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In This Issue

Editors' note: the opinions expressed in this journal are those of the individual authors.

From the Editors

Fay Kanin
Roger Gimbel

It would appear that when it comes to big corporations, things are at a boiling point for the "little guy." He has had it up to here! It goes far beyond individual stockholders, it's true of small enterprises, and it's certainly true of independent producers and writers and directors.

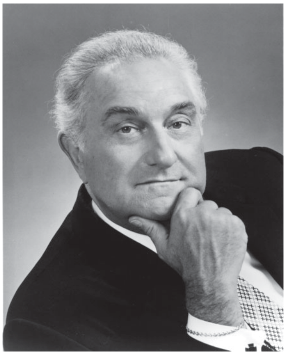
The Caucus has a passionate interest in the "little guy." Judging by our articles, he's being squeezed by vertical integration, horizontal integration, and all the other conflagrations to a point where the quality and diversity of television programming are seriously threatened.

On a totally different note, looking back, we include a historic World War II moment in Reims, France, captured by Caucus member Ted Bergmann, the only living witness, as he recollects the German surrender in the spring of 1945.

Looking ahead, we await the upcoming Federal Communications Commission (FCC) hearings in Washington on media consolidation. Will there be another "historic" moment?

Chairman's Report

Chuck Fries
Chairman of the Caucus



The Caucus for Television Producers, Writers & Directors is deeply concerned about the impact of media consolidation on creators of content and ultimately on the quality and diversity of television programming. They have joined Senators Hollings, Kohl and DeWine in asking that the Federal Communications Commission (FCC) undertake a study to review media concentration and its impact on program diversity.

Since the abolishment of the Financial Interest and Syndication Rules, four major studios, AOL-Time Warner, Disney, Fox and Viacom now own five of the six major networks. NBC is the only stand-alone major network while Universal has in its organizational chart the USA Network and its affiliated networks. They also control a significant number of cable operations and program services thereby strangling the independent producers' ability to produce anything on an independent basis offering essentially an employment contract and a demand for the copyright and distribution rights in return for access to their broadcast distribution system.

In order to maximize the number of voices available to the American public, the Commission should begin to untangle the intertwined webs between transmission, distribution and production. The only guarantee of quality programming is decentralization of supply. The challenge to the Commission is to create a level playing field.

The Caucus is also deeply concerned about the potential deterioration of the production infrastructure throughout the United States and especially in Southern California.

Runaway production, subsidized by tax credits and tax shelters, in foreign countries, most especially Canada, has drained billions of dollars from this most important industry asset. Accordingly, the Caucus supports federal and state measures that will provide tax credits and incentives to U.S. productions that are produced in this country. Finally we are making our contribution to the industry by providing completion grants from our Foundation to disadvantaged students to create diversity behind the camera. This year we will commit $65,000 to approximately 10 grants, which is a significant increase compared to last year's dollar commitment. Many of our members will mentor these filmmakers by helping them on their productions and on their entry into their chosen profession.

What do we do at the Caucus? We help to maintain and to build a better environment for all creators!

All-Star Cast Headlines "Year in Review" Luncheon

On May 10, the Caucus held a luncheon meeting addressing the subject, "Television, the Year in Review," and featured a panel of television executives and creative participants. Brian Lowry, television reporter for the *Los Angeles Times,* was the moderator.

The members of the panel were the following:

CHRIS ALBRECHT, president of HBO Original Programming, oversees east and west coast original programming for HBO, Cinemax and HBO Independent Productions. Think of *Sex and the City*, *Six Feet Under* and *Band of Brothers*. He was recently appointed HBO Chairman-CEO.

GARY HART, president of Paramount Television Productions who oversees the entire product from Paramount, Viacom and Big Ticket Television. Think *Frasier*, *Becker*, *Jag* and many more.

KEVIN BRIGHT, partnered with Marta Kaufman and David Crane, executive-produced the top-rated show, *Friends*. The show has garnered 33 Emmy nominations and seven Golden Globe nominations.

GAIL BERMAN, president of Entertainment for Fox Broadcasting, moved from Regency to Fox Broadcasting in July of 2000, and still serves as executive producer of *Buffy the Vampire Slayer* and its spin-off, *Angel*.

MARSHALL HERSKOVITZ, producer, writer and director. Aside from his feature credits like *Traffic* and *I am Sam*, his television work includes the long-running *thirtysomething, My So Called Life* and most recently *Once and Again*.

VIN DI BONA, one of the pioneers of reality programming, first put *America's Funniest Videos* on ABC, *Meet the Marks* on Fox and *America's Funniest Game Show* on ABC Family.

The following are some excerpts from the discussion.

BRIAN LOWRY:

I want to start with one general question for everybody. It's hard, isn't, to look back on this last year and even look forward without looking at the events of September 11th and the influence it had on your work as the year progressed?

KEVIN BRIGHT:

Since the show takes place in New York City, we couldn't be oblivious to that fact. We talked about was there a way to acknowledge it and incorporate it into a show, maybe even make it part of a storyline. We decided that there's obviously nothing funny about 9-11. To include it in a comedy is to diminish, even trivialize it. Instead, we decided to keep doing the show we'd always been doing but with visual acknowledgements of what had happened. In the back of the coffee shop, an American flag hung for several episodes. In Joey's apartment there was an American flag placed behind the refrigerator. In Rachel's office at Ralph Lauren there was an American flag pillow. We realized that people still wanted, maybe needed, to laugh more than ever.

GARY HART:

At Paramount it was very personal because David Angell, one of the executives for *Frasier*, was on one of the planes. Everybody on *Frasier* was in shock, and we shut down for a longer period than a day. But we all took our lead from the *Frasier* people who said, "Our job is to entertain, to put the show on, and just try to do the best work we know how to do."

CHRIS ALBRECHT:

There are the things you do for sensitivity reasons, like remove the images from some opening title credits as we moved into the next season. We had the opportunity to do a project with Guiliani, in memoriam, so that was a very specific way for us to relate. But I feel that what really happened is that we're all changed. I think that the impact of that day are things that I'm not even aware of, but are within me and will affect everything I do in my work, in my personal life and the choices that I make.

BRIAN LOWRY:

Chris, you promised *Band of Brothers* right before 9-11. Do you think afterwards it had any significant impact on people's willingness to watch it?

CHRIS ALBRECHT:

I think 9-11 was like a double-edged sword. On one hand, the show became even that much more relevant and on the other, there were images in the show that people probably didn't want to see and be reminded of. So we certainly got hurt because we pulled the show off for two weeks.

GAIL BERMAN:

We obviously all suffered as individuals and as a country. Just purely on the network level, because we have late-season baseball and the World Series, the rollout of our schedule was supposed to begin on September 11th with a show called *Love Cruise*, a highly inappropriate show to run on the heels of a great national tragedy. Obviously, we didn't start *Love Cruise*, and because of news and the post-season baseball, we had the rollout of our season in the November sweep. That's unprecedented – no network ever rolls out a season in the November sweep. So an entire summer of large levels of spending for ad campaigns, etc. had to be scrapped and we had to start again. Obviously, the network's concern didn't nearly match the weight of the world's concerns, but there's no question that it threw our entire year into a tailspin.

