Backgrounder
Published by The Heritage Foundation
No. 2133
May 6, 2008

The FCC's Cross-Ownership Rule: Turning the Page on Media

James L. Gattuso

Should radio and television stations be allowed to own newspapers? Last December, the Federal Communications Commission (FCC) answered "sometimes." Specifically, the five-member agency voted to liberalize its 33-year-old blanket prohibition on cross-ownership, allowing broadcast licenses to be owned jointly with newspaper licensees.

The decision is now being challenged in Congress, where the Senate Commerce Committee recently approved a "resolution of disapproval" (Senate Joint Resolution 28) to overturn the FCC's action. Recent reports that publisher Rupert Murdoch, who purchased *The Wall Street Journal* last year, was trying to acquire Long Island's *Newsday* gave an added push to advocates of the ban. A full Senate vote is expected soon.

Critics of the FCC's action argue that newspaper/broadcast cross-ownership would lead to a dangerous concentration of power in the media business and warn of massive monopolies restricting Americans' access to news and varied information. Despite the apocalyptic rhetoric, however, Americans are in no danger of seeing their news and information monopolized, least of all by newspapers. Rather than increased concentration, recent decades have brought an historic expansion of information sources and their diversity. Instead of dominating today's media world, newspapers—and, to some extent, broadcasters—are struggling to remain viable.

In this dynamic and competitive media landscape, a ban on cross-ownership simply makes no sense. It is

Talking Points

- Last December, the FCC voted to allow newspapers to be owned jointly with TV and radio stations under certain limited circumstances. The Senate is considering a resolution to reverse that decision.
- Critics of the FCC's action argue that cross-ownership would lead to a dangerous concentration of power in the media business; but instead of dominating today's media world, newspapers and broadcasters are struggling to remain viable.
- In this dynamic and competitive media landscape, a ban on cross-ownership makes no sense. It is unnecessary and harmful to consumers—and even detrimental to competition.
- Like the FCC's long-repealed Fairness Doctrine, such rules can become a tool for ideologically motivated interference in media content.
- Modification of the cross-ownership rule was a small step in the right direction, but the FCC should have repealed it altogether, leaving the protection of choice and competition to well-established antitrust laws.

This paper, in its entirety, can be found at:
www.heritage.org/Research/Regulation/bg2133.cfm

Produced by the Thomas A. Roe Institute for Economic Policy Studies

Published by The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002–4999
(202) 546-4400 • heritage.org

The Heritage Foundation
LEADERSHIP FOR AMERICA

unnecessary and downright harmful to consumers—and even detrimental to competition. Moreover, like the FCC's long-repealed Fairness Doctrine, such rules can become a tool for ideologically motivated interference in media content.

The FCC was right to liberalize its cross-ownership rule. It would have been even better if the agency had repealed it altogether

Decline of the Newspaper

The 21st century has not been kind to the newspaper. Long the predominant vehicle by which Americans received news and information, newspapers are now struggling to remain relevant—and financially viable—in a world of instant electronic mass communication. Simply put, few citizens today get their first or last news of the day from a bundle of paper tossed in the azaleas by a teenager on a bicycle.

The newspapers' dominance of information ended in the mid-20th century with the rise of radio and television broadcasting. Today, both media are being swamped by a tsunami of alternatives, ranging from 24-hour cable news channels to online news sites, wireless news alerts, and much more.[1]

The news is grimmest for newspapers. Fewer than half of all Americans now read a newspaper every day, compared to 80 percent in 1950.[2] Moreover, according to a Zogby poll released in February of this year, only 10 percent of adults say that newspapers are their primary source of news and information, compared to a whopping 48 percent who said that they rely most on the Internet. Broadcasters were also lagging, with 11 percent of American adults naming radio and 29 percent naming television as their primary news source.[3]

Many of the top Internet news sites, of course, are operated by newspaper and broadcast companies, but they are far from dominant: Of the top 30 news Web sites, fewer than half are affiliated with traditional media firms, 11 of which are newspapers, or newspaper chains. Even the largest newspaper Web site—that of *The New York Times*—ranks only ninth.[4]

Newspapers and broadcasters do retain more influence in certain information market subsets, particularly local news; but even there, consumers have significant choices. Cable and satellite services provide local news and information, as do many Web sites. There is also more newspaper-to-newspaper competition in the local sphere, with vibrant community papers and alternative weeklies providing local coverage in addition to major metropolitan dailies. Finally, in most medium and large cities, there is significant competition between broadcasters. Washington, D.C., for instance, has nine radio stations with news or talk formats; Baltimore has seven.[5]

The decline of newspapers is clearly reflected in their ever-shrinking circulation and financial performance. Since 2001, paid newspaper circulation has fallen by 8.4 percent.[6] Print advertising revenue, the lifeblood of most papers, is down even more, dropping by 9.4 percent last year alone.[7] The same year, revenue from classified ads virtually collapsed, plummeting some 17 percent.

