post*. "The notion that big media companies inevitably trim . . . is based on a conspiratorial negative . . . . I daresay the same pressures exist—and may even be greater—at smaller news outlets, such as the community newspaper."[34]

Farhi and Gartner suggest that the economics of today's media industry are such that massive-sized companies are closely watched and they want to protect their credibility and good names. Anything that jeopardizes the public confidence could, in turn, impact shareholder confidence and stock values.

In analyzing media consolidation for the *New York Times*, Laurence Zuckerman takes note of the willingness of large corporations to step forward and invest financially in journalistic enterprises that otherwise would have failed.

Zuckerman cites Gannett's spending of millions to launch *USA Today*, now the largest newspaper in the nation; Time Warner's huge investment in New York 1, the local twenty-four hour cable news channel in New York City that's now being duplicated elsewhere; and News Corporation's acquisition of the *New York Post*, saving the paper from certain death.[35]

B. *Big Ownership Is Not Censorship*

Not only is good journalism good for business, many analysts point to historical evidence to show that big media conglomerates are no more likely to engage in journalistic censorship than some of their smaller counterparts.

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32. Michael Gartner, *Mergers Won't Taint TV News*, USA TODAY, Aug. 8, 1995, at 11A.

33. *Id.*

34. Farhi, *supra* note 5, at 30-31.

35. *See* Laurence Zuckerman, *Questions Abound as Media Influence Grows for a Handful*, N.Y. TIMES, Jan. 13, 2000, at C6.

Norman Pearlstine, the Editor-in-Chief of Time Inc., contends that editorial independence is related less to the size of a company than it is to whether the owners and editors are committed to editorial integrity.[36]

Zuckerman seconds that concept: "Many people who recall a golden age [thirty] or [forty] years ago, when most newspapers and television stations were owned by small or family owned companies, may be blinded by nostalgia."[37] He notes that over the years many local media institutions were "beholden to local advertisers like car dealers, supermarket chains[,] and department stores."[38]

"It's important that we not mythologize the nonexisting good old days because it is obviously true that people like Mr. Hearst and Mr. Pulitzer were also interested in making money," echoes *Washington Post* media critic Howard Kurtz.[39] Zuckerman even recalls instances where reporters were barred from investigating local institutions where a media owner held an interest.

In contrast, CEO's of some large media companies maintain they do not have time to be involved in censoring news at the local level. "The chief executive officer hardly controls what goes on in the trenches," said James Rosse, who retired last October as CEO of Freedom Communications.[40] The company owns twenty-five daily newspapers and eight television stations.[41] "I played an important leadership role in shaping the size and direction of the company. But I did not play any direct role in shaping the product itself."[42]

Rosse and Zuckerman suggest the distance of the large media corporate headquarters from local outlets lessens the chances of interference and thus creates opportunities for strong local reporting. In other words, corporate giants are not beholden to the same forces as small, local owners often are.

Walter Isaacson at *Time* also makes that assessment. He argues that journalists are "more insulated from intrusion from their corporate bosses when they work in the bosom of a large company, which is less interested in the outcome of particular stories, than they might be in a smaller one."[43]

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36. *See id.*
37. *Id.*
38. *Id.*
39. Tucher, *supra* note 8, at 50.
40. Zuckerman, *supra* note 35, at C6.
41. *See id.*
42. *Id.*
43. Tucher, *supra* note 8, at 48.

While media merger opponents fear that rampant news manipulation to benefit corporate interests will take place, there are many dissenters who contend otherwise.

"NBC may not want to take on General Electric[,] but CBS and ABC will do so without any question," notes one participant in a *Columbia Journalism Review* forum on corporate media control.[44] "[C]ompetition for news makes almost any powerful interest vulnerable."[45]

Corporate competition is not the only check and balance to news manipulation according to Kurtz. "There is always the threat that somebody in [the] position [of being censored] can go public and cause an awful lot of bad publicity, which media companies hate as intensely if not more than other types of companies."[46]

C. *Alternative Voices*

Consolidation has not only failed to result in censorship, in fact, many contend it has boosted alternative voices in the media. As opposed to stifling discourse, consolidation has encouraged free expression, according to the *Post*'s Farhi. "The idea that [twelve] companies could dominate the flow of news, information[,] and cultural expression seems preposterous in a world drowning in information sources."[47]