MARSHALL HERSKOVITZ:

It's a difficult question for me to even talk about. I think back (not that I was alive then) to the period in 1939 that came to be known as "The Phony War" when war had been declared but not much was happening. I don't think we know yet what this whole thing's going to look like, but I do feel that in general, the entertainment industry acquitted itself pretty well. There were many decisions that were extremely sensitive and based on the right criteria. I was part of that telethon thing they did, and it was pretty remarkable how quickly that was put together and how much cooperation there was across barriers that would never be crossed in any other circumstance. There were strange, unaccountable reactions in terms of the viewing public. People thought nobody would go to the movies. Everybody went to the movies. People watched some shows in higher numbers and other shows they had no interest in. It was unpredictable.

VIN DI BONA:

We reacted as any human beings would. We were angry, we were upset, we were depressed, and we had to produce a comedy show that would end up on Friday nights at 8 o'clock. Our goal was just to produce the funniest show, to bring some laughter, if that was possible.

BRIAN LOWRY:

Looking at the fall, the one business trend that jumped out at me was that you have 35 new primetime series on the six networks, 27 of which are either owned all or in part by the studio that is affiliated with the network. How do you feel about that trend?

MARSHALL HERSKOVITZ:

This is a trend in the whole country, not just the entertainment business. So far it's still possible, it's just less likely, to sell to a network that doesn't own the company you're affiliated with. I don't think it gives you the kind of protection that people assume because there's an inherent conflict between the people running the network and the people running the studio. It's not always true that the most successful ideas are going to come from your own company. So this is an uneasy sort of partnership and it will hurt the business because it lessens the pool of talent.

VIN DI BONA:

Vertical integration does not give you great new ideas, and as independent producers that's what we have to strive for. We cannot go in with a familiar show because if we do, the meetings won't come as quickly the next time. We have to find alternative ways to do product.

BRIAN LOWRY:

Kevin, you come at it from a little different place with an affiliation with Warner Bros. How has that played out for you?

KEVIN BRIGHT:

Our relationship with Warner Bros. has been a good one and a very supportive one. The thing that's frustrating for a producer when you do sign with a studio and have an overall deal is the lack of stability in who's running that studio. Since we signed with Warner Bros. there have been three heads of our studio. Yet Chris is still at HBO.

CHRIS ALBRECHT:

No one will hire me (laughter).

KEVIN BRIGHT:

I've heard different. But I think that the consolidation adds to the pressure on an executive to deliver. And there are no miraculous cures for turning around a network. It seems to be okay to take ten years to turn around a basketball team but you've got one year to turn around a network. Consolidation makes it worse because there's so much more pressure, there's so much more money, there's so many people involved in it. Having recently done a pilot for NBC in which the writer was in a partnership between NBC and Warner Bros., NBC and Warner Bros. both produced it. You would've thought that gives you an edge, but what you find out is it depends on a bunch of things. Who was the person that made the deal with that writer? Is that person still the one that's going to make the decision about whether the show gets on or not? Is that the show that person would've ordered had he been there when this writer had a deal? A show that I directed took place in a small-town fire department. Post 9-11 everybody was really wild about the concept of the show. But in reality that fire department hadn't done a fire in a year. I spent a day with the Burbank Fire Department where they told me that basically there are very few fires. Most of their calls are paramedic calls. But the network said, "No, you can't represent firemen that way. Firemen are heroes."

BRIAN LOWRY:

Chris, you're obviously part of a huge company and yet, for some reason, HBO has managed to keep turning out shows that are critical darlings. Are you affected by this dynamic in the way that other networks are?

CHRIS ALBRECHT:

We would love to do business with Warner Bros., which is the sister studio, and have tried a couple of times but haven't really come up with anything. I think the problem is even though we are doing work that's being recognized, our economic model as it relates to paying the studio or paying the production company doesn't work because the money really comes from the after-markets syndication. That's not a road that we've traveled. So we don't have the studios bringing us their most expensive talent. We don't have the agencies bringing us their biggest clients. We watch a lot of this money pushed around us, but we have not yet been able to provide the real payday that's made it economically feasible for a lot of people to come to us. I think that's not the answer to your question but an important point none-the-less.

BRIAN LOWRY:

The Sopranos made an enormous splash a while ago. This year we had *The Osbournes*. *Sponge Bob* is doing tremendous numbers by Nickelodeon standards. Have we seen some sort of threshold crossed in terms of cable being able to put on shows that have impact, if not quite equivalent to, pretty close to what the broadcast networks can do?

GAIL BERMAN:

I'd love to answer it just in terms of what my nine-year-old son said to me upon viewing one of my pilots. He said, "Gee, Mommy, this is so good it should be on Nickelodeon" (laughter). The answer is I don't think the audience out there (cable is in 80 percent of the American homes now) is differentiating between broadcast and cable and anything else. They're just sitting back and flipping channels. And we on broadcast are at somewhat of a disadvantage. They're doing a fantastic show and it feels very real and the audience is responding to it in a vital way. And if we don't compete, we're out of business. We have to stay competitive and that doesn't just mean nudity or foul language or whatever. It means being vital to the viewer.

BRIAN LOWRY:

Anyone else on that point?

KEVIN BRIGHT:

For broadcast television to catch up a bit with where cable has been going, I think we need to check our moral compass in this country and get a little up-to-date. I thought that network television started to make some progress when Bochco was allowed to use some language, and other shows were allowed to use some language and some nudity and be more honest after 10 o'clock at night. But it really hasn't changed and the same rules apply. The frustration in the eight years of *Friends* is that you don't know what the rules are from year to year, and it changes depending on administrations and politics. In the first two years it was okay to say "penis." Then we had a three-year drab and you couldn't, not that "penis" is such an important thing (laughter).

The most disappointing moment I've ever had on *Friends* is we did an episode where there was only one condom in the house and Monica and Rachel both had sleepovers and they were fighting over who gets to use the condom. Well, we weren't allowed to say the word "condom," and we weren't allowed to really show it either. Somehow, the writers prevailed and were able to get the comedy out of it. But in this day and age where so many things are affecting our society, although condoms can be helpful in teaching safe sex, the networks still pull back and say, "Don't say those words, don't talk about those things." I think we need to have more honest television. The network quality will come up when you're able to do things that can be competitive with cable. I think Americans are ready for it. There have been all kinds of diverse programming internationally for years. What are we waiting for? I realize there are a lot of pressures brought to bear. But just do good television and I think that all that goes away. On *The Sopranos* you had some complaints from

Pictured (left to right), front row: Chris Albrecht, President, Original Programming, HBO; Brian Lowry, *Los Angeles Times,* Moderator; Gail Berman, President, Fox Entertainment Group.
Second Row: Chuck Fries, Chair, The Caucus; Garry Hart, President, Television Production, Paramount; Vin Di Bona, Exec. Producer, *America's Funniest Videos* & Caucus member; Kevin S. Bright, Executive Producer, *Friends;* Marshall Herskovitz, Executive Producer, *Once and Again*.

the Italian-American community probably in the beginning. It went away, I'm sure.

CHRIS ALBRECHT:

You haven't seen my desk. Fifty guys named Guido are still writing to me (laughter).

KEVIN BRIGHT:

In order to do better television, it has to be more honest. I think the government has to help broadcast television do things that would make television more real and more interesting.

QUESTION (FROM THE AUDIENCE):

Has the diversity issue taken more of a backseat this year?

