WRITERS GUILD OF AMERICA, WEST

WGAW Position on Competition in the Video Programming Market

The WGAW is extremely concerned with the lack of meaningful competition and diversity in the video programming delivery market. This market as well as those for content creation (studios and producers) and exhibition (television networks) is controlled by a handful of powerful companies. Currently, a small number of vertically integrated media companies produce virtually all the original content viewed by Americans on the major broadcast and cable networks. These are the same companies that own the broadcast networks and the most widely distributed and watched cable channels. Compounding this concentration in production and exhibition is a consolidated market of multichannel video programming distributors (MVPDs). Mergers, such as the recently approved Comcast- NBC Universal (NBCU) combination, further diminish competition. The detrimental impact market concentration has on news, information, and entertainment content across distribution platforms harms both democratic discourse and the democratic process. For writers, both vertical integration and horizontal consolidation have eliminated the competitive market for their creative works. We urge the FCC to take specific actions securing its mandate of protecting a competitive and diverse media marketplace.

Lack of Competition in Programming

Currently, the same five companies that own the broadcast networks produce an overwhelming majority of the series aired on network primetime.[1] Since 2008, independent programming as a percentage of the fall primetime lineup has fallen from 22 percent to a mere 13 percent.[2]

Broadcast Network Primetime Fall TV Series[3]

	1989	1999	2008	2009	2010
Independently Produced Series	76%	28%	22%	14%	13%
Media Conglomerate Produced Series	24%	72%	78%	86%	87%

While the broadcast networks have all but eliminated independently produced programming from their primetime schedules, they have also increasingly engaged in a strategy of self-sourcing for programming. By 2010, a majority of the primetime series programming on each network was produced by an in-house studio.

[1] The media conglomerates represented include CBS Corporation, Comcast-NBCU, News Corporation, Time Warner and The Walt Disney Company.
[2] The WGAW defines independent producers as studios or production companies that are not owned or affiliated with a major broadcast or cable network or an MVPD (multichannel video programming distributor). Such a definition is essential because it exposes the true amount of programming that reaches the air without the market power or guaranteed distribution provided by vertical integration.
[3] WGAW Analysis

Broadcast Network Fall Lineup: Series Produced by In-House Production Entity[4]

Network	2008	2009	2010
ABC	50%	48%	60%
CBS	35%	57%	61%
CW	64%	89%	90%
FOX	53%	67%	72%
NBC	67%	81%	63%

The rise in cable networks has not created a more competitive landscape in television, as the same companies producing programming for the broadcast networks also own many of the largest cable networks and produce a majority of the cable dramas and comedies in primetime.

Analysis of Primetime Original Programming on Basic Cable Networks[5]

	2007-2008	2008-2009	2009-2010
Independently Produced Series	11	19	21
Media Conglomerate Produced Series	26	40	49
Total	37	59	70
Percent Independent	30%	32%	30%

Lack of Competition in Television Exhibition

Although the number of television channels has grown dramatically, media exhibition remains concentrated in the hands of a few companies. Rather than creating space for new competition, the media companies that own the broadcast networks have simply extended their control to cable. This result does not promote competition or real diversity. Among the 85 cable networks reaching at least 50 million subscribers, 71 percent are affiliated with a media conglomerate. The majority of the affiliated cable networks are owned by a company that also owns a broadcast network.[6]

Lack of Competition in Video Programming Delivery

The market for video programming delivery also lacks effective competition resulting from high levels of concentration. In 2010, the four largest MVPDs in the U.S. provided service to 68 percent of all MVPD subscribers nationally in 2010. This is up from 50 percent in 2002.[7] A four-firm concentration ratio of 68 percent reveals that the market for MVPD services is an oligopoly, where these top firms unfairly profit from their ability to exercise their market power and increase prices. To reach a majority of consumers, broadcast networks must reach agreement

[4] WGAW Analysis
[5] This analysis includes comedies and dramas airing on 16 basic cable networks. These programs are most closely substitutable to broadcast network primetime series. The media conglomerates represented include Comcast-NBCU, News Corporation, Time Warner, The Walt Disney Company and Viacom.
[6] In the case of Viacom, because the company is ultimately controlled by National Amusements, the same company controlling CBS, its networks must also be included in this total.
[7] Jeffery Eisenach, "The Economics of Retransmission Consent," National Association of Broadcasters, March 2009, p.1, Available from National Association of Broadcasters, http://www.nab.org/documents/resources/050809EconofRetransConsentEmpiris.pdf, accessed May 17, 2011. SNL Kagan, "U.S. Multichannel Industry Benchmarks," and "U.S. Cable Subscriber Highlights," Available from SNL Kagan, http://www.snl.com, accessed May 23, 2011.

with these four companies. Many local markets are also exceedingly concentrated. In the Comcast proceeding, Consumer Federation of America and other public interest groups noted, "While Comcast's national market share is 25 percent, its share of individual markets is well over 50 percent in every market in which it provides service, and upwards of 60 percent in other markets, including Boston, Philadelphia, and Chicago."[8]

FCC Must Take Action to Promote Competition and Diversity

Given the concentrated nature of the television marketplace, the FCC must institute specific remedies to promote a diverse and competitive marketplace for content production, exhibition and distribution. Requirements such as minimum levels of independently produced content on broadcast networks, continued protection of broadcast television through retransmission consent, promotion of content diversity through an AllVid adapter device and further protection of the nascent online video market are necessary steps to improve the current media marketplace.

- Institute Meaningful Requirements for Genuinely Independent Productions
- Expand the Definition of Content Creators to include Writers, Who are the Actual Creators of Content
- Maintain Strong Retransmission Consent Rules
- Mandate an AllVid Adapter
- Protect the Nascent Online Video Market
- Prohibit Further Media Consolidation

Who We Are

WGAW is a labor organization representing more than 8,000 professional writers of motion pictures, television, radio, and Internet programming, including news and documentaries. For more information on the WGAW, please visit: www.wga.org.

[8] Consumer Federation of America *et al.* "Joint Position to Deny of Consumer Federation of America, Consumers Union, Free Press and Media Access Project," In the Matter of Applications for Consent to the Transfer and Control of Licenses from General Electric Company to Comcast Corporation, MB Docket No 10-56, June 21, 2010, p. 15.