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Legal Restrictions on Ownership of the Mass Media

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INTRODUCTION

As new media have come into existence, the legal system has faced the continuous challenge of creating new principles to govern them. In point of fact, the last decade has seen a geometric growth in the types as well as numbers of media, and thus in the associated legal scheme. Today's regulator, lawyer, banker, or investor thus must deal with media which he or she never had heard of ten years ago -- e.g., cable television, MOS, DPLMRS, private line carriers, interconnection and the like.

For example, three decades ago a lawyer could operate reasonably well with a copy of Senator Dill's treatise on radio regulation, one slim book of FCC regulations, and a dozen volumes of Commission Reports. By comparison, today's lawyer must deal with hundreds of pages of regulations, a hundred volumes of FCC Reports, and a wide assortment of materials from state, local, and other governmental as well as private bodies. The reason, of course, is quite obvious. In 1947 the electronic media consisted almost solely of AM (standard) broadcasting; today it includes more than a dozen different types of services.

The lesson is simply that the communications media are an increasingly complex -- albeit an increasingly profitable -- business. Mastery of the issues is undoubtedly difficult, but usually quite rewarding.

Moreover, as issues become more complex and variegated, media specialists need to recognize each others' strengths and weaknesses. A lawyer is obviously useful in planning the legal structure of an acquisition, but usually cannot give a very sound evaluation of a potential property; a banker can evaluate a property fairly well, but cannot give much advice on its day-to-day operation; a consultant can help plan a property's management, but cannot offer informed interpretations of the Commission's rules.

More than ever, it thus has become necessary to deal with media problems in an inter-disciplinary fashion. Lawyers, regulators, bankers, investors, and others must understand each others' roles in order to deal efficiently and effectively with each other. Although this book will not make anyone an instant expert, it hopefully will help educate media specialists in those jobs which "the other folks" do.

I. EVALUATING AN ACQUISITION

As with any business, the bottom-line question in deciding whether to acquire a particular media property is its potential profitability. To be sure, methods of evaluating profitability raise questions far beyond the scope of this work; but unfortunately, there simply is no comprehensive and current work on evaluation techniques. And in many cases, there really is no rational method of evaluation at all, since enough data simply do not exist -- for example, with a totally new and untested medium such as multipoint distribution systems (MDS).

A. A Macro-Economic Perspective

Despite these problems, it nevertheless is worthwhile to explore briefly at least some of the relevant factors in evaluating a media property. The discussion below is obviously and deliberately very general in its terms, since it attempts to evaluate the effect of potential FCC action on the most profitable broadcast television stations in the country. But precisely because of this, it gives a good general overview of evaluation principles and problems. Like any theoretical study, it obviously is subject to weaknesses in its assumptions; accordingly, it may be wise to identify and test the study's underlying assumptions.
VALUATION OF NEWSPAPER OWNED TELEVISION AND RADIO STATIONS AFFECTED BY THE FCC'S PROPOSED DIVESTITURE RULE.

Introduction

This report, which is divided into two parts, has been prepared for the American Newspaper Publishers Association, New York City, in order to assess certain aspects of the economic effects that would result from the adoption of the proposed FCC rule requiring newspapers to divest themselves of broadcast properties in their home markets.

PART I of the report establishes what the market for broadcast properties currently is and has been in recent times, and what the value in today's market would be for the properties that would have to be sold were the proposed rules to be adopted.

PART II analyzes the effect of divestiture on the value of newspaper owned television and radio stations affected by the proposed rule.

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Television and Radio Management Consultants
Washington, D.C.

