

Special Review Memorandum

Re: Cable vs. FCC: What's Next?

Foreword

Last week, you'll remember, your Review's Broadcast Bureau suggested that the 21,000 Tribune Co. employees probably felt a bit like those scared kids in the Terminix ads, after reading that glowing tribute to Federal Communications Commission (FCC) Commissioner Michael Copps in the Los Angeles Times. "We're DOOMED!"

Well, what do you think the 250,000 people working in the U.S. cable television business thought this past week, when they opened up their morning newspapers and found that the FCC was also after their jobs and savings, too?¹

Drawing the Line Somewhere

The Saturday before last, you see, the New York Times and Wall Street Journal ran "road block"-style articles on the FCC leadership's latest cable regulatory plan. (The Washington Post, which doesn't work as hard, ran their version of the FCC release later in the week.)

An obscure provision of 1984 cable franchising "reform" legislation, you see, suggests the FCC can start ratcheting down on the cable industry hard, when 70% of homes are passed and 70% subscribe (see 47 USC §612(g)). What could be more fun, right? Among the ideas that's been advanced is separating cable transmission from content -- more on that, later.

George's Sapphire's Momma

Ourselves, like George's Sapphire's Momma in "Amos 'n Andy," all we know -- often -- is what we've seen in the movies. So, we wondered what famous scenes from the movies sprang into the cable industry's collective mind.

Was it that Des Moines supermarket cashier saying to Deborah Winger in the multiple Oscar-winning Terms of Endearment (1983), "Hey! We're going in the wrong direction!" Or, was it Jack Nicholson shouting to Tom Cruise in A Few Good Men (1992), "You can't handle the truth!"

¹ That 250,000 is a "best estimate," incidentally. The National Cable & Telecommunications Association (NCTA) provides lots of statistics about everything except jobs creation -- which suggests the numbers might not be something the membership wants to advertise. We checked the Bureau of Labor Statistics "Occupational Handbook" and were just amazed at the triviality and irrelevance of 95% of the numbers -- there was hardly a "sunrise industry" job mentioned anywhere. But 250,000 seems reasonable enough, right?

Was the song which came to mind one of our all-time favorites -- from Nathan Lane's The Producers (2005) -- ♪"Springtime, for Hitler and Germany, Winter for Poland and France!"♪ The FCC plan sounds pretty wintry for cable, right? "Look out, here comes the Master Race!" right?

Eureka! We've Found It!

But isn't the growing "dynamic tension" between the Federal Communications Commission (FCC) leadership and the cable television industry really more reminiscent of that classic opening scene in The Godfather (1972)? Aw 'cmon! You know it is!

"Bonasera, Bonasera..."

Surely you remember! The mousy little undertaker with his slicked-down hair has finally complained to Don Corleone about his daughter being punched-out by her boyfriend and some other punk. Replies Marlon Brandon, the Mafia don --

What have I ever done to make you treat me so disrespectfully? Had you come to me in friendship, then this scum that ruined your daughter would be suffering this very day. ... And, if by chance an honest man such as yourself should make enemies, then they would become my enemies. And, then they would fear you.

No Significant Political Friends

Well, face it: Who in Washington fears the cable industry -- or, its few political friends, these days? Anyone?

To begin with, cable industry political action committees are "small potatoes," to use another famous movie term, from Godfather II. The biggest cable company, Comcast, in the 2007-08 cycle took in just \$850,320 and paid-out \$912,765, mostly via \$1,000 checks. That's a small fraction of what the AT&T or Verizon PACs generate for what Mark Twain called "our only indigenous criminal class," the politicians.

Time Warner, the second-biggest cable operation, is even less consequential, politically speaking -- again based on numbers available from OpenSecrets.org. This campaign cycle, Time Warner took in only \$173,726, and disbursed \$167,500 -- that's about what Hillary Clinton's campaign is using to charter executive jets every couple of weeks.

The industry's principal trade association, the National Cable & Telecommunications Association (NCTA), surely appreciates the late Jesse Unruh's remarks about politicians and "mother's milk." Thus, they've collected a bit more -- some \$930,457 this cycle. But the association's PAC seems to have disbursed this money mostly through \$1,000 checks -- that's about what a mid- to

low-level Congressman would ask for a fund-raiser attendance "honorarium." It's not the sort of major political spending which builds lasting Washington connections, is it?

Let's Hear It for the "Dancing Mice"

America's realtors, insurance companies, phone companies, and labor unions all spend vast amounts on Washington, of course, and have done so for years. Hollywood moguls both write staggering checks, and supply stars plus "dancing mice" for fund-raisers, always a helpful thing to do.

All these major donors have been "doning" for decades, of course. Thus, they tend to be relatively immune from political attacks -- and, regulators are even moderately deferential, too. We're not sure regulators actually fear them, as Don Corleone suggested. But the fact they have lots of high-ranking political supporters is probably a factor which figures in the overall political equation, wouldn't you think? If you're going to go after a business or company, after all, doesn't it make more sense to pick someone who can't easily fight back?

