FCC *EN BANC* HEARING AND CONFERENCE
July 29, 2008
Prepared Remarks of Leo Hindery, Jr.

As my biography indicates, I have had the privilege of being a salaried employee, an entrepreneur and, later, a chief executive in all aspects of the media & telecom industry.

In the last quarter century, four vital industries in the United States have been allowed by our government to massively consolidate:

Railroads
The Oil Industry
Financial Services, and
Media & Telecom

However, of these four industries, only the railroad industry consolidation has not produced noteworthy ownership abuses, because only railroads had the right amount of government-imposed conditions and ongoing oversight applied to their merger era. By inference, therefore, the other three industries have, in my opinion, been *over*-consolidated, because their various mergers were approved without these actions – and Americans are now suffering mightily for it, through excessive oil industry profits, consumer lending and trading abuses, and de facto limitations on the number of truly independent voices.

Specifically with regard to media & telecom, deficient government reviews and regulations during its 15 years of heavy consolidation coupled with elimination in 1996 of Minority Tax Certificates make it almost Quixotic for us to talk today about trying to foster "ownership diversity", especially since this *en banc* hearing is also taking place in the midst of the worst equity and debt markets in 60 years. And my skepticism about accomplishing much new ownership diversity going forward applies to *all* cable and satellite systems, *all* telecom of any sort, *all* broadcast stations except in the smallest markets, and *most* programming.

In fact, there is now only *one* area in programming where, with proper support from the Commission and Congress, there may still be opportunities for meaningful ownership diversity. However, before elaborating on this one area, let me speak briefly about the current state of the nation's equity and debt markets.

In today's overall financial markets, equity is now both king *and* queen, and what debt is available to the media & telecom industry is only for the big companies or for medium or larger sized activities generating sustainable positive operating cash flow. There is no debt whatsoever available for startups, and even the very definition of a "startup" has been changed to extend well past the initial breakeven stage. The reason I dwell on startups is because at this late stage of industry consolidation, the only opportunity for ownership diversity is at the startup level, since the dollar numbers at any significant quasi-mature level are simply too big for buy-ins.

Now, let's talk about that one remaining opportunity for ownership diversity, which is wrapped up in this Commission's interest in universal broadband deployment and Internet neutrality. Recognizing like the rest of us that one of the surest and most democratic ways to preserve independent voices and create social and economic opportunities is to make high-speed broadband access at world-class speeds available to all citizens, President Bush, albeit even then late to the game, promised the nation in 2004 that by the end of 2007 we would have universal broadband deployment – instead, we meet here today in July 2008 with only about 45 percent of U.S. households now subscribing to broadband service.

To meet this vital goal, the country's major telephone and cable companies must be prohibited from building out their broadband networks in discriminatory ways. And then, so that independent voices might flourish and citizens might realize the full benefits of online content and services, these same companies must be prohibited from discriminating against third-party content by charging toll fees or surcharges or by layering on unreasonable operating limitations such as blocking or degrading.

Some times market competition in critical services cannot be achieved without effective regulation – and this is one of those times. For it is only in unfettered broadband-deliverable programming and content that there is a meaningful opportunity to preserve independent voices and achieve even a modicum of ownership diversity.

Let me give you two quick examples. Two very talented entrepreneurs, with help from InterMedia, started WCSN.com a few years ago as the year-round streaming broadband home for all Olympic sports world-wide, excepting only for the two weeks every four years when these sports are shown on NBC as the actual Olympics. As of a month ago, WCSN.com is now the renamed and valuable "Universal Sports Network", a 24-hour digital-basic cable network owned by InterMedia, those same entrepreneurs, and, notably, NBC Universal – and all because we got our start on broadband.

And while this was going on, InterMedia was converting its ownership of the dominant TV station in Puerto Rico, named WAPA, into "WAPA America", which is a combined cable network and streaming broadband Spanish-language service for the non-Mexican Hispanic community who feel underserved by the largely Mexican-heritage focus of Univision and Telemundo.

The "new" InterMedia contrasts with the original 1988 version, where we created value for investors through the ownership of distribution assets of all types – today, InterMedia creates value for investors by focusing on the programming needs of "communities of interest", especially including the faith, ethnic and specialized sports communities.

The FCC needs to much better understand this new business model and assure that there is universal broadband deployment and Internet neutrality to support it. Following 15 years of dramatic consolidation of virtually all of the industry's distribution assets and much of its programming, only in this largely distribution-agnostic narrow audience-focused arena will the Commission find the independent voices and ownership diversity which it says it wants. At this late date, nothing else really matters.

Thank you.