

**TESTIMONY BEFORE THE  
UNITED STATES SENATE COMMITTEE ON COMMERCE,  
SCIENCE AND TRANSPORTATION  
HEARING ON LOCALISM, DIVERSITY AND MEDIA OWNERSHIP**  
by  
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Good day Mr. Chairman, Mr. Vice-Chairman and Senators. Thank you for inviting me to be here with you this morning. It is a personal honor for me to appear once again before this Committee, on whose staff I had the pleasure to serve under your good friend and former colleague, Warren Magnuson.

My name is Tim Winter and I am President of the Parents Television Council. With more than 1.2 million members across the United States, the PTC is a non-partisan, non-profit, grassroots organization dedicated to protecting children and families from graphic sex, violence and profanity in entertainment.

At first blush, there would seem to be little connection between the PTC's mission and the media ownership issues that bring us together today. But there is compelling evidence that the consolidation of media outlets has led to a coarsening of television content, a destruction of the concept of community standards of decency, an unresponsive, irresponsible news media that routinely ignores news stories to protect its parent corporation, and a cable television industry that effectively functions as a cartel.

Mr. Chairman, a few years ago the PTC stood shoulder-to-shoulder with a remarkably diverse group of public policy advocates to decry the loosening of media ownership rules: the National Organization for Women and Concerned Women for America, the Salvation Army and Common Cause, Consumers Union, the National Rifle Association and MoveOn.org. As PTC Founder Brent Bozell noted, "When all of us are united on an issue, then one of two things has happened. Either the earth has spun off its axis and we

have all lost our minds, or there is universal support for a concept." I believe the FCC's localism hearings across the country have once again demonstrated universal support for a concept: big media companies have not conducted themselves in a manner which merits them owning even more media outlets. The only voices in favor of allowing big media companies to grow even bigger has come from voices within those very companies.

Let me explain why the ownership issue is so important to the Parents Television Council. With very few exceptions, network-owned television stations do not consider community decency standards, even though the terms of their broadcast licenses demand it. This is not just a problem in a small number of markets, but rather it is a problem across this nation. Four years ago the PTC conducted a survey of approximately one hundred television stations around the United States which were owned and operated by one of the four major television networks. That survey concluded that only one station – in one instance – had ever preempted a network program based on community standards of decency, and that one instance occurred over a dozen years ago.

During the summer of 2003, the Fox Broadcasting Network aired an episode of a crime show called *Keen Eddie*. Criminals trying to sell horse semen on the black market hired a prostitute to perform a particular act on the horse in order to extract the semen. Although the act itself was not displayed, the dialog was so coarse that I am uncomfortable repeating it here. A member of the Parents Television Council in Kansas City wrote a letter to the Fox owned-and-operated station in his market, WDAF-TV, expressing his concern for such content airing at 8 pm. I wish to read aloud the response he received from the station's General Manager in a letter dated July 25, 2003:

*"We received your letter dated June 30, 2003 regarding the content of the Keen Eddie show that aired on June 10, 2003 at 8pm. We forwarded your letter to the FOX Network. The Network, not WDAF TV4, decides what shows go on the air for the FOX Owned and Operated Television Stations."*

When station general managers in cities and towns across the country take their programming orders directly from the network headquarters in New York or Hollywood, it comes as no surprise that they would toe the company line. How does this serve the public interest?

We have heard privately – and repeatedly – from independent local broadcasters around the country who are threatened by the major TV networks that they will lose their affiliate status if they preempt network programming. Fortunately there are a few notable exceptions of broadcasters pushing back on the networks, including Capitol Broadcasting's Mr. Goodman, and others like Pappas Communications. But when local programming decisions are dictated or prohibited by a corporation often thousands of miles away, the public interest cannot be served.

We have also seen instances of bad faith by TV station duopolies: i.e. where one company owns two (or more) TV stations in the same city. In those instances, network affiliates preempted programs, allegedly for indecency reasons. But those very same programs, deemed too indecent for one station, aired in their entirety on the other station in the same city owned by the same parent company. This programming sleight-of-hand is nothing more than a publicity stunt, intended to garner higher ratings for the non-network-affiliated station. This does not serve the public interest; it exploits the public interest.

Media consolidation has led to self-serving news media that seek to protect the interests of their own corporate parents. The FCC has been empowered by Congress to uphold broadcast decency standards on the public airwaves at the times when children are most likely to be in the audience and the Supreme Court has upheld Congress' right to do so. Unfortunately, the broadcast networks have challenged the FCC's ability to enforce these standards and even convinced two federal judges in New York City that they have a "right" to air the F-word at any time of day, even when they know millions of children are watching. Although dozens of concerned family groups, including the PTC, were shocked that a federal court could reach such a preposterous conclusion, there has been

only limited public outcry over that decision. The reason for this is simple: in large measure, the American people don't know that it has happened. In the wake of that court decision, not a single national broadcast news organization saw fit to cover it, and even with a host of 24-hour-a-day news channels on cable, there was near zero coverage of a decision that will directly impact every family in the country as well as the policies determining appropriate use of the airwaves that they themselves own.

Why no coverage? We believe that the corporate news divisions did not cover their parent companies' lawsuits because they knew the public would be incensed by the arrogance of a media conglomerate arguing for the "right" to air profanity in front of their children early in the day over the airwaves that they – the public - own. In those instances where it has been mentioned in the print media, the story has been intentionally watered down and presented as a ruling on so-called "fleeting" profanity. This is ironic considering that all profanity, by its very nature, is fleeting.