PART I

VALUATION OF BROADCAST PROPERTIES

Determination of the recent market for radio and television stations was made from the weekly reports of FCC actions on ownership transfers contained in Broadcasting Magazine. All transfers were examined to determine the proportion of ownership being transferred, the type of properties involved in the transfer and the total consideration involved. The issue date of Broadcasting Magazine was used to determine the year for classifying the FCC transfer action. Transfers for corporate reorganization purposes, from estates to heirs, or ones where a value could not be established for the transfer were excluded. However, those transactions wherein some cash value could be established, although the total price was undeterminable because of unspecified liability assumptions, etc., have been included. Of the $128,924,000 market thus determined for 1968, 93.5% was accounted for by transactions transferring 100% interest. For the 1969 market of $202,262,000, 96.1% was accounted for by the 100% transfers. Details of this compilation will be found in the table on the following page.

In order to estimate the present market value of broadcasting properties owned by newspapers which would have to be sold under the proposed order, analyses were made of recent 100% ownership transfers involving either a television station only, an AM radio station or an FM station only. For television, sales announced from May 1967 to date were utilized while for AM and FM radio, those developed from our analysis of 1968 and 1969 transfers have been used. Station sales used in these analyses are listed in Attachments B, C and D. The general approach employed was to determine whether or not readily available independent variables could be found that had a sufficiently high correlation with the reported station sales price for use as reliable estimators.

For television stations the following variables were examined for their relationship to the prices paid.

1. The station's total average quarter-hour household audience 9 AM to Midnight Sunday through Saturday as estimated by ARB in their November and Feb/March reports (in that order) available at the time the station sale was announced.

1. American Research Bureau, the leading supplier of television audience measurement for individual markets.
2. The market's total average quarter-hour household audience from the same ARB reports.

3. For markets where available from the FCC reports the market total broadcast revenues. For those not individually reported by the FCC, revenues were estimated from prime time audience to revenues ratios as determined from the ARB Television Market Analysis reports. (Attachment E).

4. Estimated station revenues obtained by applying the station share of total average quarter-hour household audience to the FCC reported or otherwise estimated (Item 3 above) market total broadcast revenues.

5. The network base hour rate for the station per TELEVISION FACTBOOK.

6. A market growth index (1968 retail sales divided by 1966 retail sales for the market's Area of Dominant Influence as reported by ARB) applied to the previously estimated station revenues.

7. A revenue-expense index obtained by dividing the station's estimated revenues by its estimated expenses.

8. The revenue-expense index times the estimated revenues.

A transformation of the reported sale price into its common logarithm was also tested to determine whether or not increased correlations might be obtained. Stepwise regression analysis of these variables with station price showed estimated station revenues to be the most closely associated with the sale price having a correlation coefficient of .956 meaning that this one factor alone accounted for 91.3% of the variation in sale price. Addition of the next most important factor did not significantly improve the correlation nor reduce the standard error of the estimate. Consequently, the regression equation used for valuation of newspaper owned television stations is that employing estimated revenues only. The 96 newspaper owned television stations detailed in Attachment A were thus valued at a total of $1,592,816,000. Results of this valuation are in Table A and pertinent portions of the regression analysis are contained in Attachment F.

Due to the lack of widely accepted radio audience measurement surveys for most small markets, the estimated revenues approach developed for estimating television station values was not possible for radio. Tests were made of the relationship between radio station sale price and the market or county retail sales, market radio revenues where available from the FCC, and average radio revenues in the market. The FCC revenue data, however, was only available for about one-half of the station sales studies. These tests produced no significant correlations. Consequently these AM radio sales were grouped by sale price and a special tabulation was obtained from the FCC giving total revenues for each group. Analysis of the data for the resulting 95 groups gave a correlation of .949 between sale price and revenues for the calendar year prior to the time of sale. The regression equation resulting from this analysis was then used to value the newspaper owned AM stations. This was accomplished by similarly grouping the newspaper owned stations and obtaining another FCC special tabulation of each group's revenues. The results of this valuation are found in Table A and the stations thus valued are listed in Attachment A.