Rather than a conspiracy aimed at media control and domination, Farhi argues that megamergers are the result of corporations trying to keep up with a "media and cultural landscape that grows more disheveled, more competitive[,] and more anarchic by the month."[48]

He further notes that, despite Disney's control of ABC, ESPN, the Disney Channel, and several other cable networks as of 1996, the combined Disney television properties now reach less total viewers than ABC alone reached three years prior.[49] Farhi reasons that fragmenting markets have resulted in media companies merging in a frantic effort to remain competitive.[50]

It is that effort to remain competitive that some say has resulted in a surge of new media outlets despite consolidation. "For in addition to increased media concentration, the last two decades have also heralded an unprecedented proliferation of new information sources, from dozen of

44. *Id.* at 51.
45. *Id.*
46. *Id.*
47. Farhi, *supra* note 5, at 31.
48. *Id.* at 30.
49. *See id.*
50. *See id.*

cable networks to the seemingly unlimited resources of the Internet," maintains Zuckerman, who rejects the claims of Bagdikian and other critics that big is always bad.[51]

"[I]t can also be argued that giants have the resources to create new voices and preserve others,"[52] he adds, noting that many of the top news and information sites on the Internet are subsidized by the large media companies. The reason? Megacorporations are the only ones that can handle the heavy financial losses some World Wide Web sites are currently incurring.

The increase in the diversity of voices, despite the big getting bigger, can also be seen in the spectrum of broadcast television's predecessor: commercial radio. "[B]igger group ownership hasn't hurt format diversity, and it may even have done some good," contends Farhi.[53]

Based on figures from *Broadcasting & Cable*, Farhi points out that the number of radio stations in the United States with news and news-talk programming has increased by one-third since 1994, from 1456 to 1940. During that same period, large groups like Clear Channel and Infinity Broadcasting (would be part of a merged Viacom-CBS) significantly increased their ownership holdings in local stations.[54]

D. *Rebuttal to Opponents*

The warnings sounded by opponents of the Viacom-CBS deal and other megamedia mergers are soundly rejected by many media observers like Farhi. He writes: "[A]larmists like Jackson, Miller, et al. have yet to assemble a convincing case that bigness is inherently bad. In fact, the counter-argument [sic] is more compelling—that bigness might be beneficial, at least in upholding and defending traditional standards of journalism."[55]

IV. CONCLUSION

Merger critic Bagdikian maintains he is anything but an alarmist when it comes to the power exerted by big media power that he says is underestimated.[56] In 1983, he wrote the first edition of his book, *The Media Monopoly*. At that time, he contends a mere fifty companies controlled

51. Zuckerman, *supra* note 35, at C6.
52. *Id.*
53. Farhi, *supra* note 5, at 30.
54. *See id.*
55. *Id.*
56. *See* Zuckerman, *supra* note 35, at C6 (quoting BEN BAGDIKIN, THE MEDIA MONOPOLY (5th ed. 1997)).

much of what America read and watched.[57] For his sixth edition due out this year, he contends the numbers has shrunk to six.[58]

"Every edition has been considered by some to be alarmist and every edition ends up being too conservative," says Bagdikian who believes regulators and politicians in Washington are unlikely to act to stop corporate deals like the Viacom-CBS merger because there is too much "big money" at stake.[59] In fact, Bagdikian argues that relaxed regulations have prompted many of the megamergers involving media giants.[60]

Opponents of the movement toward large media conglomerates strongly believe that as communications Goliaths merge and partner, the threat to quality journalism will inevitably increase.

Conversely, those who are either supportive or neutral in cases involving major media deals suggest there is no greater journalistic peril in large conglomerates than currently exists.

"Remember that next time you read about a media merger. If journalistic standards . . . are what you want, root for more consolidation. The morals of the marketplace being what they are, bigger doesn't have to mean badder," writes Farhi, "[b]ut it could mean more respectable and if we're lucky, more responsible."[61]

I hesitate to end on one of the oldest clichés in television news, but "time will certainly tell" which prediction rings true to the continued consolidation in our industry that appears inevitable.

As Goldstein concludes: "These competing views of media power . . . just underscore that we have no unitary explanation of the extent and impact of media concentration" on the practice of journalism.[62]

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57. *See id.*
58. *See id.*
59. *Id.*
60. *See id.*
61. Farhi, *supra* note 5, at 31.
62. Goldstein, *supra* note 4, at 53.