GAIL BERMAN:

It hasn't for us. When I came in we decided to take an aggressive stand as far as changing the way our network approached diversity. Whether the Coalition is willing to acknowledge that is sort of irrelevant at this point. It is part of network policy, it is the way we're staffing our shows, it is the way we're casting our shows, and it's a vibrant part of how we're continuing to develop.

BRIAN LOWRY:

I just wanted to follow up on that because *The Wire*, an HBO show, is premiering this weekend. The only thing worse than not being used is people getting upset about the way they're used. The show obviously treats drug dealers in a housing project and most of them are African-American. Was that something that gave you any pause going into it or did you get any bad feedback?

CHRIS ALBRECHT:

We talked about finding ways to deal with the diversity issue and to find things that are real to reflect it, not to manufacture them because the audience has a great bullshit detector. They know when we're doing things that are phony and false. It's important for the people that are creating shows to come up with ideas that reflect reality. If it reflects a broad cross-section of the country, that's phenomenal. But the odds of having something that fulfills all of those requirements are not that great, given the incredibly difficult task it is to make quality, successful television. I think we're stuck with this task that people expect us to accomplish, and not necessarily having the tools or the input to really accomplish it successfully. But it doesn't mean that we don't think about it and it doesn't mean that we don't try.

Big Media's Next Takeover Target: The Internet

A Letter to the Caucus

Jeff Chester

Members of the Caucus: Your neighbors are dangerous, and we need you to do something about it. They threaten not only the future competitive landscape of television and digital media, but also the vitality of our democracy. You know these folks very well; their names are on your royalty checks and production credits. They are companies like AOL Time Warner, GE/NBC, News Corps/Fox and Viacom/CBS.

Over the last decade, these media giants, along with their lobbying organizations, have engaged in a systematic attack on public policies designed to encourage diversity of expression in the U.S. They are on the eve of sweeping away the few remaining rules on media ownership. I describe them as dangerous because of their principal political argument. AOL Time Warner, Viacom and Fox, for example, claim that their companies' First Amendment rights are violated by any public policy that limits their ability to own and totally control as many media outlets as they want to acquire.[1] There is never an acknowledgement that these safeguards reflect values critical to a democracy, including the right of Americans to receive a wide array of distinct and diversely owned sources of information.

Perhaps more ominously, many of these media conglomerates now have their sights set on the Internet and the emerging new medium of broadband. The vision that the conglomerates have for the future of digital media is rooted in their past—TV (especially cable). And the danger is that despite the new medium's potential to offer greater choice and opportunity for both creators and viewers, it may never be able fully to do so.

Over the last decade, cable and broadcasting have engaged in a "tripartite" strategy to eliminate media ownership safeguards. If they could not succeed at the Federal Communications Commission (FCC), they went to Congress. And failing that, they went to the courts. Given the industry's political clout and a timid FCC (no matter which party is in charge), the industry has been largely successful. The following rules are now being considered for either elimination or to become drastically weakened.

1. The "cap" on cable system ownership: Rules enacted in 1992 limited both the number of cable systems a single company could control and the number of channels any single cable company could program on its systems. Until overturned by the DC Court of Appeals last year, a single cable company could not control more than 30 percent of the nation's multichannel (cable and DBS) subscribers. Nor could that company, in a bow to content competition, program more than 40 percent of the channels on any one system. The FCC is now reviewing the cable cap.

2. It is very likely that if the rule is revised to a 50 percent cap, two cable companies could control the entire industry.

3. The cap that limits the number of broadcast TV stations a network can operate: Traditionally limited to owning stations that collectively reach no more than 35 percent of the total TV audience, the major networks convinced the D.C. Court of Appeals this year that the FCC could no longer justify this safeguard, despite the protests from affiliated stations. With fewer owners of most of the nation's TV stations, the FCC's longstanding principle of ensuring localism (through a diversity of owners) is about to end.

One company in a town will be able to control ... all the media.

4. Broadcast-newspaper cross-ownership ban: For more than thirty years, there has been a prohibition against a single company owning a broadcast station and a newspaper in the same market. Back in the early 1970s, the FCC was concerned about the negative impact of one owner controlling the two most dominant forms of communications in a community—the TV station and the major daily newspaper. Both broadcasters and the newspaper industry, including the *New York Times,* Cox and the Tribune Company want to eliminate this safeguard, no matter that the swallowing up of newspapers by the TV industry (and its business model) harms the watchdog role journalism should play.

Also under attack is the safeguard that has prohibited common ownership of a cable system and a TV station in the same community. The FCC has already decimated the duopoly rule, so that the same company in a single market can operate two TV stations. Of course, most radio ownership limits were thrown out in 1996, as a result of the Telecommunications Act. As everyone knows, today two companies (Clear Channel and Infinity) have swallowed up large portions of the radio industry.

If all these rules are eliminated, then one company in a town will be able to control the newspaper, several TV and radio stations and the cable system.

The media conglomerates' lawyers have also engaged in a most successful flim flam before the courts and the FCC. In briefs and filings, the big media companies tell the court or the FCC (and ultimately you and the public), "don't worry about ending these 'old' media safeguards. We have the Internet today, an unlimited source of perspectives." Why, they say, should there be any limits on how many newspapers, stations, cable systems or satellites they can own?[2] The ultimate safeguard is the Net. These old rules are superfluous, because many were based on the concept of spectrum "scarcity," goes their plea.

Untold to the courts is that *these same conglomerate interests now also threaten the Internet*. Cable in particular has long viewed the Internet as a competitive problem, with the ability of consumers to potentially access multichannel programming streams elsewhere. The cable lobby quickly developed a solution—fight against any policy proposal that would require cable operators to manage their networks in an open and non-discriminatory way. The Internet's open architecture, its DNA, according to experts such as Lawrence Lessig of Stanford, has been responsible for its ability to support innovation, as well as competition and content diversity. This openness has prevented the company delivering the content (the phone company in the dial-up world), from interfering with its delivery. The Net's framework was based on the requirement that the phone company had to operate as a common carrier, could not own content, and had to serve everyone fairly.

Cable understood that it had key advantages in the emerging broadband world, where TV and digital content will seamlessly travel together. First, it already had a high-capacity wire to most people's homes. It owned content and understood the entertainment business. But more crucially, cable was still considered by regulators as a one-way TV medium.

The cable industry is thus positioned to dominate the digital age, especially the TV business. They are dictating the technology in the set-top boxes that will be the key tollbooth for digital TV and its interactive successors.[3] Its broadband Internet service is outpacing telephone-operated DSL lines. Cable will be able to bundle its TV and Internet offerings, providing it with a powerful position in the market.

every content provider will have to pay homage

Cable understands that its wires provide the crucial "return path" that is at the heart of the TV business future. The emerging model for TV will require the programmer/network to capture data from the viewer/user. Information collection for the processing of T-commerce (TV Commerce, as they call it), whether for a sponsor's products or on-demand programming, is really the foundation for the next-generation of television. Companies such as AOL and Paul Allen's Charter understand how the technology and network control will be able to generate huge revenues.[4] And in the absence of a federal open access policy, every content provider will have to pay homage, financial and otherwise, to this new digital monopoly. The cable giants will be able to foreground their content and advertising, giving viewers instant access to those services. Everyone else will have to affiliate, pay fees or suffer marginalization. The big broadcast TV networks, through their political clout, will have to be cut in by cable. That's because their lobby has secured both free digital spectrum (now worth close to $300 billion) and a federal policy known as "retransmission consent," which forces cable to share some of its monopoly space.