For FM stations located in markets listed in Table 15 (FM Financial Data for Stations in Standard Metropolitan Statistical Areas, 1968) of the FCC 1968 AM-FM Financial Report, a multiple correlation coefficient of .825 was obtained between sale price (value) and (1) average revenues per station in the market and (2) station ERP. FM stations not in markets listed in Table 15 were valued at the average price for such stations ($80,500) experienced over the past three years. The results of these valuations are shown in Table A below.

---

3. For stations in markets having 1969 expenses reported by the FCC, expenses were estimated by dividing the market's total expenses by the number of "station units" in the market. In general, network affiliated independent VHF stations were considered one station unit each, while independent UHF stations were counted as .5 unit each. In some instances judgmentally determined unit values below .5 were used to allow for stations operating at a lower level.

For stations not in FCC reported markets, expenses were estimated at the average for the station's revenue class per Tables 11 and 12 of the 1969 FCC report.

4. Stepwise regression is a computer program which selects independent variables in the order of their importance for use in a multiple linear correlation, the criterion of importance being the independent variable's reduction of "sum of squares."
TABLE A

VALUATION OF NEWSPAPER OWNED RADIO AND TELEVISION STATIONS IN OWNER'S MARKET

(Valuations in thousands of dollars)

<table>
<thead>
<tr>
<th>Ownership Group</th>
<th>Type of Station</th>
<th>Total U. S. Value</th>
<th>Newspaper Owned Value</th>
<th>Newspaper Owned Stations as % of Total U. S. Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>Value ($000)</td>
<td>No.</td>
<td>Value ($000)</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----</td>
<td>-------------</td>
<td>-----</td>
<td>-------------</td>
</tr>
<tr>
<td>100% Owned⁵</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of Stations</td>
<td>60</td>
<td>132</td>
<td>98</td>
<td>290</td>
</tr>
<tr>
<td>Valuation</td>
<td>1,331,413</td>
<td>197,982</td>
<td>24,877</td>
<td>1,554,272</td>
</tr>
<tr>
<td>Majority Owned</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of Stations</td>
<td>23</td>
<td>77</td>
<td>40</td>
<td>140</td>
</tr>
<tr>
<td>Valuation</td>
<td>153,576</td>
<td>49,272</td>
<td>5,252</td>
<td>208,100</td>
</tr>
<tr>
<td>Minority Owned</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of Stations</td>
<td>13</td>
<td>20</td>
<td>13</td>
<td>46</td>
</tr>
<tr>
<td>Valuation</td>
<td>107,827</td>
<td>32,099</td>
<td>3,941</td>
<td>143,777</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of Stations</td>
<td>96</td>
<td>229</td>
<td>151</td>
<td>476</td>
</tr>
<tr>
<td>Valuation</td>
<td>1,592,816</td>
<td>279,263</td>
<td>34,070</td>
<td>1,906,149</td>
</tr>
</tbody>
</table>

PART II

THE POTENTIAL EFFECT OF PROPOSED DIVESTITURE ON VALUE OF TELEVISION AND RADIO STATIONS

Under the proposed FCC rules for divestiture newspapers will be required to dispose of 96 television stations, 86 AM stations, 143 AM-FM stations, and 8 FM stations over a five year period. The addition of these stations to the normal supply of television and radio stations coming on the market each year will affect both the supply and demand for stations. A summary of station sales in 1968, 1969 and the first 9-1/2 months of 1970 is in Attachment G.

A recap of these station sales together with the number of newspaper owned stations to be sold or transferred is as follows:

Recapitulation of Station Sales⁷ Compared with the Number of Newspaper Owned Stations to be Sold

<table>
<thead>
<tr>
<th>Type of Station</th>
<th>1968</th>
<th>1969</th>
<th>To 9/21 1970</th>
<th>Newspaper Owned Stations to be Sold⁸</th>
</tr>
</thead>
<tbody>
<tr>
<td>TV Stations, including those sold with AM, AM/FM and FM</td>
<td>21</td>
<td>25</td>
<td>15</td>
<td>96</td>
</tr>
<tr>
<td>AM Stations, including those sold with TV</td>
<td>211</td>
<td>205</td>
<td>98</td>
<td>86</td>
</tr>
<tr>
<td>AM/FM Stations, including those sold with TV</td>
<td>55</td>
<td>56</td>
<td>33</td>
<td>143</td>
</tr>
<tr>
<td>FM Stations</td>
<td>45</td>
<td>44</td>
<td>27</td>
<td>8</td>
</tr>
</tbody>
</table>

⁷. From Attachment G.