1. For an excellent discussion of the recent growth in media diversity, see Adam D. Thierer, "The Media Cornucopia," *City Journal*, Spring 2007, at *http://www.city-journal.org/html/17_2_media.html* (May 5, 2008). See also James L. Gattuso, "The Myth of Media Concentration: Why the FCC's Media Ownership Rules Are Unnecessary," Heritage Foundation *WebMemo* No. 284, May 29, 2003, at *http://www.heritage.org/research/internetandtechnology/wm284.cfm*.
2. Newspaper Association of America, "Daily Newspaper Readership Trend—Total Adults (1998–2007)," Table, Revised August 2007, at *http://www.naa.org/docs/Research/Daily_National_Top50_1998-2007.pdf*, and "Daily Newspaper Readership Trend—Total Adults (1964–1997)," Table, Revised October 2004, at *http://www.naa.org/docs/Research/Daily_National_Top50_64-97.pdf*.
3. Zogby International, "Zogby Poll: 67% View Traditional Journalism as 'Out of Touch,'" February 27, 2008, at *http://www.zogby.com/news/ReadNews.dbm?ID=1454*. The poll did not distinguish cable and satellite services from broadcast TV and radio.
4. Newspaper Association of America, "Nielson Online Releases Top 30 News Sites List for March," April 14, 2008, at *http://www.naa.org/blog/digitaledge/1/2008/04/Nielsen-Online-Releases-Top-30-News-Sites-List-for-March.cfm* (May 5, 2008).
5. Radio-Locator, at *http://www.radio-locator.com/cgi-bin/locate?select=city&city=baltimore&state=md&x=0&y=0*.

Some of these losses were balanced by increased online advertising revenue, but overall losses still hit 7.9 percent.

The FCC's Decision

Recognizing this ongoing sea change in the media business, the FCC voted this past December to modify its 1975 ban on cross-ownership of newspapers and broadcast licensees.[8] It was not a precipitous decision: The Commission had been studying and taking public comment on the issue for 11 years.[9]

Nor was the change radical. Under the new rules, cross-ownership is still presumed to be contrary to the public interest in all but the 20 largest U.S. markets. Even in those markets, cross-ownership with a television station is presumed to be in the public interest only if the station is not one of the top four stations in a market and at least eight independently owned TV stations and major newspapers remain in the market (not counting Internet-only publications).

These initial presumptions may be rebutted by evidence that a particular deal is or is not in the public interest. The final decision is made on a case-by-case basis.

The FCC's modified rule does not open the doors for anyone to monopolize anything. Newspapers, for the most part, would be allowed to own or be owned by broadcasters only in markets larger than that of St. Louis. In these markets, concentration is hardly an issue. Eighteen of these 20 markets have at least 10 independently owned television stations, and 17 have at least two major newspapers. On average, they have some 70 independently owned radio stations.[10]

Benefits of Reform

The new rule, however, does promise significant benefits for newspapers, broadcasters, and—most important—consumers. This is not just a matter of cutting costs: Joint ownership promises the ability to share news resources and expertise between print and over-the-air outlets. Reporting for a newspaper could be used, for instance, to provide information for news broadcasts, with video and audio footage supplementing print stories. Such cross-platform synergies are nothing new in the news business. Few news organizations today, for example, are without an online presence.

Joint ownership also can give the combined operation the resources to improve its offerings to consumers. This could benefit even local news, a particular area of concern for proponents of regulation. Three separate academic studies commissioned by the FCC found that television stations cross-owned with newspapers provided between 3 percent and 11 percent more local coverage than was provided by stand-alone TV stations.[11]

---

6. Newspaper Association of America, as cited in Journalism.org, "State of the News Media 2008: An Annual Report on American Journalism," at *http://www.stateofthenewsmedia.org/2008/narrative_newspapers_audience.php?cat=2&media=4* (May 5, 2008).
7. See James Gattuso, "Did You Read This in The Paper Today? Biggest Drop Ever for Newspaper Revenue in 2007," The Technology Liberation Front, March 31, 2008, at *http://techliberation.com/2008/03/31/did-you-read-this-in-the-paper-today-biggest-drop-ever-for-newspaper-revenue-in-2007/* (May 5, 2008).
8. Federal Communications Commission, *Cross-Ownership of Broadcast Stations and Newspapers*, Report and Order and Order on Reconsideration, MM Dkt. No. 01-235 (Adopted December 18, 2007; Released February 4, 2008). (Hereafter referred to as "FCC Decision.")
9. James Gattuso, "The FCC's 11-Year Rush to Judgment on Media Ownership," The Technology Liberation Front, November 9, 2007, at *http://techliberation.com/2007/11/09/the-fcc%e2%80%99s-11-year-rush-to-judgment-on-media-ownership/* (May 5, 2008). In 2003, the FCC voted to replace the newspaper cross-ownership ban, as well as the limits on radio/TV cross-ownership, with new limits based on a "Diversity Index" crafted by the Commission. In 2004, the rules were remanded to the FCC by a federal appeals court, which found that the Commission had not adequately justified the new index. See *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004).
10. FCC Decision, paragraph 56.
11. FCC Decision, paragraph 42. The cross-owned stations either operated under a waiver granted by the FCC or were "grandfathered in" before the ban was adopted.

