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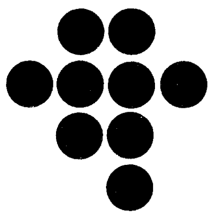

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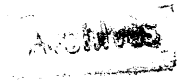

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Ithiel de Sola Pool, MIT
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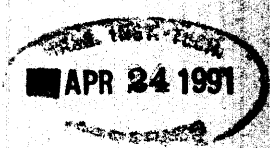

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RESEARCH PROGRAM ON
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Professor Ithiel de Sola Pool began the seminar by expressing a concern that the issue may be a "red herring." There is no reason why a person should not use a broad spectrum of media outlets to spread theirmessages, he argued. The idea that the government should restrict the manner in which a message is distributed is contrary to the First Amendment. The issue of media control is not cross ownership per se but monopoly or oligopoly. Where monopoly control in a medium exists, it is a public policy problem of how to insure that a pluralism of viewpoints is expressed in the medium. To say that users of a particular medium may not include owners of other media outlets is to use an irrelevant criterion. "We cannot turn concern over limited voices into an ideology against cross ownership," Pool said.

Henry Geller, Director of the Duke Washington Center, offered a counter viewpoint. The most important public policy regarding ownership of media is to diversify the sources of information. The 1978 NCCB case stressed that the Associated Press doctrine is an important part of the public interest standard. In order for a diversity of voices to exist in a community, it is imperative that media outlets be in different hands. Otherwise, Geller argued, the media will not serve to balance off each other; a newspaper will not be a watchdog over a cable system if both are owned by the same company.

Geller stressed that the issue was one of local cross ownership. He specifically stated that issues concerning cross ownership at a local level became less relevant at the national level. Geller sees no harm in relaxing the ownership restrictions on the number of radio stations -- in different

markets -- an individual may own. The networks should be allowed into the cable ownership market, as the early fears ofnetwork domination are now groundless and they would add capital to the industry. The limit of seven owned television stations should remain, though, as there is no public interest rationale for easing it. The argument that eliminating the restiction would enhance possibilities of additional programming is "nonsense." A programming network needs outlets in the major markets; the most significant handicap facing the development of a fourth network is the limited number of VHF stations available.

One area in which Geller maintains concern is vertical integration of program production, distribution, and delivery. While it is unnecessary to act at the present time, vertical integration does present some cause for concern.

The lack of cross ownership restrictions in DBS, LPTV or MCMDS is not worrisome, Geller added. Without knowledge of how the field in those delivery systems will develop, regulation is unneccessary. The FCC is not wrong to adopt a "wait and see" attitude concerning regulation of emerging industries. The difficulty, thought, is to try to impose regulations after entrenchment. For example, it was recommended in 1974 that cable be regulated as a common carrier. At that time, before cable became entrenched, such regulation might have been possible; now it is highly unlikely unless the industry supported it.
The Wirth bill (HR 4103), which would require leased access on ten percent of a 36 channel system and 15 percent on a 100 channel cable system is a "fig leaf." The provision would only be

in effect if the financial operation of the operator would not be placed in jeopardy. Further, a strong presumption of reasonableness would lie with the operator, and thus the programmer would be seriously disadvantaged in any court suit seeking access. If the Congress were serious about leased access, it would require compulsory arbitration in leased access disputes, a solution, Geller noted, that Pool agrees with.

The blurring of media boundary lines causes problems for policy makers interested in insuring a diversity of viewpoints. Cited as examples were the differences between a COMSAT satellite, regulated as a broadcaster, and a Murdoch satellite, regulated as a common carrier. The common carrier is free from federal government regulations such as fairness and equal time. A second example is MDS, a common carrier; and STV, a broadcaster -- yet both provide essentially the same service.

Should videotex be provided on a broadcast channel, it would be subject to the same content restrictions imposed on broadcasters; should identical material be delivered over telephone wires, it would not. It remains unclear what regulations would apply should it be delivered over a cable system. What we should be seeking, Geller concluded, is a "level playing field." Under the current conditions, the identical service delivered by different media are subject to different regulations.