⁸. Sold or transferred (Attachment A).
The average value of the stations sold each year compared with the average value of newspaper owned stations is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Number of Sales</th>
<th>Value ($000)</th>
<th>No. of Sales</th>
<th>Value ($000)</th>
<th>Purchased to 9/21/70</th>
<th>Average Value ($000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TV only</td>
<td>11</td>
<td>3,189</td>
<td>20</td>
<td>4,287</td>
<td>648</td>
<td>16,592</td>
</tr>
<tr>
<td>AM only</td>
<td>155</td>
<td>185</td>
<td>155</td>
<td>295</td>
<td>243</td>
<td>86</td>
</tr>
<tr>
<td>AM-FM only</td>
<td>36</td>
<td>662</td>
<td>39</td>
<td>611</td>
<td>451</td>
<td>1,639</td>
</tr>
<tr>
<td>FM only</td>
<td>38</td>
<td>143</td>
<td>33</td>
<td>156</td>
<td>152</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If the proposed FCC rules are adopted the normal supply and demand for broadcast properties sold or transferred in the open market will be affected in the following manner.

Supply Considerations

A. Both the quantity and value of stations coming on the market will change substantially if divestiture is required. A total of 96 TV stations, 86 AM stations, 143 AM-FM stations and 8 FM stations owned by newspapers will be placed on the market over a five year period.

The average value of newspaper owned TV stations which will be affected is $3,189,000. The average value of AM (only) stations sold in 1968 and 1969 was $185,000 and $295,000 respectively. The average value of newspaper owned TV stations which will be affected is $1,639,000. The average value of AM-FM stations sold in 1968 and 1969 was $662,000 and $611,000 respectively.

9. Transfer of 100% interest.

10. Sold or transferred.

11. Includes only transfers approved by FCC. As of 9-21-70 the pending transfer of 6 Triangle Broadcasting properties had not been approved by FCC. The approval of these and other transfers in 1970 would bring the average more in line with 1968 and 1969 experience.

The average value of newspaper owned FM stations which will be affected is $339,000. The average value of FM stations sold in 1968 and 1969 was $142,000 and $156,000 respectively.

Demand Considerations

A. The demand for newspaper owned stations will be affected by:

1. The location of the market. The demand for stations in desirable markets may lead to bidding for properties in these markets. Some newspaper owners in marginal markets, however, will not be able to obtain a fair price for their stations in the five year period proposed for divestiture because potential buyers are in a position to take advantage of a forced sale situation. Some marginal and sub-marginal stations would have to go off the air for lack of buyers unless the Commission were to waive the divestiture requirement in their case.

2. Provisions of the Internal Revenue Code may be an incentive to sellers to exchange stations. Twenty-seven of the 96 TV stations affected by divestiture are owned by newspapers which also own TV stations in other markets. These 27 owners are experienced with distant operations and are most likely to trade or swap stations. Although the trading potential exists for all newspaper owners, there are, however, factors which would reduce the number of stations traded. They are:

(a) It is less expensive and, therefore, more profitable for an owner to operate in his home market. A station in a distant market consequently is worth less than one in the home market. An owner would, therefore, rather sell than trade in order to obtain a higher price.

(b) A station to be traded must be attractive enough to another newspaper owner to invite a proposal to trade. Some newspaper owned stations will not generate offers to trade.

(c) Where newspaper owners have no broadcast or newspaper interests outside their home market, there will be reluctance to operate a station in a distant market.