One of the most troubling aspects is the vision that companies like AOL Time Warner, Viacom, or the soon-to-be-wedded AT&T Comcast hold for the future. Despite technology's capability to deliver more and new voices, the mega giants see a world that can offer more "branding" opportunities with "sticky" commercial features. There is nothing said about civic engagement, cultural diversity, or (dare we say) artistic expression.

WE NEED YOUR HELP; because our country's new media future doesn't have to be the old media's marketing past. There is an opportunity to serve all interests, and to ensure that creators—whether commercial or noncommercial, national or in the neighborhood—can harness their imaginations, passion and market-savvy. With a fairly run and open digital system, more people would have access to audiences.

But we have to fight the gatekeepers, the handful of companies and their lobbyists (like the NCTA, NAB and MPAA). So far, only a few public interest media advocates have been resisting—Consumers Union, Consumer Federation of America, Media Access Project and my own Center for Digital Democracy. Needless to say, we are losing.

Very few people understand what's at stake. Since almost all of broadcast and cable news operations haven't covered what their company and industry are doing, it's no wonder that this isn't an issue on the public's radar screens.

The Caucus and its members should do more—to sound the alarm, to challenge the false arguments and to fund lobbying efforts.

We're mad as hell and don't want to take it anymore.

Jeff Chester is the executive director of the Center for Digital Democracy, a nonprofit organization working to ensure an open and diverse media system.

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Footnotes

[1] See, for example, the principle legal "argument" used by Time Warner to overturn cable ownership diversity safeguards: "Cable operators like Time Warner engage in constitutionally protected speech by producing their own programming and by exercising editorial discretion with respect to programming produced by others." Brief for Time Warner Entertainment Company vs. FCC and USA, US Court of Appeals, D.C. Circuit. June 29, 1999. Or the one used by Fox, NBC and Viacom/CBS asking the same court to end the "cap" on network ownership of TV stations: "the national ownership cap stands as a direct and powerful restriction on speech. Because of this rule, petitioners are banned from providing the programming of their choice in the localities of their choice and to the audience of their choice." Brief for Fox TV Stations, National Broadcasting Company. Viacom and CBS vs. FCC and USA. March 22, 2001

[2] In the worldview of (now) AOL Time Warner, we have never seen such abundant ownership diversity. "TV viewers have access to countless independently owned video channels on cable and DBS—not to mention the cornucopia of content available on the Internet, over the radio, and in the print media." From brief for Time Warner Entertainment filed with D.C. Court of Appeals, Fox, NBC, Viacom, CBS, Time Warner Entertainment vs. FCC and USA. June 15, 2001. AOL TW successfully used this argument to have the TV station/cable system cross-ownership safeguard overturned.

[3] One of the great scandals is how the FCC has allowed cable to set the technical standards for this next phase of the media business, including set-top box hardware, software and gateway services. Despite a federal policy, consumers still can't easily buy their own set-top box. To see what the industry is doing, go to www.cablelabs.org. The Consumer Electronics folks don't like cable very much, because they would like to sell you boxes. See http://www.ce.org/shared_files/initiatives_attachments/112navdevices080301.pdf

[4] Those interested in the privacy issues, as well as a glimpse of the industry's future vision, can read CDD report on interactive TV and privacy. www.democraticmedia.org For a glimpse of Paul Allen's set-top operations, see http://www.digeo.com/prodserv/index.jsp.

Standing Atop the Digital Divide

From *The Hollywood Reporter,* May 16, 2002
By Brooks Boliek

I don't know where the digital divide is today, but I was standing on it on Tuesday, May 7, at about 6:30 p.m. At that time it ran down St. Charles Avenue, about a half-dozen blocks from the Morial Convention Center in New Orleans where some 17,000 cable executives were engaging in the continuing Great Broadband Debate.

I was taking a streetcar to see a friend in uptown New Orleans. A black man with a scruffy goatee was peeling a boiled egg on top of a trashcan. I asked him which streetcar went to Tulane University, and he told me. A few minutes later, after I settled in to wait for the streetcar, the man approached me and asked me for a quarter so he could call a man about a job.

I said: "No problem, man. I have to have a dollar and a quarter for the streetcar. Any other change I have in my pocket is yours."

I gave him 98 cents.

He said: "Man, I'm not working you. If I was working you, it'd be different, but all I need is a quarter to call about a job."

I said: "Don't worry, man. You gave me the information I needed. Take the rest and do what you want with it."

He took my hand and forced the 73 cents left over into my palm and said: "I never charges a man for information."

I knew it then. I was standing right smack-dab on top of the digital divide. In the convention center, a few blocks toward the Mississippi, everyone was talking about how to make money out of getting people more information faster. The information age hadn't penetrated to this depressing corner in New Orleans.

Federal Communications Commission (FCC) Chairman Michael Powell got in trouble for saying he wasn't sure what the digital divide meant: that the rich people always buy the newest technology first, and if the technology has real merit, eventually it becomes ubiquitous. He was roundly criticized for calling it the "Mercedes divide."

I'm not sure if he knows, but the Mercedes analogy is appropriate in a historical context. In 1889, Gottlieb Daimler, Wilhelm Maybach and Karl Benz built the first gasoline-powered cars. They soon became a plaything for the rich; everyone else walked or rode a horse.

The invention of cars marks one of the first technological divides, and that type of trend still holds true for most successful telecommunications technologies, says Sharon Eisner Gillett, executive director and research associate for the MIT Program on Internet & Telecoms Convergence.

Gillett says the digital divide comes in two flavors. Flavor No. 1 is made up of the "boxes" of stuff we use, whether they are computers or TVs or cell phones or the transmission lines, servers and software that make up the Internet.

"That's the easy stuff that we can measure," she says.

The rollout of broadband is probably an inevitable force, driven first by the early adapters — typically younger, single, white-collar males who have disposable income and aren't afraid of gadgets. The rest of us are following along as the service becomes more affordable or more desirable products become available. It's a gap, but it closes more or less naturally.

But the more intractable problem with the digital divide comes in Flavor No. 2, she says.

"The intelligent use of the 'stuff' is a critical thing," she says. "It requires literary and teaching skills and critical thinking skills. There is a divide in education in our country. There's always been a divide, and that's the real digital divide in this country. It's in that aspect of the digital divide where there is a valid role for government."

It's probably too late for the fellow on St. Charles Avenue to cross the digital divide, but there's still time for his kids — if they get that critical education. If not, they may end up eating a boiled egg for supper and panhandling change to use the telephone.

Brooks Boliek is the Washington, D.C. Bureau Chief for The Hollywood Reporter.

"My film, UBUNTU'S WOUNDS, <u>the recipient of a Caucus Foundation grant</u>, went on tour with the Black Film Commission. It was screened in New York's Lincoln Center and went to the Cannes Festival for the market screening at the South African Pavilion. In the Florida Film Festival, it was nominated for Best Short. The film's director, Sechaba Morojele, was awarded the prestigious Schaffner Directing Prize for Outstanding Achievement in Directing."

