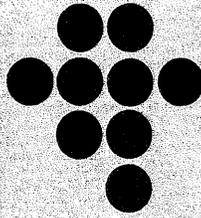


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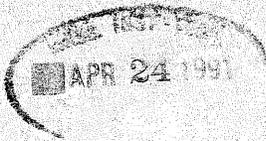
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Eli Noam, Columbia University, Director of Research Program in Telecommunications and Information Policy

Professor Noam's presentation was based largely on the chapter "Local Distribution Monopolies in Cable Television and Telephone Service: The Scope for competition," in his book Access Pricing and Local Competition.

He began by citing two important local monopoly issues in telecommunications today. The first is the local distribution power of telephone companies in general and of the former Bell Operating companies (BOCS) in particular. He noted the vigorous government efforts to break this monopoly power and the resultant regulatory regime which has arisen after the AT&T decision. The second is the largely unrestricted control of a cable company over the channels in its franchise area. The power of programming, of choosing what is available to viewers is, in Noam's view, cause for concern. This power constitutes a form of monopoly which in a democratic society is "potentially damaging." As long as the cable medium is not designated a common carrier, the operators are not obligated to carry programs of other producers and syndicators. The next logical step is for the cable operators to produce their own shows for distribution in their own franchise areas. This vertical integration has, in fact, been occurring thereby tightening the hold of the cable operators over the entire medium. "Operators are integrating backward into the syndication of programming," Noam observed.

He brought up the example of Northern Manhattan to illustrate this point. The area is a Westinghouse bastion, where Satellite news Channels and "Showtime," two Westinghouse-owned services, were shown at the exclusion of other program services. The vertical nature of the industry conjures the spectre of a monopoly on programming. By the nature of cable technology, exclusivity of access is virtually guaranteed.

Is cable television therefore monopolistic? What form can competition take to prevent it from being so? Professor Noam suggests that competition can take essentially two forms: either intramedium rivalry among cable systems, or intermedia competition with other broadcast technologies.

The possibility for intramedium rivalry is based on the assumption that more than one cable company can successfully operate in a territory. Conversely, competition would not be feasible where cable television distribution exhibits local monopoly characteristics. Thus, determining whether a given operator is close to monopolistic control of his service area is essential to assessing the likelihood of competition from a second operator. Experience has shown that only a very few dual cable systems co-exist. These are called "overbuilt" and

actually require two physical trunks. Another possible successful entrant is the multiproduct firm not solely dependent on cable revenues.

Intermedium competition comes from other video media. Among these are conventional broadcast media, Direct Broadcast Satellite (DBS), Satellite Master Antenna Television (SMATV), Multipoint Distribution Service (MDS), disc and home video. Professor Noam explained that the non-conventional broadcast-type Technologies are intended largely for the uncabled pockets of the country, especially less dense suburban and rural locations.

Direct Broadcast Satellite, though highly touted as the technology of the future, faces economic and technical constraints. The number of satellite broadcast channels is limited owing to the fixed allocation of radio spectrum. Noam estimated that the total number of DBS channels available in one service area can never exceed the number of cable channels. The technology, although a more sophisticated one, does not come cheaper than cable. It requires an antenna, a descrambler, and a southern exposure. The mere fact that the cable is eliminated does not presume a savings in hardware costs. MDS is similar to DBS in that it uses spectrum and must have special receiving equipment. Cable has the advantage in number of channels and two-way capability (which is adaptable for pay-per-view).

He then explored a series of options for averting local companies programming monopoly. The first possibility is to designate cable as a common carrier, thereby separating the operator's distribution role from its programming function. The "separations policy" would require the cable operator to offer access to program suppliers on a non-discriminatory fee basis.

This new regime would require rate regulation. Without rate regulation, a cable operator could restrict the number of channels available to competing program suppliers, or show price favoritism to preferred program offerings. In both cases, the operator affects what is shown.

Instituting rate regulation, Noam warns, also gives the government the potential to influence programming. To encourage the showing of programs which the regulator deems socially beneficial, it may prescribe lower access rates, thereby subsidizing certain forms of speech and expression.

A second way to handle the local monopoly problem is public ownership. The actual physical cable system can be owned by a local or state authority, which contracts out the operation of the system to private operators. A public board may decide programming policy guidelines, or specific programming mixes. However, Noam considers public ownership inefficient -- limited by the management skills of "local civil servants."

A third way of handling the problem is to regulate the programming mix. Whereas the separations policy and the public ownership scheme are structural approaches, this approach affects conduct more directly. This regulatory approach is embodied in the "must carry" rules. But again, the potential for government interference in program choice is apparent. It is simple enough to mandate carriage of existing broadcast stations, but when the problem of allocating remaining channels among potential program suppliers arises, governmental guidelines are likely to be too aggressive or too general.

