The Impact of the Telecom Act 20 Years Later

By Leslie Stimson

The 1996 Telecommunications Act is now 20 years old, and the debate continues to this day about whether it hurt or helped radio and television.

Several experts RBR+TVBR spoke with believe the changes were modest for television but radical for radio, and the results still reverberate in the radio industry today.

Back in 1995, proponents of the changes in the bill, among them owners of large radio groups, pushed for elimination of all ownership limits, both national and local. They said that for one thing, the FCC's passage of Docket 80-90, which increased the number of FMs in a market, further divvied up the advertising pie and made it hard for all radio owners to make money.

Coupled with this rule, before passage of the act, the national radio ownership limit was 40 stations to an owner (up to 20 AMs and 20 FMs), and the local limit was four stations (two AMs and two FMs) per owner in a market.

In a U.S. House Commerce Committee Report in 1995 on the act, members stated: "We believe that the rules promulgated by the FCC ... have had direct and detrimental effects on the ability of some stations to compete in both the major metropolitan markets and the smaller and medium-sized markets associated with rural areas. In some instances, this has hindered certain stations' ability to continue to provide the diverse array of viewpoints and programming choices that the public has learned to enjoy and expect."

"That was a windfall."
— Dick Foreman

Reed Hundt, who was FCC chairman at the time, said "big kahunas," meaning large owners like the Mays family and others, "wanted to buy all the little stations." He said, "They wanted to consolidate the market, and they told the House Republicans what they wanted, and they got what they asked for."

In that era and even today, radio was, as a political medium, primarily a platform for right-wing "Trump-like shows," according to Hundt, and the premier show in that format at the time was Rush Limbaugh's. "That platform, radio as a political medium, was very important" to then-House Speaker Newt Gingrich and the new majority in the U.S. House, Hundt said.

"The radio provisions in the '96 act were unlike any other provisions," according to the former chairman. "Nothing was delegated to the FCC. Instead, the law was specifically written to say the FCC can't get in the way as the consolidation takes place."

GOP pressure in Congress came to bear, and that's how the national radio ownership limits were eliminated entirely and the local limits were greatly relaxed, to the tiered system we have today, with an owner allowed to own up to eight stations in markets with 45 or more commercial stations, on down to five in markets with 14 or fewer total commercial stations.

Hundt was actually an opponent of the relaxation, telling Congress and the Department of Justice that allowing radio owners to "pretty much buy anything" was a mistake for the industry and consumers. He actively fought the bill – and lost.

Top 10 TV Owners - 1995

Owner	Est. Revenue-Owner YE 1995 ($000)	Share of Industry Revenue	Owner # Stations YE 1995
ABC/Disney	$1,247,200	7.5%	11
CBS Station Group	$1,076,400	6.5%	19
Fox Television	$918,100	5.5%	13
NBC/GE	$839,800	5.1%	9
Tribune Co.	$687,200	4.1%	10
Gannett Co.	$583,900	3.5%	15
New World Comm Group	$474,600	2.9%	13
CBS TV	$409,500	2.5%	12
Cox Media Group	$384,400	2.3%	6
Belo Corp.	$353,000	2.1%	7

Source: BIA/Kelsey

Top 10 TV Owners - 2014

Owner	Est. Revenue-Owner YE 2014 ($000)	Share of Industry Revenue	Owner # Stations YE 2014
Fox Television	$1,746,825	8.7%	30
CBS TV	$1,629,250	8.1%	30
Comcast/NBC	$1,365,150	6.8%	28
TEGNA	$1,343,575	6.7%	48
Sinclair Bcst Group	$1,281,710	6.4%	129
Tribune Media Co	$1,257,875	6.3%	51
ABC/Disney	$1,132,450	5.7%	8
Media General	$989,500	4.9%	98
Hearst Television	$838,700	4.2%	37
Univision	$752,350	3.8%	60

Source: BIA/Kelsey

The Impact

When the act passed and was signed into law by President Bill Clinton, big radio owners were poised to acquire – fast.