Allowing such combinations could preserve competition in a market by allowing a struggling newspaper to keep up with a larger rival. There is anecdotal evidence, for example, that the cross-ownership ban decreased newspaper competition in the Washington, D.C., area. For decades, *The Washington Star* had served as a strong competitor to *The Washington Post*, aided—according to long-time WMAL-AM radio host Chris Core—by being under joint ownership with WMAL and WMAL-TV. But when FCC rules forced the sale of the radio station in 1977 and divestiture of the *Star* itself in 1978, the paper became a much weaker competitor, eventually folding in 1982.[12]

Cross-ownership certainly is no panacea. Some industry observers are skeptical that the claimed synergies can be widely realized.[13] And not every combination has been a success. In 2006, *The Washington Post* entered into a partnership with a local FM radio station to provide what it called "Washington Post Radio," a broadcast outlet for the *Post*'s news coverage, often featuring the newspaper's print staff. While such partnerships have worked elsewhere, in this case the two media cultures simply failed to mesh, and the venture was abandoned after about a year.[14]

The possibility of failure, however, is no reason to ban such efforts: Few business strategies come with a guarantee of success. In fact, the risk of failure underscores the relative lack of market power held by newspapers, even those as large as *The Washington Post*.

Room for Improvement

The FCC's new rules are not perfect. The problem, however, is not that they liberalize too much, but that they don't liberalize enough. The limitation of newspaper–TV cross-ownership to the top 20 markets, for instance, is unnecessary, given the other safeguards that are provided. Of even more concern, the detailed rules provide only a "presumption" that any given combination is or is not in the public interest, leaving the FCC to make final determinations case by case.

The FCC states that these determinations will be based on very specific, objective factors. Debates over media ownership have often been driven by the content of media, not by their structure. Sometimes these are broad concerns—over the "proper" amount of local versus national news, for example. Often they are more specific, ideological concerns as to whether this or that cause is being covered and who is providing that coverage.

Much of the current media debate has been aimed at one individual: conservative publisher Rupert Murdoch. "Help Us Stop Rupert Murdoch," read an e-mail from the pro-regulation advocacy group Free Press hours after the Senate committee vote on S. J. Res. 28. Last year, the same group co-authored (with the Center for American Progress) a report urging that the FCC tighten broadcast ownership caps into order to "correct" the alleged conservative bias in talk radio.[15] This is exactly the sort of content issue in which the government should play no role.

Rather than keep the door open to such interference with content, the FCC would have done better

12. See comments by Chris Core, "Adjusting the Picture: Media Concentration or Diversity," Heritage Foundation *Lecture* No. 798, delivered September 11, 2003, published October 7, 2003, at *http://www.heritage.org/Research/InternetandTechnology/HL798.cfm*. See also Testimony of Jerald N. Fritz, Allbritton Communications Company, before Committee on Energy and Commerce, U.S. House of Representatives, December 5, 2007, at *http://energycommerce.house.gov/cmte_mtgs/110-ti-hrg.120507.Fritz-testimony.pdf* (May 5, 2008).
13. See Jonathan A. Knee, "False Alarm at the FCC: Ending TV–Newspaper Cross-Ownership Rules May Have Little Effect," *Columbia Journalism Review*, May/June 2003.
14. See Marc Fisher, "Why Washington Post Radio Died," WashingtonPost.com, August 28, 2007, at *http://blog.washingtonpost.com/rawfisher/2007/08/why_washington_post_radio_died.html* (May 5, 2008). For information on other media partnerships, see "Television Newsroom Partnership Survey," Ball State University Center for Media Design, June 2005, at *http://bsu.edu/web/mediasurvey/summary/tv_summary.pdf* (May 5, 2008). It should be noted, of course, that such agreements are not the same as joint ownership, as they involve less convergence between the operations and do not guarantee the same level of commitment between the two firms.

to eliminate its cross-ownership rule completely. Media choice and competition would still be protected through well-established competition laws that are enforced by antitrust authorities.

Nevertheless, while the FCC should have gone farther, its rule changes are a small step in the right direction that recognizes the 21st-century realities of the newspaper business. The Senate should carefully consider the potentially harmful consequences of keeping in place ownership rules from the 20th century.

—James L. Gattuso is Senior Research Fellow in Regulatory Policy in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation.

15. Center for American Progress and Free Press, "The Structural Imbalance of Political Talk Radio," June 21, 2007, at *http://www.americanprogress.org/issues/2007/06/pdf/talk_radio.pdf* (May 5, 2008). See also James Gattuso, "Fairness Doctrine, R.I.P.: Stay Tuned for the Real Fight Over Media Regulation," National Review Online, July 5, 2007, at *http://article.nationalreview.com/?q=NmYzNGU0ZjAxNWFlOWE2NmUzYWFjMmEwNWM1OTgyZjQ* (May 5, 2008).