— Karen Alex Pyudik

Exclusive Washington Report to the Caucus

Margaret Cone

After what seems like years of neglect, lawmakers are finally waking up to the problems independent writers, producers and directors are facing because of the decreasing number of outlets for creative talent. This recent interest in media concentration comes as a pair of high-profile mergers are making their way through the regulatory process and the federal courts appear to be taking a slash-and-burn attitude to many of the rules that have restricted media ownership. While federal regulators and lawmakers set in motion the media concentration trend, with the passage of the 1996 Telecommunications Act, at least some of them feel it's spinning out of control.

Their concerns were highlighted when a trio of powerful senators sent a letter to Federal Communications Commission Chairman Michael Powell expressing their interest in the commission's response to the recent court decisions. The Senators' letter represents an attempt, if not throw up a roadblock, to at least put a speed bump in the way of commission action easing the rules.

"The effort to promote diverse voices has been undermined over the last decade by extensive media concentrations and changes to FCC rules governing media outlets," the Senators wrote. "These trends may unfortunately be accelerated by the recent decisions by the D.C. Circuit Court to strike down some media ownership rules and remand others to the FCC for greater justification."

While a letter from any single lawmaker might be pushed aside, a letter from three heavy hitters like Sens. Fritz Hollings (D-S.C.); Herb Kohl (D-Wisc.) and Mike DeWine (R-Ohio) is not easily ignored as all three sit astride key choke points in the Senate. Hollings chairs the Senate Commerce Committee, which oversees the FCC; Kohl chairs the Judiciary Committee's antitrust subcommittee and DeWine is that panel's senior Republican.

"They basically want him to address their concerns about media concentration on diversity and independent programmers," said one aide. "Before he does anything on these ownership rules we want a report back."

The Plight of the Independent Producer

In particular they want the FCC to take an extensive study of the marketplace and report its findings back to congress. They expressed a particular concern with the plight of the independent program producer. In their letter they asked Powell to:

— Assess the extent to which the television program, producing marketplace is controlled or influenced by the largest distributors of television programming.

— Determine how much distributors of television programming also own or are owned by consolidated companies that have substantial economic interests in programming they distribute.

— Assess the extent to which large distributors carry programming in which they do not have ownership or controlling interests or influence.

— Decide how much distributors of programming allow intra-sector competition against programming in which they have a substantial economic interest including competition against an affiliated news or sports channel.

— Determine to what degree, vertically integrated distributors favor its own programming and discriminate against independent programming.

There are currently eight media ownership restrictions that are under some form of review by the FCC. They range from the ownership limits placed on broadcast and cable companies to the federal bar that prevents one company from owning a newspaper and a broadcast station in the same market. That review has been consolidated and is being conducted by a media ownership working group headed by the FCC's media bureau chief Ken Ferree.

While the media concentration issue has largely been an inside-the-Beltway discussion by monopoly lawmakers, FCC officials and lobbyists, there are indications that it is gaining some traction in the hustings. Rep. Bernie Sanders, I-Vt., said a total of 800 people attended two hearings he held in his home state on the issue.

"There's a growing concern about media concentration in Vermont," he said. "People are getting a little concerned that what they see and hear is being controlled by fewer people."

As a politician, Sanders is concerned that the public agenda is getting skewed toward the corporate interests. He thinks the media has a vested interest in keeping people uninformed about what is actually happening in America. Large media companies have little incentive to educate the nation's citizens about a range of issues, from the lack of health care insurance to the disparity in wealth.

"It's not a conspiracy. It's just not important to them," he said. "The people who run the media only want to express a point of view that supports their own interests."

Sanders believes that getting more media voices out there will open up the public discourse, and he predicted that congress is going to get more active as time goes on.

"I think Congress is going to take a hard look at this issue," he said "If Rupert Murdoch and a handful of people control all the media in this country, that's not good for a democratic society."

Margaret Cone is head of Margaret Cone & Associates, which provides strategic planning and public policy advice to entities in the non-for-profit sector as well as the entertainment industry.

Asking for Action

Media Consolidation in the TV industry: Is it in the public interest?

Hearings are scheduled in Washington this year.
The Caucus considers this an all-important issue.
Now two letters to the FCC address the subject:

May 22, 2002

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W., Suite 8C453
Washington, DC 20554

Dear Chairman Powell:

We are writing to request that the Federal Communications Commission undertake a study of concentration in the television programming marketplace and its impact on program diversity. While we understand that a task force has been assembled at the FCC to examine – generally – media consolidation in the marketplace, it is our intent to ensure that this examination includes an objective analysis of competition and program diversity issues associated with media consolidation.

Over the years both Congress and the FCC have taken steps to ensure that there would be a variety of video program producers, in the belief that different, competing voices leads to greater consumer choice and stimulates the development of new and innovative programming. An example of FCC action occurred in the 1980s when the Commission created the low power television market in an effort to promote innovative programming for rural areas and distinct communities within larger cities. One example of Congressional action is found in the 1992 Cable Act, where we prohibited exclusive programming contracts in order to "promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video market."

The effort to promote diverse voices has been undermined over the last decade by extensive media concentrations and changes to FCC rules governing media outlets. These trends may unfortunately be accelerated by the recent decisions by the D.C. Circuit to strike down some media ownership rules and remand others to the FCC for greater justification.

The collection of data about the broadcast, cable, satellite, Internet and other distribution platforms, in conjunction with an assessment of the robustness and viability of the independent programming community, would help both the Congress and the Commission as determinations are made as to appropriate limits in light of the recent federal appellate court decisions. We ask that the investigation be completed by the end of this year, or before the Commission acts on any media ownership rules, whichever date is earlier.

Data that should be a part of such a report includes, but should not be limited to the following:

- An assessment of the extent to which the television program producing marketplace is controlled or influenced by the largest distributors of television programming, including how those figures have changed over the past 10 years. In assessing control or influence, please take into account any equity stake, rights to revenue and/or warrants.
- An assessment of the extent to which distributors of television programming (e.g., broadcast networks, cable operators, DBS operators) also own or are owned by consolidated entities which have substantial economic interests in programming they distribute.
- An assessment of the extent to which the large distributors carry programming in which they do not have ownership or controlling interests or influence (as defined above), including an analysis as to whether such carriage has declined over the past 10 years.
- An assessment of the extent to which distributors of programming allow intra-sector competition against programming in which they have a substantial economic interest e.g., competition against an affiliated news or sports channel.

In assessing the marketplace please determine and, if possible, quantify whether, and to what degree, vertically integrated distributors favor their own programming and/or discriminate against independent programming with regard to carriage, compensation, channel position, marketing support, and other factors that are critical to the success of new and/or competitive programmers. We are also interested in the extent to which the economics of independent programmers has changed in a way that undermines their viability as competitors.

We would also ask that any analysis as to consolidation's impact on program diversity examine whether, in light of that consolidation, there exists justification for eliminating the program access rules this October, or whether the converged marketplace dictates that those rules be retained or even expanded, to protect diversity of programming available to consumers.

Diversity of voices and opinions are vital to competition as well as the discourse of our democracy. Given the substantial, ongoing consolidation in the media industry and recent court decisions striking down rules that restrain this trend, we are extremely concerned that this competition and discourse is at risk.

We feel this is an issue that urgently needs attention. Congress may certainly act before you have a chance to complete your study. However, your examination, if completed quickly, could help determine whether Congress or the Commission needs to take action to ensure that program distributors do not prevent consumers from accessing unaffiliated programming and services.