According to BIA/Kelsey, in 1995, the top five radio ownership groups, in order, were: CBS Radio, with estimated revenue of $497.8 million, a 4.7% share of industry revenue, and 39 stations. Infinity was second, with $459.6 million in estimated annual revenue, a 4.4% share of industry revenue, and 42 stations. Evergreen Media came in third, at $285.9 million in estimated annual revenue; that added up to a 2.7% share of industry revenue with 35 stations. ABC/Disney was fourth, with $269.8 million in estimated annual revenue, a 2.6% share of industry revenue, and 21 stations. Chancellor was fifth, at $207.4 million in estimated annual revenue and an even 2% share of industry revenue with 41 stations. Clear Channel was sixth, at $137.2 million in estimated annual revenue and a 1.3% share of industry revenue with 36 stations.

Ten years later, in 2005, Clear Channel was number one, according to BIA/Kelsey, with $3.6 billion in annual estimated revenue, a 20.1% share of industry revenue, and 1,184 stations. CBS Radio was second, with $2.29 billion in annual estimated revenue, a 12.7% share of industry revenue, and 179 stations. Entercom was third, with an estimated annual revenue of $594.2 million, a 2.8% share of industry revenue, and 103 stations. Cox was fourth with $494.9 million in estimated annual revenue, a 2.7% share of industry revenue, and 78 stations. ABC/Disney was fifth, with $469.9 million in estimated annual revenue, a 2.6% share of industry revenue, and 72 stations.

Flash forward to 2014, the most recent data available, and the renamed iHeartMedia is number one with an estimated $2.67 billion in annual revenue, an 18.3% share of industry revenue, and 858 stations. CBS Radio was number two, with $1.3 billion in annual estimated industry revenue, a 9.1% share of industry revenue, and 117 stations. Cumulus was third, with an estimated annual revenue of $825.4 million and a 5.8% share of industry revenue and 451 stations. Entercom was fourth at $516.7 million in estimated annual revenue, a 3.7% share of industry revenue and 127 stations. Finally, Univision was fifth, with estimated annual revenue of $342.4 million, 2.4% of industry revenue, and 67 stations.

For media brokers, the changes were profitable. Dick Foreman, head of Richard Foreman & Associates, said the years 1995 through 2002 "were probably the best, not just for me, but for most people in the brokerage business. That was a windfall

Top 10 Radio Owners - 1995

Owner	Est. Revenue-Owner YE 1995 ($000)	Share of Industry Revenue	Owner # Stations YE 1995
CBS Radio	$497,750	4.7%	39
Infinity Broadcasting Corp.	$459,950	4.4%	42
Evergreen Media Corp.	$285,850	2.7%	35
ABC/Disney	$269,800	2.6%	21
Chancellor Broadcasting Co.	$207,400	2.0%	41
Clear Channel Comm	$137,200	1.3%	36
Jacor Comm Inc.	$124,250	1.2%	20
CBS Corp.	$121,500	1.2%	12
Bonneville Intl	$119,400	1.1%	17
SFX Bcstg Inc.	$117,350	1.1%	99

Source: BIA/Kelsey

Top 10 Radio Owners - 2014

Owner	Est. Revenue-Owner YE 2014 ($000)	Share of Industry Revenue	Owner # Stations YE 2014
iHeartMedia	$2,586,965	18.3%	858
CBS Radio	$1,280,325	9.1%	117
Cumulus Media Hldgs	$825,415	5.8%	451
Entercom	$516,725	3.7%	127
Univision	$342,375	2.4%	67
Cox Media Group	$300,125	2.1%	56
Townsquare Media Inc	$274,265	1.9%	315
Radio One Inc	$237,625	1.7%	52
Hubbard Radio	$225,125	1.6%	46
Emmis Communications	$166,500	1.2%	23

Source: BIA/Kelsey

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— Reed Hundt

... also for people who wanted to expand their interests strategically in the marketplace" and who, up until the passage of the act, had not been able to do so.