3. Although stations are frequently sold on terms, newspaper owners will be reluctant to offer terms to any but the most financially secure buyers since a newspaper owner will not be in a position to reapply for the station license in case of the buyer's default.

4. The large amounts of capital that will be necessary to acquire newspaper owned properties would be difficult to obtain.
B. In addition to factors affecting newspaper owned stations, the demand for stations in general will be affected by such factors as:

1. Increasing Government regulation such as the proposed FCC rule precluding common newspaper/broadcast ownership in the same community; the FCC's rule which seeks to bar ownership of more than one TV, AM, or FM station in any community; and the FCC's rule limiting the amount of network programming in prime time hours will, for example, make an investment in broadcast properties less desirable to some potential buyers.

2. Television industry's increasing concern for TV's future due to expansion of CATV and broadband wired communications networks, pay TV, cartridge video tape and other developments which threaten to fractionalize the existing television audiences thereby reducing station revenues and profits.

Summary and Conclusion

The average number of newspaper owned TV stations to be sold or transferred each year (19) for a five year period is close to the average number of stations sold each year in 1968 and 1969 (23). In other words, forced divestiture will nearly double the average supply of TV stations on the market. The average value of newspaper owned TV stations to be sold or transferred each year for a five year period will be $16,592,000 which is approximately 4.4 times the average value of television (only) stations sold each year from 1/1/68 through 9/21/70 which was $3,737,000.

The average number of newspaper owned AM stations to be sold or transferred each year (17) for a five year period is approximately one-twelfth the average number of AM stations sold each year in 1968 and 1969 (208). In other words, forced divestiture will increase the supply of AM stations by 8% a year. The average value of newspaper owned AM only stations to be sold or transferred each year will be $882,000 which is approximately 3.7 times the average value of the AM radio stations sold each year from 1/1/68 through 9/21/70 which was $241,000.

The average number of newspaper owned AM/FM stations to be sold or transferred each year (29) for a five year period is approximately one-half the average number of AM/FM stations sold each year in 1968 and 1969 (56). In other words, forced divestiture will have a greater impact on the supply of AM/FM stations by 50% a year. The average value of a newspaper owned AM/FM station to be sold or transferred each year will be $1,639,000 which is approximately 2.8 times the average value of an AM/FM station sold each year from 1/1/68 through 9/21/70 which was $591,000.

The average number of newspaper owned FM only stations to be sold or transferred each year (2) for a five year period is less than one-twentieth the average number of FM stations sold each year in 1968 and 1969 (45). In other words, forced divestiture will increase the supply of FM stations by 4% a year. The average value of newspaper owned FM only stations to be sold or transferred each year will be $389,000 which is approximately 2.6 times the average value of FM stations sold each year from 1/1/68 through 9/21/70 which was $149,000.

The magnitude of the effect of the FCC's proposed rule for divestiture is without precedent. Some 15% of all commercial television stations in the country, representing approximately 20% of the value of all television stations, will be required to be transferred. Almost 6% of all the commercial AM and AM/FM stations in the country, representing approximately 10% of the value of the stations, will be required to be transferred. In addition, 8 FM only stations will have to be transferred.

The price of newspaper owned television stations will be affected the most by proposed divestiture because of the relatively large number and worth of stations which must change hands. The price of AM and FM stations will be affected to a lesser degree because a smaller proportion of the total number of AM and AM/FM stations will be sold or transferred although the average value of these stations is from 2.8 to 3.7 times the average price paid for stations in 1968 and 1969. The price of FM only stations will be affected in a similar manner to AM and AM/FM stations because the market for FM only properties is closely related to the market for AM and AM/FM stations.

Conclusions

It is my opinion, based on the facts discussed in Part I and Part II of this study and on my general knowledge and experience as a television and radio management consultant and as a broker of broadcast properties, that the value of television stations will decline between 10% and 20% and that the value of AM, AM/FM and FM radio stations will decline as much as 10% if divestiture should be required.