Sincerely,

Sen. Ernest F. Hollings — Sen. Mike DeWine — Sen. Herbert H. Kohl

Senator Ernest F. Hollings (D) is the Senator from South Carolina. Senator Mike DeWine (R) is the Senator from Ohio. Senator Herbert H. Kohl (D) is the Senator from Wisconsin.

THE CAUCUS
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http://www.caucus.org

June 7, 2002

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W., Suite 8C453
Washington, DC 20554

Dear Chairman Powell,

The Caucus for Television Producers, Writers & Directors is deeply concerned about the impact of media consolidation on creators of content and ultimately on the quality and diversity of television programming. We join Senators Hollings, Kohl and DeWine in asking that the Federal Communications Commission (FCC) undertake a study to review media concentration and its impact on program diversity.

America's Popular Culture is one of our great national treasures. It is the vehicle by which our values and civilization have been embraced around the world. It delivers the message of what we believe and who we are.

Today that vehicle, particularly its modern engine – television, is being assaulted. It is sick and in danger of atrophy. This harm comes about as a direct result of the growing concentration of ownership. The consequences of this new factor in our industry are – and this is no exaggeration – potentially catastrophic. The reason this is not an overstatement is best understood by considering the toll this development will have upon the creators of content and, ultimately, upon the quality and diversity of that which will be seen by the American viewing public. The storm clouds on the horizon are real and growing.

The Caucus for Television Producers, Writers & Directors, comprised of more than 150 TV industry professionals, has witnessed this increasing consolidation of ownership over the past decade. We believe the FCC needs to consider these implications and the results deregulation has had upon the public interest.

The limitations of the electronic spectrum required the FCC to allocate channels to radio and TV broadcasters. Many policymakers hoped that new technologies would lessen the need to regulate the marketplace. But while there has been a significant increase in systems that deliver programming to the public, there has also been an alarming decrease in the number of corporate entities, which own and control these systems.

(A sidebar point, though not one unrelated to our thesis: The Sherman Antitrust Act was not brought about solely because Rockefeller controlled so many oil fields, but because he also controlled a massive railroad empire that served as the delivery mode for that oil. The situation created in the present day television industry is not dissimilar. Too few companies own too many of the delivery systems.)

The inherent promise of new technology has been tarnished and broken by the immense control of new media by vertically and horizontally integrated bullyboys. We believe it is essential the FCC take steps to curb this concentration of ownership. It poses a direct threat to the American viewers' right to a free, diverse and competitive media offering.

The American people know there are more channels coming into their homes. What they do not know is that those channels are owned and controlled by a smaller and smaller number of companies. This means less competition, more opportunity for the Hollywood studios and cable titans to use their power to undermine and control programming diversity and originality.

The public interest, in a varied array of quality programming, is directly linked to the FCC's willingness to investigate the predatory practices of the media conglomerates. Without specific Federal constraints, these 400-pound gorillas will stifle creative innovation; infect the pool creatively and financially with the bottom line fungus of the myopic. The historical record is startlingly clear on this point.

It is noteworthy that many of the most important programs created in the past decades have found their audience only because the broadcast chains were prevented from demanding ownership as a condition for access. Norman Lear's landmark series, *All in the Family* was the cornerstone of the CBS schedule in the 1970's. Archie Bunker was originally sold to ABC. After making two pilot episodes for ABC, Mr. Lear decided to take his creation to CBS. As ABC was prohibited from extracting copyright control from Mr. Lear's company, he was free to take his idea elsewhere. And we are all the richer for the freedom Mr. Lear enjoyed.

Archie Bunker is not an isolated example. When Marcy Carsey first presented the idea for *The Cosby Show* to ABC, the network didn't think there was an audience for a show about a black doctor. The head of programs for ABC suggested that the public would have an easier time accepting Cosby as an entertainer. Rather than change the program concept, Ms. Carsey took the idea to NBC. Again, the protections provided by the Financial Interest and Syndication Rules prohibited the network from extracting rights to the programs that Ms. Carsey's company created. The FCC regulations supported the creation of a major television landmark. As a result, the American viewer won.

It is critical that those, who have been given spectrum allocation or cable exclusivity, not be allowed to use this advantage to stifle the independent programmer and thereby limit the audience menu. *All in the Family* and *The Cosby Show* are not isolated examples. Such breakthrough series as *The Rockford Files*, *Taxi*, *Wiseguy* and the current *The Sopranos*, were all developed for other networks, which failed to see their potential for success. Under this system, the public interest was served. At present, this scenario is an item of nostalgia due to the abolishment of the Financial Interest and Syndication Rule.

Deregulation of the national media has spawned a giant pyramid scheme whose only winner is the huge media conglomerate.

The ultimate pigeon is the public.

Unregulated operators have extorted control over program content and program copyright as the price of admission to their closed shops. These vertically integrated behemoths have engaged in a pattern of self-dealing that robs the public of diversity and denies the community of creators the right to freely market their wares.

The FCC has stated that policy relating to cable ownership should be crafted to "maximize the number of voices available to cable viewers." Given this goal, it is essential the FCC deny the national distribution systems the ability to extract legal or creative rights from the program producers as a condition of access.

The Commission is well served to listen to the advice of one of the industry's elder statesman. "Unless we knowingly abuse the essentials of a free and living land, our government must, at all costs and in spite of all pressure, never allow a tiny group of corporate entities, no matter how seemingly benign the management, to establish dominion over what is seen on television." The Caucus heartily echoes these sentiments that were originally presented in testimony before the Senate Commerce Committee by Mr. Jack Valenti (22 June 1989).

But what has happened? Four of the major studios (AOL-Time Warner, Disney, Fox, Viacom) represented by Mr. Valenti's Motion Picture Producers Association now own five of the six major networks (NBC being the only stand-alone major network while Universal has in its organization chart the USA Network and its affiliated networks). They also control a significant number of cable operations and program services thereby strangling the independent producers' ability to produce anything on an independent basis offering essentially an employment contract and a demand for the copyright and distribution rights in return for access to their broadcast distribution system. Even their sister major studios in the MPPA (Sony and MGM) have discontinued their network program production departments finding it not economically feasible to supply product to the other five and to compete since they both have minimal broadcast and cable interests if any.

In order to maximize the number of voices available to the American public, the Commission should begin to untangle the intertwined webs between transmission, distribution and production. The only guarantor of quality programming is decentralization of supply. The challenge to the Commission is to create a level playing field.

The cross-ownership of content and distribution that has come to characterize the American media marketplace has crushed the independent, creative entrepreneur. The pattern of self-dealing and preferential access that defines both cable and broadcast television needs to be unwound. In pursuit of these goals, The Caucus specifically recommends the implementation of the following policies:

1. No cable system, MSO or national broadcast network may have an ownership interest in more than 30 percent of the program services or the programs that it carries.
2. No program service or group of services held under common ownership shall occupy more than 15 percent of the capacity of any cable system or MSO
3. If an MSO or DBS system serves an audience in excess of 30 percent of the total cable universe, then that MSO shall not have an ownership interest in any program service nor in any program service nor in any program that it carries.

Mr. Chairman, clearly we write to you out of our increasing concern over what is taking place in our industry and what it portends for our future. Our parochial interests, however, are far outweighed by the harm being done to the American viewing public by the result of the narrow mindsets of those presently controlling what gets seen and under what circumstances. Those viewers are being shortchanged and don't feel they have a voice with which to object.

We think they do have a voice.

We trust you'll concur.