Foreman recalls one of the first radio duopoly transactions involving two public companies; he sold ABC Radio's two stations in Denver to Jefferson-Pilot in 1995. "I will never forget being on the phone with Jim Arcara, who we had done some business with before — actually, I was having lunch with him in the city and saying, 'I am going to tell you, if you want to sell, here is the buyer that we've got for the two radio stations in Denver.' And he asked, 'Who is the buyer?' I said the buyer will probably be, most likely, Jefferson Pilot. He said, 'Are you crazy? I've got to talk to my direct competitor?' I said, 'Jim, it's a brand new world.' Jim was the president of ABC Radio at the time."

Radio companies that are successful still emphasize "live and local."
– Dick Wiley

Television

For television, the ownership changes were modest, according to experts we contacted. Covering the passage of the act on Capitol Hill at the time, this writer recalls lots of discussions centered on the V-chip, which would give parents the ability to block adult programming. It was a way lawmakers could make the industry "inside baseball" discussions about the Telecom Act more sexy in the news. But the V-chip didn't catch on with consumers, who found it too difficult to use.

Hundt said television owners mainly wanted to delay implementation of the digital transition, and fought provisions in the bill that would have facilitated it. The transition finally happened during the Obama administration.

According to BIA/Kelsey, the top three television owners in 1995 were ABC/Disney, at $1.25 billion in annual estimated revenue, a 7.5% share of industry revenue, and 11 stations. CBS came in second, with an estimated annual revenue of $1.08 billion and a 6.5% share of industry revenue and 19 stations. Fox was number three, with estimated annual revenue of $918.1 million, a 5.5% share of industry revenue, and 13 stations.

Fast forward to 2014, and the number one television group was Fox, with $1.75 billion in annual estimated revenue, a 8.7% share of industry revenue, and 30 stations. CBS came in second, with annual estimated industry revenue of $1.63 billion, an 8.1% share of industry revenue, and 30 stations. Comcast/NBC was third, with annual estimated revenue of $1.36 billion, a 6.8% share of industry revenue, and 28 stations.

Today

Radio and television were tiny parts of the Telecom Act; the bulk of the bill concerned telephony. Richard "Dick" Wiley was FCC chairman before Reed Hundt; he is a founding partner of Wiley Rein LLP and heads the firm's 80-attorney communications practice.

The act itself was simple in its intent and complex in its implementation, according to Wiley: "That was to try to develop a competitive deregulatory national policy framework that would open all markets to competition and to accelerate the deployment of advance services," he said. "I think that worked very well, and where you had a lightly regulated marketplace, there's a light touch applied. For example, in information services and mobile services, I think it worked well. But where the markets remain heavily regulated, like wire-line telephony or broadcasting, it was less effective."

Hundt's FCC implemented the changes in six-month increments, and it was an intense 18-month process. Asked by RBR+TVBR how he determined what to tackle first, he said that "was probably the single most important decision for the agency." He noted that some parts of the law were going to be "tremendously beneficial" to some companies — like the telephone companies being able to enter the long-distance market. Hundt said, "We decided that it was such a big opportunity, it should be one of the last things we did," to ensure that phone companies would work with the agency constructively.

Looking back 20 years and fast-forwarding to today, RBR+TVBR asked all three experts whether the changes, especially for radio, were good or not for the industry.

Hundt says the changes "were a mistake" because the large companies that pushed for the changes "paid too much and bought too much." The result, he said, is that content creation "has shriveled." He said, "They all bought everything, and terrible things happened to their businesses."

Wiley noted that "radio has still survived" and the companies that are successful still emphasize "live and local."

Foreman, meanwhile, believes radio and television are much better off with the changes brought about by passage of the Telecom Act because they're able to create greater market share through advertising. "Radio was a very difficult business to buy years ago, because it was so fragmented," he said. "You had everybody coming in saying, 'We're number one in 18-49-year-old.'" Additionally, "tremendously low rates" were another problem, according to Foreman. He said, "Through harnessing the effects of the Telecom law, we were able to create greater bulk, greater revenue, greater value, and higher rates. And all of that was wonderful for radio, and to a certain extent, television. But the big push was in radio."