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Charley's Corner:

Two hundred channels and nothing worth watching—It could be worse!

by Charles R. Dyer, Director of Libraries, San Diego County Public Law Library

Nothing in this column represents the view of my Library or its Board of Trustees. These are just my personal opinions.

Call me a “Flat-Worlder,” if you must. But when I see a media mogul like Barry Diller questioning the proposed de-regulation of television station ownership, it gives me pause. Diller, you may recall, ran Paramount, then Fox, then QVC and Vivendi, and now heads USA Interactive.

Diller's problem, as he argues it, is that he would not like to see television go the way of radio, which is now composed of Clear Channel all over the dial and a few public radio stations at the lower FM end. (Clear Channel owns 1,225 radio stations, at last count, some 970 more than anyone else.) Everyone is griped at the placid, play-for-the-middle radio we get from Clear Channel. Musicians are griped because only the favored few get air time, and most of that is through the “middle man payola process” now in vogue. Advertisers are griped by the monopolistic pricing the practice creates. (Clear Channel deals only with certain advertising sellers, who pay the company exorbitant rates. Only major record labels can compete in such a market.) Talk radio is not only dominated by right-wing views, but the same right-wing views across the country. Small radio stations testify openly about the anti-competitive practices of their Clear Channel competitors, who badger local advertisers into exclusivity arrangements. This is all perfectly legal in the current regime. (Surprise, surprise. The DOJ is actually looking into the anti-competitive practices. One mustn't be so obvious. Tsk. Tsk.)

Personally, I suspect Diller's gripe is that, if television ownership is completely free of regulation, Clear Channel itself might just invade that market as well. It already owns 36 TV stations. His complaint (to Bill Moyers on April 25, 2003) was that, in such a market, a single individualist, such as himself or Ted Turner, could not make it. There would be too much capital required even to get into the game.

What scares me is that I have observed the book industry, where now six conglomerates publish 85 percent of the books in the world, and just two of them dominate the American law book market. We have suffered through double-digit inflation for law books for over a decade while the Consumer Price Index has averaged less than a third such increase.

What scares me is that I have seen our current news media fall prey to opinion-making over fact-reporting, so much that nearly all news stories are from two or three news bureaus. Local news consists only of reporting the most recent murder in the ghetto. You never hear of

the local company under an SEC investigation or the civil suit against a local manufacturer. Heaven forbid that we should hear a negative thing about an advertiser.

What scares me is that talk show hosts from Savage to Leno all say the same thing and crack the same jokes. I swear if it weren't for Jon Stewart's few delightful opening minutes of satire on Comedy Central's Daily Show, I'd think that the opinion media was totally ignorant of what few facts we do get in the American press.

What scares me is that Michael Powell, the conservative chairman of the Federal Communications Commission, is painted as something of a maverick in that he espouses de-regulation so that developers of new technologies will not be unduly harnessed. According to this theory, which he himself pushes, he has faith in new technologies to provide competition against older very large and entrenched companies. In other words, he may well be fooling himself.

Pardon me, but I lived through the California electricity de-regulation debacle. My own state senator, Democrat Steve Peace, who I voted for, known as something of a maverick, thought that one up. The problem was that he envisioned a bright future down the line, with lots of competition keeping prices low, but he and the rest of the Legislature forgot that electricity production is a very expensive, long-term capital investment. The competitors did not show up before the monopolists began taking their profits. Diller's concern should be noted.

Now for the scary part. Powell became chairman of the FCC mostly through the finagling of Senator John McCain, who got him appointed to the FCC in a spot already occupied by a Republican. McCain admired his "maverick-ness," I guess. So radio got deregulated, and Rush Limbaugh became a national commentator on all those Clear Channel outlets. So who does Limbaugh through his considerable weight against during the 2000 primaries? Why McCain, of course. Watch what you wish for.

By now you ask why I am bombarding you with political viewpoint when I am definitely aware that my readers represent a wide spectrum of political opinion. I do have a point, one that I hope would appeal to Republican and Democrat, conservative and liberal, alike. The point is that there is a place for "regulated competitiveness." The deregulation of a marketplace, such as TV stations, is not the same as the break-up of a regulated monopoly, such as the old AT&T. If it is indeed both opportunity and creativity that the government should be fostering, then the government needs to create a relatively stable and even playing field. Everyone should have a fairly equal advantage. The advantage of size and volume that exists with conglomeration needs to be curtailed, just as anti-competitive practices do.

The essential ingredient in justice as found in a democracy is that each individual should have some level of ability to obtain and use legal rights, i.e., a basic level playing field. Of course, wealth and position will give one an advantage, as will more intelligence. But everyone should at least have a basic level. Public law libraries, for example, provide a lot of that minimum amount. They are an essential part of that contract between a government and the people it governs.

As the information industry consolidates, we are observing, right before our eyes, the creation of an oligarchy. As scary as that seems, consider the fact that the FCC is also studying "Broadband through Power Lines." Yes, boys and girls, we are near the age when we can receive broadcasts through our electrical wires. Think of the convenience. You will no longer have to get the cable guy out to wire up a new TV. Just plug it in and it's already wired into the media outlet. (I was going to say "the media outlet of your choice," but choice presumes competition. How many local TV channels, should they exist, can own power companies and run on the same wires.) So, now, in addition to the vertical integration of entertainment, news, and broadcast media, we may see power companies become integrated with them as well. Distribution lines are the key. How far will the reigns of power (in several senses of that term) go?

I wrote this column in part because I was growing tired of the constant battle of the budget. We all find ourselves trying to prove the "value of the law library," so as to keep our funding. We spend days on the steps of the legislatures and county budget offices, pleading our case, along with other valuable governmental services.

I suggest a new line of argumentation: Law libraries, public, governmental, associational, need to exist precisely because we are public and governmental and associational. What are the alternatives? Do we want our legal information presented to us by Clear Channel?

[The FCC will make its decision on TV deregulation in June 2003. For those seeking more on this story and other issues that get buried by the regular media, I recommend www.alternet.org.]