Any Groundswell of Popular Support?

Now, the cable industry actually does more than raise your rates by unconscionable amounts each year. There's "Cable in the Classroom" -- an extensive "tele-education" program. The cable industry's also among the few domestic communications enterprises which is generating more American jobs. They're like Vision Computers -- they can advertise they offer customers "North American technical support."

The cable industry's physical plant in a lot of the country is probably newer, more "feature rich" than the local phone company. Then, you have a lot of local cable news operations, don't you? In a number of states, the only source of extensive state political news is a cable channel.

And, you have C-SPAN. We expect not more than 0.5% of the public is aware that C-SPAN's a cable industry public service venture. They all know about Brian Lamb and that minor "cult of personality" -- just not that the cable companies are paying the freight. But C-SPAN's an important national service, right?

"If You Don't Toot Your Own Horn..."

But, again, you don't hear much about any of this, do you? The Harvard Business Review years ago said industries and companies should regard "institutional advertising" as something of a capital investment. You spend now, you inculcate a certain public view or attitude, and then hope to capitalize on that in future years. The old Bell System spent lots on such messages. But there isn't much of that these days, is there?

Sure, the U.S. Telephone Association ran mysterious ads about how technology was progressing -- they often featured one of those 1982 Motorola

cellphone handsets. NCTA even ran a few commercials about how they'd generated some jobs. But there's nothing systematic, nothing long-term here, is there?

The Wal-Mart Experience

Recently, politicians learned quickly that Wal-Mart's not something to assail casually. It turned out last year, for instance, that there are lots of happy Wal-Mart customers -- and, a lot of those customers see attacks on Wal-Mart as "carom shots" aimed at them.

Wal-Mart also showed a propensity to push-back. The company corralled many of the best law firms, mobilized various community groups, and went-after their critics with a veritable vengeance.

Many, if certainly not all, politicians harbor a bit of the "schoolyard bully," you know. They love to badger, to beat-up on Ralphie -- until he decides to fight back. At that point, bullies typically run for the woodwork, don't they?

Well, Wal-Mart and its happy customers seem to have impressed on politicians and others in Washington's "chattering class" that beating-up on Wal-Mart isn't a cost-free proposition. So that effort's largely stopped, hasn't it?

One Quarter of Market Capitalization

Earlier this year, your Review suggested that cable might want to spend more time extolling its own virtues -- because Washington's otherwise a bit like those famous Sammy Davis Jr. White Owl cigar commercials: "Sooner or later, we're going to get you."

But the cable industry seems to have spent the last year mostly battling with phone companies over video franchise legislation, disagreeing publicly with the FCC leadership about the virtues of "a-la-carte" cable pricing, and making little concerted effort to mobilize popular support.

Thus, cable companies today are in roughly the same position they were in 1992-93. Back then, Congress enacted rate "re-regulation" legislation, you'll recall, and the Quello FCC managed to come up with a generally acceptable "least-squawk" solution. But Quello's successor, FCC Chairman Reed Hundt decided to go after the industry relentlessly -- and, no one besides cable complained.

By the mid-1990s, when the Hundt "get cable" campaign was abruptly halted, the FCC had managed to erase nearly one-quarter of the market capitalization of cable television companies -- which facilitated their disastrous acquisition by the old AT&T, you'll recall.

And, doesn't that seem what's going to happen here, next? You watch. The FCC says cable television has passed those critical statutory benchmarks -- 70%

national penetration and 70% subscription. Soon to appear, we expect, will be the recycled recommendations of the Sloan Commission on Cable Television -- which was staffed by an array of luminaries including a current Supreme Court Justice -- and the Nixon Administration's "Cabinet Committee on Cable Television."

These respected groups recommended that cable television be regulated as a common carrier. That is, Time Warner, Comcast, Cox Communications, etc., would have to opt between owning programming services, or the distribution networks -- but not both. It'd be a serious blow to the cable companies, wouldn't it? Even if the "separation policy" were never implemented, wouldn't you think its serious consideration would do a job, of sorts, on cable television shares?

Conclusions

The cable television industry needs to do much more to make politicians, regulators, and critics fear and respect them, and that can be accomplished in various ways. Cable companies and associations need to increase their political participation substantially, and instead of frittering the money away at two-bit fund raisers, they need to link-up and support some genuine Washington "grown ups."

Second, the cable industry needs to do more to make clear to people -- including Washington politicians and regulators -- that they actually do good things for lots of people. Remember when the Pennsylvania Broadcasters enlisted all those community groups to testify in their favor? It drove some of the FCC crazy that the broadcasters refused to cooperate at their own, planned hanging -- but it also sent a powerful message to Washington, that messing with the Pennsylvania Broadcasters, at least, isn't a risk-free proposition.

There are lots of groups out there, benefitting from cable television systems - - everyone from schools and libraries, and program origination organizations, to lots of state and local government units. We're not sure how broad and/or deep this public support for the cable systems and industries might be. But it seems to us, again, like a good thing to check out. So.

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