Signed on behalf of The Caucus and its Steering Committee by its Chair,

Charles W. Fries

Caucus Steering Committee:

Gerald W. Abrams	Gil Cates	David Gerber	Ed Blau, Counsel
Jennifer Alward	Lionel Chetwynd	Roger Gimbel	Fay Kanin
Bill Bast	Sam Denoff	Phil Gurin	Norman Powell
Steve Binder	Vin Di Bona	Craig Haffner	Lee Miller
Bill Blinn	Bonny Dore	Len Hill	Greg Strangis
Roy Campanella, II	Dennis Doty	Anne Hopkins	Michael Zinberg

WATCHING THE GERMANS SURRENDER

MAY 7, 1945

A Historic Moment As Witnessed by Caucus Member Ted Bergmann

In February of 1945, General Dwight Eisenhower had established Supreme Headquarters, Allied Expeditionary Forces (SHAEF) in the main wing of the Reims' Technical School. Looking back to 1945, I remember I had come out of the field in Normandy several months before and was assigned to SHAEF in Paris as a radio public relations officer. On May 6th I was told by my superior that something was going to happen in Reims and I'd better get up there with a recording crew. There was the suggestion that it could be the signing of the surrender, but no one could confirm it.

We got to Reims in the early evening and went to the War Room, where we set up our equipment. We installed a microphone at every position around the conference table. A newsreel crew was also setting up lights and cameras in the room. At about 8 p.m., Eisenhower's Chief of Staff General Walter Bedell Smith entered the room and barked his disapproval: "What do you think this is, a Hollywood sound stage?"

Smith was taken aside by a Navy captain, Eisenhower's aide – who also happened to be a former CBS Radio vice president – to explain that the event facing them was going to be a historic moment and should be recorded for posterity. Smith then relented, but only partially, "All right," he said, "but get all those microphones off the table." We could have only one microphone, which we put in the middle of the table. Since Smith said we couldn't have any wires showing, I sent out for a drill and drilled a hole in the middle of the table for the microphone wire.

At about 10 o'clock, we were told that the show was on. In marched all of the Allied representatives, who took their positions on one side of the table. Then three German officers were ushered in. Smith addressed the Germans, asking, "Are you prepared to surrender on all fronts?" They replied, "We are prepared to surrender to the Americans, the British and the French on the Western Front, but not the Russians on the Eastern Front." "That's totally unacceptable," said Smith. "You must surrender on all fronts unconditionally." The Germans explained that they were not authorized to commit to surrender on the Russian Front. Asked why, they said they feared that the Russians would "take our armies and march them into Russia to be used as slave labor." Russian Marshall Susloparoff erupted with gales of laughter at hearing such a "preposterous suggestion."

The Germans were told to go back and get the authorization to surrender on all fronts or there would be no surrender. They were ushered out and our side of the table broke up and left, leaving me there with the technicians and the newsreel guys. Told to continue standing by, I laid out my bedroll under the conference table and went to sleep.

Suddenly, at about 2:20 a.m., all the lights went on in the room, and somebody yelled, "Get up – they're back!" Ten minutes later, a new delegation of Germans, led by General Oberst Jodl, Admiral Doenitz' chief of staff, marched into the room. (By this time Hitler was dead, and Doenitz was the head of the German government.)

"Are you prepared to surrender unconditionally on all fronts?" Smith asked again. Jodl said he was authorized by Doenitz to commit to the complete surrender. Papers were then passed across the table to the Germans, and the French, the Russians, the British and the Americans signed in turn. It was all completed at 2:41 a.m.

The war was not officially over, however. The agreement signed in Reims would not become official until the heads of state ratified it: Truman, Churchill, DeGaulle and Stalin. If word leaked to one side before the other, it certainly would have caused needless casualties on the front lines. Therefore, everyone in the room was warned to keep the signing a secret for 24 hours.

Eisenhower entered the War Room after the signing was completed and the Germans had been dismissed. A short time later, I recorded Eisenhower's statement declaring the end of the war in Europe. The recording was never used, however, because an Associated Press correspondent named Ed Kennedy failed to honor the secrecy agreement. Once back in Paris, Kennedy telephoned his London office to spread the news. Then it was on the wire to New York, and the surrender was announced. Kennedy was thrown out of the theatre within six hours by the military authorities.

Forty-five years later, in 1990, my wife Beverly and I returned to France on a vacation, and I returned to the War Room in Reims for the first time since the War's end. On the wall in the War Room, which now is a museum enshrined in glass, was a large photograph of the signing ceremony, and I saw that I was clearly visible in the picture. I turned to a custodian in the museum and tried to explain that I wanted some postcards of that photograph. In trying to make him understand, I pointed to myself in the picture and said, "C'est moi, c'est moi! (It's me!)."

The custodian became very excited, probably because no one who had been present at the signing had ever been back to the War Room. Most of the men present then were probably in their fifties, and would now – if they were still alive – be over 100 years old. The custodian asked me for my name and address so that the museum could invite us to the 50th anniversary celebration of the signing in 1995.

In March of 1995, unbeknownst to me, my wife began making inquiries about the planned celebration, especially since we had not received an invitation. Contacting the city hall in Reims, however, Beverly was met with some unexpected suspicion. The Minister of Culture's office asked for some verification of my claim to being present at the signing. Beverly then faxed several documents to Reims – still without my knowledge – and was rewarded with an invitation to be a guest of the government for the anniversary event. In the process, we learned that there were a lot of people calling and claiming to have been present at the signing, and the city discovered that none of them were legitimate.

I found my "15 minutes of fame" at the May celebration, where we were wined and dined for three days. In addition to reviewing the French and American troops marching before the Tomb of the Unknown Soldier, I was treated as a celebrity and interviewed by American and French television and newspapers.

A highlight of the trip was the commemoration of the signing in the War Room with U.S. Ambassador Pamela Harriman and the mayor of Reims. I was honored there as the only witness to the official surrender in attendance. I surprised my hosts by presenting the museum with the photographs and recordings I had made of the surrender. I also presented the museum with something else: a small, porcelain ashtray that I had taken from the conference table as a souvenir 50 years earlier. Seeing this, Ambassador Harriman replied in mock horror, "You stole it and it took you 50 years to give it back!"

Ted Bergmann is a pioneer television executive, having gone from radio broadcasting into television in 1947 and five years later, at age thirty-one, becoming head of a national television network. During World War II he rose from the ranks to become an infantry captain serving on Eisenhower's staff and receiving a Bronze Star medal.

"My film, BARRIER DEVICE, which was completed with help from a grant by the Caucus Foundation in 2001, has won the following awards: Student Academy Award in the narrative category, Golden Reel Award for Best Short at the LA Asian Pacific Film and Video Festival, and the UCLA Spotlight Award, including Best Direction and Best Editing."
— Grace Lee

SHAME ON THE *LOS ANGELES TIMES*

Bob Fisher

Jules Frantz was a copy editor at the *New York Herald Tribune* during the 1950s until the demise of that once great newspaper in 1966. If you were casting a film about a New York City newspaper from that period, Frantz could have been the prototype for the role of grizzled editor. He wore purple shirts augmented with colorful garter belts on both arms. Frantz typically had an eyeshade pulled low over his forehead. It might have had a practical purpose, but it was scary for copy boys and girls and young reporters. There was no sure way to tell whether Frantz was genuinely angry with you or if he was just teaching you a lesson, because his eyes were always obscured.