Benjamin Compaine of Harvard University agreed that a distinction should be made between local and national cross ownership. Local restrictions provide a stronger agrument, though he suggested a need to develop measurements of how much concentration is too much. In terms of national concentration,

Compaine suggested that there is really little concentration, especially if one looks across media. The Bagdikian study, which purported to demonstrate media concentration, stated that 50 companies control 50 percent of the revenues -- not an unduly concentrated industry, Compaine said.

At the national level, the antitrust standard for defining unhealthy concentration is not appropriate. There is a need for a different standard to be developed to measure concentration. In the newspaper industry, for example, there are 162 different "chain owners."
The largest companies have relatively small total circulations. The four largest publishers today have a smaller national share than the four largest in the 1940s. The Hearst empire peaked at about ten percent of the national newspaper circulation; today's leader, Gannett, has about 40% of the share controlled by Hearst. The broadcasting industry has also seen a degree of de-concentration; the networks today control a smaller share of percentage of revenues than they did 15 years ago.

Another point emphasized by Compaine was the concentration on what he called "big" media: television and newspapers. When looking at media concentration, small media are usually ignored. The Postal Service (the only carrier to deliver to 100% of all households and institutions) provides access to mass audiences as well. Direct mail should not be overlooked as a delivery system for messages that cannot access the "big" media. The proliferation of copying machines and audio tape duplication facilities were also cited as alternative media. It is archaic to

look simply at ownership of individual media as boundaries are increasingly fungible. The mechanism of delivery is less important than the total picture, he said.

Common myths of ownership and control and the economic structure of media need to be questioned. Cable is an example: it is now generally assumed that cable is a natural monopoly. Yet after 35% penetration, the economies of scale may be largely used up, indicating that two or three operators can provide competing services to the same community. If so, the assumption of local cable monopolies needs to be examined.

Market forces should be given their due in examination of this issue. There is evidence that the "new" media owners don't go into the business to use their editorial voices, but to make money. Their interest is in the broadest possible audience; thus there is economic incentive in providing a wider range of opinions.

Question and Answer Period:

Following the panelists' presentations, questions were taken from the audience. It was suggested by a questioner that owners of television stations be allowed to own two outlets in the same community, with the goal of producing a wider variety of programming. Geller was against giving two regular power television channels to the same operator, but said some combination between low power or cable could be feasible. The price for diversification of programming should the operator be granted two regular broadcast licenses would be too high, he said. Compaine, calling the idea "intriguing," said that to the

extent that there are unused frequencies, existing broadcasters should be allowed to use them.

Another questioner argued that the present system of ownership does not allow for real diversity of programming. What is needed is more PBS and Pacifica Foundation -type programmers. Different forms of media ownership, such as by political parties and journalists, could produce different forms of programming. Compaine agreed that the culprit is the sameness of ownership, but cautioned that the problem with alternative programming is that it fails to pay for its audience. Diversity demands small audiences; for small audiences to be economicially feasible on "large" media requires funding mechanisms, such as spectrum fee or pay-per-view. He elaborated on the view that "small" media provide provide outlets for alternative programming. Geller agreed that the present system hasn't worked. He said we call the media public trustees, but in reality they do not act as such. The FCC has no effect: regulatory actions are a charade, and have no effect on programming content. One solution would be to get rid of the FCC, take the money that is saved and more directly accomplish the stated regulatory goals. The market place does not work in its present form: in order to directly accomplish the stated government goals, we could take a spectrum fee and apply it to the production of alternative programming.

The control of program syndication was also mentioned. Networks should be permitted to syndicate, and thus own, the programs they air, a questioner suggested. The present situation eliminates many small producers, as networks cannot pay money for a show whose syndication rights, where profits are often made,

they cannot control. It seems as if there is no public interest benefit in retaining the current rule. Vertical integration, or linking the programmer with the producer, seems to be one possible way to provide for program diversity. Geller argued that vertical integration raises potential abuses. He cited as an example Time's control of HBO, which limits the movie channels shown on Time-owned cable systems to HBO. Cable News Network could not get on Westinghouse owned cable systems. With true leased access available on cable systems, the problems of vertical integration become less serious.

Compaine countered that allowing (or forcing) Showtime to be shown on Time-owned cable systems would not increase diversity, as the same movies are shown on Showtime as HBO. A different service, one that did not compete with the cable system's owners' programming, would be allowed on.