It should be noted that the Second Circuit F-word lawsuit, and the now-pending Third Circuit lawsuit alleging that the Janet Jackson Super Bowl striptease was not indecent, were not brought by broadcasters like Mr. Goodmon. Rather, these lawsuits were filed by the major television networks: those same corporations who want an even greater share of the media industry.

The proposed elimination of the newspaper cross-ownership rule threatens the important check that media outlets have on each other. If a television station and newspaper in a given market share ownership it follows that they will share editorial outlook on policy. Even if they don't, how likely is it that a newspaper would criticize a local broadcaster for anything – much less a violation of community standards of decency – if both entities are owned by the same company?

Recently, I was told by a reporter who covers entertainment news for a prominent newspaper that his stories had been edited or even killed when they were unflattering to television programs produced by, or airing on, its television network.

Some argue that a newspaper and a TV station in the same market may find economic efficiencies in news gathering. I do not believe, however, that in such a case the corporate interest outweighs the public interest. Much as networks have a chokehold over the programming decisions of their affiliates, so too would an ownership group exercise editorial control over its media properties in the same market. Other public interest groups with greater expertise in this area have testified powerfully on this effect before the FCC over the past year.

I'd like to illustrate another way in which media consolidation has an adverse affect on families.

If you think media consolidation has stifled the broadcast industry, please listen carefully to the following statistics on cable. At my office in Los Angeles, there are 48 cable networks bundled together on the expanded basic cable tier. Of those 48 cable networks, Viacom owns all or part of 8 of them; NBC owns all or part of 8; Disney owns all or part of 8; News Corporation owns all or part of 6; Liberty Media owns all or part of 6; and the local cable operator, Time-Warner, owns all or part of 7 of those networks. By using the retransmission consent rules, these conglomerates are able to use their TV station broadcast licenses in an extortion-like way to force unwanted cable networks onto our cable systems and onto our cable bills.

There has been much attention paid recently to the acquisition of *The Wall Street Journal* by News Corporation. Can you imagine if Mr. Murdoch demanded that subscribers to the *Journal* must now take and pay for the *New York Post*? Of course not. But that is precisely what he is doing with his new Fox Business Network. News Corporation is able to force its new business network onto cable systems across the country, regardless of whether or not a single consumer wanted another cable business news network. And if, by using its broadcast network as leverage, it is able to charge the same 90-cents-per-month fee that the other business news network, CNBC, receives, it will be on a path to fleece several hundred million dollars each and every year from consumers – before a

single penny of advertising is sold. This holds true for all networks owned by major media conglomerates, which comprise upwards of 90% of all cable television content, because they are only sold to distributors in this bundled way. Consequently, consumers and families have no ability to make a market-based decision about what programming to choose and pay for and are forced to pay for enormous amounts of unwatched, unwanted programming just to access what they may be interested in. These bundled programming arrangements may be great for Wall Street, but it is not good for Main Street, and clearly it does not serve the public interest.

There has been a great deal of discussion about the lack of diversity in the American media landscape as it relates to the ownership of media properties, and rightfully so. Most Americans can name one network that caters to African-American audiences, but can you name a second or a third? You can't, because they simply don't exist. For example, the Black Family Channel, the only black owned and operated cable television network for African American families, is now only distributed via broadband internet. Despite years of success, it was effectively shut out from carriage on many cable platforms because it is independently owned and thus could not leverage itself in the same way conglomerate-owned programming does. In an environment dominated by media giants, there has developed no free market in programming that would compel additional minority programming to be created and distributed. Again, the solution is simple: allow consumers to make their own decisions about what programming they want to pay for.

Rather than take their public interest obligations seriously, the broadcast networks have exhibited a pattern of behavior that reflects contempt for the owners of the very airwaves from which they profit. In November 2004, Viacom – then the corporate parent of the CBS television network – entered into a Consent Decree with the FCC wherein it admitted airing indecent material, paid a fine and committed itself to a detailed compliance plan to prevent the further airing of indecent material.

There is no evidence that compliance plan was followed, and just within the past two weeks, CBS meekly explained to the FCC that it understood the terms of the Consent Decree applied only to live programming. Since it was CBS' own attorneys who negotiated the terms of this contract and there is no such stipulation in it, it is preposterous and outrageous that CBS made this claim. If media conglomerates cannot be trusted with something as simple as making a good faith effort to prevent the airing of indecent material, then how can they be trusted to be good stewards of the public airwaves and given even more access to them?

I sat in this very room a few years ago when FCC Commissioner Copps reminded this Committee that the term "public interest" appears no less than 112 times in the original Communications Act. Can this Committee and the FCC forthrightly assert that the corporate interests have conducted themselves in a manner that truly serves the public interest, so that they should be given the additional public trust to hold even more broadcast licenses than they do today?

My answer to this question is an emphatic NO, they have not. In fact the major media conglomerates which now hold so many broadcast licenses have not only failed to act in the public interest, they have repeatedly acted with complete and utter disregard for the public interest. Not only have many acted in such a manner as to be denied any additional licenses, others have acted, and continue to act, in such a manner as to warrant the suspension or revocation of their existing licenses.

This Committee, the Congress and the FCC must work in concert to protect the interests of concerned families – the very owners of the airwaves – and not merely grant every wish conjured up by those who would exploit their use of this precious resource.

In the strongest terms, I urge the Congress to consider these issues carefully as it evaluate any appropriate action on the issue of localism, diversity and media ownership

Thank you.