Every cub reporter felt his bite, when he reminded them to research and write the whole truth of every important story—and they were all important to him. He would order reporters to make sure they were writing the truth, because once it was in print, the public would perceive it as reality. Frantz never tolerated reporters who expressed their opinions in news stories. There was always a "fact checker" looking over their shoulders making sure they got it straight. Frantz probably would have been irate if he had read a front page story published by the *Los Angeles Times* on July 11, 2002, headlined "Filming Without the Film." The story was printed above the fold, which told the public that the editors believed it was among the most important news of that day.

The sub-headline read, "High-definition digital cameras, feared by some directors, could end the careers of those unable to make the transition." The story was written by P.J. Huffstutter and Jon Healey. It quotes various sales and marketing representatives of digital hardware companies and a visual effects supervisor, who says, "A lot of people are testing out high-definition cameras in secret. They're terrified of making mistakes."

The story goes on to explain they should be terrified, because the movie industry has left behind "a landscape littered with casualties, including directors who failed to make the transition to new technologies" citing "talkies" as an example.

Here is another unattributed line: "Directors and cinematographers face a TERRIFYING question: What happens if you lack the skills to continue telling stories in a world in which the narrative tools have fundamentally changed?" The story also focuses on economic issues. It says, "frugality also is pushing studios and filmmakers.... Advocates insist that the technology cuts costs, partly by eliminating key parts of the movie-making process," citing the "time-consuming ritual of handling dailies."

Huffstutter and Healey go on to tell readers how directors and crews "cross their fingers" and "pray" while waiting to see dailies, which the *Times* punctuates with a sub-headline that says, "Shoot-and-Pray Method." The next few paragraphs tell readers that what they see on the screen with film isn't always the same as what the cameras captured.

The story says, "Perhaps the spotlights burned too brightly and washed out the image. Maybe the director didn't spot the catering truck parked in the background. If someone loaded the film into the camera incorrectly, the reel might be blank.... Each mistake...eats up time and money." You can't make that stuff up. The reporters apparently came to their unattributed conclusions based on interviews. They cited one director who said he only gets 60 percent of what he wants with film, and that he didn't know the true colors of a star's eyes until he saw them on an HD monitor. I'm not disputing the integrity of the reporters who researched and wrote that article.

However, it does seem like they didn't go out of their way to get opposing opinions or to check their facts. It is pretty difficult to find a cinematographer who is fearful of digital cameras or who depends on dailies to know if they loaded the camera correctly, or a director who is praying there isn't a catering truck in the background.

The two journalists have apparently received letters from many cinematographers, some of which are posted on the American Society of Cinematographers (www.cinematographer.com) and the International Cinematographers Guild (www.cameraguild.com) websites. George Spiro Dibie, ASC, national president of the camera Guild, wrote in part: "I promise you there has never been a day in my career when I didn't know the color of every actors' eyes." Dibie has probably compiled well over 1,000 hours of television credits, earning six Emmy awards and six more nominations along the way, all for video shows. No one called him.

Dibie called the *Times* article "inaccurate and naÔve," observing that, "It seems to rely on sources of information who aren't qualified to talk about the art and craft of filmmaking....Our members aren't resisting progress...they are resisting marketing hype presented as fact." Dibie observes that there is a fundamental difference between the way images are rendered onto film and video. He quotes Mark Twain, "The difference between the almost right word and the right word is really a large matter — it is the difference between the lighting bug and lightning." Dibie says that those same nuances are true in the way audiences read and react emotionally to images.

Steven Poster, ASC, who is president of the American Society of Cinematographers says, "It is true that most cinematographers look forward to dailies with a sense of trepidation, but it is not because we are afraid technical errors will be discovered. Cinematographers, by nature, are fearless experimenters. We are always trying something new...in a quest to evoke emotional responses which help our directors tell their stories.... The truth is that there isn't an HD monitor today that is capable of revealing the nuances and subtleties of light, shadows, colors and textures on the negative." Poster goes on to say, "Right now, I believe film and digital imaging are as different as acrylic and oil paints."

Eric Rodli, president of Kodak's Entertainment Imaging division told the *Times*, "I am surprised and disappointed your reporters didn't call me or anyone of my staff before they reached their conclusions about the future of imaging technology." He points out that Kodak has been the leading-edge provider of motion imaging technology since 1889. Rodli makes it clear that Kodak intends to keep listening to the creative community and developing imaging technologies that serve their needs.

The *Times* article story quotes a producer of *The Education of Max Bickford* series reporting a $25,000 per episode savings resulting from the decision to produce that program in HD format. What the article doesn't do is quote producers of other programs to explain why they are choosing to originate on film. Some would have said it is for aesthetic reasons, and others are looking forward to the longer-term value of film programs in syndication. It is a different topic, but there is little argument about film being a far superior archival medium that the writers did not explore.

The journalists would have also discovered there are different ways to trim costs. *Scrubs*, the NBC Television series, for instance is filmed in Super 16 mm format. The cinematographer, John Inwood, says that the format suits the show's aesthetic values. Inwood was quoted in a recent magazine article, "I don't think HD looks as good as 16 mm film. We shot some HD material in a park under dappled light. Every time a ray of sunshine would come through and hit someone's shoulder, it would vaporize the shoulder. There was no detail. It was like there was a burn in the tape. I was filling with 18Ks. It was very frustrating. We're not talking about lighting less, but lighting more."

The cinematographers we spoke with who responded to the *Times* all reported receiving mainly cordial replies, but with very few specific answers to their pointed questions. We contacted the journalists in an effort to find out the source of their story and two similar, previous ones they wrote for the *Times* in May. All three of those articles were datelined Nicasio, California, home of Lucasfilm and ILM.

The reporters were amiable, but said they were ordered not to respond to questions about why they didn't speak with a broader range of filmmakers and technology vendors who have different opinions. It is a time-honored policy of newspapers to protect sources of confidential information, however this seems more like a case of the two journalists and their editors protecting themselves.

The *Times* article and some of the correspondence by cinematographers are on the camera Guild website (www.cameraguild.com) under the title "Fighting the Digital Hype." You can send your opinions to the journalists at p.j.huffstutter@latimes.com and jon.healey@latimes.com.

Bob Fisher has authored more than a 1,000 magazine articles about cinematographers and other filmmakers talking about their art form during the past 25 plus years. He has also moderated many panel discussions at film festivals and conferences for both the American Society of Cinematographers (ASC) and the International Cinematographers Guild (ICG).

Caucus Mission Statement

Our mission is to protect and actively promote the artistic rights of Producers, Writers and Directors. We actively oppose any interference with these creative rights whether they originate from Government, Studios, Networks, or Special Interest pressure groups.

■ We are opposed to the growing concentration of ownership of development and television production in fewer and fewer hands. When a small number of mega-corporations control the vast majority of the process, diversity of voice is threatened, and our creative rights and our ability to compete as entrepreneurs are gravely endangered.

■ We are aware of the powerful impact of television and we will strive to elevate program quality and encourage responsible programming for the public.

■ Our continuing task is to increase communication among Caucus members about creative and business issues in the television industry and communicate our concerns to those outside our organization.

■ From time to time we will lend our support to other groups and causes that support our mission.

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June 2002

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The Editorial Board of *The Journal of the Caucus for Television Producers, Writers & Directors* welcomes letters from its readers.