Professor Noam finds none of these policy choices adequate for ensuring a stable, competitive cable industry. He concluded his talk by presenting his solution: to permit each telephone company to provide cable service as a common carrier in its area of telephone service provided that a well-established cable company is already operating in that area. Of course, the shift from telephone transmission (narrow-band) to video transmission (broadband), would require replacement of regular telephone wiring by coaxial cable or optical fiber.

In return, cable companies would be free to provide communication services which previously had been the domain of telephone companies. The two services, once kept in isolation, are merging. Under Noam's system, cable and telephone services would cease to be monopolists in their respective submarkets and would instead compete with each other in an integrated larger market.

Harry Shooshan III, Shooshan & Jackson,

Mr. Shooshan's comments began with an assessment of the cable deregulation legislation now before the Congress. S. 66 is a cable deregulation bill which has passed the Senate, and H.R. 4103 its equivalent in the House is facing debate before the Energy and Commerce Committee. Mr. Shooshan described these as "stop gap measures", destined for short term management of the cable industry. The specific problems he found with the content of the bills were several:

1. The bills legitimize the traditional tack of regulation. Mr. Shooshan noted that with the changing technologies causing markets and service delivery to merge as Mr. Noam mentioned, the regulatory order must evolve to keep pace. These two bills retain too much of the old order.

2. The bills "don't go far enough to deregulate locally." The legislation limits a city's fees to a standard 3% of cable revenues. More progressive regulation would permit the city and the cable company to mutually agree on the city's share.

3. The principle of "must carry" is retained in the legislation. The "must carry" rule which seeks to guarantee a

diversity of program offerings, is called "a protectionist travesty left over from the 1960's" by Shooshan. He argued that no proof of harm exists from not carrying some specified program type. In addition he pointed out that the "must carry" rule pushes off some customer preferred shows for which viewers are normally willing to pay.

4. Both bills ratify a requirement on access channels. access channels are set aside for use by public, educational or government purposes. (P.E.G. channels) Shooshan called these "a waste of channel space" and recommended that the set-aside rule be eliminated.

5. The House bill in particular, he noted, does not "pre-empt city control over programming content." Shooshan believes the federal government should police the cities' influence over the cablecaster in the local franchise area.

By way of concluding, Mr. Shooshan restated his criticism that the current legislation is not compatible with the modern climate of the communications field. These short term measures will soon become obsolete, necessitating the passage of more updated legislation. His view of what the cable industry needs is: relaxation of the "must carry" rule, elimination of access channels, non-exclusive franchises, clear pre-emption of programming control, and complete deregulation of rates.

James Mooney, Executive Vice-President, National Cable Television Association

Contrary to how the newspapers describe the cable industry, Mooney said, the "industry is generally healthy." The majority of the firms are in the black and a great many are just completing a growth period. There are two principle problems facing the industry.

First, a problem exists in building systems to serve big cities. As Professor Noam pointed out, cable has only lately become an urban medium, so no one should expect all the major cities to be on line by now. Cities like Boston, Pittsburgh, Milwaukee, Minneapolis and Chicago have not completed the franchise awarding process, thereby inhibiting market development.

Second, cable faces competition from other media. Mr. Mooney mentioned Direct Broadcast Satellite (DBS) as a medium which will compete with cable for urban viewers. It debuted in Indianapolis in 1983 and is now headed for Washington, DC and suburban Maryland. Mr. Mooney disagrees here with Mr. Noam that cable will easily outdistance DBS because of its higher channel capacity and more reasonable costs. First arrival in a market has more effect. Multichannel Multipoint Distribution Service (MDS) also is challenging cable, and the three major networks

are making a comeback. Mr. Mooney sees the networks responding to pay channel cable competition by upgrading the quality of their made-for-TV movies. They know they cannot survive on the mediocre fare they are used to offering viewers. With cable as an alternative, the network films must be improved in order to hold audiences.

1983 saw many changes in cable programming and service offerings. First, Mr. Mooney mentioned several programming service failures indicative of the many unknowns in cable programming economics. Second, advertising revenues of pay services are lagging behind projections. Third, fees of satellite-delivered services are going up. All three trends indicate a falling short of projected operator revenues. The subscriber response in large urban areas has not been as strong as expected. Mooney speculated a lot more capital and time will have to be invested before quality programming can fill all channels. He cautioned city regulators and operators not to push the technology ahead of its time and not to promote enhanced services without a promising market. The cable industry can succeed on programming which has experienced a sustained consumer demand predominantly sports and entertainment. What Mr. Mooney called the "whiz bang" futuristic services are not practical yet.

Much of the comment from the audience dealt with the proper role of the cities in cable deregulation. Franchising and content control were felt by some to be the proper scope of local government. Mr. Mooney countered that the cities are not chartered to act as regulatory entities and may be operating "in an extra-legal environment".

Other questions treated the First Amendment rights of the telephone companies and cablecasters in the new unified cable market. Mr. Mooney observed that although the First Amendment argument is compelling, he believes some limited content control arising out of economic regulation is inevitable.