
Regulating Media Ownership for a Competitive World

TL;DR

Background: Today's media landscape bears little resemblance to the one that existed when most broadcast and cable regulations were created. In the 20th century, when broadcast radio and television were dominant, the scarcity of spectrum justified ownership restrictions and public-interest obligations, but that justification has weakened over time. Technological innovations like digital compression have expanded capacity, while alternative distribution methods have multiplied. Today's consumers increasingly access video content through streaming platforms subject to minimal oversight, while legacy media providers continue to operate under restrictive regulatory frameworks designed for a bygone era.

But... This regulatory asymmetry creates economic inefficiencies and distorts competition. Broadcasters operate under one set of ownership regulations and cable providers operate under another set. Meanwhile, the emerging market of internet-based video distribution continues to operate almost entirely free from ownership regulations. Companies like Netflix, Amazon, and YouTube entered the market without facing the ownership limitations, public-interest obligations, or local-content requirements imposed on their legacy competitors.

However... A more coherent approach to media-ownership rules would recognize that video distribution is now a unified market with multiple technologies to deliver content. By establishing technology-neutral competition principles, policymakers can create a more efficient media marketplace while addressing legitimate market concentration concerns.

KEY TAKEAWAYS

The Regulatory Divide Is Stark

Broadcast-television owners face national audience-reach caps (39%) and limits on local-market ownership. Cable operators have historically faced subscriber-percentage restrictions. Streaming services face no comparable restrictions and can serve 100% of the U.S. market without triggering regulatory concerns.

Broadcasters must serve local communities with news and public-interest programming while streaming services have no such obligations.

Technological Convergence Creates Inefficiencies

The same content now flows through multiple technological channels. When consumers can access identical content through numerous pathways, regulating these pathways differently creates arbitrary distortions. This year's Super Bowl game was broadcast on Fox and streamed on Tubi and Fubo. The Academy Awards were broadcast on ABC and streamed on Hulu and other services.

This regulatory mismatch tilts the playing field. Broadcasters, bound by ownership limits, can't grow or consolidate as freely as cable channels or streaming services. Meanwhile, cable operators and streamers can acquire more channels or bundle them strategically without similar restrictions.

The phenomenon gives rise to *regulatory arbitrage*, where content providers exploit differences in regulations across distribution methods. The Federal Communications Commission (FCC) recently opened a docket on a complaint against CBS about "news distortion" related to its editing of a Kamala Harris interview, and President Donald Trump has said that CBS should lose its broadcast license over the piece. The FCC would have no jurisdiction if the edited interview had been streamed on Paramount+ instead of CBS.

Scarcity Arguments Have Weakened

The spectrum-scarcity justification for broadcast ownership-limits has diminished considerably. Technological innovations have expanded capacity, while alternative distribution methods have multiplied. In *FCC v. Fox Television Stations Inc.*, Justice Clarence Thomas noted that “dramatic technological advances” had “eviscerated the factual assumptions underlying” previous decisions that upheld broadcast regulation.

Consumers have more than 200 streaming platforms from which to choose. Cable subscribership has dropped by more than 35% from its peak in 2010. Local broadcasters have suffered steep revenue declines due to reduced viewership and advertisers shifting toward targeted digital advertising. Local stations have lost their near-monopoly on providing “late-breaking” news, as consumers shift to apps, online sources, and social media.

The Market Power Paradox

Policymakers evaluating competition in video markets face a seeming paradox: there are many monopolies or near-monopolies, but also abundant competition. Local governments confer cable monopolies through franchise agreements. Local broadcasters operate in an oligopoly driven by broadcast licensing. “Big Tech” occupies a substantial portion of the streaming business. Nevertheless, consumers have numerous options to watch the same content delivered by competing services.

Economic theory suggests that evaluations of market power must focus on consumer choice rather than the specific technology delivering content. Even a cable company with a local monopoly has little power in the content delivery market, as evidenced by cord-cutting trends.

Research [published](#) in the *American Economic Review* found that broadcast-television ownership deregulation led to industry consolidation and increased profitability, primarily through cost savings, rather than at viewers’ expense.

Consolidation had a slightly positive impact on viewership, suggesting larger broadcast groups could invest in better programming.

A Framework for Reform

A more coherent approach to media ownership would acknowledge that video distribution is now a unified market with multiple technologies to deliver content. Reform should include:

- Assessing market power holistically, considering broadcast, cable, and streaming as segments of an integrated video-distribution market;
- Replacing technology-specific rules with competition principles, including sunseting legacy regulations tied to specific technologies;
- Basing any ownership limitations on actual market share across *all* platforms;
- Focusing on antitrust enforcement, rather than preemptive structural regulations; and
- Recognizing how consumers actually substitute between different video services.

Moving toward comprehensive deregulation that treats similar services similarly, regardless of technology, would create a more efficient media marketplace that better serves consumers, while still addressing legitimate competition concerns. The key is to focus on how ownership affects actual market power and consumer welfare, rather than perpetuating artificial distinctions among delivery methods.

The potential benefits are significant: a media landscape where competition is waged on a level playing field and where consumers, not regulatory distinctions, determine which services succeed.

For more on this issue, see the *Truth on the Market* post [“Media-Ownership Regulations in a Streaming World: Time to Change the Channel.”](#)

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